

Under the Resource Management Act 1991

IN THE MATTER OF applications by
Cromwell Certified Concrete Limited to the
Otago Regional Council and Central Otago
District Council for discharge permits, a
water permit and a land use consent
relating to expansion of an existing quarry at
1248 Luggate-Cromwell Road

Minute and Directions of Hearing Commissioner John Iseli

The Hearing and Site Visit

- 1 I have been appointed by the Otago Regional Council and the Central Otago District Council as commissioner under Section 34A of the Act to hear and decide the applications lodged by Cromwell Certified Concrete Limited (the Applicant) in relation to proposed expansion of the Amisfield Quarry at 1248 Luggate-Cromwell Road.
- 2 The hearing of the application is scheduled to be held at Cromwell on 15th to 17th December 2021. A hearing notice confirming the venue, timing and process will be issued by the Councils shortly. This minute outlines the process for evidence exchange and provides guidance regarding expert witness conferencing and remote access facilities.
- 3 I intend to conduct a site visit prior to the hearing. I may choose to conduct a further visit and view neighbouring properties and areas of particular interest during or following the hearing dates as timing allows.

Evidence Exchange

- 4 Pursuant to s41C(1) of the RMA, I direct that:

- (a) a copy of each Council's section 42A report be provided to all parties who wish to be heard no later than 5.00pm on Tuesday 23rd November 2021;
- (b) The Applicant is to, by email, provide its expert evidence to the hearing administrator no later than 5.00pm on Tuesday 30th November 2021.
- (c) Any person who has made a submission and who is intending to call expert evidence is to, by email, provide that evidence, including any rebuttal to the Applicant's expert evidence, to the hearing administrator no later than 5.00pm on Tuesday 7th December 2021.
- (d) Each Council's section 42A report and all pre-circulated expert evidence will be taken as read, meaning there will be no need for persons to read out pre-circulated information. However, drawing the commissioner's attention to key parts of pre-circulated information is required and/or providing a summary of the same.
- (e) Non-expert evidence, including submitter lay evidence and any legal submissions, should be tabled and read aloud on the day that the relevant party appears at the hearing.

5 I understand that some discussions may be occurring between expert witnesses for the Councils and the Applicant. I request that, where possible, written statements be prepared that summarise areas of agreement and disagreement between the experts as a result of those discussions. Further expert conferencing that includes any experts acting for the submitters is encouraged. Written joint witness statements that result from such conferencing are to be tabled at the hearing.

The Hearing

- 6 At commencement of the hearing any procedural matters will be addressed and the parties will be asked to introduce themselves and their witnesses.
- 7 The Applicant will then commence providing a summary of legal submissions (if any) and;
 - (a) The Applicant is to call any expert witness who has pre circulated evidence in person;

- (i) The witness should be introduced and asked to confirm his or her qualifications and experience and the content of their pre-circulated evidence;
 - (ii) The witness will then be given an opportunity to draw to the attention of the Commissioner the key points in their brief. The witness should present a summary of their pre-circulated evidence (supported by power point presentations if desired), endeavouring to be succinct.
- (b) No new evidence is to be introduced, other than in relation to areas of agreement and disagreement following expert conferencing, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party.
 - (c) In such cases the responding evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness.
 - (d) If there is any variation between what the witness says and what is in the brief of evidence, the Commissioner will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness.
 - (e) The witness may then be questioned by the Commissioner.
 - (f) There is no right to cross-examine.
- 8 Following the Applicant's presentation of evidence, submitters in support followed by those in opposition will present utilising the same procedures. Submitters when presenting their submission should ensure that, if there are any matters they wish to respond to arising from any materials available to us, they do so during their presentation. Unless I direct otherwise submitters do not receive a right of reply.
- 9 Non-expert evidence (including submitter lay evidence and legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.
- 10 Following the submitters, I will hear from the Councils' reporting officers and supporting experts. Given that reports will be pre-circulated and pre-read, summarising main points and raising matters in response to evidence presented at the hearing is my expectation of officers.

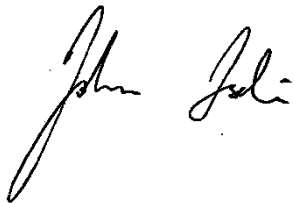
- 11 During the hearing I may well have questions for any party that may require preparation of additional information. If so, I will ensure a process fair to all is followed.
- 12 Finally, the Applicant will have a right of reply. That reply may be provided at the hearing or in writing at a later date.
- 13 I will receive evidence spoken or written in te reo Maori and will accommodate disabilities which affect submitters or witnesses, for example by accommodating sign language. However, to enable preparations for these circumstances I will require at least 5 working days' notice before the hearing commences of the intention to present in te reo or sign language.
- 14 The hearing is in public. It will be conducted in a manner which is appropriate and fair, but without unnecessary formality. The parties should be mindful that the hearing will be recorded and that recording will be made publicly available.
- 15 I will attempt to focus on the issues of contention during the hearing and in deliberations thereafter. The assistance of the parties to clearly identify areas of expert agreement and disagreement will be greatly appreciated.
- 16 To assist those presenting at the hearing, presentation aids will be available including a whiteboard and data-projector.

Remote Access Facilities

- 17 Section 39AA of the Act allows for all or part of a hearing to be conducted virtually using remote access facilities. A change to the Covid situation could result in the need to conduct a virtual hearing (entirely or in part). I will issue an updated minute if that circumstance arises.
- 18 At this stage it is assumed that a physical hearing will proceed in Cromwell on the assigned dates. The Councils will arrange an audio-visual and phone link to the hearing venue. That will enable any parties who are unable to travel to the hearing to present remotely. Any parties who wish to present remotely should inform Ms Bagnall, using the contact information provided below.

Other Matters

- 19 The parties are instructed to address any questions regarding the hearing process to the hearing administrator, Karen Bagnall at the Otago Regional Council who can be contacted by phone (027 218 4164) or email (karen.bagnall@orc.govt.nz).

A handwritten signature in black ink, appearing to read "John Iseli". The signature is written in a cursive style with a large, sweeping initial 'J'.

John G Iseli
Independent Commissioner

Dated 11th November 2021