

SOUTHLAND REGIONAL COUNCIL
RESOURCE MANAGEMENT ACT
HEARING OF RESOURCE CONSENT APPLICATION BY
ZANE SMITH AND JAMES MAASS-BARRETT APP20181316

MINUTE #1 OF THE HEARING COMMISSIONER

1. I have been appointed by the Southland Regional Council (**SRC or ‘the Council’**) as an Independent Hearing Commissioner to hear and decide the application lodged by Zane Smith and James Maass-Barrett (**‘the Applicant’**) for resource consents associated with the establishment and operation of three new marine farm sites in Big Glory Bay, Stewart Island. The application is referenced as APP20181316.
2. The hearing is set to commence at **10am on Monday 16 September 2019** in the Council Chambers at the offices of the Southland Regional Council, Waikiwi Street Invercargill.
3. In accordance with the requirements of section 103B of the Resource Management Act 1991 (**RMA**), the circulation of the following has been undertaken prior to the hearing:
 - The report prepared by the reporting officer under section 42A of the RMA;
 - All expert and non-expert evidence of the Applicant; and
 - All expert evidence of submitters wishing to be heard at the hearing.
4. On Friday 13 September 2019, the Council received and circulated non-expert evidence from a submitter (Sanford Limited). This evidence was not required to be pre-circulated in accordance with the RMA. This non-expert evidence is to be tabled and read at the hearing.
5. I requested the submitter’s non-expert evidence be circulated to the parties on Friday 13 September 2019, to enable the parties further time to respond, in the event they were in a position to pre-read the statements.
6. On Saturday 14 September 2019, I received an email request from Mr John Engel, on behalf of the Applicant, requesting an adjournment to the hearing to enable the Applicant to discuss and respond to concerns raised in the statements of evidence regarding navigational safety.
7. Shortly after this request, I received an email from Ms Jo Appleyard, Counsel for Sanford Limited, requesting that I deal with the Applicant’s request for an adjournment urgently given the significant costs to the submitter involved in attending the hearing.
8. The purpose of this Minute is to respond to the Applicant’s request for a postponement (adjournment) of the hearing.
9. The submitter has determined the evidence of Dr Philip Mitchell is ‘expert evidence’ and that the four statements of evidence provided on Friday 13 September 2019 are ‘non-expert evidence’ under the RMA. I will test and weigh the evidence received accordingly, including determining any matters of scope, trade competition or relevance.

10. While not strictly required for council hearings, I expect *all* expert witnesses to comply with Section 7 (Expert Witnesses) of the Environment Court's Practice Note 2014 in both the preparation of their evidence or in giving any oral evidence at the hearing. I ask the parties to remind their expert witnesses that they have an overriding duty to assist me impartially on relevant matters within their area of expertise and that they must not be an advocate for the party who engages them. The latest version of the Environment Court's Practice Note can be found at <https://www.environmentcourt.govt.nz/about/practice-note/>.
11. The submitter's non-expert statements of evidence would normally only be tabled at the hearing and the Applicant would be required to respond by way of rebuttal evidence and/or in their right of reply. I remind witnesses that no new evidence may be introduced by way of rebuttal, unless it is specifically in response to matters raised in evidence provided by another party.
12. I want to be clear that all parties (Applicant, submitter, and the reporting officer) will be given the time they require to adequately present their views. The main reason the RMA directs pre-circulation of evidence is to minimise the time required for all parties to be present at the hearing itself. This expedited process will not, however, be at the expense of any party's ability to fully participate in the process.
13. I confirm the non-expert statements provided have not been pre-read and will therefore need to be read out at the hearing.
14. In addition to considering the Applicant's ability to respond and due process to ensure a fair hearing process for all parties, I have considered the RMA timeframes for closing the hearing and the need to process the application without further undue delay.
15. I therefore refuse the Applicant's request to postpone (adjourn) the hearing set to commence on Monday 16 September 2019.
16. I remind the parties that there should be no direct contact between myself and the parties. All communications must be via Ms Lacey Bragg or the SRC. If any party wishes to seek further clarification in relation to this Minute or the hearing process please contact Ms Bragg in the first instance, email: lacey.bragg@es.govt.nz or phone 0321151115.

DATED 14 September 2019



Sharon McGarry
Independent Hearing Commissioner