

**Te Rūnanga o Awarua, Department of Conservation and Environment Southland,
Resource consent applications for the periodic opening of the Waituna Lagoon,
Kapuka South, Southland. (APP-20242456)
Minute #2**

1. In Minute #1, dated 25 June 2026, the Panel provided further explanation as to the manner in which the hearing will be conducted and sought input from the parties on the Applicants' request to amendment to the section 103B of the RMA timetabling and as well as a request for an expert witness to be heard at a later date.
2. In relation to the latter matter, the Panel provided an opportunity for the submitters and SRC section 42A Reporting officer to advise if they are opposed, with reasons, to the requests from the Applicant. At the close of the period in which to respond, namely **12noon on Monday 30 June 2025**, seven (7) submitters (C McCrostie, K Robertson, L McCallum, M van Rossum, R McCrostie, Southern Farms Ltd and T Tatham) advised that they were opposed to the request for Dr Robertson to appear at a date after 8 August 2025, along with reasons (See Appendix 1 to this minute). We record that there was no specified opposition from any submitter or section 42A Reporting officer, to the Applicants' request for amendments to the section 103B of the RMA timetabling.
3. The Panel has considered each of the Applicants' requests in turn and begins with the request for the amendments to the time tabling for the pre-circulation of section 42A Report, Applicants' evidence and legal submissions, noting that the Applicants did not seek to amend the timeframe for the filing of any submitter expert evidence. In summary, the Applicants sought that the section 42 report/s and Applicants' evidence be filed 2 working days ahead of the timeframes set out in the Council's Notice of Hearing of 10 June 2025, to allow for witness availability and preparation of said evidence. No party was opposed to the request. The Panel agree to the request, for the reasons set out in the memorandum, that there is no party who would be prejudiced by the request and in terms of section 21 of the RMA in avoiding unreasonable delay.
4. Accordingly, the Section 103B timetabling in the Council's hearing notice is put aside and replaced with the following.
5. Pursuant to section 103B(2) of the RMA, the Commissioners direct that the SRC Section 42A report/s be provided to the parties, by way of email, including link to the Council's website, no later than **12noon on Friday 4 July 2025**.
6. Pursuant to section 103B(3) of the RMA, the Commissioners direct that the Applicant is to provide written briefs of all their evidence to Ms Catherine Ongko (ResourceConsents@es.govt.nz), Hearing Administrator at SRC, by way of email, no later than **12noon on Friday 11 July 2025**.
7. The Commissioners request that as soon as practicable following receipt of any such evidence received pursuant to Direction [6], SRC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
8. Pursuant to section 103B(4) of the RMA, the Commissioners direct that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that expert evidence to Ms Catherine Ongko (ResourceConsents@es.govt.nz), Hearing Administrator at SRC, by way of email, no later than **12noon on Monday 22 July 2025**.
9. The Applicants' opening legal submissions are to be provided to Ms Catherine Ongko (ResourceConsents@es.govt.nz), Hearing Administrator at SRC, by way of email, no later than **12noon on Monday 22 July 2025**.
10. The Commissioners request that as soon as practicable following receipt of any such evidence or legal submissions received pursuant to Directions [8] and [9], SRC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.

11. In terms of Directions [5], [6], [8] and [9] the reports and evidence should be provided to SRC electronically by way of email. Hard copies of the evidence should only be provided on request.
12. The second request from the Applicants is essentially for the Panel to hear Dr Robertson out of order to the other parties, with Dr Robertson to appear by way of audio/visual link (e.g. Zoom), after the 8th August 2025. The reason being that Dr Robertson is overseas from 13 July to 8 August 2025. As noted above, seven (7) submitters opposed the delay in hearing from Dr Robertson. The reasons for the opposition are set out in Appendix 1, and in summary include, it would delay the process, raise issues of fairness, and suggest that someone else could present on behalf of Dr Robertson. We acknowledge the concern raised that the Applicant agreed to the hearing dates despite Dr Robertson's unavailability. While it would have been preferable for the Applicant to ensure the availability of all key witnesses prior to confirming dates, the Panel must now determine how best to proceed in light of the circumstances.
13. The Panel has considered the matters raised by the submitters in full. For completeness, we note the usual format for first instance RMA hearings is for the Applicant to present their case first, followed by the submitters and then the section 42A of the RMA reporting officers. The final step is that the Applicant has the right of reply. In this instance, there is a request to hear one of the Applicants' witnesses out of order.
14. In relation to the suggestion that someone else could present Dr Robertson's evidence, the Panel does not consider this to be appropriate. The Panel is required to test the evidence put before it, and in this case, any questions arising in relation to Dr Robertson's written evidence must be directed to Dr Robertson personally.
15. In reaching our decision on this aspect of the request we note that Dr Robertson's written evidence will be pre-circulated and his presentation, albeit at a later date, will be primarily to answer any questions from the Panel. Submitters will have the opportunity during their presentation to raise any issue they have with Dr Robertson's pre-circulated evidence. In addition, as a matter of fairness, the Panel will provide the opportunity for all parties to respond specifically to Dr Robertson's verbal presentation of evidence and to any questions from the Panel.
16. Delaying the entire hearing till after the 8th August 2025, for the unavailability of one witness, will not run to an efficient process.
17. We find that the most appropriate approach is to hear firstly the Applicants' case with the exception of Dr Robertson, secondly the submitters, and thirdly the Section 42A Reporting officer response to the matters raised in the hearing. The hearing would then be adjourned. A date can subsequently be set to hear from Dr Robertson by audio/visual link, followed by an opportunity for the submitters to respond only to any matters raised by Dr Robertson and then similarly the Section 42A Reporting officer.
18. The final step of the Applicant's reply would be in writing at time to be set following that audio/visual link.
19. Therefore, the Panel grant the Applicant's request for Dr Robertson to appear by way of an audio/visual link after the 8th August 2025. The Applicant should advise Ms Catherine Ongko (ResourceConsents@es.govt.nz), Hearing Administrator at SRC of Dr Robertson's availability after the 8th August 2025, so that a hearing time may be determined.
20. The other hearing dates and time, set out in the Notice of Hearing remain unchanged.
21. Any correspondence to the Commissioners should be directed through Ms Catherine Ongko (ResourceConsents@es.govt.nz), Hearing Administrator at SRC.



Mark St.Clair
Chair and on behalf of the Panel

30 June 2025

[REDACTED]

From: Carl McCrostie [REDACTED]
Sent: Sunday, 29 June 2025 6:29 pm
To: Resource Consents
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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Hi Catherine

I am writing in opposition to the applicants wanting to reconvene the Waituna hearing after the 8 th of August.
My reasons for this are as follows.

- The message that this will send to the submitters will be that the commissioners are prepared to allow special treatment of the applicants this will further erode any confidence that exists in the process.
- The applicants will be at an advantage having gone through the three day hearing and then reconvening so they can have the last word.
- This process has dragged on long enough and with a rapidly filling Lagoon another emergency opening is likely. By reconvening this is only going to extend the timeline to a working consent.
- Surely there is someone else within Dr Robertsons circle that could rise to the occasion.

Anyway these are my thoughts on this matter
I appreciate the opportunity to share them.

Regards

Carl McCrostie

Sent from [Outlook for iOS](#)

From: Resource Consents <ResourceConsents@es.govt.nz>

Sent: Wednesday, June 25, 2025 4:36:16 PM

To: Resource Consents <ResourceConsents@es.govt.nz>

Cc: Danielle Petricevich <danielle.petricevich@slrconsulting.com>

Subject: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine

Hearing Administrator

[REDACTED]

From: Katrina Robertson [REDACTED]
Sent: Monday, 30 June 2025 12:00 pm
To: Resource Consents
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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Hi

With regard to the extension requested by the Applicant to enable Dr Robertson to present his evidence, I'm curious as to why the Applicant agreed to the hearing dates when their lead technical advisor was unable to attend those dates. I feel it's more efficient and to the benefit of everyone, submitters, the Applicant and the commissioners to have it all occur across the 3 days rather than extending it out at a later date. I think either someone needs to present the evidence on his behalf or the dates need to be changed.

Thanks
Katrina

Get [Outlook for Android](#)

From: Resource Consents <ResourceConsents@es.govt.nz>
Sent: Wednesday, June 25, 2025 4:36:16 PM
To: Resource Consents <ResourceConsents@es.govt.nz>
Cc: Danielle Petricevich <danielle.petricevich@slrconsulting.com>
Subject: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine
Hearing Administrator

[REDACTED]

From: Lloyd McCallum [REDACTED]
Sent: Sunday, 29 June 2025 7:57 pm
To: Resource Consents
Subject: [External] FW: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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Catherine

Thankyou for passing on the minute from the hearing panel.

I make the following comments;

- I have read the full minute and this availability of people for meetings has delayed many Waituna Lagoon discussions over many years.
- If we had continuous rights then I would say wait until October, but we don't.
- The closed Lagoon is rising and looking at a 3rd Emergency opening in as many years regardless of your hearing panel timetable.
- These are all large businesses you mention in your email and it is hard to believe that they are unable to meet these dates before agreeing to the July date changes .
- We were told as a community to step up or miss out attending the prehearing meeting which none of these experts attended.
- I understand in a normal timetable of hearings the applicant and their experts would be up early and others could either agree or disagree with statements made as we move through the hearing.
- When the Waituna Control Association had a consent in process, there was very high pressure put on them to keep the process moving along, days not months now two and half years.
- We have been told to trust the hearing process, this is getting harder and harder to do.
- If you do agree with this request then it should be open to all interested parties to attend and make comment.

There is strong public interest and media in this consent hearing with a rising Lagoon in the background, I suggest a normal hearing process or delay the hearing.

Lloyd McCallum

From: Resource Consents <ResourceConsents@es.govt.nz>
Sent: Wednesday, 25 June 2025 4:36 PM
To: Resource Consents <ResourceConsents@es.govt.nz>
Cc: Danielle Petricevich <danielle.petricevich@slrconsulting.com>
Subject: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456
Importance: High

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui
Catherine
Hearing Administrator

[REDACTED]

From: Maarten van Rossum [REDACTED]
Sent: Sunday, 29 June 2025 9:16 pm
To: Resource Consents
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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Dear Catherine

Thank you for sending through the minute from the hearing panel.

We, from the Waituna Catchment Committee, acknowledge that Dr Robertson is one of the key people who needs to present on behalf of the applicant at the hearing but we have the following concerns:

- We have been told we have to trust in the process but we feel this will be undermined by allowing an extension to occur.
- The community was told to step up or miss out attending the pre hearing meeting, which we did and this extension again would undermine that.
- Is there not someone else within Dr Robertsons team who could take his place and present?
- Due to the change in circumstances and changes to the consent conditions several people who weren't going to speak would now like the option to do so.

The lagoon is currently closed and is filling rapidly. No doubt we will be looking at a 3rd emergency opening before a consent is granted, therefore we feel that trust needs to be maintained in the process as much as possible because this process has been drawn out for nearly two years.

Regards
Community Representative
Maarten van Rossum

On Wed, 25 Jun 2025 at 16:39, Resource Consents <ResourceConsents@es.govt.nz> wrote:

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine

Hearing Administrator

[REDACTED]

From: Janette McCrostie [REDACTED]
Sent: Monday, 30 June 2025 10:50 am
To: Resource Consents; Maarten van Rossum
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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Hi Catherine

It is with disappointment on my behalf that the Hearing Panel has granted an extension to DOC.

A disregard of one of the most basic fundamentals in law where plaintiffs and defendants get to put their case and sum up simultaneously.

There by creating equity & fairness where neither party has the opportunity to analyse in depth at their leisure opposing arguments as well as having the final say.

The Hearing Panel has created a perceived advantage , not a good start.

Regards Ray McCrostie

On Wed, Jun 25, 2025 at 4:39 PM Resource Consents <ResourceConsents@es.govt.nz> wrote:

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine

[REDACTED]

From: Joanne Crack [REDACTED]
Sent: Monday, 30 June 2025 12:06 pm
To: Resource Consents
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

[REDACTED]

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Hello Catherine,

In regards to the recent minute, we are not impressed that the Applicant would seek to prolong the hearing process. Surely someone could present on behalf of Dr Robertson?

The level of trust that we, and the community, have for the Applicant is very low already. This looks like the Applicant attempting to have the last word with the Commissioners.

Also the Applicant has changed the consent conditions, we believe further submissions should now be allowed and, those who already submitted but indicated they did not want to speak to their submission, nor attend a hearing, these people should all now be given the option to attend etc.

Is time of the essence? Difficult to say as the lagoon is currently closed and filling quickly. This upcoming hearing will not result in an opening consent before the lagoon needs opened again - so a third emergency opening is likely.

Alternatively, if the hearing is allowed to be reconvened on 8 August 2025 for Dr Robertson to attend and present his evidence and answer any questions from the Commissioners, then there should be an option for relevant opposing submitters to further respond to him and to the commissioners at a later date.

We would also question the merits of the Applicant organising a site visit for the Commissioners - the commissioners must be able to view the affected farmland and infrastructure. To date the Applicant has shown little interest in affected parties. For example if our farm is not included in a site visit then the Commissioners would have a skewed view of the lagoon height issue.

Thanks and regards,
Jo Crack
Southern Star Farms Ltd

On Wed, Jun 25, 2025 at 4:36 PM Resource Consents <ResourceConsents@es.govt.nz> wrote:

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine

Hearing Administrator

[REDACTED]

From: sarah tatham [REDACTED]
Sent: Monday, 30 June 2025 11:21 am
To: Resource Consents
Subject: [External] Re: Circulation of Minute 1 - Waituna Lagoon Consent application Hearing APP-20242456

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To Catherine

I feel with the time that has gone past and plenty of warning people need to be there in person.
Ewen Pirie was not allowed to speak via Zoom at pre hearing so Dr Roberts should have to be there or get some one to stand for him.
Shifting the goal posts to suit your agenda should not be allowed and you are seen to do it time and time again.

Thanks Trev Tatham
Co-Chair of the Waituna Catchment Liaison Committee

[Yahoo Mail: Search, organise, conquer](#)

On Wed, 25 Jun 2025 at 4:36 pm, Resource Consents
<ResourceConsents@es.govt.nz> wrote:

Tēnā koutou

Please find attached Minute 1 from the Hearing Panel.

Ngā mihi nui

Catherine

Hearing Administrator