

Council Meeting Agenda - 24 August 2022

Meeting will be held in the Council Chamber at Level 2, Philip Laing House
144 Rattray Street, Dunedin - Councillors
[ORC YouTube Livestream - Members of the Public](#)



Members:

| | |
|--------------------------------------|-----------------------|
| Cr Andrew Noone, Chairperson | Cr Gary Kelliher |
| Cr Kevin Malcolm, Deputy Chairperson | Cr Michael Laws |
| Cr Hilary Calvert | Cr Gretchen Robertson |
| Cr Michael Deaker | Cr Bryan Scott |
| Cr Alexa Forbes | Cr Kate Wilson |
| Cr Carmen Hope | |

Senior Officer: Pim Borren, Interim Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

24 August 2022 01:00 PM

| Agenda Topic | Page |
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| 1. APOLOGIES No apologies were received prior to publication of the agenda. | |
| 2. PUBLIC FORUM Requests to speak should be made to the Governance Support team on 0800 474 082 or to governance@orc.govt.nz at least 24 hours prior to the meeting; however, this requirement may be waived by the Chairperson at the time of the meeting. | |
| 3. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting. | |
| 4. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have. | |
| 5. CONFIRMATION OF MINUTES The Council will consider minutes of previous Council Meetings as a true and accurate record, with or without changes. | 4 |
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| 6. OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL AT 24 August 2022 Actions from resolutions of the Council will be reviewed. | 15 |
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| 7.1 | SIX MONTHLY REPORT TO THE MINISTER | 16 |
| | The report is provided for Council to adopt the sixth progress report to the Minister for the Environment, in accordance with section 27 of the Resource Management Act 1991 in relation to the recommendations made under section 24A of the Resource Management Act 1991. This report is the final report of the current triennium. | |
| 7.1.1 | Attachment 1: August 2022 Report to the Minister | 20 |
| 7.2 | PLAN CHANGE 8 URBAN DISCHARGES | 36 |
| | The report is provided for Council approval of Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 1011 ,and to set a date for making the plan change fully operative by incorporating the amended provisions into the operative Water Plan. | |
| 7.2.1 | Attachment 1: Operative Plan Change 8 | 41 |
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| | The report is provided for Council to note staff submissions lodged on the following central government consultations: The exposure drafts of proposed changes to the National Policy Statement for Freshwater Management 2020 (NPS-FM) and National Environmental Standard for Freshwater (NES-F), including amendments to the provisions for identifying wetlands and regulations for managing activities in or near wetlands; and The Water Services Entities Bill; and The exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB). | |
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| 7.4 | ZERO CARBON ALLIANCE | 175 |
| | The report provides Council with an update on the Zero Carbon Alliance (ZCA) and presents the updated formal documentation for the Council to consider. | |
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| 7.5 | LIVING WAGE FOR BUS DRIVERS | 208 |
| | The report is provided to seek Council direction to increase the wage rate to equivalent to the September 2022 Living Wage for bus drivers driving Council contracted bus services. | |
| 7.5.1 | Attachment 1: Bus Driver Wage Uplift Timeline | 216 |

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| 7.6 | KURIWAO LAND | 218 |
| | The report is provided for Council's approval of the sale of surplus land subject to the Otago Regional Council (Kuriwao Endowment Lands) Act 1994. | |
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| 9.1.5 | Attachment 5: Letter from Minister for Biosecurity acknowledging receipt of the ORC Biosecurity Operational Plan | 239 |
| 9.2 | CHIEF EXECUTIVE'S REPORT | 240 |
| 10. | RESOLUTION TO EXCLUDE THE PUBLIC | 242 |
| | That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987), namely: | |
| | - Minutes of the 29 June 2022 public-excluded Council Meeting | |
| | - Kuriwao Land - Options | |
| | - National Ticketing System Participation Agreement | |
| | - Hearings Panel Appointment - pORPS Sch 1 Process | |
| | - Process for appointing a permanent Chief Executive | |
| 10.1 | Public Exclusion Table | 242 |
| 11. | CLOSURE | |



Minutes of an ordinary meeting of
Council held in the Council Chamber
on Wednesday 29 June 2022 at 1:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Kevin Malcolm *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Alexa Forbes
Cr Michael Deaker
Cr Carmen Hope
Cr Gary Kelliher
Cr Michael Laws
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 1:01pm. Staff present in the Chamber included Pim Borren (Interim Chief Executive), Gavin Palmer (GM Operations), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support), Mike Roesler (Corporate Planning Manager), Libby Caldwell (Acting Manager Environmental Implementation), Richard Ewans (Partnership Lead - Biodiversity), Murray Boardman (Performance and Delivery Specialist), Michelle Mifflin (Manager Engineering), Alison Weaver (Commercial and Regulatory Lead), and present electronically were Nick Donnelly (GM Corporate Services), Richard Saunders (GM Regulatory and Communications), Sarah Harrisson (Manager Finance, Revenue), Francisco Hernandez (Principal Advisor Climate Change), and Sami Khan (Scientist - Freshwater Ecology).

Chair Noone extended a warm welcome to Pim Borren, Interim Chief Executive, to his first Council Meeting.

Councillors acknowledged the passing of Mr Matt Hickey, and spoke of his expertise, skills and talent as a well-regarded past employee and consultant, particularly in the areas of water and pest eradication. Chair Noone said Council's thoughts were with Matt's wife, daughter and extended whanau.

1. APOLOGIES

There were no apologies.

MOTION CARRIED

Cr Forbes, Cr Laws, Cr Malcolm and Cr Scott attended the meeting electronically.

2. PUBLIC FORUM

No public forum was held.

3. CONFIRMATION OF AGENDA

There was no change to the published agenda.

4. CONFLICT OF INTEREST

No conflicts of interest were advised.

5. CONFIRMATION OF MINUTES

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Extraordinary Council meeting held on 18 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Calvert Seconded

That the minutes of the (public portion of the) Council meeting held on 25 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Deaker Seconded

That the minutes of the (public portion of the) Emergency Council meeting held on 26 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Hope Seconded

That the minutes of the (public portion of the) Emergency Council meeting held on 1 June 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Hope Seconded

That the minutes of the (public portion of the) Extraordinary Council meeting held on 11 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

6. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

The report on open actions from resolutions of the Council Meetings was reviewed.

7. MATTERS FOR CONSIDERATION

7.1. Annual Plan 2022/23 - Adoption

The paper was provided for Council to adopt the Otago Regional Council Annual Plan 2022-23 (AP) and enable the subsequent approval of rates and charges for the 1 July 2022 to 30 June 2023 financial year. Nick Donnelly (GM Corporate Services) and Mike Roesler (Corporate Planning Manager) were present to speak to the report and respond to questions.

Cr Malcolm congratulated the Mr Donnelly and Mr Roesler and the team for their exceptional work on the Annual Plan, and said the Annual Plan reflects what Council outlined in our Long-term Plan.

Resolution CM22-193: Cr Calvert Moved, Cr Malcolm Seconded

That the Council:

- 1) **Receives** this report.

MOTION CARRIED

Resolution CM22-194: Cr Calvert Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** the recommendations from the 1 June 2022 Finance Committee meeting have been communicated to council management for action and inclusion in 2021-22 and 2022-23 work programmes.

MOTION CARRIED

Cr Hope and Cr Kelliher voted against the motion and asked that their votes be recorded.

Resolution CM22-195: Cr Calvert Moved, Cr Malcolm Seconded

That the Council:

- 1) **Adopts** the Otago Regional Council Annual Plan 2022-23 as circulated with this report.

MOTION CARRIED

Resolution CM22-196: Cr Wilson Moved, Cr Noone Seconded

That the Council:

- 1) **Requests** staff report back to Council on alternative catchment based rating systems for river management (and potentially other catchment funded work streams) in time for consideration in the 2023/2024 Annual Plan.

MOTION CARRIED

A division was called:

Vote

| | |
|------------|--|
| For: | Cr Calvert, Cr Deaker, Cr Forbes, Cr Malcolm, Cr Noone, Cr Robertson, Cr Scott and Cr Wilson |
| Against: | Cr Hope, Cr Laws and Cr Kelliher |
| Abstained: | Nil |

MOTION CARRIED (8 to 3)

7.2. Rates Report and Rates Resolution

The report provided details of each of the rates to be set, and to recommend that Council adopts the rates resolution for the 2022-23 financial year. Nick Donnelly (GM Corporate Services) and Sarah Harrisson (Manager Finance, Revenue) were present to speak to the report and respond to questions.

Resolution CM22-197: Cr Calvert Moved, Cr Hope Seconded

That the Council:

- 1) **Receives** this report and the attached Rating and Sample Reports.

MOTION CARRIED

Resolution CM22-198: Cr Calvert Moved, Cr Robertson Seconded

That the Council:

- 1) **Adopts** the Rating Resolution for the 2022-23 financial year.

MOTION CARRIED

Cr Hope, Cr Kelliher and Cr Laws voted against the motion and asked that their votes be recorded

7.3. ECO Fund Approval

The report was provided for Council to approve funding the recommended ECO Fund applications and applications for additional incentives funding for the April 2022 round. Gavin Palmer (GM Operations), Libby Caldwell (Acting Manager Environmental Implementation) and Richard Ewans (Partnership Lead - Biodiversity) were present to speak to the report and respond to questions.

Cr Deaker spoke to ECO Fund funding round, acknowledging the robust process. Cr Deaker congratulated the staff who reviewed the applications, and the assessment panel.

Resolution CM22-199: Cr Deaker Moved, Cr Wilson Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the funding recommendations of the ECO Fund Assessment Panel for the April 2022 round to a total value of \$443,125.
- 3) **Notes** that the annual review of ECO Fund will be completed by December 2022 in time for the next round in March 2023.

MOTION CARRIED

Cr Forbes read a letter from Mr Gareth Noble, who had submitted an application to the ECO Fund from Wentworth Estate Residents Group.

7.4. Bylaw Review Adoption

The report as provided for Council approval of the Hearing Panel recommendations to replace the Flood Protection Management Bylaw 2012 with the proposed Flood Protection Management Bylaw 2022 ("Proposed Bylaw"), to adopt the Flood Protection Management Bylaw 2022, and to seek Council approval of the proposed amendments to the Otago Regional Council's Delegations Manual arising from the adoption of the Hearing Panel recommendations. Gavin Palmer (GM Operations), Michelle Mifflin (Manager

Engineering) and Alison Weaver (Commercial and Regulatory Lead) were present to speak to the report and respond to questions.

Cr Wilson and Cr Robertson were on the Hearing Panel, and both thanked all those involved, in particular Mr Cubit as a panel member, and Alison Weaver for her work.

Resolution CM22-200: Cr Wilson Moved, Cr Robertson Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Notes** that Council has previously determined, under section 155(1) of the Local Government Act 2002 (LGA), that a bylaw is the most appropriate way of addressing problems relating to the protection and effective management of flood protection works owned or controlled by the Council
- 3) **Notes** that Council has previously concluded that the Flood Protection Management Bylaw 2012 should be reviewed following public consultation and approved a proposed Bylaw for consultation.
- 4) **Receives** the Recommendations of the Hearing Panel on the Proposal for the Proposed Otago Regional Council Flood Protection Management Bylaw 2022 dated 13 June 2022 (the "Recommendations") (Attachment 1).
- 5) **Adopts** the Otago Regional Council Flood Protection Management Bylaw (Attachment 2) 2022, as recommended by the Hearing Panel (Attachment 1) with a commencement date of 1 September 2022.
- 6) **Approves** the affixing of the common seal to the Flood Protection Management Bylaw 2022.
- 7) **Revokes** the Flood Protection Management Bylaw 2012 ('2012 Bylaw') on 31 August 2022.
- 8) **Resolves** to publicly notify, in accordance with section 157 of the LGA, the Proposed Bylaw, specifying that it will come into operation from 1 September 2022 and that copies of the Bylaw may be viewed and obtained from Council offices.
- 9) **Approves** the changes to the Delegations Manual as provided for in this report.
- 10) **Approves** the Chief Executive to update the Council's Delegation's Manual accordingly.

MOTION CARRIED

7.5. National Adaptation Plan Submission

The report updated Council on the staff submission lodged on the Ministry for the Environment (MfE) consultation: "**Draft National Adaptation Plan.**" (NAP). Amanda Vercoe (GM Governance, Culture & Communication) and Francisco Hernandez (Principal Advisor Climate Change) were present to speak to the report and respond to questions.

Resolution CM22-201: Cr Noone Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report and the submission on the Ministry for the Environment's consultation, "Draft National Adaptation Plan".

MOTION CARRIED

7.6. Updated Elected Member Remuneration Determination 2022/23

The report was provided for Council to note the 2022/23 Local Government Members Remuneration Determination. Amanda Vercoe (GM Governance, Culture & Communication) was present to speak to the report and respond to questions.

Resolution CM22-202: Cr Noone Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Notes** the Remuneration Authority's Local Government Members Determination 2022/23.
- 3) **Adopts** the update Expenses, Reimbursements and Allowances Policy 2022.

MOTION CARRIED

7.7. PC1 Dust Suppressants and Landfills Approval

The report was provided for Council to approve Plan Change 1 (PC1) (Dust suppressants and Landfills) to the Regional Plan: Waste for Otago (Waste Plan) as amended by Environment Court Decisions [2021] NZEnvC 185, [2022] NZEnvC 26, and [2022] NZEnvC 91, and to set a date for making the plan change operative by incorporating the amended provisions into the operative Waste Plan. Anita Dawe (GM Policy and Science), Tom de Pelsemaeker (Acting Manager Policy) and Dolina Lee (Senior Analyst Freshwater and Land) were present to speak to the report and respond to questions.

Resolution CM22-203: Cr Hope Moved, Cr Robertson Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** minor changes made to Proposed Plan Change 1 (Dust suppressants and Landfills) in accordance with clause 16(2) of Schedule 1 of the RMA.
- 3) **Approves** Plan Change 1 (Dust suppressants and Landfills) and incorporates these provisions into the Operative Waste Plan in accordance with clause 17(2) of Schedule 1 to the RMA.
- 4) **Affixes** Council's seal to Plan Change 1 (Dust suppressants and Landfills) to the Waste Plan in accordance with Clause 17(3) of Schedule 1 of the RMA.
- 5) **Resolves** to make Plan Change 1 (Dust suppressants and Landfills) operative from 9 July 2022, and publicly notify this date on 2 July 2022, in accordance with Clause 20 of Schedule 1 of the RMA.

MOTION CARRIED

7.8. Proposed amendments to National Policy Statement for Freshwater Management and National Environmental Standards to incorporate changes to wetland provisions and make technical amendments

The report was provided for Council to endorse lodging a staff submission on the exposure drafts and to provide Council with an overview of key messages likely to be included in a staff submission. Anita Dawe (GM Policy and Planning), Tom de Pelsemaeker (Acting Manager Policy) and Sami Khan (Scientist) were present to speak to the report and respond to questions.

Ms Dawe said staff have been inundated with submissions from Central Government. Cr Wilson spoke of the difficulties communities are experiencing with the number of submissions

and time constraints. Ms Dawe advised that staff could look at where there are gaps, for Councillors to receive feedback from the community.

Resolution CM22-204: Cr Hope Moved, Cr Robertson Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the lodgement of a staff submission, signed by the Chief Executive under authorised delegation; on the Ministry for the Environment 2022 proposed amendments to the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standard for Freshwater (NES-F).
- 3) **Notes** that a copy of the submission will report back to a full Council meeting in August 2022.

MOTION CARRIED

7.9. 2022-2023 Regional Pest Management Plan Biosecurity Operational Plan

The paper was provided for Council to adopt the Otago Regional Council's Regional Pest Management Plan – 2022-2023 Operational Plan. Gavin Palmer (GM Operations), Libby Caldwell (Acting Manager Environmental Implementation) and Murray Boardman (Performance and Delivery Specialist) were present to speak to the report and respond to questions.

Ms Caldwell advised it is a statutory requirement to have a plan which operationalises the Regional Pest Management Plan under the Biosecurity Act. The operational plan sets out key performance indicators for the next financial year and Ms Caldwell spoke of the key changes.

Resolution CM22-205: Cr Noone Moved, Cr Hope Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the Otago Regional Council's Regional Pest Management Plan Biosecurity Operational Plan 2022-2023.
- 3) **Agrees** to proactively provide a copy of the Otago Regional Council's Regional Pest Management Plan Biosecurity Operational Plan 2022-2023 to the Minister for Biosecurity.
- 4) **Notes** that staff will report back to Council any response from the Minister for Biosecurity.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the meeting adjourns for a short break.

MOTION CARRIED

The meeting adjourned at 3:25pm and reconvened at 3:44pm

7.10. Galloway Depot and Oat Processing Equipment

The report provided Council further information on the Galloway depot and oat processing equipment and seeks a final decision on the future of these assets. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions.

Cr Kelliher advised he has had discussions with two groups regarding the equipment and said that the groups see a desperate need for the equipment in the future. Cr Kelliher indicated he would prefer the paper lay on the table to enable time for him to meet with interested groups. Following discussion, Cr Kelliher moved:

Resolution CM22-206: Cr Kelliher Moved, Cr Malcolm Seconded

That the Council:

- 1) **Agrees** to lay the paper on the table and bring it back to a future Council meeting.

MOTION CARRIED

7.11. Kuriwao Sales

The Lessees for Kuriwao leases S417 and S223 have requested Council sell the land currently leased to them under the Otago Regional Council (Kuriwao Endowment Lands) Act 1994. The report was provided for Council's endorsement of the sale of the freehold lands subject to entering into satisfactory terms and conditions of sale. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions.

Resolution CM22-207: Cr Hope Moved, Cr Wilson Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Endorses** the sale of the land to the lessees for the properties contained within records of title 2540 and OT18C/598 subject to agreement of satisfactory terms and conditions of sale.
- 3) **Subject to 2) above:**
 - a. **Authorises** the Chief Executive or the General Manager Corporate Services to execute Sale and Purchase Agreements.
 - b. **Authorises** the Chief Executive and General Manager Corporate Services to sign an authority and instruction form for the sale of the lands.

MOTION CARRIED

7.12. Documents Signed Under Council Seal

The report informed Council of delegations which have been exercised during the period 23 March 2022 through 29 June 2022. Amanda Vercoe (GM Governance, Culture and Communication) was present to speak to the report and respond to questions.

Resolution CM22-208: Cr Hope Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

8. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

8.1. Chairperson's Report

The letter of response sent to Mayor Hawkins and Mayor Boulton regarding public transport in our region was discussed. Dr Borren said that it is a complex issue, and recommended having a workshop first for staff to have an opportunity to advise Council what our position may, or may not be, before meeting with DCC and QLDC. Cr Robertson said that a workshop to help inform Council of how to make those decisions would include the regulatory and legislative background on what the setting is that we are working in; aspirations or goals that we are

trying to achieve for public transport, so we understand what good might look like; what the issues are to achieving those goals; and governance decision-making.

Resolution: Cr Noone Moved, Cr Calvert Seconded

That the Council:

- 1) *Receives the Chairperson’s report.*

MOTION CARRIED

Resolution: CM22-209: Cr Calvert Moved, Cr Deaker Seconded

That the Council:

- 1) **Asks** the Chief Executive to organise a workshop on public transport when he is able to, having staff provide information.

MOTION CARRIED

8.2. Chief Executive's Report

Resolution: Cr Wilson Moved, Cr Hope Seconded

That the Chief Executive’s report be received.

MOTION CARRIED

9. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Wilson Seconded:

That the public be excluded from the following parts of the proceedings of this meeting, (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987).

MOTION CARRIED

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered | Reason for passing this resolution in relation to each matter | Ground(s) under section 48(1) for the passing of this resolution |
|---|---|---|
| <i>Minutes of the 11 May 2022 public excluded Extraordinary Council Meeting</i> | Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons. | |
| <i>Minutes of the 18 May 2022 public excluded Extraordinary Council Meeting</i> | Section 7(2)(c)(i) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied. | |

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| <p><i>Minutes of the 25 May 2022 public excluded Council Meeting</i></p> | <p>Section 7(2)(b)(i) To protect information where the making available of the information would disclose a trade secret. Section 7(2)(b)(ii) To protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information. Section 7(2)(c)(i) To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied. Section 7(2)(g) To maintain legal professional Privilege. Section 7(2)(h) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities. Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> | |
| <p><i>Minutes of the 26 May 2022 public excluded Emergency Council Meeting</i></p> | <p>Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.</p> | |
| <p><i>Minutes of the 1 June 2022 public excluded Emergency Council Meeting</i></p> | <p>Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons.</p> | |
| <p><i>Kuriwao Sales</i></p> | <p>Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> | <p>Section 48(1)(a): Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part</p> |

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| | | of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist. |
| <i>ORC Clutha Inquiry – Panckhurst Report</i> | Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons. | Section 48(1)(a): Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist. |

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act or section 6 or section 7 or section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above.

10. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 4:22pm.

Chairperson

Date

OPEN ACTIONS FROM RESOLUTIONS OF THE COUNCIL (PUBLIC) AT 24 AUGUST 2022

| Meeting Date | Item | Status | Action Required | Assignee/s | Action Taken | Due Date |
|--------------|---|-------------|--|--|---|------------|
| 24/11/2021 | HAZ2109 South Dunedin Future Programme Update Report | Completed | Provide an update to Council on the South Dunedin Future Programme mid-year 2022. Res CM21-193 | General Manager Operations | 23/02/2022 An update on the programme will be provided to the April 2022 meeting of the Strategy and Planning Committee. The programme plan report will be provided to the June 2022 Council meeting. 22/04/2022 An update on the programme was provided to the 13 April 2022 meeting of the Strategy and Planning Committee and an updated and programme plan were provided to 13 July meeting of the Strategy and Planning Committee. Complete 13 July 2022. | 30/06/2022 |
| 23/06/2021 | GOV2116 Zero Carbon 2030 Alliance Memorandum of Understanding | Completed | Staff will update Council on discussions and activities related to the Zero Carbon 2030 Alliance. Res CM21-127 | General Manager Governance, Culture and Customer, Senior Advisor - Mayoral Forum | 02/11/2021 No activity to report currently. 18/08/2022 General Manager Governance, Culture and Customer Update report to Council 24/08/2022. Six monthly reports to follow. | 09/12/2021 |
| 29/09/2021 | Chairperson's Report | In Progress | Undertake a review of the Manuherekia Governance decision making process. Res CM21-167 | Chairperson | 09/02/2022 Delayed until TAG complete science work. 29/03/2022 Still waiting for TAG to complete the science work. | 09/12/2021 |
| 23/03/2022 | ENG2202 Bylaw Approval to Commence Consultation | In Progress | Dr Palmer (GM Operations) to develop a policy around construction of walkways on ORC owned floodbanks by 30 June 2022. Res CM22-132 | General Manager Operations | 22/04/2022 A policy is in preparation. The timeframe is unable to be met due to the resolution made by finance committee on 1 June 2022. | 30/06/2022 |
| 29/06/2022 | Chairperson's Report | In Progress | The Chief Executive is to organise a workshop on public transport when he is able to, having staff provide information. This is to enable staff to have an opportunity to advise Council what our position may, or may not be, before meeting with DCC and QLDC. (This follows letter the Chairperson received from DCC/QLDC Mayors on 13 May 2022, and the Chairperson's response on 30 May 2022) Res CM22-209 | Interim Chief Executive | 19/08/2022 Two separate meetings have been organised in response to this action. The first with Mayors (and elected members) is scheduled for 31 August 2022. The second is a Council workshop which is being arranged through our Transport team and jointly facilitated by GM Operations and the Chief Executive on 13 September 2022 - various options will be considered for governance across both public transport and transport/roading/parking options, taking into account the recent announcements from the Minister of Transport with respect to the completion and revision of the Public Transport Operating Model (PTOM). | 28/09/2022 |
| 29/06/2022 | CS2233 Annual Plan 2022/23 - Adoption | In Progress | Staff to report back to Council on alternative catchment based rating systems for river management (and potentially other catchment funded work streams) in time for consideration in the 2023/2024 Annual Plan. Res CM22-196 | General Manager Corporate Services and CFO, Manager Corporate Planning | 17/08/2022 General Manager Corporate Services and CFO This will be included in the Annual Plan 2023-24 process. | 30/06/2023 |

7.1. Six Monthly Report to the Minister

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|----------------------|--|
| Prepared for: | Council |
| Report No. | POL2204 |
| Activity: | Governance Report |
| Author: | Anita Dawe, General Manager Policy and Science |
| Endorsed by: | Anita Dawe, General Manager Policy and Science |
| Date: | 24 August 2022 |

PURPOSE

- [1] To present, for adoption by Council, the sixth progress report to the Minister for the Environment, in accordance with section 27 of the Resource Management Act 1991 in relation to the recommendations made under section 24A of the Resource Management Act 1991. This report is the final report of the current triennium.

EXECUTIVE SUMMARY

- [2] The Minister for the Environment wrote to the Otago Regional Council on 18 November 2019, setting out several recommendations regarding the development of a fit for purpose planning framework for Otago. One of the requirements outlined in the letter was a formal report, every six months, on progress against three measures. The reports have been provided every six months since that time, with the most recent in March 2022.
- [3] The report, as attached, updates the Minister on both capacity and capability, and work programmes, in accordance with the requirements set out in the initial 2019 correspondence.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the sixth report to the Minister for the Environment, that reports on progress against the recommendations made in his letter of 19 November 2019.
- 3) **Notes** that the next report will be brought to Council around March 2023, dependent on a new Council meeting schedule.

BACKGROUND

- [4] In December 2019, ORC agreed to the work programme as set out by the Minister, in response to the investigation led by Professor Skelton under Section 24A of the Resource Management Act. Part of that work programme requires 6-monthly progress reports.

- [5] The progress reports have been provided in April and October 2020, in March and September 2021, and in March this year. The reports address the recommendations of the Minister, which are to:
- *Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits;*
 - *Develop and adopt a programme of work to achieve the following:*
 - *By November 2020, a complete review of the current RPS that is publicly notified, with the intention that it is made operative before the review of its LWRP is notified;*
 - *By 31 December 2023, a new LWRP for Otago that includes region wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all catchments within the region.*
 - *Prepare a Plan Change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with the requirements in the National Policy Statement for Freshwater Management.*
- [6] In addition, the following matters were to be included as part of the 6-monthly updates:
- *Progress made in developing science, planning, consenting, monitoring and enforcement, and land management organisational capability and capacity;*
 - *Progress in achieving the [above] recommendations 1, 2 and 3; and*
 - *A summary of freshwater resource consenting activity for the reporting period.*
- [7] The sixth report is due in September 2022, however due to Local Body Elections and recent communication with the Minister, it has been brought forward by one month.

DISCUSSION

- [8] Since December 2019, staff have continued to work to implement the agreed work programme.
- [9] A full report is appended but in summary, against the formal request above, the following has been undertaken:
- While progress continues to be made across the organisation to develop and improve organisational capacity and capability across planning, science, environmental monitoring, consents and compliance monitoring, there is an emerging theme around the difficulty recruiting in the current labour market. This is being felt across ORC and putting pressure on consultants to assist.
 - The Environmental Implementation Team is continuing to recruit, to deliver on non-regulatory activities, in conjunction with the Land and Water Regional Plan, including work on Integrated Catchment Management.
 - The proposed Regional Policy Statement is being separated out, in accordance with the High Court declaration on what relates to freshwater. There are implications for the timeline to make the proposed RPS operative as a result, however, work is continuing to progress.

- The Land and Water Regional Plan work programme is continuing, with a significant amount of technical (scientific and economic) work progressing. Consultation on the region wide provisions is set to commence in September this year.
- The development of a fit for purpose planning framework is progressing well, with all relevant parts of Plan Change 7 and Plan Change 8 either operative or soon to be operative, and Plan Change 1 also operative.
- Consideration of Plan Change 7 continues in decision making on deemed and water permits, with some applications proceeding to hearings during this reporting period. Significant training in the consent area has been undertaken to support implementation of Plan Change 7.
- A summary of freshwater consenting has been prepared and is included in the attached report.

OPTIONS

- [10] The options for Council are to accept the report, and update the Minister, in accordance with his recommendations. The report simply outlines the progress on work programmes, and improvements in capacity and capability.
- [11] Councillors could choose not to update the Minister and be in breach of their commitment to the Minister to do so.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [12] The outcome of the Ministers review was to ensure ORC developed a fit for purpose framework for managing Otago's land and freshwater. This most closely aligns with *Healthy water, soil and coast* but also touches on a number of other parts of the Strategic Directions.
- [13] There are no particular policy considerations as a result of this paper. The policy considerations relate to the planning work programme and will be considered on a case-by-case basis, as the work programme is implemented.

Financial Considerations

- [14] There are no particular financial considerations in relation to this paper. The report to the Minister can be accommodated within existing budgets and/or approved budget variations.

Significance and Engagement Considerations

- [15] This paper does not trigger any requirements of He Mahi Rau Rika: Significance, Engagement and Māori Participation Policy 2021.

Legislative and Risk Considerations

- [16] The Minister has requested a formal response under section 27 of the Resource Management Act 1991. Section 27 *Minister May Require Local Authorities to Provide Certain Information* outlines the circumstances under which the Minister may request information and the criteria for local authorities to provide it.

Climate Change Considerations

- [17] There are no climate change considerations from this paper or the report to the Minister.

Communications Considerations

[18] There are no specific communications considerations as a result of the report.

NEXT STEPS

[19] The next steps are to continue to implement the work programme and prepare for the next report due in March 2023.

ATTACHMENTS

1. August 2022 Report to the Minister [7.1.1 - 16 pages]

25 August 2022

Minister for the
Environment
Private Bag 18041
Parliament Buildings
Wellington 6160

BY EMAIL

Dear Minister

Report under Section 27 of the Resource Management Act 1991

In accordance with your letter of 18 November 2019 and following on from the previous 5 reports from 2020 until now, the following comprises the Otago Regional Councils' sixth report, in accordance with Section 27 of the Resource Management Act 1991 (the Act) and the recommendations pursuant to Section 24 of the Act. This is the final report of the current triennium.

This letter also responds to your letter received last month, relating to timelines for the proposed Land and Water Regional Plan (pLWRP) and the proposed Otago Regional Policy Statement 2021.

This report will address the following:

- *Progress made in developing science, planning, consenting, monitoring and enforcement, and land management organisational capability and capacity; and*
- *Progress in achieving the [above] recommendations 1, 2 and 3 (copied below for ease of reference):*
 1. *Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits.*
 2. *Develop and adopt a programme of work to achieve the following:*
 - i. *By November 2020¹, a complete review of the current RPS that is publicly notified, with the intention that it is made operative before the review of its LWRP is notified;*
 - ii. *By 31 December 2023, a new LWRP for Otago that includes region wide objectives, strategic policies, region-wide activity policies, and provisions for each of the Freshwater Management Units, covering all catchments within the region.*
 3. *Prepare a Plan Change by 31 March 2020 that will provide an adequate interim planning and consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with the requirements in the National Policy Statement for Freshwater*

Management (NPSFM); and

- *A summary of freshwater resource consenting activity for the reporting period.*

¹ Please note an extension of this date to 30 June 2021 as per your letter to ORC dated 11 September 2020.

Progress Made in Developing Science, Planning, Consenting, Monitoring and Enforcement, and Land Management Organisational Capability and Capacity

The following table outlines the improvements in each of the areas specifically identified in your report.

| Area | What we advised in March 2022 | Latest Update |
|-------------|---|---|
| Science | <p>The Science team is in place and developing and implementing programmes for biodiversity, land and water. Most programmes are now in an implementation phase.</p> <p>The Manager Science position has been filled. Two vacancies in the Science team continue to prove hard to fill in a competitive market. In these circumstances ORC is reliant on consultants to carry out work.</p> <p>A new Team Leader role in the Environmental Monitoring (EM) team has been recruited. Further resources will be established in the EM team in the first half of 2022 to support the growing work programme. The EM team work closely with the Science team and are responsible for the State of the Environment monitoring programme. Their work programme will also be critical to the implementation of the NPSFM, including through the increased monitoring requirements.</p> | <p>The Science Team is in place and work has progressed on implementing programmes for biodiversity, land and water.</p> <p>Recruitment has been ongoing, with only one role left to recruit. The Science Manager has been in the role for six months now.</p> <p>The Environmental Monitoring (EM) team was fully resourced towards the end of 2021/22, and will be recruiting 2 more roles that are funded in 2022/23.</p> <p>The EM team work closely with the Science team and are responsible for the State of the Environment monitoring programme. Their work programme will also be critical to the implementation of the NPSFM, including through the increased monitoring requirements.</p> |
| Planning | <p>The Land and Water Regional Plan (LWRP) Governance Group are continuing to meet. Recently a request was made by Te Ao Marama Inc to have a seat on the Governance Group and that request is under consideration.</p> <p>One of the Senior vacancies in the Land and Freshwater team has been filled, however we have been unable to fill the urban vacancy and the second Land and Freshwater vacancy.</p> <p>The Land and Freshwater team are continuing to be involved in work on</p> | <p>The Land and Water Regional Plan Governance Group have increased the frequency of meetings, to monthly, in response to the work programme. A representative from Kai tahu ki Murihiku now has a permanent role on the group and a wider group of ORC Councillors are also attending in an observer capacity.</p> <p>There is a critical shortage of staff in the Policy team, with all urban and RPS roles vacant, and recruitment proving challenging. The RPS work is now being driven by consultants.</p> |

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| | <p>implementing Plan Change 8, and in particular, the Rural Provisions which are to be made operative in March or April this year. This has put some resourcing pressure on the team which is being alleviated through the use of consultants.</p> <p>The development of the Regional Policy Statement (RPS) has also been heavily reliant on the use of consultants.</p> <p>The timeline for the RPS is subject to the current High Court declaratory proceedings. The High Court have advised that it will be no sooner than July before a decision is issued, and the hearings on the proposed RPS will have commenced by that stage. If the Declaratory Judgement does not consider the pRPS a freshwater instrument in its entirety, there will be implications in terms of when the RPS will be operative. This in turn impacts the proposed LWRP.</p> | <p>There are also vacancies in the Land and Freshwater team but they are currently being managed through the use of external consultants. Recruitment for all vacant Policy roles will commence shortly.</p> <p>The final part of the Omnibus Plan Change, the urban provisions of Plan Change 8, is beyond appeal and, subject to Council approval, will be made operative from September. This is a valuable step for managing, in particular, sediment discharges from urban development.</p> <p>The recent High Court declaration decision on the proposed RPS has required some additional work for staff. The RPS team is working through the implications, and how to separate out the proposed RPS in order to renotify the parts considered by the High Court to be freshwater.</p> <p>Council approval is being sought in August to appoint a Hearings Panel to hear the non-freshwater parts of the proposed RPS. In September, Council will be asked to approve for notification, the parts of the proposed RPS that are freshwater.</p> <p>The Freshwater Hearing Panel had directed parties to participate in meaningful negotiations to attempt to settle or narrow points of difference. Council led a series of pre-hearing discussions (in confidence and without prejudice) with interested parties in June and July. This resulted in some points of differences being narrowed, and supplementary evidence was being prepared for the Panel. A consequence of the High Court declaration is that the Freshwater Panel that was appointed is now dissolved which means the supplementary evidence will be redirected to the new Panels, when they are appointed.</p> |
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| <p>Consenting</p> | <p>Staffing levels remain in line with those indicated in the previous report and support is continuing to be provided by contractors, for over-flow processing.</p> <p>Significant work was undertaken to prepare the team for processing consents under Plan Change 7 once the decision was released. This included multiple training sessions and updates to existing procedures. Work was completed on updating report templates, drafting practice notes and updating conditions. Extensive work was completed to prepare resources for external use including new application forms, practice notes and a form to be used when amending applications. Stakeholders and consultants have been kept regularly up to date on processing and resources available.</p> <p>An update on consent processing under Plan Change 7 is provided further below in the report.</p> | <p>Staffing levels remain generally in line with those indicated in the previous report, but we are recruiting for one FTE at the Senior Planner level. Support is continuing to be provided by contractors, for over-flow processing. The vacant FTE is not affecting processing timeframes as it was due to an internal promotion within the team.</p> <p>Stakeholders and consultants have been kept regularly up to date on processing and resources available.</p> <p>An update on consent processing under Plan Change 7 is provided further below in the report.</p> |
| <p>Monitoring & Enforcement</p> | <p>Internal appointment of two additional FTEs for roles of Principal Advisor Investigations (new role), and a Principal Compliance Specialist (additional role) have been made. These positions focus on supporting improved good practice and increasing the compliance monitoring and enforcement (CME) capabilities across the team.</p> <p>Staff turnover has increased, with six Environmental Officers, two Environmental Data Officers and one Incident Responder recruited in the last six months.</p> <p>Recruitment is underway for a Team Leader Compliance Monitoring (in Central Otago), a Team Leader Investigations, and a Senior Investigator. It has been challenging to recruit suitably qualified people for these roles in a competitive labour</p> | <p>Appointments have been made for a Team Leader Compliance Monitoring (in Central Otago), a Team Leader Investigations and a Senior Investigator. Recruiting these roles was a significant challenge in a competitive labour market.</p> <p>Staff turnover has increased, with two Environmental Officers, one Environmental Data Officer and one Incident Responder vacancies in the last six months.</p> <p>A total of 37.5 FTE dedicated to CME activities is budgeted in the 2021/22 financial year.</p> <p>Ongoing business process and system improvements continue to enable staff to better undertake their CME activities, including introducing tools for mobility in the field, updating standard operating procedures, and</p> |

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| | <p>market.</p> <p>A total of 27.60 FTE dedicated to CME activities is budgeted in the 2021/22 financial year.</p> <p>Ongoing business process and system improvements continue to enable staff to better undertake their CME activities, including introducing tools for mobility in the field, updating standard operating procedures, and streamlining our enforcement and compliance monitoring processes. These efficiency improvements are reflected in both increased onsite audits and inspections as well as formal enforcement actions being taken by ORC.</p> <p>Work continues to improve the Council's new Environmental Monitoring System. Year on year desktop compliance inspections have increased by 25.5%.</p> | <p>streamlining enforcement and compliance monitoring processes. These efficiency improvements are reflected in both increased onsite audits and inspections as well as formal enforcement actions being taken by ORC.</p> <p>Work continues to improve the Council's new Environmental Monitoring System. As noted in the last report, year on year desktop compliance inspections have increased by 25.5%.</p> |
| <p>Land Management</p> | <p>Since October 2021, the Environmental Implementation Team has increased to 28 FTEs, including 1 role funded through Jobs for Nature project funding.</p> <p>Recruitment is underway for a biosecurity specialist position, a project delivery role and three additional catchment advisors.</p> <p>The team has been building on the core biosecurity work by increasing the strategic focus and face to face community led management approaches. The new biosecurity specialist will enable further strategic approaches and integration of the biosecurity work.</p> <p>On the ground community facing work continues to build with catchment advisors making new networks and developing projects. In addition, the project delivery</p> | <p>Since March 2022, the Environmental Implementation Team recruited three catchment advisors to support communities across Otago to implement best practice with a specific focus on water quality, biodiversity and biosecurity.</p> <p>Due to an internal shift, the Manager, Environmental Implementation role was vacated however it is currently being recruited, with an Acting Manager covering the role in the interim.</p> <p>Recruitment across the team has been challenging and there are continued recruitment processes still underway for a Project Delivery role and Biosecurity Specialist. In addition to this, recruitment is also now underway for two Biosecurity Officer roles and an additional Biosecurity Specialist. The</p> |

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| | <p>specialists are managing large scale projects involving the community and mana whenua partners.</p> <p>Work on the Integrated Catchment Management approach has progressed with a draft framework for delivery through Catchment Action Plans being endorsed by Council in December 2021. This framework is being developed further through an internal cross directorate working group before going to the community and our mana whenua partners for collaborative development of integrated catchment action plans. These CAPs are planned to align to the FMUs and will give effect to the action plans required in the NPSFM 2020.</p> | <p>total of 36 FTE committed in the LTP is still on track, to ensure programme delivery over time.</p> <p>The team has continued to build on core biosecurity work through further development of strategic decision making and through continuing and building on face-to-face community led pest management approaches. The two new Biosecurity Specialist roles will enable further strategic approaches for integration into biosecurity work.</p> <p>On the ground community facing work continues to build with catchment advisors making new networks and developing projects. In addition, the project delivery specialists are managing large scale projects involving the community and mana whenua partners. Our ECO Fund has also provided \$290,000 worth of funding to community groups across the region who are delivering environmental projects. Further incentive funding has also been provided to support replanting after wilding conifer removal, rabbit management and improving water quality.</p> <p>The Integrated Catchment Management framework is being developed further through an internal cross directorate working group before going to the community and our mana whenua partners for collaborative development of integrated catchment action plans. These CAPs are planned to align to the FMUs and will give effect to the action plans required in the NPSFM 2020.</p> <p>Ongoing business process and system improvements continue to enable staff to better undertake their work to ensure that data is accurate relevant.</p> |
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Progress in Achieving the specified recommendations

The recommendations as outlined in the original letter, and ORC’s response, to date, is detailed below:

| Action | What we advised in March 2022 | Latest Update |
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| <i>Take all necessary steps to develop a fit for purpose freshwater management planning regime that gives effect to the relevant national instruments and sets a coherent framework for assessing all water consent applications, including those that are to replace any deemed permits.</i> | <p>The hearing for the rural provisions of Plan Change 8 occurred in November 2021, and a decision on the provisions was released at the end of January 2022. The appeal period has just passed, with no appeals received however staff have identified a minor error in the decision and are waiting on the decision to be reissued. Once that happens, staff will prepare a paper to Council, to approve the Plan Change.</p> <p>The decision on Plan Change 1: Dust Suppressants, was released in March 2022, after the Environment Court considered the mediation agreement and evidence, without a formal hearing. These provisions are now in the appeal phase and subject to no appeals being lodged, will be taken to Council for approval in due course.</p> <p>Mediation on the urban provisions of PC8 occurred in November 2021, and while several matters were agreed, there remained outstanding issues around the proposed rules to manage residential earthworks. The PC8 Urban Provisions are now set down for a contested hearing late in March 2022.</p> | <p>The Omnibus plan change provisions are, subject to Council approval, all operative, or soon to be operative.</p> <p>The rural provisions of Plan Change 8 (PC8) were made operative from 4 June 2022. Plan Change 1 was made operative from 9 July 2022.</p> <p>A hearing for PC8 – Urban was held in March 2022, and a decision released in July. No appeals have been received and the provisions of PC8-urban, will be operative, subject to Council endorsement, from 3 September 2022.</p> |
| <i>By November 2020, a complete review of the current RPS that is publicly notified, with the intention that it be made operative before the review of the LWRP is notified</i> | <p>The Summary of Decisions Requested on the proposed RPS21 was released for further submissions on 30 October, with the period for submissions running from 1-12 November 2021. A corrigendum was released on 17 November and open for further submissions until 1 December 2021.</p> | <p>In relation to the proposed RPS, the s42A reports have been available since 4 May 2022. At the direction of the Panel, meaningful but informal discussions, by chapter, have occurred across June and July. These discussions were intended to either provide more rationale for Council’s position or understand submitters positions, and where possible settle</p> |

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| | <p>59 further submissions were received in total, with 55 submissions received by the closing date.</p> <p>On 11 November 2021 the ORC advised the Chief Freshwater Commissioner (CFC) of its two Commissioner nominees to sit on the Freshwater Hearing Panel. ORC also advised on this date of its intention to provide the pRPS21 as a Freshwater Instrument in its entirety.</p> <p>On 2 December 2021 the ORC advised the CFC of the local tangata whenua nominee.</p> <p>The CFC (Professor Skelton) appointed 4 of the members of the Freshwater Hearing Panel in December 2021, and the Chair, Judge Newhook appointed the fifth and final member on 17 January 2022.</p> <p>The Freshwater Hearings Panel appointed is:</p> <ul style="list-style-type: none"> • Judge Laurie Newhook - Chair and Freshwater Commissioner • Ron Crosby - Freshwater Commissioner • Bianca Sullivan - ORC nominated panel member • Allan Cubitt - ORC nominated panel member • Rauru Kirikiri - tangata whenua nominated panel member. <p>The Panel issued its first Minute and Directions on 1 March, with the hearings on the pRPS set to commence on 30 May 2022 and sit every second week until approximately October 2022.</p> <p>The High Court declaration hearing on whether the proposed RPS 21 is a freshwater instrument in its entirety was heard in February 2022, with the decision reserved. This process presents some risk to</p> | <p>or narrow points of difference. As a result of the discussions, amended s42A reports were being prepared (as supplementary evidence) and were to be filed with the Freshwater Panel by 5 August.</p> <p>The Freshwater Panel had issued alternative timetabling directions to accommodate the supplementary evidence however this timetable has been overtaken by the High Court declaration, as noted earlier.</p> <p>The High Court declaration hearing on whether the proposed RPS 21 is a freshwater instrument in its entirety was heard in February 2022, with the decision released in July. The consequences of the decision have been set out earlier, but in short, there will now be two separate processes to hear each part of the proposed RPS – the parts of the proposed RPS that are freshwater, and the parts that are non-freshwater.</p> <p>For the non-freshwater parts, a new Hearings Panel will need to be appointed. Once that has occurred, a new timetable will be able to be issued to parties.</p> <p>For the freshwater parts, the first step is to determine how to separate the proposed RPS. Once Council has approved the delineation and agreed to renotify the freshwater parts of the proposed RPS, the process as provided for in s80A will take place – Council nominates Commissioners, the Chief Freshwater Commissioner receives the relevant documents, appoints a Panel, and sets out a timetable.</p> <p>All of these decisions around the proposed RPS impact on the timelines however staff and Councillors are working to progress as quickly as reasonably possible.</p> |
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| | <p>the RPS if the Court does not agree that the RPS is a freshwater instrument in its entirety. Such a decision may impact the timeframe for progressing the RPS. As noted above, the pRPS hearings will have commenced before a decision is made.</p> <p>With regard to the partially operative RPS, the Court of Appeal dismissed Port Otago Limited's (PoL) appeal. PoL have now sought leave to apply to the Supreme Court on the same matter. No decision on that leave application has yet been made.</p> | <p>With regard to the partially operative RPS, the Court of Appeal dismissed Port Otago Limited's (PoL) appeal. PoL sought leave to appeal to the Supreme Court. Leave to appeal was granted, the approved question being "whether the Court of Appeal was correct to dismiss the appeal". The hearing was held on 11 and 12 May. No decision has yet been released.</p> |
| <p><i>By 31 December 2023, a new LWRP for Otago that includes objectives, strategic policies, region-wide activity policies, & provisions for each of the FMU's, covering all catchments within the region</i></p> | <p>The Policy Team are leading the first-round consultations and working in partnership with iwi on the overarching policy direction for the LWRP.</p> <p>Consultation summaries for Upper Lakes and Catlins FMU are now finalised.</p> <p>Staff have now commenced work in all remaining Freshwater Management Units and/or rohe.</p> <p>The first round of consultation for the Dunstan, and Roxburgh rohe and the Clutha Mata-au FMU were undertaken in late February and early March. This consultation was undertaken online, in accordance with ORC's response to the current Covid- 19 Traffic Light settings.</p> <p>The first round of consultation for North Otago, Dunedin and Coast and Taieri FMU's are scheduled for mid-March and will also be undertaken online.</p> <p>A second round of community engagement is scheduled to commence mid-2022.</p> <p>The Science work programme is well underway, with contracts in</p> | <p>The first round of consultations in every Freshwater Management Unit (FMU) or rohe has now occurred, and summaries of the consultation feedback has been made available.</p> <p>Good progress has been made on confirming the regional provisions policy direction with the Strategy and Planning Committee, with all topics having a confirmed policy direction via a series of workshops with Councillors and formal papers to the Strategy and Planning Committee. Consultation on the region wide provisions is due to commence from September.</p> <p>The second round of consultation across all FMU's was intended to commence from August however the release of the Ministry for the Environment's 'Periphyton Guidelines' has created challenges that the Science team are working through. The periphyton guidelines under protect Otago's rivers and our Science team have made attempts to enhance the model to better represent what we understand is happening in our rivers. The guidelines are having a meaningful impact on the overall timeline.</p> <p>In July staff presented additional</p> |

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| | <p>place to support internal staff with modelling for water quality and water quantity. The Science approach was adopted by Council in June 2021 and the agenda link is copied here for your reference, agenda-council-20210623.pdf (orc.govt.nz).</p> <p>The Science programme includes quality modelling to undertake analysis of future mitigation scenarios for nitrogen, phosphorus, sediment and <i>E.coli</i> at the regional scale. The quality models will assess the effectiveness of a series of on-land mitigation strategies at reducing instream contaminant levels at regionwide scale. This modelling approach will draw on and refine work published by Our Land and Water programme as a part of the National Science Challenge.</p> <p>The quantity modelling commissioned to date includes bespoke modelling in 15 catchments where detailed analysis is required. All other catchments will be covered by a region wide model. This modelling is also supported by ecological habitat model development in some catchments, although this work may not be completed this summer as river flows have persisted at unseasonably high levels.</p> <p>With regard to the Manuherekia rohe, the Technical Advisory Group are continuing to work to an agreed set of tasks, and likely to report back to Council in May this year.</p> <p>The economics work programme includes an Industry Action work stream, a Farmer Grower work stream, and a Māori economy workstream. The Industry Action Group has been set up to provide comments on the set of actions (mitigations) developed by ORC to</p> | <p>timeline options to the LWRP Governance Group that would enable some additional work on periphyton modelling to occur however since that time, updated timelines have been discussed with the Governance Group, taking into consideration the Ministers' latest (July) correspondence.</p> <p>The science programme to support the pLWRP is progressing well. As advised in the last update, the programme includes quality modelling to undertake analysis of future mitigation scenarios for nitrogen and phosphorus (periphyton), sediment and <i>E.coli</i> at the regional scale. and draws on and refines work published by the Our Land and Water programme as a part of the National Science Challenge.</p> <p>Regional sediment models are still being pursued with results expected in late September. <i>E.coli</i> models have been explored, but have been discounted as any model would not be able to develop outputs with any reasonable certainty.</p> <p>Work on wetlands protection provisions and delineation are well underway. Conversations with stakeholders and landowners have begun in the Upper Taieri Catchment.</p> <p>The quantity modelling commissioned to date includes bespoke modelling in 15 catchments where detailed analysis is required. All other catchments will be covered by a region wide model. This modelling is also supported by ecological habitat model development in some catchments, although this work was not completed this summer, as planned, as river flows have persisted at unseasonably high levels.</p> <p>The Science team are planning to</p> |
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| | <p>deliver on the ground changes. Those actions will also be reviewed by an independent consultant with specific expertise in on farm mitigations.</p> <p>The Farmer Grower workstream is being developed in conjunction with the Ministry for Primary Industries (MPI) and industry good groups from across agriculture, horticulture and viticulture to develop robust industry knowledge for Otago. Technical experts will use the information to test the impacts of different actions on rural businesses in terms of profitability, production and employment.</p> <p>The economics work also includes Catchment Stories which is designed to allow communities to showcase their voice, outlining the on the ground actions already occurring within their catchments. The Māori economy work - Te Ōhanga ki Kai Tahu – has been designed to provide Aukaha and Te Ao Marama to consider their ōhanaga (both historical and present day) as part of their mahi on the implications of the Land and Water Regional Plan for Kai Tahu. They will also look to highlight the kaitiakitanga and manaakitanga of mana whenua in catchments ki uta ki tai (from the mountains to the sea). The final part of the economics programme at this stage is to prepare a Regional Economic Profile for Freshwater. This project is about exploring the economy's use of water as inputs and outputs, the value of that use (as oncome and employment) and connections between industries.</p> <p>A contract for delineating Outstanding Water Bodies is about to be awarded, and legal services are being procured.</p> | <p>establish habitat models as early as possible in 2022/23. This work is dependent on flows and is a risk that is being actively managed for the project. The key catchments that are impacted are the Taieri and several North Otago Catchments such as the Shag, Wainakarua and Kakanui.</p> <p>With regard to the Manuherekia rohe, the Technical Advisory Group (TAG) are continuing to work to an agreed set of tasks, and likely to report back to Council later this year. The work has been delayed as a key input; a hydrological model has not yet been delivered. TAG is still on track to complete this work to feed into the Land and Water Regional Plan.</p> <p>The economics team presented an overview of the programme supporting the pLWRP in a workshop with Councillors on 13 July. The Industry Advisory Group has continued to meet every 3 weeks – it has been providing information and advice on the baseline economic status report, which is in draft form and expected to be complete by the end of September. The industry groups are scoping work to model policy impacts, and contracts are in place for all but two groups. Communication is ongoing internally with the Policy and Science teams as this is critical to the economics at this stage to ensure that the modelling is appropriate to provide the outputs required for impact assessment. Workshops of the industry groups with the Science and Policy teams are expected in the next few weeks to finalise the scoping of the modelling, which needs to be completed by the end of November.</p> <p>The catchment stories field phase has been completed and a draft report is under preparation, expected to be complete by the end of September. Knowledge from that</p> |
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| | | <p>report about actions and their effectiveness, is also actively being fed into the industry group modelling process.</p> <p>The Economic Profile of Land and Water project is progressing well, with a contract to relate and map land use and water demand through irrigation recently underway. The report on this workstream is also expected to be complete by the end of the year.</p> <p>The Māori economy project has also commenced, with Aukaha working in-house to collect and collate information.</p> <p>The work on delineating Outstanding Water Bodies is progressing, noting that ORC will be only the second regional council to undertake this work under the NPSFM 2020.</p> |
| <p><i>Prepare a Plan Change by 31 March 2020 that will provide an adequate interim planning & consenting framework to manage freshwater up until the time that new discharge and allocation limits are set, in line with requirements in the NPSFM.</i></p> | <p>The final decision on Plan Change 7 was released on 17 November 2021, after an interim decision approving the plan change was released on 22 October 2021. Appeals on the interim and final decisions closed in November and December 2021 respectively.</p> <p>No appeals were received and Plan Change 7 was approved by Council in February and operative on and from 5 March 2022.</p> <p>This action is now considered complete.</p> <p>With regard to consent processing, applications covered by Plan Change 7 are being processed in a staging plan that has been agreed with consultants and applicants. This also allows for people to be working on one part of the region at once and allows time for the water use analysis to be completed for permits in a similar area at one time.</p> <p>Work on the Manuherekia consents has continued by the project team set up to process the permits. These</p> | <p>With regard to consent processing, applications covered by Plan Change 7 are being processed in a staging plan that has been agreed with consultants and applicants. This also allows for people to be working on one part of the region at once and allows time for the water use analysis to be completed for permits in a similar area at one time.</p> <p>We are continuing to actively process these as the amendments are lodged and to follow up on lodgement dates for the amendments of the outstanding applications. Some applicants are using the restricted discretionary pathway provided for under PC7, with most using the controlled pathway. The applications still to progress are generally in the Manuherekia, Taieri, Lowburn, and Bannockburn areas, as well as the Trustpower ones. This is in line with the staging plan mentioned above.</p> |

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| | <p>applications were 'on hold', at the request of the consent holders, waiting for a decision on Plan Change 7. The applications are being processed by an external consultant, with internal project leadership. Staff are currently undertaking the water use analysis for these takes and providing these reports to the Manuherekia applicants. The applicants will then use these to help inform amendments to their applications.</p> <p>There have been concerns raised by some councillors about the cost of the deemed permit replacement consents in light of the PC7 decision and the subsequent short terms on these consents. Staff continue to apply charges consistent with the RMA.</p> | |
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Summary of Freshwater Resource Consenting Activity – for the period 1 March 2022 - 31 July 2022

The following is a summary of the freshwater resource consenting activity for the reporting period:

- Between 1 March 2022 and 31 July 2022, the Otago Regional Council received 24 applications for water take consents. These applications are being processed as 24 separate resource consents, with 15 for taking groundwater and 9 for taking surface water. Of the 24 applications, none relate to the replacement of Deemed Permits.
- From the 24 applications lodged between 1 March 2022 and 31 July 2022, Council issued 8 resource consents, 3 for taking groundwater and 5 for taking surface water. Of the remaining 13 resource consents, 11 are currently being processed and 2 have been rejected or withdrawn.
- The Council also issued a further 44 resource consents relating to applications lodged before 1 March 2021. These include 6 resource consent for taking groundwater and 38 for taking surface water. Of the 44 resource consents issued, 23 related to the replacement of 33 Deemed Permits.
- In total, the Council is currently processing 93 applications for water take consents. These applications are being processed as 179 Resource Consents, with 17 for taking groundwater and 162 for taking surface water. Of the 93 applications, 53 relate to the replacement of Deemed Permits.
- Between 1 March 2022 and 31 July 2022 no applications relating to taking water were publicly notified or limited notified.
- There are currently no active Deemed Permits in the Otago Region, excluding those operating under s124.
- No new appeals relating to decisions on an application for new water permits relating to deemed permit, have been lodged with the Environment Court.

Formal Response to July 2022 letter from Minister Parker

ORC acknowledges the second report by Professor Skelton and the subsequent correspondence from the Minister. Council is committed to achieving the timelines as reconfirmed in the July letter. Those timelines have been formally endorsed at a meeting of the Strategy and Planning Committee on 24 August, and a copy is enclosed as appendix 1, which achieves notification by 31 December 2023. This timeline requires active and constant monitoring of all risks to the project, and staff will continue to escalate risks to the Land and Water Governance Group, and Council, as required.

ORC, along with our iwi partners, are working on timelines to achieve the renotification of the parts of the proposed RPS that are deemed to be freshwater instruments, by 30 September 2022. Once a new Hearings Panel has been appointed, the balance of the proposed RPS, being the non-freshwater parts, will have a new timetable set by that Panel, and Council is optimistic that hearings can commence in very early 2023.

Conclusion

ORC, along with our iwi partners, is committed to achieve its new planning framework, including the proposed Land and Water Regional Plan, in accordance with the agreed timelines originally set out in December 2019. The proposed RPS will continue to progress as two separate parts and will be made operative as soon as is reasonably practical, notwithstanding that a significant portion of the pORPS will be subject to appeal to the Environment Court.

The next 6 monthly report will be due to you in March 2023, at which time ORC will have a significantly refined understanding of timelines for both the proposed RPS and the proposed LWRP.

In the interim, if you have any questions or need further clarification, please don't hesitate to get in touch with Anita Dawe (anita.dawe@orc.govt.nz; or 021 445 993).

Yours sincerely,

Pim Borren
Interim Chief Executive Officer

7.2. Plan Change 8 Urban Discharges

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| Prepared for: | Council |
| Report No. | SPS2238 |
| Activity: | Governance Report |
| Author: | Dolina Lee, Senior Analyst, Freshwater and Land Tom de Pelsemaeker, Manager Policy |
| Endorsed by: | Anita Dawe, General Manager Policy and Science |
| Date: | 24 August 2022 |

PURPOSE

- [1] To approve Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 101¹, and to set a date for making the plan change fully operative by incorporating the amended provisions into the operative Water Plan.

EXECUTIVE SUMMARY

- [2] On Wednesday 25 May 2022 the Otago Regional Council (Council or ORC) approved the primary sector provisions that formed part of PC8, with those provisions of PC8 made operative from Saturday 4 June 2022.
- [3] On Tuesday 14 June 2022 the Environment Court released its decision on the balance of the provisions in PC8 - those that manage urban discharges (the “urban topics”).
- [4] The appeal period for the Environment Court’s Decision on the urban provisions of PC8 closed on Wednesday 6 July 2022. No appeals against the Court’s Decision were received by the High Court.
- [5] The urban provisions of PC8 can now also be approved by Council in accordance with clause 17 of Schedule 1 to the RMA by affixing Council’s seal to the plan and incorporating the provisions into the operative Water Plan, making PC8 operative in full.
- [6] It is proposed to make PC8 fully operative from Saturday 3 September 2022, and to publicly notify this date on Saturday 27 August 2022 in accordance with clause 20 of Schedule 1 of the RMA.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the minor changes made to partially operative Plan Change 8 in accordance with clause 16(2) of Schedule 1 of the RMA.

¹ <https://environmentcourt.govt.nz/assets/Documents/Decisions/2022-NZEnvC-101-Otago-Regional-Council-Urban-Provisions.pdf>

- 3) **Approves** Plan Change 8 as amended by Environment Court Decisions [2022] NZEnvC 101 in accordance with clause 17(3) of Schedule 1 of the RMA.
- 4) **Affixes** Council's seal to Plan Change 8 to the Water Plan in accordance with clause 17(3) of Schedule 1 of the RMA.
- 5) **Resolves** to make Plan Change 8 operative from 3 September 2022, and publicly notify this date on 27 August 2022, in accordance with clause 20 of Schedule 1 of the RMA.

BACKGROUND

- [7] The Council resolved to prepare proposed PC8 to the Water Plan along with proposed PC1 to the Regional Plan: Waste for Otago (Waste Plan), together referred to as the "Omnibus Plan Change," in August 2019. The Omnibus Plan Change was "called in" by the Minister for the Environment on 8 April 2020 and referred to the Environment Court for decision under section 142(2) of the RMA. The plan change was then notified by the Environmental Protection Authority (EPA) on 6 July 2020.
- [8] In order to manage matters efficiently, the Environment Court decided to hear PC1 and PC8 separately, and to separate PC8 into two parts: the primary sector provisions, and the urban provisions. This approach was taken to better enable mediation and expert conferencing.
- [9] PC8 comprises eight parts, each targeting a specific topic. Those matters that are not concerned with the primary sector² are known as the "urban topics" and are listed below:
 - Part A: Urban discharge policies;
 - Part G: Earthworks for residential development;
 - Part H: Nationally or regionally important infrastructure.
- [10] Mediation on the "urban topics" took place during November 2021. Agreement was reached by all parties in attendance at mediation on Part A³ and Part H⁴.
- [11] Because the matters in Parts A and H were settled at mediation, the Court concluded that those matters could be dealt with "on the papers" that is through written evidence only. However, the Court reserved the right to request a formal proof hearing once all evidence had been received.
- [12] Written evidence on Parts A and H, outlining the rationale behind the proposed plan change provisions, the key matters raised in submissions and the reasons for the amendments agreed at mediation, was presented to the Court in December 2021 and February 2022.⁵ In addition, two minor grammatical changes to the urban provisions of PC8 were proposed in the evidence submitted on behalf of ORC. These changes were accepted by the Court. No hearing was considered necessary.

² Those topics that have been approved.

³ Refer to Memorandum of Council on behalf of the ORC dated 20 July 2021

<https://environmentcourt.govt.nz/assets/Documents/Publications/2021-11-26-ORC-MOC-re-Urban-provisions.pdf>

⁴ Part H was heard along with the Landfill topic of PC1 to the Regional Plan: Waste

<https://environmentcourt.govt.nz/assets/Documents/Publications/2021-12-02-ORC-MOC-re-PC1-landfills-chap-7-PC8-Part-H.pdf>

⁵ <https://environmentcourt.govt.nz/assets/Documents/Publications/2022-02-18-Statement-of-Evidence-of-Felicity-Boyd-Urban-Provisions-Parts-A-G-H-dated-18-February-2022.pdf>

- [13] Part G, however, remained in dispute after the conclusion of the mediation and a hearing before the Environment Court was required. This hearing took place in March 2022.
- [14] On Tuesday 14 June 2022, the Environment Court released its decision on the urban provisions of PC8. An appeal period of 15 working days from the date of receipt of decision was available to parties. No appeals to the High Court were received.

DISCUSSION

Approval of Plan Change 8

- [15] In accordance with clause 17(3) of Schedule 1 of the RMA, ORC can now approve the balance of PC8 as amended by the Environment Court Decision No. [2022] NZEnvC 101. This is given effect by affixing the Council's seal to the Plan Change.
- [16] A full copy of PC8, incorporating the amendments made by the Environment Court, is included as Attachment 1.

Public notification of the date on which PC8 becomes operative

- [17] Clause 20 of Schedule 1 of the RMA requires the Council to set a date from which the plan change becomes operative and publicly notify the operative plan at least five working days before this date.
- [18] It is proposed to make PC8 fully operative from Saturday 3 September 2022 and to publicly notify this date on Saturday 27 August 2022.
- [19] In addition to placing a public notice, a copy of the plan change is required to be provided, free of charge, to the Minister for the Environment, all territorial authorities, and the takata whenua for the area, through iwi authorities.

Minor and consequential changes

- [20] Clause 16(2) of Schedule 1 of the RMA provides for the amendment of a proposed plan, without formality, where such an alteration is of minor effect. The table of minor and consequential changes is attached as a table in Attachment 2.
- [21] These changes are:
- a. Amending the Chronicle of key events on page iii of the Water Plan.
 - b. Inserting a new ISBN number for Water Plan.
 - c. Changing the date on the title page of the Water Plan.
 - d. Amending the footer on pages of the Water Plan that have changed.
 - e. Minor amendments to formatting and numbering to reflect the style of the Water Plan.

OPTIONS

- [22] Section 149W of the RMA provides that the Council 'must' approve the plan change under clause 17 after it is amended under clause 16.

- [23] Approval under clause 17 of the First Schedule of the RMA is a procedural and mandatory step and it must be done as soon as practicable and without unreasonable delay. There is no discretion for the Council not to approve the plan change.
- [24] Failure to meet the statutory obligation to approve the plan change would result in PC8 remaining in its current partially operative state, while having legal effect. This means that the proposed provisions would need to be considered against the PC8 provisions, and the operative Water Plan provisions. Council does not have the ability to withdraw the plan change.
- [25] Further potential implications of Council failing to meet this statutory obligation are as follows:
- a. Judicial review of the decision of Council not to approve the plan change;
 - b. A ministerial investigation into ORC's failure to adopt the plan change under section 24(c) of the RMA; or
 - c. The Minister for the Environment exercising his powers under section 25 of the RMA.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [26] The plan change is part of a transition towards a new freshwater management framework to be set in the proposed LWRP, which is intended to be notified by 31 December 2023 and made operative by 31 December 2025.
- [27] The plan change gives effect to Minister Parker's recommendations and was considered by the Environment Court to be consistent with the NPS-FM 2020.

Financial Considerations

- [28] There are no financial considerations as a result of this paper. The cost of making the changes to the Water Plan will be met by existing budgets.

Significance and Engagement

- [29] Council's approval of PC8 will trigger *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*.
- [30] Schedule 1 of the RMA requires that upon approving the plan change, ORC undertakes the following:
- a. Publicly notifies the date on which PC8 becomes operative;
 - b. Provides a copy of the operative PC8 to the Water Plan to the Minister for the Environment, constituent territorial authorities and adjacent regional councils, and the takata whenua of the area, through iwi authorities, pursuant to clause 20(4) of Schedule 1 of the RMA; and
 - c. Provides a copy of the operative PC8 to the Water Plan to all public libraries in the region, pursuant to clause 20(5) of Schedule 1 of the RMA.
- [31] Public notification of PC8 in accordance with clause 20 of Schedule 1 of the RMA will satisfy the consultative requirements of the *He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy*.

Legislative and Risk Considerations

[32] The legal requirements relating to the approval of PC8 and public notification of the date on which the plan change is to become operative, are set out in clauses 17 and 20 of Schedule 1 to the RMA.

[33] Key legal requirements include:

- a. Affixing the seal of the local authority to the partially operative plan change.
- b. Publicly notifying the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.

Climate Change Considerations

[34] There are no climate change considerations as a result of this paper.

Communications Considerations

[35] Key messaging around the implications of PC8 becoming operative will be released via our website, social media and as a press-release.

ATTACHMENTS

1. Operative Plan Change 8 [7.2.1 - 93 pages]
2. Table of Minor and Consequential Amendments [7.2.2 - 1 page]

Regional Plan: Water for Otago

Proposed Plan Change 8 (Discharge management)

Operative



3 September 2022

ISBN: 978-0-908324-82-8

This is a true and correct copy of Plan Change 8 to the Regional Plan: Water for Otago.

Plan Change 8 to the Regional Plan: Water is deemed to be operative on Saturday, 3 September 2022

The Common Seal of the Otago Regional Council was hereto affixed in the presence of:

Cr Andrew Noone
Chairperson

Cr Gretchen Robertson
Co-Chairperson, Strategy and Planning Committee

Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022

Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022

Introduction

The Otago Regional Council has prepared Proposed Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago. Proposed Plan Change 8 amends existing, and introduces new provisions for:

- Managing, through enhanced policy direction, decision-making on stormwater, wastewater and rural discharges;
- Effluent storage and application to land through new minimum standards;
- Promoting good farming practices, including better managing contaminant loss from intensive grazing and stock access to water bodies as well as incentivising the use of small in-stream sediment traps;
- Improving management of sediment loss from earthworks for residential development, and
- Clarifying provision for nationally and regionally significant infrastructure in wetlands.

This document should be read in conjunction with:

- Section 32 Evaluation Report; and
- Regional Plan: Water for Otago (operative as at 1 January 2004).

Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022 4

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Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022

6

Part A: Discharge policies

Relevant provisions:

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|----------------------------|----|
| Amended Policy 7.C.5 | 10 |
| Amended Policy 7.C.6 | 11 |
| New Policy 7.C.12 | 12 |
| New Policy 7.C.13 | 12 |
| Amended Policy 7.D.5 | 13 |
| New Policy 7.D.6 | 13 |

Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022 8

7

Water Quality



Plan Change 8 (Discharge management) to the Regional Plan: Water for Otago
3 September 2022

9

W A T E R Q U A L I T Y

- 7.1 Introduction** *[Unchanged]*
- 7.2 Issues in general** *[Repealed – 1 May 2014]*
- 7.3 Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 Objective** *[Repealed – 1 May 2014]*
- 7.A Objectives** *[Unchanged]*
- 7.B Policies general** *[Unchanged]*
- 7.C Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4** *[Unchanged]*
 - 7.C.5 Avoid significant adverse environmental effects and minimise other adverse effects on waterbodies, with respect to discharges from any new stormwater reticulation system, or any extension to an existing stormwater reticulation system, by requiring:**
 - (a) The separation of sewage and stormwater; and
 - (b) Measures to prevent contamination of the receiving environment by industrial or trade waste; and
 - (c) The use of appropriate techniques to trap debris, sediments and nutrients present in runoff; and
 - (d) Consideration of appropriate measures to reduce and/or attenuate stormwater being discharged from rain events; and
 - (e) Consideration of appropriate measures for discharging to land, in preference to discharging directly to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

Explanation

In terms of the Plan's rules for permitted and discretionary activities for new discharges, or extensions to the catchment area of existing discharges from reticulated stormwater systems, the requirements of (a) to (c) will apply, as required.

W A T E R Q U A L I T Y

Principal reasons for adopting

This policy is adopted to reduce the potential for adverse effects arising from contaminants present in new stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

Rules: 12.B.3.1

Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.

7.C.6 Reduce the adverse environmental effects from existing stormwater reticulation systems by:

- (a) **Requiring the implementation of appropriate measures to progressively reduce sewage entering the stormwater reticulation system; and**
- (b) **Requiring consideration of appropriate measures to progressively improve the quality of water discharged from existing stormwater reticulation systems, including:**
 - (i) **Measures to prevent contamination of the receiving environment by industrial or trade waste; and**
 - (ii) **The use of techniques to trap debris, sediments and nutrients present in runoff; and**
 - (iii) **Measures to reduce and/or attenuate stormwater being discharged from rain events; and**
 - (iv) **Measures for discharging to land, in preference to discharging directly to water, to address adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.**

Explanation

The Otago Regional Council will require the operator of any existing stormwater reticulation system to improve the quality of stormwater discharged from the system.

Priority will be given to improving discharges to those water bodies where natural and human use values are adversely affected. Such measures may not be necessary where an existing discharge is having no more than a minor adverse effect on any natural or human use value supported by an affected water body.

Principal reasons for adopting

This policy is adopted to reduce adverse effects arising from the level of contaminants present in existing stormwater discharges. This is intended to mitigate the impact on the water quality of receiving water bodies in urbanised areas or other areas served by a stormwater reticulation system.

Rules: 12.B.3.1

Other methods: 15.2.5.1, 15.4.2.1, 15.4.2.2.

7.C.7 – 7.C.11 [Unchanged]

W A T E R Q U A L I T Y

7.C.12 Reduce the adverse effects of discharges of human sewage from existing reticulated wastewater systems, including extensions to those systems, by:

- (a) Preferring discharges to land over discharges to water, unless adverse effects associated with a discharge to land are greater than a discharge to water; and
- (b) Requiring systems to be operated, maintained and monitored in accordance with recognised industry standards; and
- (c) Promoting the progressive upgrading of existing systems; and
- (d) Requiring the implementation of appropriate:
 - (i) Measures to progressively reduce the frequency and volume of wet weather overflows; and
 - (ii) Measures to minimise the likelihood of dry weather overflows occurring; and
 - (iii) Contingency measures to minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and
- (e) Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.

7.C.13 Avoid in the first instance, and otherwise minimise, the adverse effects of discharges from new reticulated wastewater systems by:

- (a) Preferring discharges to land, unless adverse effects associated with a discharge to land are greater than a discharge to water; and
- (b) Requiring systems to be designed, operated, maintained and monitored in accordance with recognised industry standards; and
- (c) Requiring the implementation of appropriate:
 - (i) Measures to minimise the frequency and volume of wet weather overflows;
 - (ii) Measures to minimise the likelihood of dry weather overflows occurring; and
 - (iii) Contingency measures to minimise the effects of discharges of wastewater as a result of system failure or overloading of the system; and
- (d) Recognising and providing for the relationship of Kāi Tahu with the water body, and having particular regard to any adverse effects on Kāi Tahu cultural and spiritual beliefs, values, and uses.

7.D Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C

7.D.1 – 7.D.4 *[Unchanged]*

W A T E R Q U A L I T Y

- 7.D.5 When considering any discharge under section 12.C, have regard to:**
- (a) The effects, including cumulative effects, of the discharge on water quality, ecosystem health and natural and human use values, including Kāi Tahu cultural and spiritual beliefs, values and uses; and**
 - (b) The physical characteristics of the land and the sensitivity of the receiving water; and**
 - (c) The quality and performance of the discharge management system to be used, and in particular,**
 - (i) options to be employed to reduce any adverse environmental effects of the discharge; and**
 - (ii) monitoring of the performance of the discharge management system; and**
 - (d) Any staged timeframe and any environmental management plan to achieve:**
 - (i) Compliance with the permitted activity rules and Schedule 16 discharge thresholds for the duration of the consent; or**
 - (ii) The demonstrable reduction of adverse environmental effects of the discharge over the duration of the consent; and**
 - (e) Trends in the quality of the receiving water relative to the Schedule 15 freshwater characteristics, limits, and targets and relative to any national bottom lines specified in Appendix 2A and 2B of the NPS-FM; and**
 - (f) The extent to which potentially significant, adverse effects arising from the discharge are avoided; and**
 - (g) The value of the existing investment in infrastructure; and**
 - (h) The current state of technical knowledge and the use of industry best practice for managing environmental effects; and**
 - (i) The extent to which co-ordinating the discharges across multiple landholdings enables water quality objectives to be more effectively met; and**
 - (j) The social, cultural and economic value of the use of land and water that gives rise to the discharge.**
- 7.D.6 When considering applications for resource consent for discharges of nitrogen onto or into land in circumstances where it may enter water under Rule 12.C.3.2:**
- (a) Restrict the duration of resource consents to a term of no more than 10 years; and**
 - (b) Have particular regard to:**
 - (i) The water quality of the receiving water body; and**
 - (ii) Any adverse effects on the natural or human use values of the receiving water body as set out in Schedule 1; and**

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- (iii) Any adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses; and
- (iv) Any measures proposed to reduce nitrogen discharged over the term of the resource consent, including any changes to land management practices or infrastructure; and
- (iv) The benefits of aligning the expiry date with other resource consents for the same activity in the surrounding area or catchment.

7.D.7 – 7.D.8 *[New Part – Part B]*

7.D.9 *[New Part – Part C]*

7.D.10 *[New Part – Part G]*

7.6 Policies for the enhancement of water quality *[Repealed – 1 May 2014]*

7.7 Policies for point source discharges *[Repealed – 1 May 2014]*

7.8 Policies for non-point source discharges *[Repealed – 1 May 2014]*

7.9 Anticipated environmental results *[Repealed – 1 May 2014]*

Part B: Animal waste storage and application

Relevant provisions:

| | |
|--|----|
| New Policy 7.D.7 | 18 |
| New Policy 7.D.8 | 19 |
| Amended Rule 12.C.0.2 | 22 |
| New Rule 12.C.0.4 (discharge – prohibited) | 22 |
| New Rule 12.C.1.4A (discharge – permitted) | 24 |
| New Rule 12.C.1.4B (discharge permitted) | 24 |
| New Rule 12.C.1.4 (discharge – short term permitted) | 24 |
| New Rule 12.C.2.5 (discharge – restricted discretionary) | 25 |
| New Rule 14.7.1.1A (land use – permitted) | 28 |
| New Rule 14.7.1.1 (land use – permitted) | 28 |
| New Rule 14.7.1.2 (land use – short term permitted) | 29 |
| New Rule 14.7.2.1 (land use – controlled) | 29 |
| New Rule 14.7.3.1 (land use – discretionary) | 31 |
| New Schedule 18 | 34 |
| New Schedule 19 | 35 |
| New Schedule 20 | 37 |
| New Schedule 21 | 38 |
| New Definitions – Animal effluent storage facility, Dairy Effluent Storage Calculator, Liquid animal effluent, Solid animal effluent, Suitably Qualified Person | 42 |
| Amended Definition – animal effluent system | 42 |

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- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D **Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7 **Ensure the appropriate management and operation of animal effluent systems and management of the application of animal effluent to land by:**
 - (a) **Requiring animal effluent systems to be designed, constructed and located appropriately and in accordance with good management practice; and**
 - (b) **Ensuring that all animal effluent systems:**
 - (i) **Have sufficient storage capacity to ensure that the disposal of effluent to land does not occur under conditions that will result in contaminants entering into water; and**

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- (ii) **Include contingency measures to prevent discharges of effluent to a water body, an artificial watercourse, or the coastal marine area, either directly or indirectly; and**
- (iii) **Are operated in accordance with a management plan for the purpose of preventing the unauthorised discharge of liquid or solid effluent to water; and**
- (c) **Avoiding the discharge of liquid and solid animal effluent to:**
 - (i) **water bodies, artificial watercourses, bores and soak holes, and the coastal marine area; and**
 - (ii) **land in a manner that results in ponding or overland flow to water; and**
 - (iii) **land when the soil moisture exceeds field capacity;**
- (d) **Requiring effluent application to be in accordance with good management practice; and**
- (e) **Granting resource consents for discharges of animal effluent for a maximum duration of up to 10 years in order to facilitate an efficient and effective transition from the operative freshwater planning framework towards a new integrated regional planning framework.**

- 7.D.8 Provide for the upgrading of existing animal effluent storage facilities that do not meet the standards in Rule 14.7.1.1 by:**
- (a) **Granting resource consents only where consent applications contain a timebound action plan for upgrading the existing animal effluent storage facility so that it meets the standards in Rule 14.7.1.1 as soon as possible; and**
 - (b) **Staging implementation of performance standards based on risk in accordance with Rule 14.7.1.2 and Schedule 19.**

7.D.9 *[New Part – Part C]*

7.D.10 *[New Part – Part G]*

7.6 Policies for the enhancement of water quality *[Repealed – 1 May 2014]*

7.7 Policies for point source discharges *[Repealed – 1 May 2014]*

7.8 Policies for non-point source discharges *[Repealed – 1 May 2014]*

7.9 Anticipated environmental results *[Repealed – 1 May 2014]*

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12.0 - 12.B *[Unchanged]*

12.C Other discharges

- 12.C.A.1 Discharge rules in section 12.C apply to any discharge not provided for in sections 12.A, 12.B or 13.5.
- 12.C.A.2 Within section 12.C, prohibited activity rules prevail over any permitted, controlled, restricted discretionary and discretionary activity rules.

Note: Rules applying to plantation forestry:

- Refer to the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017:
<http://www.legislation.govt.nz/regulation/public/2017/0174/latest/whole.html>
- Refer to Schedule 17: Rules applying to plantation forestry in Otago.
- Rules that apply: 12.C.1.1 (d) (e) (f), excluding (iii); 12.C.2.1; 12.C.2.2; 12.C.2.4; 12.C.3.2.

Note: Resource consent may also be required under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 which contains additional restrictions in relation to activities within, or within a 100m setback of, a natural wetland.

12.C.0 Prohibited activities: No resource consent will be granted

- 12.C.0.1 *[Unchanged]*
- 12.C.0.2 The discharge of any contaminant from silage storage or a composting process:
- (i) To any lake, river or Regionally Significant Wetland; or
 - (ii) To any drain or water race that goes to a lake, river, Regionally Significant Wetland or coastal marine area; or
 - (iii) To the bed of any lake, river or Regionally Significant Wetland; or
 - (iv) To any bore or soak hole; or
 - (v) To land in a manner that results in overland flow entering any:
 - (a) Lake, river, Regionally Significant Wetland or coastal marine area that is not permitted under Rule 12.C.1.1 or 12.C.1.1A; or
 - (b) Drain or water race that goes to any lake, river, Regionally Significant Wetland or coastal marine area

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that is not permitted under Rule 12.C.1.1 or 12.C.1.1A;
or

- (vi) To land within 50 metres of:
 - (a) Any lake, river or Regionally Significant Wetland; or
 - (b) Any bore or soak hole; or
- (vii) To saturated land; or
- (viii) That results in ponding,
is a **prohibited** activity.

12.C.0.3 [Unchanged]

12.C.0.4 The discharge of liquid animal effluent from an animal effluent system:

- (i) To any lake, river or Regionally Significant Wetland; or
- (ii) To any drain or water race that goes to a lake, river, Regionally Significant Wetland or coastal marine area; or
- (iii) To the bed of any lake, river or Regionally Significant Wetland; or
- (iv) To any bore or soak hole; or
- (v) To land within 50 metres of:
 - (a) Any lake, river or Regionally Significant Wetland; or
 - (b) Any bore or soak hole; or
- (vi) To land in a manner that results in ponding or overland flow to water; or
- (vii) To land when the soil moisture exceeds field capacity; or
- (viii) Where liquid animal effluent is distributed through the same infrastructure as water from a bore with no back flow prevention installed,
is a **prohibited** activity.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4 and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1 and 14.7.3.1.

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12.C.1 Permitted activities: No resource consent required

12.C.1.1 - 12.C.1.3 [Unchanged]

12.C.1.4A The discharge of solid animal effluent (excluding any discharge directly from an animal to land), or vegetative material containing solid or liquid animal effluent, into or onto land including in circumstances where a contaminant may enter water is a permitted activity provided:

- (a) the material does not contain any hazardous substance or hazardous waste,
- (b) the material does not include any waste from a human effluent treatment process,
- (c) the material is not discharged:
 - (i) onto the same area of land more frequently than once every two months; or
 - (ii) onto land where solid animal effluent, or vegetative material containing liquid or solid animal effluent, from a previous application is still visible on the land surface; or
 - (iii) onto land when the soil moisture exceeds field capacity; or
 - (iv) within 20 metres of the bed of a lake, river, the coastal marine area, Regionally Significant Wetland, water supply used for human consumption, bore, soak hole, or a landholding boundary.

12.C.1.4B The discharge of liquid animal effluent, or water containing liquid animal effluent, onto or into land is a permitted activity providing:

- a) The volume of the discharge is not more than 35m³ per landholding in any consecutive 12 month period; and
- b) The discharge is not prohibited under Rule 12.C.0.4; and
- c) The discharge does not occur within 20 metres of the boundary of the landholding on which the liquid animal effluent is being discharged, or beyond that boundary; and
- d) There is no discharge to land when the soil moisture exceeds field capacity.

12.C.1.4 Notwithstanding any other rule in this Plan, the discharge of liquid animal effluent, or water containing liquid animal effluent, from an animal effluent system onto or into land is a *permitted* activity providing:

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- (a) The animal effluent storage facility is permitted under Rule 14.7.1.2; and
- (b) The discharge is not prohibited under Rule 12.C.0.4; and
- (c) The discharge does not occur within 20 metres of the boundary of the landholding on which the liquid animal effluent is being discharged, or beyond that boundary; and
- (d) There is no discharge to land when the soil moisture exceeds field capacity.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1, and 14.7.3.1.

12.C.2 Restricted discretionary activities: Resource consent required

12.C.2.1 – 12.C.2.4 [Unchanged]

12.C.2.5 The discharge of liquid animal effluent, or water containing liquid animal effluent, from an animal effluent system onto or into land is a **restricted discretionary** activity provided:

- (a) The discharge is not prohibited under Rule 12.C.0.4; and
- (b) The discharge is not permitted under Rule 12.C.1.4;

In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (i) The extent to which the application depth and rate is consistent with industry agreed good management practice;
- (ii) Size and location of the disposal area, including separation distances from lakes, rivers, natural wetlands, bores, soak holes, the coastal marine area, water supply for human consumption and dwellings;
- (iii) Adverse effects on water quality, taking into account the nature and sensitivity of the receiving environment, and any measures to avoid, remedy or mitigate these adverse effects;
- (iv) Adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses, and any measures to avoid, remedy or mitigate these adverse effects;
- (v) Duration of consent and any review conditions;

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- (vi) Quality and content of, and compliance with, a management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water that is prepared in accordance with Schedule 21;
- (vii) Any information and monitoring requirements, and
- (viii) The value of existing investment in the animal effluent system.

Note: Rules 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5 manage discharges of animal effluent to land. They do not regulate the land use for the construction, use and maintenance of an animal effluent system. The construction, use and maintenance of animal effluent systems is managed by Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1, and 14.7.3.1.

12.C.3 Discretionary activities: Resource consent required

12.C.3.1 & 12.C.3.2 *[Unchanged]*

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14.6 [New – Part D]

14.7 Animal Waste Systems

Note: Resource consent may also be required under the Resource Management (National Environmental Standards for Freshwater) Regulations which contains additional restrictions in relation to activities within, or within a 100 metre setback of, a natural wetland.

14.7.1 Permitted activities: No resource consent required

14.7.1.1A The use of land for the construction, use and maintenance of a component of an animal effluent system that is not an animal effluent storage facility is a **permitted** activity providing:

- (a) for a component with a volume of less than 35,000 litres, the component does not have any visible cracks, holes or defects that would allow effluent to leak from the component;
- (b) for a component with a volume of 35,000 litres or above, the component is certified by a Suitably Qualified Person, as defined in Schedule 20, within the last five years as having no visible cracks, holes or defects that would allow effluent to leak from the component;
- (c) the component (excluding conveyance pipes) is not located:
 - (i) within 20 metres of any lake, river, Regionally Significant Wetland, water supply used for human consumption, bore or soak hole; or
 - (ii) above subsurface drainage (excluding a leak detection system); and
- (d) where the total volume of the animal effluent system exceeds 35,000 litres, a management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

14.7.1.1 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 is a **permitted** activity providing:

- (a) The animal effluent storage facility is sized in accordance with the 90th percentile as calculated by the Dairy Effluent Storage Calculator, and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20;
- (b) The animal effluent storage facility is certified by a Suitably Qualified Person as defined in Schedule 20, within the last five years as:

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- (i) having no visible cracks, holes or defects that would allow effluent to leak from the animal effluent storage facility; and
- (ii) Meeting the relevant pond drop test criteria in Schedule 18 (excluding above-ground tanks, bladders, and solid animal effluent storage facilities); and
- (c) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.
- (d) Any certifications under (a) and (b) are provided to the Otago Regional Council upon written request.

| | |
|------|--|
| Note | Rules 14.7.1.1A, 14.7.1.1, 14.7.1.2, 14.7.2.1 and 14.7.3.1 do not manage discharges of liquid or solid animal effluent to land. Discharges of liquid and solid animal effluent are managed under the following rules: 12.C.0.4, 12.C.1.4A, 12.C.1.4, and 12.C.2.5. |
|------|--|

14.7.1.2 The use of land for the use and maintenance of an animal effluent storage facility that was constructed prior to 25 March 2020 and does not comply with the conditions of Rule 14.7.1.1 is a *permitted* activity until the application date specified in Schedule 19.

14.7.2 Controlled activities: Resource consent required

14.7.2.1 The use of land for the construction, use and maintenance of an animal effluent storage facility constructed after 25 March 2020 is a *controlled* activity provided the following conditions are met:

- (a) The animal effluent storage facility is sized in accordance with the 90th percentile as calculated by the Dairy Effluent Storage Calculator and where relevant using a conversion factor for animals other than dairy cows determined by a Suitably Qualified Person as defined in Schedule 20; and
- (b) The animal effluent storage facility is either:
 - (i) Fully lined with an impermeable synthetic liner and has a leak detection system that underlies the animal effluent storage facility; or
 - (ii) Of concrete construction; or
 - (iii) An above-ground tank; or
 - (iv) Sealed with a clay liner; and
- (c) The design of the animal effluent storage facility, and any leak detection system has been certified by a Chartered Professional Engineer as being in accordance with the relevant

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parts of IPENZ Practice Note 21¹ and IPENZ Practice Note 27;² and

- (d) The animal effluent storage facility is not located:
 - (i) Within 50 metres of any lake, river or Regionally Significant Wetland; or
 - (ii) Within 90 metres of any water supply used for human consumption; or
 - (iii) Within 50 metres of any bore or soak hole; or
 - (iv) Above subsurface drainage (other than a leak detection system); and
- (e) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is prepared and implemented in accordance with Schedule 21.

In granting any resource consent under this rule, the Otago Regional Council will restrict the exercise of its control to the following:

- (a) The design and construction of the animal effluent storage facility, including storage capacity, nature of the solid or liquid animal effluent and the anticipated life of the animal effluent storage facility; and
- (b) The height of embankments and the placement and orientation relative to flood flows and stormwater run-off; and
- (c) Methods to protect the animal effluent storage facility from damage by animals and machinery; and
- (d) Quality and content of, and implementation of, the management plan prepared in accordance with Schedule 21; and
- (e) Potential adverse effects of construction, maintenance and use on water bodies, drains, groundwater, bores, drinking water supplies, the coastal marine area, stop banks, dwellings, places of assembly and urban areas; and
- (f) Location of the animal effluent storage facility; and
- (g) Measures to avoid, remedy or mitigate adverse effects on Kāi Tahu cultural and spiritual beliefs, values and uses.

¹ Available from <https://www.dairynz.co.nz/publications/environment/ipenz-21-farm-dairy-effluent-pond-design-and-construction/>

² Available from <https://www.dairynz.co.nz/publications/environment/ipenz-practice-note-27-dairy-farm-infrastructure/>

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14.7.3 Discretionary activities: Resource consent required

14.7.3.1 The use of land for the construction, upgrade, use or maintenance of an animal effluent storage facility or a component of an animal effluent system that is not an animal effluent storage facility is a *discretionary* activity provided it is not:

- (a) Permitted under Rules 14.7.1.1A, 14.7.1.1 or 14.7.1.2; or
- (b) Provided for by Rule 14.7.2.1

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Schedules 1 - 17 *[Unchanged]*

18. Schedule of pond drop test requirements and criteria

This schedule outlines the requirements for undertaking pond drop tests on animal effluent storage facilities that are part of an animal effluent system and the pass criteria for drop test results.

Requirements

- A minimum of 24 hours of accurate data within a single test period.
- Total test error of less than ± 1 mm.
- Continuous readings are to be taken over the entire test period at not more than 10 second intervals.
- Any change in pond fluid level over the test period needs to be accounted for.
- Ponds must be at or over 75% design depth (excluding freeboard) before a test can be undertaken.
- The level of sludge or crust on the pond during the test should be minimal so that it does not impact on test results.
- The pond surface is not frozen during any part of the testing.
- An anemometer is installed for the duration of the test and only data obtained when the wind speed does not exceed 50 kilometres per hour (14 m per second) at the test site is used in the test results.

Table 18.1 Maximum allowable pond level change

When tested in accordance with the requirements above, the animal effluent storage facility is considered to meet the pond drop test criteria if the maximum pond level change does not exceed the following:

| Maximum design depth of pond (m) excluding freeboard | Maximum allowable pond level change (mm per 24 hours) |
|--|---|
| <0.5 | 1.2 |
| 0.5 to 1.0 | 1.4 |
| 1.0 to 1.5 | 1.6 |
| 1.5 to 2.0 | 1.8 |
| >2.0 | 2.0 |

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19. Schedule of progressive implementation of animal effluent storage requirements

Many animal effluent storage facilities in Otago will need to be upgraded to meet the requirements of this Plan. The intent of this Schedule is to stage implementation of the Plan’s requirements according to the environmental risk posed by existing animal effluent storage facilities. To assess this risk, Schedule 19 provides two calculations that will determine the current storage volume available on a landholding (in days) as follows:

- Schedule 19A sets out the calculations required to determine days of storage available on a landholding.
- Schedule 19B sets out the date by which a complete resource consent application must be lodged with the Otago Regional Council under Rule 14.7.3.1 (and correspondingly Rule 14.7.1.2 ceases to apply). A complete application is one that is not determined as being incomplete by the Otago Regional Council pursuant to section 88 of the Resource Management Act 1991.

For clarity, this calculation under Schedule 19A does not determine the volume of the storage facility under section 14.7, it only determines the date that applications must be received.

19A Storage calculation

Two calculations are required to determine the current minimum number of days of animal waste storage available on a landholding. These are set out below.

Step One: Daily waste volume

To calculate the daily waste volume per farm, use the following formula:

$$\text{Daily waste volume (m}^3\text{)} = \text{Maximum number of cows milked per day} \times 0.05^{\wedge} \times \text{Maximum number of times per day that cows are milked during milking season}$$

[^] being 0.05 cubic metres (50 litres per cow per day)

For example:

During milking season, Farm A milks 500 cows twice per day. Using the formula above:

$$\text{Daily waste volume (m}^3\text{)} = 500 \times 0.05 \times 2$$

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$$\text{Daily waste volume (m}^3\text{)} = 50$$

Step Two:

To calculate the minimum number of days of storage available, use the following formula:

$$\text{Days of storage available} = \text{Actual storage volume (m}^3\text{)} \div \text{Daily waste volume (m}^3\text{)}$$

^ determined assuming that the storage facility is empty.

For example:

As calculated above, Farm A has a daily waste volume of 50 m³. The farm has a storage pond with a storage volume of 1000 m³. Using the formula above:

$$\begin{aligned} \text{Days of storage available} &= 1000 \div 50 \\ \text{Days of storage available} &= 20 \end{aligned}$$

Using the table in Schedule 19B, Otago Regional Council must receive a complete resource consent application under Rule 14.7.3.1 from Farm A no later than two years from the date Plan Change 8 is made operative.

19B Application dates

The following table sets out the dates by which complete resource consent applications must be received under Rule 14.7.3.1 (and correspondingly Rule 14.7.1.2 ceases to apply). The “application date” is the date Plan Change 8 is made operative, plus the number of years in the “year” column below.

| Days of storage available as calculated in accordance with Schedule 19B | Year |
|---|------|
| 0 – 10 | 0.5 |
| 11 – 40 | 2 |
| 41+ | 3 |

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20. Schedule defining Suitably Qualified Persons

A suitably qualified person for the purposes of this schedule is a person who has been certified by the Otago Regional Council as being appropriately qualified and experienced in accordance with the requirements below.

Requirements – Animal Effluent systems

For the purposes of Rules 14.7.1.1A(b), 14.7.1.1(b) and Schedule 21(j), a Suitably Qualified Person has either:

- (a) A relevant tertiary qualification in agricultural engineering, natural resources engineering or civil engineering and at least five years' professional experience in designing and constructing effluent management systems; or
- (b) A relevant equivalent qualification (for example, international qualifications) and at least five years' professional experience in designing and constructing effluent management systems; or
- (c) At least ten years' professional experience in designing and constructing effluent management systems.

Requirements – Calculations using the Dairy Effluent Storage Calculator

For the purposes of Rules 14.7.1.1(a) and Rule 14.7.2.1(a), a Suitably Qualified Person has:

- (a) For undertaking a calculation using the Dairy Effluent Storage Calculator, at least five years' relevant professional experience in designing effluent management systems, and
- (b) For determining a conversion factor for animals that are not dairy cows, a relevant scientific tertiary qualification or relevant research experience.

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21. Schedule of management plan requirements

- (1) A management plan for the purpose of preventing the unauthorised discharge of liquid or solid animal effluent to water is:
 - (a) prepared by the landholding owner or their agent and retained on the landholding, identifying the matters set out in clause 2 below;
 - (b) reviewed at least once every 12 months by the landholding owner or their agent, and the outcome of the review documented; and
 - (c) provided to the Otago Regional Council upon request, and
- (2) The management plan must contain the following:
 - (a) physical address of where the animal effluent system is located, and the land where liquid or solid animal effluent is to be applied,
 - (b) a description of the landholding ownership, and the contact details of the owner and the person in charge,
 - (c) legal description(s) of the landholding,
 - (d) a list of all the relevant resource consents held for the landholding and their expiry dates,
 - (e) a map(s) or aerial or satellite photograph(s) showing the locations of:
 - (i) the boundaries of the landholding,
 - (ii) the location of any dairy shed, animal effluent storage facilities, and any other components of an animal effluent system,
 - (iii) lakes, rivers, natural wetlands, bores, soak holes, the coastal marine area, water supply for human consumption and dwellings within the landholding,
 - (iv) the area of land where liquid or solid animal effluent is to be applied, and in relation to this area:
 - soil types and their risk profile¹,
 - any critical source areas and the locations of known subsurface drains.
 - (f) Operational procedures for using and maintaining the animal effluent system and for managing the discharge of animal effluent,
 - (g) Inspection, monitoring and reporting requirements and timeframes,
 - (h) The records of pond drop tests of the animal effluent storage facility undertaken at least every five years (excluding above-ground tanks, bladders, solid animal effluent storage facilities and an animal effluent storage facility with a leak detection system),
 - (i) Contingency measures to prevent the discharge of liquid or solid animal effluent to a water body, an artificial watercourse, or the coastal marine area, either directly or indirectly,
 - (j) Identification of measures to be taken to respond to a leak and the timeframe for response; including, for animal effluent storage facilities with a leak detection system where a leak is detected, a requirement for

SCHEDULES

an assessment by a Suitably Qualified Person to be undertaken as soon as practicable and no later than two months of the detection to determine whether the leak is within the normal operating parameters of the pond, and

- (k) Responses to any other system failures or emergencies, including timeframes for response.

Footnote 1: A digital soil map for New Zealand can be found online at <https://smap.landcareresearch.co.nz/>

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G L O S S A R Y

| | |
|--|--|
| Animal effluent storage facility | A pond, tank, or structure primarily used for the containment or storage of animal effluent, but excludes any ancillary structures for the collection, conveyance or treatment of liquid or solid animal effluent, such as sumps, stone traps and weeping walls. |
| Animal effluent system | Means the collection, storage, or treatment, of liquid or solid animal effluent. |
| Dairy Effluent Storage Calculator | Means the Dairy Effluent Storage Calculator available from http://www.dairynzdesc.co.nz |
| Liquid animal effluent | Faeces and urine from land-based animals, including associated process water, wash-down water, contaminants and sludge but excluding solid animal effluent. For the purposes of this definition, it does not include incidental animal effluent present in livestock processing waste streams. |
| Solid animal effluent | Solid excreta from land-based animals that cannot be pumped and sprayed, including bedding material and manure, but does not include dead animals or animal parts. |
| Suitably Qualified Person | Has the meanings set out in Schedule 20. |

Part C: Good farming practices

Relevant provisions:

| | |
|--|----|
| New Policy 7.D.9..... | 46 |
| New Definition: Critical source area | 50 |

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- 7.1 Introduction** *[Unchanged]*
- 7.2 Issues in general** *[Repealed – 1 May 2014]*
- 7.3 Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 Objective** *[Repealed – 1 May 2014]*
- 7.A Objectives** *[Unchanged]*
- 7.B Policies general** *[Unchanged]*
- 7.C Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7– 7.D.8 *[New - Part B]*
 - 7.D.9 Enable farming activities while reducing their adverse environmental effects by:**
 - (a) **Promoting the implementation of good management practices (or better) to reduce sediment and contaminant loss to water bodies; and**
 - (b) **Managing the risk of sediment and contaminants in run off entering water as a result of farming activities by:**
 - (i) **Implementing setbacks from rivers, lakes, drains (excluding sub-surface drains), natural wetlands or the coastal marine area and establishing or maintaining riparian vegetation,**

WATER QUALITY

- (ii) **Limiting areas and duration of exposed soil,**
- (iii) **Managing stock access to water bodies to avoid significant adverse effects on water quality, bed and bank integrity and stability, Kai Tahu cultural and spiritual beliefs, values, and uses, and river and riparian ecosystems and habitats,**
- (iv) **Setting interim minimum standards for intensive winter grazing; and**
- (v) **Managing critical source areas.**

7.D.10 *[New Part – Part G]*

7.6 **Policies for the enhancement of water quality** *[Repealed – 1 May 2014]*

7.7 **Policies for point source discharges** *[Repealed – 1 May 2014]*

7.8 **Policies for non-point source discharges** *[Repealed – 1 May 2014]*

7.9 **Anticipated environmental results** *[Repealed – 1 May 2014]*

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G L O S S A R Y

Critical source area Means a landscape feature such as a gully, swale, or depression that accumulates runoff from adjacent flats and slopes and delivers contaminants to surface water bodies such as rivers, lakes, and artificial watercourses (excluding subsurface drains, and artificial watercourses that do not connect to natural water bodies).

Part D: Intensive grazing

Relevant provisions:

| | |
|---|----|
| New Rule 14.6.1.1 (land use – permitted) | 54 |
| New Rule 14.6.2.1 (land use – discretionary)..... | 54 |
| New Definition – Intensive grazing | 58 |

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Rules: Land Use other than in Lake or River Beds



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RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

14.1 - 14.4 [Unchanged]

14.5 [New – Part G]

14.6 Rural land uses

14.6.1 Permitted activities: No resource consent required

- 14.6.1.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, the use of land for intensive winter grazing is a *permitted* activity providing:
- (a) Land on the farm was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
 - (b) At all times, the area of the farm that is used for intensive winter grazing is no greater than the maximum area of the farm that was used for intensive winter grazing between 1 July 2014 and 30 June 2019 (inclusive); and
 - (c) A vegetated strip of at least 5 metres is maintained between the intensively grazed area and any river, lake, wetland or drain (excluding sub-surface drains), and all stock are excluded from this strip during intensive winter grazing; and
 - (d) The intensive winter grazing does not occur in a natural wetland; and
 - (e) There is no intensive winter grazing in any critical source area unless contaminants are prevented from entering a surface water body.

Advice Note: when regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

14.6.2 Discretionary activities: Resource consent required

- 14.6.2.1 Until Regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 or equivalent regulations come into force, except as provided by Rule 14.6.1.1, the use of land for intensive winter grazing is a *discretionary* activity.

Advice Note: When regulations 26 and 27 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 come into force, for rules applying to the use of land on a farm for intensive winter grazing refer to Subpart 3 of the

RULES: LAND USE OTHER THAN IN LAKE OR RIVER BEDS

Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

Advice Note: Resource consent may also be required under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. A resource consent may only be granted under Regulation 30 of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 if the consent authority is satisfied that granting the consent will not result in an increase in—

- (a) contaminant loads in the catchment, compared with the loads as at the close of 2 September 2020; or
- (b) concentrations of contaminants in freshwater or other receiving environments (including the coastal marine area and geothermal water), compared with the concentrations as at the close of 2 September 2020.

Any resource consent granted under Regulation 30 must be for a term that ends before 1 January 2031.

14.7 *[New – Part B]*

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Intensive winter grazing Has the same meaning as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020.

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Part E: Stock access to water

Relevant provisions:

| | |
|-----------------------------|----|
| Amended Rule 13.5.1.8A..... | 62 |
|-----------------------------|----|

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Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands



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RULES: LAND USE ON LAKE OR RIVER BEDS OR REGIONALLY SIGNIFICANT WETLANDS

- Note: 1. Where the rules in this chapter provide for any activity in the bed of a lake or river, or in any Regionally Significant Wetland, a resource consent may also be required for activities associated with it, such as discharges to water, takes of water, damming or diversion of water, bed disturbance or structures.
2. A wetland may include open water which is part of a lake.

13.1 - 13.4 *[Unchanged]*

13.5 Alteration of the bed of a lake or river, or of a Regionally Significant Wetland

13.5.A General rules for section 13.5 *[Unchanged]*

13.5.1 Permitted activities: No resource consent required

13.5.1.1 - 13.5.1.7 *[Unchanged]*

13.5.1.8 *[Repealed – 1 May 2014]*

13.5.1.8A The disturbance of the bed of any lake or river, or any Regionally Significant Wetland by livestock, excluding intentional driving of livestock, and any resulting discharge or deposition of bed material, is a *permitted* activity, providing it does not:

- (a) Involve feeding out on that bed or wetland; or
- (b) Cause or induce noticeable slumping, pugging or erosion; or
- (c) Result in a visual change in colour or clarity of water; or
- (d) Damage fauna, or New Zealand native flora, in or on any Regionally Significant Wetland.

Advice Note: For regulations on stock exclusion from waterways refer to the Resource Management (Stock Exclusion) Regulations 2020.

Advice Note: The proposed Land and Water Regional Plan, when notified in December 2023, may introduce provisions regulating stock exclusion in a Freshwater Management Unit, or any part of a Freshwater Management Unit in addition to Resource Management (Stock Exclusion) Regulations 2020.

13.5.1.8B *[Unchanged]*

13.5.1.9 *[Unchanged]*

13.5.1.10 *[New Part F]*

13.5.2 & 13.5.3 *[Unchanged]*

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Part F: Sediment traps

Relevant provisions:

| | |
|--------------------------------------|----|
| New Rule .5.1.10..... | 68 |
| New Definition – Sediment trap | 72 |

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Rules: Land Use on Lake or River Beds or Regionally Significant Wetlands



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RULES: LAND USE ON LAKE OR RIVER BEDS OR
REGIONALLY SIGNIFICANT WETLANDS

- Note: 1. Where the rules in this chapter provide for any activity in the bed of a lake or river, or in any Regionally Significant Wetland, a resource consent may also be required for activities associated with it, such as discharges to water, takes of water, damming or diversion of water, bed disturbance or structures.
2. A wetland may include open water which is part of a lake.

13.1 - 13.4 *[Unchanged]*

13.5 Alteration of the bed of a lake or river, or of a Regionally Significant Wetland

13.5.A General rules for section 13.5 *[Unchanged]*

13.5.1 Permitted activities: No resource consent required

13.5.1.1 - 13.5.1.7 *[Unchanged]*

13.5.1.8 *[Repealed – 1 May 2014]*

13.5.1.8A *[Amended – Part E]*

13.5.1.8B *[Unchanged]*

13.5.1.9 *[Unchanged]*

13.5.1.10 The disturbance of the bed of any ephemeral or intermittently flowing river for the purpose of constructing or maintaining a sediment trap and any associated deposition of bed material is a **permitted** activity providing:

- (a) The construction or maintenance of the sediment trap is undertaken solely for sediment control purposes or to maintain the capacity and effective functioning of the sediment trap; and
- (b) The construction or maintenance does not result in destabilisation of any lawfully established structure or cause increased risk of flooding or erosion; and
- (c) No works occur in flowing water; and
- (d) Any build-up of sediment and other debris (including vegetation) within the sediment trap is removed to maintain the effectiveness of the sediment trap; and
- (e) All reasonable steps are taken to minimise the release of sediment during the disturbance and there is no conspicuous change in the colour or clarity of the water body beyond a distance of 200 metres downstream of the disturbance; and
- (f) No lawful take of water is adversely affected as a result of the disturbance; and

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- (g) There is no change to the water level range or hydrological function of any Regionally Significant Wetland; and
- (h) There is no damage to fauna or New Zealand native flora in or on any Regionally Significant Wetland.

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G L O S S A R Y

Sediment trap An excavated or bunded area in the bed of an ephemeral or intermittently flowing river designed and constructed solely for the purpose of allowing sediment to drop from the water column.

Part G: Sediment from earthworks for residential development

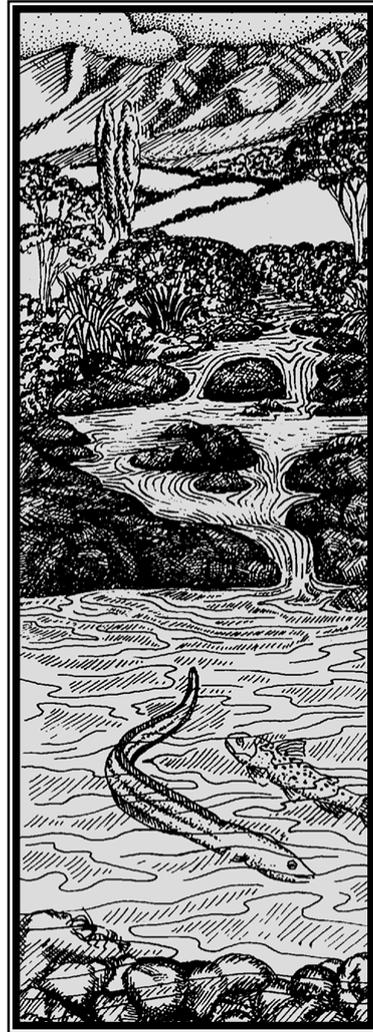
Relevant provisions:

| | |
|---|----|
| New Policy 7.D.10 | 76 |
| New Rule 14.5.1.1 (land use and discharge – permitted) | 80 |
| New Rule 14.5.2.1 (land use and discharge – restricted discretionary) | 81 |
| New Definitions – earthworks, Residential development..... | 84 |

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- 7.1 **Introduction** *[Unchanged]*
- 7.2 **Issues in general** *[Repealed – 1 May 2014]*
- 7.3 **Issues related to point source discharges to water** *[Repealed – 1 May 2014]*
- 7.4 **Issues related to non-point source discharges to water** *[Repealed – 1 May 2014]*
- 7.5 **Objective** *[Repealed – 1 May 2014]*
- 7.A **Objectives** *[Unchanged]*
- 7.B **Policies general** *[Unchanged]*
- 7.C **Policies for discharges of human sewage, hazardous substances, hazardous wastes, specified contaminants, and stormwater; and discharges from industrial or trade premises and consented dams**
 - 7.C.1 – 7.C.4 *[Unchanged]*
 - 7.C.5 – 7.C.6 *[Amended - Part A]*
 - 7.C.7 – 7.C.11 *[Unchanged]*
 - 7.C.12 *[New - Part A]*
- 7.D **Policies for discharges of water and contaminants, excluding those discharges provided for in 7.C**
 - 7.D.1 – 7.D.4 *[Unchanged]*
 - 7.D.5 *[Amended - Part A]*
 - 7.D.6 *[New - Part A]*
 - 7.D.7– 7.D.8 *[New Part B]*
 - 7.D.9 *[New Part – Part C]*
 - 7.D.10 **The loss or discharge of sediment from earthworks is avoided or, where avoidance is not achievable, best practice guidelines for minimising sediment loss are implemented to maintain water quality.**
- 7.6 **Policies for the enhancement of water quality** *[Repealed – 1 May 2014]*
- 7.7 **Policies for point source discharges** *[Repealed – 1 May 2014]*

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7.8 Policies for non-point source discharges [*Repealed – 1 May 2014*]

7.9 Anticipated environmental results [*Repealed – 1 May 2014*]

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B E D S

14.1 - 14.4 [Unchanged]

14.5 Earthworks for residential development

| | | |
|-------|----|---|
| Note: | 1. | The rules in Section 14.5 do not apply to earthworks or soil disturbances covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017. |
| | 2. | Discharges resulting from earthworks for residential development are addressed only through rules in section 14.5. |

14.5.1 Permitted activities: No resource consent required

14.5.1.1 The use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *permitted* activity providing:

- (a) The area of exposed earth is no more than 2,500 m² in any consecutive 12-month period per landholding; and
- (b) Earthworks do not occur within 10 metres of a water body, a drain, a water race, or the coastal marine area (excluding earthworks for riparian planting); and
- (c) Exposed earth is stabilised upon completion of the earthworks to minimise erosion and avoid slope failure; and
- (d) Earthworks do not occur on contaminated or potentially contaminated land; and
- (e) Soil or debris from earthworks is not placed where it can enter a water body, a drain, a race or the coastal marine area; and
- (f) Earthworks do not result in flooding, erosion, land instability, subsidence or property damage at or beyond the boundary of the property where the earthworks occur; and
- (g) The discharge of sediment does not result in any of the following effects in receiving waters, after reasonable mixing:
 - (i) the production of conspicuous oil or grease films, scums or foams, or floatable or suspended materials; or
 - (ii) any change in the colour or visual clarity; or
 - (iii) any emission of objectionable odour; or
 - (iv) the rendering of fresh water unsuitable for consumption by farm animals; or
 - (v) any significant adverse effects on aquatic life.

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14.5.2 Restricted discretionary activities: Resource consent required

14.5.2.1 Except as provided by Rule 14.5.1.1, the use of land, and the associated discharge of sediment into water or onto or into land where it may enter water, for earthworks for residential development is a *restricted discretionary* activity.

In considering any resource consent under this rule, the Otago Regional Council will restrict the exercise of its discretion to the following:

- (a) Any erosion, land instability, sedimentation or property damage resulting from the activities; and
- (b) Effectiveness of the proposed erosion and sediment control measures in reducing discharges of sediment to water or to land where it may enter water; and
- (c) The extent to which the activity complies with the *Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005)*; and
- (d) Any adverse effect on water quality, including cumulative effects, and consideration of trends in the quality of the receiving water body; and
- (e) Any adverse effect on:
 - i. Kāi Tahu cultural and spiritual beliefs, values and uses;
 - ii. Any natural or human use value;
 - iii. Use of water bodies or the coastal marine area for contact recreation and food gathering;and measures to avoid, remedy or mitigate these adverse effects.

14.6 [New – Part D]

14.7 [New – Part B]

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G L O S S A R Y

Earthworks Means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.

Residential development: Means the preparation of land for, and construction of, development infrastructure and buildings (including additions and alterations) for residential activities and includes retirement villages. It excludes camping grounds, motor parks, hotels, motels, backpackers' accommodation, bunkhouses, lodges and timeshares.

The terms development infrastructure, residential activity, and retirement village are defined in the National Planning Standards.

Part H: Nationally or regionally important infrastructure

Relevant provisions:

| | |
|----------------------------|----|
| Amended Policy 10.4.2..... | 88 |
|----------------------------|----|

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Wetlands



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W E T L A N D S

10.1 Introduction *[Repealed – 1 October 2013]*

10.2 Issues *[Repealed – 1 October 2013]*

10.3 Objectives *[Unchanged]*

10.4 Policies

10.4.1 & 10.4.1A *[Unchanged]*

10.4.2 **Avoid the adverse effects of an activity on a Regionally Significant Wetland or a regionally significant wetland value, but allow remediation or mitigation of an adverse effect only when the activity:**

- (a) **Is lawfully established; or**
- (b) **Is nationally or regionally significant infrastructure, and has specific locational constraints; or**
- (c) **Has the purpose of maintaining or enhancing a Regionally Significant Wetland or a regionally significant wetland value.**

10.4.2A *[Unchanged]*

10.4.3 - 10.4.5 *[Repealed – 1 October 2013]*

10.4.6 *[Unchanged]*

10.4.7 *[Repealed – 1 October 2013]*

10.5 Anticipated Environmental Results *[Repealed – 1 October 2013]*

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Table of minor and consequential changes

| Plan Provision | Detail of proposed change | | | |
|-------------------------|---|----------------------|---|-----------------------|
| Page numbers | Update page numbers. | | | |
| Footers | Change footer to read “Regional Plan: Water for Otago (Updated to 3 September 2022)”. | | | |
| | | | | |
| Title page | Change the date to read “Updated to 3 September 2022”. | | | |
| ISBN number | Insert new ISBN number for Regional Plan: Water for Otago. | | | |
| Chronicle of key events | Amending the table to read: | | | |
| | Key event | Date notified | Date decisions released | Date operative |
| | Plan Change 8 (Discharge management) to the Regional Plan: Water | 6 July 2020 | 31 January 2022, 21 April 2022 and 14 June 2022 | 3 September 2022 |
| Section 1.4 | Adding a paragraph to the end of “Process of Plan preparation” The Environment Court issued its decision on the urban provisions of Plan Change 8 on 14 June 2022. Plan Change 8 was made fully operative on 3 September 2022. | | | |

7.3. ORC Submissions lodged on NPS-FM/NES-F amendments for wetland regulations, NPS Indigenous Biodiversity exposure draft, and Water Services Entities Bill

Prepared for: Council
Report No. SPS2237
Activity: Governance Report
Author: Warren Hanley, Senior Resource Planner Liaison
Lisa Hawkins, Acting Manager Policy
Tom de Pelsemaeker, Acting Manager Policy
Endorsed by: Anita Dawe, General Manager Policy and Science
Date: 24 August 2022

PURPOSE

- [1] For Council to note staff submissions lodged on the following central government consultations:
- The exposure drafts of proposed changes to the National Policy Statement for Freshwater Management 2020 (NPS-FM) and National Environmental Standard for Freshwater (NES-F), including amendments to the provisions for identifying wetlands and regulations for managing activities in or near wetlands; and
 - The Water Services Entities Bill; and
 - The exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB).

EXECUTIVE SUMMARY

- [2] Staff obtained approval at recent Council and Strategy and Planning Committee meetings to respond to three central government consultations with staff submissions on national legislation, direction and regulations.
- [3] Following lodgement of these staff submissions, staff undertook to bring the full submissions back to the next available Council meeting for noting. Those submissions are attached to this paper.

RECOMMENDATION

That the Council:

- 1) **Notes** this report and the staff submissions on:
 - a. *The exposure drafts of proposed changes to the National Policy Statement for Freshwater Management 2020 and National Environmental Standard for Freshwater, including amendments to the provisions for identifying wetlands and regulations for managing activities in or near wetlands; and*
 - b. *The Water Services Entities Bill; and*
 - c. *The exposure draft on the National Policy Statement for Indigenous Biodiversity.*

BACKGROUND

- [4] The background of each consultation and the respective working submission points was discussed with Council or Strategy and Planning Committee ahead of lodging, as set out below:

| Paper subject | Acronym | Reported to | Submission lodged with |
|---|----------------|---|---|
| Proposed changes to the National Policy Statement for Freshwater Management and National Environmental Standard for Freshwater, including amendments to provisions and regulations relating to wetlands | NPS-FM/NES-F | Council Meeting 29 June 2022 | Ministry for the Environment 8 July 2022 |
| Water Services Entities Bill | WSE | Strategy and Planning Committee 13 July 2022 | Finance and Implementation Select Committee 21 July 2022 |
| Proposed National Policy Statement for Indigenous Biodiversity | NPS-IB | Strategy and Planning Committee 13 July 2022 | Ministry for the Environment 20 July 2022 |

- [5] Each report outlined the issues of relevance to the Otago Regional Council (ORC) and any working submission points that staff had identified, to assist Governance discussions and contribute to the submissions being prepared.
- [6] In relation to the submission on the exposure draft of the NPS-IB, a resolution was passed to provide for the Co-Chairs of the Strategy and Planning Committee to provide input into the staff submission ahead of being lodged which was undertaken.

DISCUSSION**Proposed changes to the NPS-FM/NES-F**

- [7] The staff submission noted support for the proposed changes to the NPS-FM to improve clarity and correct technical errors. Overall, these proposed changes are anticipated to reduce the complexity of plan development and resource consent processes and contribute towards positive environmental outcomes in Otago.
- [8] The staff submission was supportive of the amendments to the wetland provisions in the NES-F as they address some concerns raised by ORC during earlier consultations. However, outstanding concerns remain in respect to the framework for identifying and managing wetlands. The origins and characteristics of wetlands is complex and the very broad categories the current provisions promote are still ambiguous, particularly in the case of Otago wetland examples which we highlighted in our submission. Even with the proposed amendments management 'gaps' remain in the national direction and regulations that seek to protect wetlands.
- [9] The consultation document included specific questions on the management of activities within wetlands. Where possible, our submission provided commentary on these.

- [10] Lastly, our submission supported MfE in prioritising work with the Department of Conservation to develop further guidance as to how wetlands influenced by coastal processes are to be managed.

Water Services Entities Bill

- [11] The submission on the WSE Bill identified that regional authorities are not represented within the structure of each of the four entities proposed to take over from territorial authorities in the delivery of drinking water, wastewater, and stormwater services. Without regional authority input, it is unclear how each entity will appropriately provide for regional context in its strategic decision making.

Exposure draft on the NPS-IB

- [12] ORC's submission provided broad support for the exposure draft of the NPS-IB, recognising it provides national direction for the maintenance and enhancement of New Zealand's indigenous biodiversity.
- [13] While all submissions are yet to be published, ORC staff also contributed to a regional sector (Te Uru Kahika) submission led by Bio Managers from across the country. It should be noted that ORC's staff submission on the exposure draft of the NPS-IB aligned with the regional sector's submission across a range of points, including:
- Support for the partnership with iwi/maori;
 - Need for better integration of national direction;
 - Need for additional clarity around how much assistance regional councils will be required to give to territorial authorities to map Significant Natural Areas (SNAs);
 - Need for a more prescriptive/definitive approach to managing existing activities in SNAs; and
 - Need for additional clarity around information requirements.

OPTIONS

- [14] There are no further options that require Council consideration in respect to the submissions attached for noting. The submissions have already been lodged, in line with the respective submissions closing dates and previous Council and Strategy and Planning Committee resolutions.
- [15] Councillors expressed an interest in ORC being able to speak to its submission on the exposure draft on National Policy Statement for Indigenous Biodiversity, if possible. If the Ministry provides this opportunity, Councillors will be advised.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [16] The reports to Council and the Strategy and Planning Committee for each of these three consultations identified alignment with the relevant strategic matters and issues from ORC's Strategic Directions as well as ORC plans and strategies.

Financial Considerations

- [17] There are no specific financial considerations associated with this paper. Submitting on and reporting back on national consultations is a funded activity.

Significance and Engagement

- [18] The consideration of these three consultations, and any subsequent submissions was consistent with *He mahi rau rika: ORC's Significance, Engagement and Māori Participation policy*.

Legislative and Risk Considerations

- [19] The previous reports to Council and the Strategy and Planning Committee for each consultation outlined the legislative and risk context for the respective proposals, and in ORC responding to them.
- [20] Of the three consultations, as a priority, it is important for ORC to continue to monitor the implementation of NES-F regulations and NPS-FM clauses relevant to the management of wetlands given the development of the proposed LWRP.

Climate Change Considerations

- [21] ORC submissions recognised the important of climate change consideration. For the Water Services Entities Bill, our submission advocated that greater recognition of climate change impacts is important to promote water supply security.

Communications Considerations

- [22] Any submissions made by ORC would be publicly available via the respective government website managing the consultation.

NEXT STEPS

- [23] Councillors will be advised if there is any opportunity for ORC to speak to its submissions, particularly on the exposure draft of the NPS-IB.

ATTACHMENTS

1. ORC Submission Cover Letter [7.3.1 - 4 pages]
2. ORC Submission on NPSFM and NES Amendments - Consultation Questions [7.3.2 - 14 pages]
3. ORC Feedback on Wetland Definitions 2021 [7.3.3 - 7 pages]
4. NPS-IB Submission [7.3.4 - 8 pages]
5. WSE Submission [7.3.5 - 3 pages]



Our reference: A1662055

8 July 2022

Ministry for the Environment
Wellington
WetlandsTeam@mfe.govt.nz

Otago Regional Council submission on the exposure draft of proposed changes to the NPS-FM and NES-F (including wetland regulations)

Otago Regional Council (ORC) appreciates the opportunity to provide a submission to the Ministry for the Environment (Ministry) on proposed amendments **to the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standards (NES-F)**. Due to the submission period and closing date not aligning with ORC meeting schedules, this submission has been made by ORC staff.

1. Introduction

Otago features a wealth of important wetlands, and many of these have been recognised as 'Regionally Significant Wetlands' since our 'Regional Plan: Water for Otago' (RPW) became operative in 2004. Their many values need to be recognised and provided for in alignment with national directions through the development of a new regional policy framework, including the proposed Otago Land and Water Regional Plan which is being developed for notification by the end of 2023.

Wetlands are an important component of Otago's water resource. They provide a diverse set of landscape elements and ecosystems, including high altitude blanket bogs and string bogs, saline areas, swamp forest remnants, shallow lake complexes, estuarine salt-marshes and valley floor swamps. These are of particular significance due to their scarcity and ecological, societal, economic, and cultural values.

Of our wetlands, several are large wetland systems of importance, and include the Upper Taieri scroll plain wetland complex, Great Moss Swamp (Loganburn Reservoir) and the Waipori/Waihola wetland complex which hold national and internationally recognised significant values. Lake Tuakitoto also supports considerable wetland values, which have been recognised by a Local Water Conservation Notice, the elements of which are carried through into our RPW.

More than ever, our sub-alpine to coastal wetlands are vital to not only Otago's societal, economic, and cultural identity and values, but also our future. Wetlands are a critical component in our preparations to mitigate and adapt to the impacts of climate change which will be felt from the mountains to the sea.

2. ORC response on draft amendments to the NPS-FM to improve the clarity of the provisions and correct technical errors

ORC staff have reviewed the proposed amendments to the NPS-FM. We welcome, and in general support, that the amendments are likely to:



- a) Provide clearer direction on how councils should proceed in the absence of complete and scientifically robust data and will assist with the implementation of the NPS-FM without further delay.
- b) Contribute to the transparency of decision-making processes relating to tangata whenua involvement and the development of action plans
- c) Improve the clarity and reduce the complexity of the process that regional councils need to follow for managing nutrients.

Most importantly, the amendments will improve the efficiency and transparency of plan development processes and development of other initiatives (e.g. action plans) towards achieving environmental outcomes for our region.

3. ORC response on amendments to the wetland provisions

Generally, ORC staff are supportive of the intent of the amendments and the many improvements they will make to the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standards for Freshwater (NES-F) wetland regulatory framework.

We have attached to this submission, a table of the consultation questions asked throughout the consultation document, with ORC's responses. This is to assist the Ministry with focused answers and the recording of ORC's position in summarising submissions.

However, there are a small number of amendments and gaps within the current national direction that ORC still holds significant concerns with and wishes to highlight up front in our submission. We respectfully ask the Ministry to closely consider these concerns as they will have the potential to negatively impact on Otago wetlands, many which are recognised as having values of regional, national and international significance.

4. Wetland definition

The proposed amendments to the 'natural wetland' definition will likely remove some ambiguity associated with the current definition. However, even with the proposed amendments the definition remains difficult to read and unclear in places. Further improvements to the clarity of this definition could be achieved by:

- i. Avoiding the intermittent use of negative and positive phrasing and use of double negatives; and
- ii. Defining newly introduced concepts, such as the term 'deliberately constructed wetland'; and
- iii. Providing more clarity around the status of existing wetlands whose extent, type and character has been modified by the construction of a deliberately constructed water body; and
- iv. Providing more certainty or better guidance around the time (period) that should be considered when establishing an accurate baseline with appropriate vegetation, hydrology and soils data against which to measure any changes. Determination of this time (period) should also recognise that wetlands are often dynamic in terms of extent, vegetation cover and hydrological characteristics



The proposed new 'natural wetland' definition is likely to increase the level of protection for threatened species. However, it does not set clear standards in terms of the quality or the type of information that needs to be provided to demonstrate the presence of these species.

ORC requests that the definition of 'natural wetland' is further refined to improve clarity and remove ambiguity, and that any new terms or concepts used within this definition are clearly defined or described themselves.

The current NPS-FM definition of 'natural wetland' excludes artificial wetlands (other than wetlands constructed to offset impacts on, or restore, an existing former natural wetland) from the protection offered by the NPS-FM and regulations in the NES-F. Otago has several artificially created or induced wetlands with important values of national and international significance, examples of which were provided in our previous submission on the Wetland definitions consultation. The proposed amendments to the 'natural wetland' definition improve the protection of artificial wetlands known to contain threatened species. However, the changes proposed in the exposure drafts provide no direction in terms of the management of other ecological or biodiversity values or the ecosystem services associated with other artificial wetlands.

ORC requests that the definition for artificially created wetlands provides protections for the range of examples that ORC has previously provided. While more stringent rules may be able to be included at a regional plan level, the important values these wetlands possess should be protected within national level directions to send the appropriate signal that their protection is a national priority.

5. Alternate Pathway - Upper Taieri Wai

Notwithstanding ORC's position with respect to the national direction for managing wetlands, ORC staff understand that the Upper Taieri Wai are proposing an alternative pathway for managing the Upper Taieri scroll plain, instead of the rules in the NES-F, and Stock Exclusion Regulations.

If the Minister is minded considering a pathway within the legislation for an alternative framework for managing the scroll plain, ORC staff, subject to approval of Council, would be comfortable engaging with the community and mana whenua to understand what this alternative pathway may look like.

6. Draft national list of exotic pasture species

The draft national list of exotic pasture species is proposed to be used as indicators of 'pasture' rather than 'wetland' if the listed species are present at a cover rate greater than 50 %.

Four of the listed species, which are indeed pasture components, and also able to occupy dry soils, are likely to be locally present in wetlands with considerable % cover, esp. on river, lake, and swamp margins, namely:

- *Holcus lanatus*, Yorkshire fog
- *Lolium arundinaceum*, tall fescue
- *Lotus pedunculatus*, lotus
- *Phalaris arundinacea*, reed canary grass.



When assessing a wetland using Wetlands Delineation Protocols (WDPs), and there is uncertainty or doubt about whether a wetland meets the RMA definition of wetland or the extent of a wetland area, the MfE guidelines suggest that we use **Vegetation tool: Rapid test**.

If it passes the **Vegetation tool: Rapid test**, it is deemed a wetland. If not, then the **Vegetation tool: Dominance and prevalence index** is to be used. If it passes **Vegetation tool: Dominance and prevalence index** then it is a wetland. If both fail, then it is a non-wetland.

Both tests are using the above list as indicators of wetland in contrast to what the proposed pasture exclusion guidelines suggest.

ORC requests the draft national list of exotic pasture species and pasture exclusion guidelines require clarification on the subject matter whether these plants will be used as indicators of wetland (RMA) or pasture (NPS-FM pasture exclusion), as they cannot be for both.

7. Wetlands partially or fully within the Coastal Marine Area (CMA)

The proposed amendments to the wetland provisions do not recognise the need for a holistic management approach where natural wetlands are partially located within or extending beyond CMA boundaries. We appreciate these are complex environments to develop regulation for, but it is important that this direction is progressed.

ORC requests that the Ministry prioritises working with the Department of Conservation to develop further guidance.

Consultation Questions

Attached and forming part of our submission are ORC's responses to the Ministry's questions listed in the Ministry's May 2022 *Report, recommendations and summary of submissions in support of the proposed amendments in the exposure drafts*. While we have not provided responses to all the questions, we have focused on those we are able to contribute to at this time.

We would welcome any further questions and opportunity to discuss our submission with the Ministry.

ORC consents to its submission being published on the Ministry's consultation website.

Yours sincerely

A handwritten signature in black ink, appearing to read "Anita Dawe".

Anita Dawe
General Manager Science and Policy



| # | Consultation Question | Agree/Disagree? | ORC comment |
|---|--|-----------------|---|
| 1 | Proceed as proposed and delete the term 'improved pasture' from the NPS-FM definition of a 'natural wetland' and replace with 'pasture'; remove the definition of 'improved pasture' from the NPS-FM | Agree in part | <p>This is an improvement in clarity for all users of the NPS-FM, given qualifying exotic pasture species will be defined.</p> <p>ORC requests further thought is given how the regulations can address the concern ORC raised in its May 2021 submission with examples of natural wetlands that are dominated by exotic grasses due to sharing a boundary with pasture areas.</p> |
| 2 | Proceed as proposed and delete 'at the commencement date' from part (c) of the definition of 'natural wetland' in the NPS-FM. | Agree in Part | <p>The deletion of 'at the commencement date' from part (c) of the definition of 'natural wetland' creates uncertainty around the date or time period that should be considered when establishing an accurate baseline.</p> <p>ORC requests that certainty or guidance is provided around the time (period) that should be considered when establishing an accurate baseline with appropriate vegetation, hydrology and soils data against which to measure any changes.</p> |
| 3 | Proceed as proposed and delete 'is dominated by (that is, more than 50% of) exotic pasture species' from part (c) the definition of 'natural wetland' in the NPS-FM | | |
| 4 | Replace with 'that has 50% or more ground cover comprising exotic pasture species, or words to that effect | Disagree | <p>ORC is concerned that ground cover is not a simple concept and can be assessed according to differing tiers of vegetation.</p> <p>ORC requests simplifying the term used to just "cover" as this would avoid ambiguity. ORC considers that the delineation of pasture and natural wetland by visual assessment can be difficult in practice.</p> |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|---|-----------------|--|
| 5 | Incorporate by reference into the NPS-FM, under section 46B of the RMA, a national list of exotic pasture species that will define what is included and meant by the phrase 'exotic pasture species' | Agree | ORC supports this as it gives greater clarity to both landowners/occupiers and local authorities implementing national direction or regulations. |
| 6 | Proceed as proposed and delete 'and is subject to temporary rain-derived water pooling' from part (c) of the definition of 'natural wetland' in the NPS-FM | Agree | ORC supports this as it removes ambiguity that currently exists within the definition of a 'natural wetland'. |
| 7 | Do not replace with an alternative measure of wetland hydrology within the exclusion for pasture-dominated wetlands in part (c) of the definition of 'natural wetland' | | |
| 8 | (New) Amend part (a) of the definition of 'natural wetland' in the NPS-FM to specify that a natural wetland includes induced wetlands | Agree | ORC supports this as it will better provide for safeguarding wetland values supported by induced wetlands. |
| 9a | Include definitions in the NPS-FM for: a. Wetlands constructed by artificial means – being wetlands and waterbodies that have been deliberately constructed, including areas of wetland habitat that have formed in or around any deliberately constructed waterbody, or words to that effect | Disagree | ORC has previously submitted, with examples, that Otago features wetlands that could be defined as both artificially constructed and natural (remnants) or induced. Many of these are located in or around the 'artificial' wetland/waterbody. ORC's position remains the definitions <u>must not</u> leave wetlands that meet this definition, but that have recognised, important values unprotected under the NPS-FM. |
| 9b | Include definitions in the NPS-FM for: b. Induced wetlands – being wetlands that have resulted from any human activity except the deliberate construction of a wetland or waterbody by artificial means, or words to that effect | Agree | ORC supports this subject to the amendment below in question 10 being incorporated. |
| 10 | (New) Amend the definition of 'natural wetland' in the NPS-FM to specify that where a wetland is identified as having threatened species, then it is a 'natural wetland' and the exclusion under part (c) of the definition (in relation to pasture) does not apply | Agree | ORC supports this as it is an appropriate response to protected threatened species. However, the extent of the exclusion should only be enough to ensure the protection of the identified threatened species, and not an entire managed pasture area. |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|--|--|-----------------|---|
| 11 | Make a consequential amendment to the Resource Management (Stock Exclusion) Regulations 2020, to align the definition of 'natural wetland' with the amended definition in the NPS-FM | Agree | ORC supports this as it is necessary that natural resources that are managed under multiple regulations are consistently defined to avoid regulatory conflicts and ensure the effective and efficient management of wetlands across those regulations. |
| Part 2 proposed consent pathways | | | |
| 12 | Include principles for offsetting and compensation in an appendix of the NPS-FM as set out in Appendix 1 of this Summary Report and link the application of these principles to the effects management hierarchy | Agree | ORC welcomes national guidance on offsetting and compensation. |
| 13 | Proceed as proposed and include quarries in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM | | |
| 14 | Apply the same provisions to quarries as in the NPS-FM at 3.22(1)(b)(i), including the gateway tests of: significant national or regional benefit in 3.22(1)(b)(ii), and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv) | | |
| 15 | Amend the NES-F to provide for quarrying activities as a discretionary activity and subject to the same provisions already in place for the construction of specified infrastructure | | |
| Defining quarrying and scope of the consent pathway | | | |
| 16 | Option 1: Include the definition for quarry and quarrying activities as set out in the National Planning Standards 2019 which also includes ancillary activities associated with quarrying | Disagree | ORC does not support this option. |
| 17 | Option 2: Include a definition of quarrying that applies only to the extraction of aggregate at site and not to ancillary activities (recommended) | Agree | Allowing for ancillary activities within a wetland , which are not functionally restricted to an area, increases risk for adverse effects on wetlands. It should be clear that 'cost of ancillary activities' such as roading, processing etc is not a justification for claiming they meet the 'functional need' test. ORC supports the inclusion of a definition of quarrying that applies only to the extraction of aggregate |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|--|
| | | | at site and not to ancillary activities. |
| | Part 2B: Cleanfills, managed fills and landfills | | |
| 18 | Proceed as proposed and include cleanfills, managed fills and landfills in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM | Disagree | We are concerned that the proposed amendment seeks to respond to the ongoing requirement for fill activities due to growing key industries and urban environments, but does not acknowledge its new waste strategy consultation that aims to replace the 2008 Waste Minimisation Act and further reduce waste. This is important as the Ministry signals that councils should consider waste minimisation goals and alternative waste management solution as part of a discretionary consent process. |
| 19 | Apply the same provisions to cleanfills, managed fills and landfills as in the NPS-FM at 3.22(1)(b)(i), including the significant national or regional benefit gateway test at 3.22(1)(b)(ii) and the effects management hierarchy as per 3.22(1)(b)(iv) | Agree | The strong signal sent in the NPS-FM of no net loss of wetlands in New Zealand appears to be weighted lower than the need to provide for urban development (including giving effect to the NPS-UD) and associated fill activities. Rather than just exempt fill activities and solely rely on the application of a 'best practicable location' test (question #23), a more considered, robust process as promoted in this option should be applied as long-term potential effects of fill activities and wetland loss will outlive the short-term urban growth pressure. |
| 20 | Option 1: Apply the current definition of 'functional need' as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills OR | Disagree | |
| 21 | Option 2: Apply the current definition of 'operational need' as set out in the National Planning Standards as a gateway test to landfills, cleanfills and managed fills OR | Disagree | |
| 22 | Option 3: Make the gateway test in the NPS-FM 'best practicable location' for landfills, cleanfills and managed fills (recommended) | Agree | In conjunction with the option promoted in question #19. |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|---|
| 23 | <p>Include the following definition, or words to that effect in the NPS-FM Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to–</p> <p>a) in relation to ‘plan-enabled’ development, and landfill, cleanfill and managed fill activities</p> <p style="padding-left: 40px;">i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and</p> <p style="padding-left: 40px;">ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and</p> <p>b) in relation to ‘plan-enabled’ urban development, the extent to which development is required to meet development capacity under the NPS-UD</p> <p>AND</p> | Agree | In conjunction with the option promoted in question #19. |
| 24 | Amend the NES-F to make landfill, cleanfill and managed fill activities a discretionary activity subject to the same provisions already in place for the construction of ‘specified infrastructure’ | Disagree | Discretionary implies consent will be granted, subject to conditions. Given the importance and status of wetland protection under the NPS-FM framework, it would be appropriate to signal these activities are contrary to these goals and therefore non-complying , and that the consenting pathway sets a high standard for evidence and a robust assessment process if a fill activity is to be successfully consented. |
| 25 | <p>Provide for the following definitions in the NPS-FM and NES-F:</p> <p>Landfill has the meaning given by the National Planning Standards 2019.</p> <p>Cleanfill has the meaning given by the National Planning Standards 2019</p> <p>Managed fill means an area used for the disposal of material with low-grade contamination, such as demolition material, received from existing infrastructure, or words to that effect</p> | Agree | ORC supports a consistent definition of each fill activity is appropriate and necessary across all national level directions. |
| | Part 2C: Mining | | |
| | <i>Providing a consent pathway for mining</i> | | |
| 26 | Option 1: Do not progress a consent pathway for mining or associated activities in the NES-F | Disagree | |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|---|
| | OR | | |
| 27 | Option 2: (recommended) Provide a consent pathway for mining by including mining in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM AND | Agree | ORC supports that there should be a consented pathway as mining activities can vary widely in their management, scale, and location. |
| 28 | Apply the same provisions to mineral mining as in the NPS-FM at 3.22(b)(i), including the gateway test of national or regional benefit in 3.22(b)(ii) and functional need in (iii); and the effects management hierarchy as per 3.22(b)(iv) AND | Agree | |
| 29 | Provide for mineral mining as a discretionary activity in the NES-F and subject to the same provisions already in place for the construction of specified infrastructure. | Disagree | Due to the importance of wetland protection under the NPS-FM framework, it is appropriate, as with fill activities, that a non-complying activity classification is set to ensure a high threshold of evidence and effects management must be met to be successfully consented. |
| | Defining 'mining' and the scope of the consent pathway | | |
| 30 | Option 1: Apply the Crown Minerals Act 1991 definition of 'mining' in the NPS-FM and NES-F but do not include 'mining operations' (recommended) OR | | |
| 31 | Option 2: Apply the Crown Minerals Act 1991 definition for both 'mining' and 'mining operations' in the NPS-FM and NES-F <i>Additional controls on types of minerals mined</i> | | |
| 32 | Option 1: Do not place any controls on minerals able to be mined under the proposed consent pathway in the NES-F OR | | |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|-------------|
| 33 | Option 2: Exclude coal from minerals able to be mined under the proposed consent pathway in the NES-F OR | | |
| 34 | Option 3: Apply the following conditions to the ability to mine coal under the proposed consent pathway in the NES-F (recommended) Condition (a) – Include a sunset clause for mining that makes thermal coal mining a noncomplying activity after 1 March 2030, but; Condition (b) – Allow the mining of coking coal past 2030 | | |
| | Part 2D: Urban development | | |
| 35 | Provide a consent pathway for ‘plan-enabled’ urban development in the NES-F and include ‘plan-enabled’ urban development in the list of activities exempt from the general policy to avoid natural inland wetland loss, protect their values and promote their restoration in 3.22(1)(a) of the NPS-FM AND | Agree | |
| 36 | Apply the same provision to ‘plan-enabled’ urban development as in the NPS-FM at 3.22(1)(b)(i), and the effects management hierarchy as per 3.22(1)(b)(iv) AND | | |
| 37 | Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or district benefits AND | | |
| 38 | Option 1: Apply the current definition of ‘functional need’ as set out in the National Planning Standards as a gateway test to ‘plan-enabled’ urban development OR | Disagree | |
| 39 | Option 2: Apply the current definition of ‘operational need’ as set out in the National Planning Standards as a gateway test to ‘plan-enabled’ urban development | Disagree | |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|-------------|
| | OR | | |
| 40 | Option 3: Make the gateway test in the NPS-FM 'best practicable location' for 'plan enabled' urban development (recommended) AND | Agree | |
| 41 | Include the following definition, or words to that effect in the NPS-FM Best practicable location: means the best location for an activity to be undertaken in, having regard, among other things to– a) in relation to 'plan-enabled' development, and landfill, cleanfill and managed fill activities i. the scope and design of the activity, so that adverse effects are avoided to the extent possible, and ii. the effects on the natural inland wetland of that activity compared to effects on the environment in other locations, and b) in relation to 'plan-enabled' urban development, the extent to which development is required to meet development capacity under the NPS-UD | | |
| 42 | Include a gateway test similar to that at 3.22(1)(b)(ii) which requires the plan-enabled urban development to provide significant national, regional or district benefits AND | | |
| 43 | Provide for 'plan-enabled' development as a restricted discretionary activity in the NES-F subject to with the matters to which discretion is restricted, being those set out in existing regulation 56 of the NES-F <i>Defining 'plan-enabled' urban development</i> | | |
| 44 | Option 1: Utilise the definition of 'plan-enabled' urban development for the proposed urban development consent pathway in the NPS-FM and NES-F as set out in the NPS-UD OR | | |
| 45 | Option 2: (recommended) Add a qualifier to the definition of 'plan-enabled' for the purposes of the NES-F which clarifies that: 'plan-enabled' has the | | |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|---|
| | meaning given by the NPS-UD, except that for the purposes of the NPS-FM and NES-F: (a) plan-enabled in the short term means land zoned for housing or business use (as applicable) in an operative district plan; (b) or land identified for development in any relevant statutorily recognised document (eg, Smartgrowth plan) | | |
| 46 | Require the consent authority to be satisfied for a 'plan-enabled' development that there is clear provision, including who is responsible, for the ongoing maintenance and management of aquatic offsets, once the development phase is completed | | |
| | Part 2E: Additional consent pathways proposed by submitters | | |
| 47 | Provide for the construction and maintenance of water storage within the current definition of 'specified infrastructure' in the NPS-FM (recommended) | Agree in part | ORC agrees with the wider principle that where appropriate water storage should be enabled as it is a response to the effects of climate change and may assist supporting the water needs of industries and communities. However, ORC is concerned that thorough consideration should be given to the appropriateness and environmental impacts (such as impacts on catchment yield, efficiency of land use etc.) of water storage proposals, regardless of whether there is a functional need for it to be located within a wetland or not. ORC staff consider it more appropriate for this activity to be managed through a regional planning framework. |
| | Ski areas | | |
| 48 | Option 1: Do not provide a specific consent pathway for the construction and maintenance of infrastructure associated with ski areas on the basis that the existing consent pathway for 'regionally significant infrastructure identified as such in a regional policy statement or regional plan' is appropriate and would be available for this activity (recommended) | Agree | ORCs agree that it appropriate that any infrastructure that is regionally significant should be assessed and included via a robust and public regional planning process, rather than because of ad hoc consent applications. The latter risks not having all regionally significant infrastructure accurately listed in one place at any one time, as subsequently identified |

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| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|---|-----------------|---|
| | Note that the recommendation to provide for water storage will also address ski area needs for snowmaking and water treatment/supply | | infrastructure could not be added to the regional planning framework without a plan change. |
| 49 | Option 2: Amend the consent pathway for 'regionally significant infrastructure identified as such in a regional policy statement or regional plan' to remove the requirement for the infrastructure to have prior listing in a regional policy statement or regional plan Note that this would apply generally, not just to ski areas and would allow the consent authority to make the determination of regional significance as part of their decision making on a consent application | Disagree | As per our response to question 48. |
| 50 | Option 3: Include infrastructure associated with, and for ski areas within the definition of 'specified infrastructure' including but not limited to, transport mechanisms such as lifts, roads, and tracks (for any purpose), associated facilities for the loading or unloading of passengers, sewerage system, water and electricity supply | Disagree | As per our response to question 48. |
| | Part 3: Amendments to the restoration provisions | | |
| 51 | (New) Include definitions for 'maintenance' and 'biosecurity' in the NPS-FM and NES-F. The definitions would be, or words to similar effect: Maintenance means managing threats such as weeds to prevent deterioration of wetland condition Biosecurity means activities to eliminate or manage a pest, invasive or an unwanted organism | Agree | |
| 52 | Amend the existing definition of 'restoration' in the NPS-FM to remove the phrase 'natural inland wetlands' and include the amended definition in the NES-F <i>Maintenance (weed control) and biosecurity</i> | | |
| 53 | Wherever 'is for the purpose of natural wetland restoration' appears in regulations 38 and 39, change to 'is for the purpose of natural wetland restoration, maintenance or biosecurity' or words to that effect | | |
| 54 | Amend regulation 38(4)(b) to read that if an activity is vegetation clearance, earthworks or land disturbance, the activity must not affect more than 500m ² or 10% of the area of the natural wetland, whichever is smaller | | |

Otago Regional Council submission on NPS-FM and NES-F proposed amendments consultation questions
May 2022



| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|---|
| 55 | Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for the following activities: i. non-indigenous vegetation clearance for biosecurity purposes and indigenous vegetation clearance demonstrably necessary for the biosecurity activity ii. non-indigenous vegetation clearance using handheld tools for restoration and maintenance | Agree | ORC supports this , as per our previous submission. |
| | Restoration Plans | | |
| 56 | Amend 38(5) by adding exceptions to the area limit in subclause 4(b) for non-indigenous vegetation clearance for restoration or maintenance in accordance with a restoration plan, provided to the council at least 10 working days prior to the activity commencing. A restoration plan must: i. assess the restoration and/or maintenance activities against relevant general conditions in regulation 55; and ii. address the matters in Schedule 2 of the NES-F relevant to the activity proposed restoration plans for natural wetlands | | |
| | Controls on removing/planting exotic species | | |
| 57 | In relation to planting exotic species, amend regulation 38(5) to clarify that it only applies to planting for restoration purposes | Agree | ORC supports this. |
| 58 | Make a consequential amendment to the permitted activities in regulation 40(5) (scientific research), regulation 43(5) (maintaining wetland utility structures) and regulation 46(5) (maintaining specified and other infrastructure) so that the exception relates to planting for restoration purposes | | |
| | Amendments to regulation 55 | | |
| 59 | Amend regulation 55(3)(e) in the NES-F to provide that debris and sediment (excluding the consented disposal of overburden) must not be placed – i. within a setback of 10 m from any natural wetland; or ii. in a position where it may enter any natural wetland | Agree | ORC supports the change to remove the ‘absolute’ nature of the previous wording as very minor amount of sediment discharge than has less than minor effects would be acceptable. ORC considers the wording of (ii) ‘ <i>in a position..</i> ’ is unnecessary as this is already provided for in provision |

Otago Regional Council submission on NPS-FM and NES-F proposed amendments consultation questions
 May 2022



| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|---|-----------------|--|
| | | | (e) by the wording 'must not be placed' which still achieves the intent of the proposed change. If anything, 'in a position' may add confusion as to how this is to be assessed. |
| | Charges for notification of activity | | |
| 60 | Amend regulation 75 so that councils cannot charge to receive and review notifications of intended permitted activity work (including restoration plans where required) for wetland restoration, maintenance and biosecurity | Agree | <p>ORC supports the intent of enabling and encouraging communities to do good work.</p> <p><i>Furthermore, ORC requests that the period of 10 working days extended to 15 working days. This will ensure Council staff can review these plans and identify any other legal activities the works must allow for, or other support that Council may be able to contribute (information etc).</i></p> <p>While not directly related to this provision, ORC notes and requests a change to regulation 55(2). Provision 2(d) should be deleted, and the provision 2(b) <i>be amended to read "a description of, and map showing, where the activity will be undertaken, and its extent; and"</i>. As drafted, 2(d) only requires a description of the extent, but as with the location of the activity, it is important that the extent is also mapped for clarity. It seems more efficient to merge the two provisions rather than reword 2(d) itself. This change will make improve the review of notified permitted works.</p> |
| | Part 4: Additional matters | | |
| 61 | Include a requirement at 3.22(3) of the NPS-FM that council must be satisfied that where aquatic offsetting or aquatic compensation is being pursued, the applicant has given regard to the aquatic offsetting and compensation principles which will be appended to the NPS-FM | | |

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May 2022



| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|---|-----------------|---|
| 62 | Amend Policy 6 in the NPS-FM so that it clarifies that there is to be no further loss of natural inland wetland extent, their values are protected, and their restoration is promoted, except where loss is a consequence of consented activities, to which the effects management hierarchy has been applied | | |
| | Part 4B: Drainage – prohibited (r 53) and non-complying activities (r 52) | | |
| 63 | In the NES-F remove the words ‘or discharge’ from the chapeau in regulation 52(2) and regulation 53(2) | Agree | ORC agrees this is a sensible amendment given discharges within wetlands would not cause drainage. Also, these provisions would require many discharges of water to require consent under the NES-F, whereas they may already require a consent under the regional plan or meet the relevant permitted activity rule of the regional plan. |
| | Part 4C: Discharges and the 100-metre setback (r 54) | | |
| 64 | Amend every reference to ‘discharges of water’ in Part 3 – Subpart 1 of the NES-F to specify that they are only regulated if the activity has, or is likely to have, adverse effects on the hydrological regime or biodiversity values of a natural wetland | | |
| | Part 4D: Fish passage | | |
| 65 | In the NES-F provide an exception to regulation 46(4)(b) (Maintenance of infrastructure) so that the activity may increase the size of a structure if it is for the purpose of providing for fish passage and complies with the regulations set out in NES-F Part 3, Subpart 3 – Passage of fish affected by structures. | Agree | ORC supports this amendment as provision for improving fish passage is a positive effect. |
| | Part 4E: Alignment and clarification for specified infrastructure | | |
| 66 | In regulation 46 of the NES-F (Maintenance and operation of infrastructure – permitted activities) disapply the following general conditions in regulation 55 (General Conditions): – regulation 55(2) (the requirement to notify the regional council 10 working days before commencing the activity) – regulation 55(3)(b) (c) and (d) – regulation 55 (5) | | |

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May 2022



| # | Consultation Question | Agree/Disagree? | ORC comment |
|----|--|-----------------|-------------|
| 67 | Amend regulation 47 (Maintenance and operation of infrastructure – restricted discretionary activities) to provide an exception to the general mandatory condition in regulation 47(5)(c) (that the bed and hydrological condition of a wetland must be restored within 30 days of the start of the activity) if the maintenance and operation of the infrastructure necessitates the ongoing taking, use, damming, diversion, or discharge of water | | |
| | | | |

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 May 2022



Our Reference: A1471726

3 May 2021

Ministry for the Environment
PO Box 2134
Wellington
Freshwater@mfe.govt.nz

Dear Sir/Madam

Wetlands Definitions Guidance Feedback – ORC Feedback

Otago Regional Council (ORC) thanks the Ministry for the Environment (MfE) for the opportunity to provide feedback on the exposure draft for wetland definitions.

Otago has a richness of wetlands, some of which are recognised and provided for in the ORC's Regional Plan: Water (RPW) as 'regionally significant wetlands' due to their recognised values and characteristics. This status has provided these mapped wetlands¹ a greater level of protection since 2004 when the RPW became operative and now which is also provided for in the wetland provisions of the National Policy Statement for Freshwater 2020 (NPSFM 2020), and the National Environmental standards Freshwater management (NESFM) for all natural inland wetlands.

ORC welcomes and supports the clear intent to protect all wetlands, irrespective of size, type or condition. To be effective, it is critical the provisions in the regulations are clear and certain in meaning.

ORC general comment on wetland management

ORC is aware that across New Zealand, and indeed within Otago not all wetlands are naturally formed. However irrespective of how or why they were formed, many of them have values and serve functions that are significant and worthy of protection.

While the definitions seek to provide exclusion provisions for some subsets of wetlands to not create perverse outcomes, ORC's experience is that in practice this is a complex exercise, and the draft definitions as currently written will create uncertainty, risking the potential loss of wetlands that otherwise should be protected.

The exclusion provisions the definitions promote do not perhaps fully appreciate the complexity many wetlands can present when attempting to understand their form, function and origin. This could lead to incorrectly applying regulatory requirements leading to an inappropriate loss of wetlands – contrary to the NPSFM 2020 and NESFM.

ORC has a planned review of its existing Significant Regional Wetland inventory which aims to be completed by 2023. This is an important project as these wetlands, and any new ones to be added, require protection more stringent than the NESFM. The directions and provisions of the NPSFM and NESFM will assist with the review process.

¹ <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries>



In the following comments on the draft wetland definitions, ORC has provided examples of Otago wetlands that illustrate the complexity of wetland categorisation.

1. Topic: Wetland delineation protocols

The draft definitions do not clarify where the burden of proof will fall to confirm if a wetland will be subject to the wetland provisions of the NESFM or not. Throughout Otago (and no doubt New Zealand) there will be a significant number of wetlands that may need to be assessed against the NPSFM 2020 and NESFW, because they either have not been identified and mapped, or because they are less than 500m² in size. If the costs fall solely on the local government sector, it will be a significant burden, and add costs at a time when national regulation is increasingly being applied.

ORC requests that given the limited resources of councils to identify all wetlands within their jurisdiction, the definitions should clearly require that the onus ultimately falls to an applicant/land owner to ensure any activities that may affect any wetland complies with the NESFM. This onus should provide for councils being able to comment on the application of the protocols (for wetlands not previously identified) to ensure they follow an acceptable standardised and consistent approach.

2. Topic: Exclusion for Artificially Constructed wetlands

The definitions view wetlands that are artificially constructed wetlands to be different from those that are inadvertently created ('induced') as a side effect of another activity.

ORC considers that in practice, defining a wetland as either constructed or induced will be a complex task. Many Otago examples could be argued as meeting the criteria of either or both definition.

Otago Examples

Lower Clutha² - ORC's interpretation of excluding constructed wetlands is to include capturing any wetland that is formed in behind a dam where it was created such as for hydroelectrical power generation.

ORC is concerned that in practice this approach neglects to provide for wetlands that are downstream of hydro dams and influenced by the ramping of water levels that occurs during power generation. Figure 1 shows a map of two lower Clutha wetlands. These examples, along with several others in the lower Clutha catchment below Roxburgh are known to be influenced by ramping of water levels due to power generation activity.

ORC staff would consider these wetlands to fit the definition of an 'induced' wetland as they existed prior to the damming of the Clutha River/Matau-au for hydroelectric power generation but have responded to the river's modified flow regime.

² <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/clutha-district>



The Clutha Matau wetland for example is recognised as regionally significant due to it having a habitat for the threatened Banded Dotterel, featuring a high degree of wetland naturalness and its form is regionally scarce.

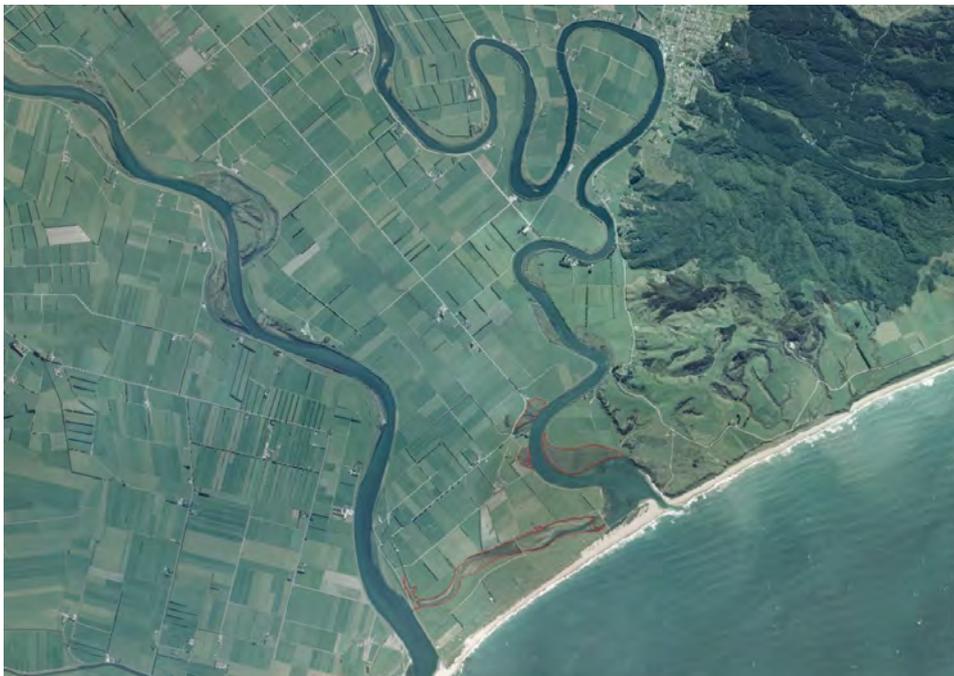


Figure 1 Clutha Matau and River Mouth Lagoon wetlands

Logan Burn³ (also known as Great Moss swamp) is an irrigation dam which has inundated historic wetlands as it was filled. The residual pockets of wetlands that remain are referred to as remnants (natural wetlands or newly formed wetlands due to the damming)

In the case of the Logan Burn (Figure 2) the reservoir was filled in 1983, this drowned the existing wetlands. It is uncertain whether all the wetland parcels that remain are enduring remnants of a historic wetland or have been created ('constructed') in association with the raising of the water levels.

The values at Logan Burn are regionally significant, featuring the presence for threatened plant species tufted hair-grass and a high degree of wetland naturalness. While the NESFM enables greater protection of the wetland as regionally significant under the RPW, ORC is concerned the wetland could still be determined as both constructed and induced under the NESFM, which is an undesirable contradiction.

³ <https://www.orc.govt.nz/managing-our-environment/water/wetlands-and-estuaries/dunedin-district/great-moss-swamp>



Lake Onslow, another large, constructed Otago dam, has a similar scenario.

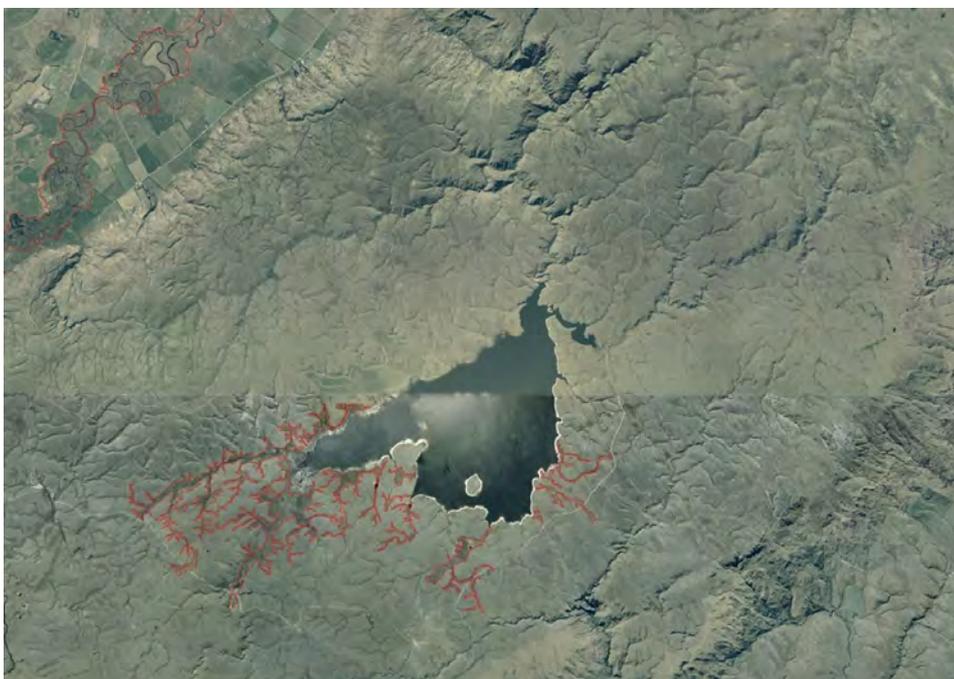


Figure 2 Logan Burn

These examples if applied to the definitions as drafted illustrate that they would create uncertainty. They can be viewed as meeting both the definitions of both constructed or induced wetlands.

ORC is very concerned that this uncertainty could lead to looping arguments as to whether any wetland, whether it has more stringent protections than the NESFM, or not, should be subject to any wetland protection provisions.

ORC requests MfE seek further advice to refine any exclusion provisions for constructed wetlands. Any exclusion provisions should not conflict with any other wetland definitions and, where there is any uncertainty, a cautionary process should be specified to protect against unintentional wetland loss.

3. Topic: Exclusion of Geothermal Wetlands

While Otago has no identified geothermal wetlands, **ORC requests** MfE ensure that appropriate regulations are in place to ensure the protection of people from any change in land use where a geothermal wetland is present.

4. Topic: Exclusion of Improved Pasture

Another significant potential for uncertainty is the definition for improved pasture. ORC questions how applying an assessment of 'more than 50% of exotic pasture species' will work in practice.



ORC's experience is that it can be very difficult to determine where a wetland's extent begins and ends, particularly if only assessing by visible coverage. To illustrate this in figures 3 to 5, are examples from Otago's Taieri River Scroll Plain which is home to a wetland Named the *Upper Taieri Wetlands Complex*. It consists of three sub-areas, the Styx (Paerau) Basin Wetlands, the Maniototo Basin Wetlands and Taieri Lake Wetlands.

In these examples, native grasses have all but been smothered by exotics grasses. The result is many areas that are either actively managed pasture or wetland are dominated by exotic pasture. This makes it challenging to know where managed pasture ends, and wetlands begin.



Figure 3 Wetland on Taieri Scroll Plain. To the left of centre wire fence is pasture, to the right it is a regionally significant wetland)



Figure 4 Taieri Scroll Plain wetland. To left of fence line in the oxbow is a Regionally Significant Wetland, to the right it is pasture



Figure 5 Taieri Scroll Plain. To left of fence line (middle of photo) is pasture, to right is a Regionally Significant Wetland

Furthermore, the definition wording refers to pasture ‘being manged’ whereas the exposure draft discusses on page 7 ‘active management’. This provision should be clarified and defined carefully including what active management means in practice.

ORC requests MfE give further consideration to the criteria for identifying and excluding areas of ‘improved pasture’, and the opportunity for parties giving feedback to provide additional feedback on any improvements to the definition as suggested by the technical working group which workshopped this matter over April 2021.



Closing comments

ORC agrees that preventing any further decline of New Zealand's wetland stock is a priority, and the wetland provisions of the NPSFM 2020 and the NESFM are a critical step towards this.

It is important councils and landowners can rely on robust, clear direction, policies and rules in the NESFM and NPSFM 2020 to enable and encourage good wetland management practices, collaboration opportunities and consenting and compliance guidance. As a last resort it is also important the regulations provide a robust framework for council enforcement options, if necessary.

ORC staff would welcome any further questions from the MfE and we would be happy to provide more information on the examples provided in this feedback, and others from Otago, if that would be of assistance.

Your sincerely

A handwritten signature in blue ink, appearing to read "Anita Dawe".

Anita Dawe

Manager Policy



Our Reference: A1666074

19 July 2022

Ministry for the Environment
Wellington

indigenousbiodiversity@mfe.govt.nz

Otago Regional Council Submission on the Exposure Draft National Policy Statement for Indigenous Biodiversity

The Otago Regional Council (ORC) appreciates the opportunity to make a submission on the Ministry for the Environment's (MfE or "Ministry") exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB) that was released on 9 June 2022.

Introduction and Summary

ORC acknowledges that in the new exposure draft on the NPS-IB the Ministry has responded to various matters and concerns raised in submissions received on the previous 2019 consultation draft of the NPS-IB. Therefore, ORC considers that this new exposure draft of the NPS-IB is an improvement from the previous consultation draft of the NPS-IB.

Overall, ORC considers that as an organisation, it is well placed to give effect to the objective and principles promulgated in the NPS-IB exposure draft through:

- The objectives and policy framework included in the proposed Otago Regional Policy Statement (RPS) that was notified in June 2021;
- ORC's Draft Biodiversity Strategy 2018 and Biodiversity Action Plan 2019; and
- ORC's working partnerships and relationships with Kai Tahu, Otago's territorial authorities (TAs), and various active community groups leading biodiversity protection and enhancements projects across Otago.

However, there are a number of outstanding matters, and additional issues created by the proposed wording of the NPS-IB exposure draft that ORC wishes to highlight. ORC considers that resolving issues, through the relief sought by ORC, would achieve the following:

- The workability of the NPS-IB will be improved, allowing for it to be implemented more efficiently.
- Regional councils throughout New Zealand will be better positioned to plan and prepare for carrying out the various roles and responsibilities attributed to them by the NPS-IB; and





- The NPS-IB will become more effective in achieving its sole objective, which is to:
 - “protect, maintain and restore indigenous biodiversity in a way that:*
 - (a) Recognises tangata whenua as kaitiaki, and people and communities as stewards, of indigenous biodiversity; and*
 - (b) Provides for the social, economic, and cultural wellbeing of people and communities now and in the future.”*

A significant concern of ORC remains that, as currently drafted the NPS-IB could be unnecessarily costly to implement for regional councils due to the process requirements prescribed in the exposure draft, as well as the additional staff and financial resources that are likely to be needed to give full effect to the NPS-IB.

ORC considers that a more flexible framework would allow for the objective of the NPS-IB to be achieved in a more efficient and effective manner. This would also assist with generating increased stakeholder buy-in and nurturing collaboration between landowners, community groups and relevant agencies, by providing them with a higher degree of certainty around the costs and benefits of their actions to protect, maintain, and enhance indigenous biodiversity.

ORC is aware that the New Zealand Regional Council Biomangers and Biodiversity Working Group (Te Uru Kahika) is preparing a submission on the NPS-IB exposure draft. ORC staff have considered a draft of the submission prepared by this group and consider that there is likely to be considerable alignment between the points raised in Te Uru Kahika submission and ORC’s submission.

ORC submission summary on NPS-IB 2019 draft

ORC’s March 2020 submission on the consultation draft of the NPS-IB released in November 2019 identified a number of concerns and opportunities. Key points made by ORC in this submission on the 2019 consultation draft include:

- The NPS-IB as worded in this draft could have an impact on extractive industries.
- The NPS-IB should state Central Government’s obligation to participate in partnerships with local authorities, tangata whenua, landowners, people and communities in maintaining and enhancing indigenous biodiversity. This is because it has a significant role in social, economic and cultural wellbeing.
- Identification of Significant Natural Areas (SNAs) on Crown land should be led by DoC which is resourced to do so.
- The policy for managing adverse effect in plantation forests needs to clarify whether territorial or regional authorities have responsibility.
- A policy on regional targets for increasing indigenous biodiversity cover is not supported, as there are more effective ways to achieve positive outcomes.
- While the implementation of the NPS-IB rests with local government, national direction for the protection of indigenous biodiversity needs to be rationalised and integration needs to be achieved across various national direction planning instruments to enable effective, integrated management. To achieve greater environmental and climate change resilience, a more integrated management of indigenous ecosystems and species need a better integrated approach across land, water and coast. At present, management of these issues and areas is siloed across different policy frameworks.



In making a submission on the June 2022 exposure draft of the NPS-IB, ORC has considered how well the exposure draft of the NPS-IB addresses matters raised by ORC in its 2022 submissions.

Overview of ORC submission points on NPS-IB exposure draft 2022

Objectives and Policies (Part 2 of the NPS-IB exposure draft).

ORC considers that the objective as worded in the NPS-IB exposure draft does not have the same clarity in direction that the Objective of the current National Policy Statement for Freshwater Management 2020 (NPS-FM) has (which sets a clear hierarchy of priorities). This can hamper decision-making, especially where competing values exist. In addition, some of the policies are worded in a manner that allows for incorrect or inconsistent interpretation.

ORC requests that the wording of the objective and some of the policies be improved to better guide decision-making.

Te Rito o te Harakeke (Part 3, Subpart 1, Clause 3.2 of the NPS-IB exposure draft)

The NPS-IB includes Te Rito o te Harakeke as a fundamental concept. Te Rito o te Harakeke refers to the need for an integrated and holistic approach to maintain the integrity of indigenous biodiversity. Under the NPS-IB exposure draft local authorities are to work with tangata whenua to develop a local approach for giving effect to Te Rito o te Harakeke. ORC notes that this requirement to work with tangata whenua mirrors the approach for giving effect to Te Mana o te Wai, which is the fundamental concept that underpins New Zealand's approach for managing freshwater under the NPS-FM.

Key aspects of the approach of working with tangata whenua to develop a local "articulation" of a concept embedded within national direction, can already be seen in current ORC practice. An example of this is the development of the FMU and Rohe visions in the proposed RPS 2021 and the work that ORC is currently undertaking in partnership with Kai Tahu to develop a proposed Otago Land and Water Regional Plan.

Overall approach to implementation (Part 3, Subpart 1 of the NPS-IB exposure draft)

The NPS-IB requires local authorities to involve tangata whenua as kaitiaki, in the management of indigenous biodiversity, and recognises the role of people and communities, particularly landholders, as stewards. The NPS-IB also recognises the importance of social, economic and cultural wellbeing, which can be fostered by forming strategic partnerships in the protection, maintenance and restoration of indigenous biodiversity.

ORC supports the requirement to involve tangata whenua as kaitiaki in the management of indigenous biodiversity, and supports the recognition given to the role of people and communities as stewards.

The NPS-IB requires local authorities to apply a precautionary approach to managing the effects of subdivision, use and development on indigenous biodiversity while recognising the interactions between environments. The NPS-IB also seeks to ensure a coordinated approach towards the management of indigenous biodiversity across administrative boundaries and across different strategies, legislation and planning tools. While the overall principle of seeking integration is strongly supported, ORC is concerned that the realisation of positive outcomes for indigenous biodiversity will be frustrated by:



- the split between the NPS-IB and other national directions and regulations and the inconsistencies between these documents¹; and
- the lack of integration with other government initiatives that seek to garner positive action around a broad range of environmental issues, such as the New Zealand Emissions Trading Scheme (NZ ETS) and He Waka Eke Noa; and
- the limited ability to promote or consider non-regulatory responses under the NPS-IB, (relative to its strong focus on regulatory responses).

ORC requests that the Ministry focuses on achieving better integration between the NPS-IB, other national direction and various Central Government tools and initiatives for managing and promoting indigenous biodiversity as well as a broader range environmental issues. This can be achieved through:

- further amendments to the wording of the exposure draft of the NPS-IB
- planned updates to current national direction (i.e. the NPS-FM)
- a review of the National Environmental Standards for Plantation Forestry (NPS-PF), which controls activities which can have a negative impact on indigenous biodiversity;
- the Resource Management reforms; and
- Further changes to the NZ ETS or the development of alternative mechanisms for accounting for indigenous biodiversity within the context of He Waka Eke Noa (to encourage new or regenerating indigenous biodiversity).

Identifying and managing the effects of activities on Significant Natural Areas (Part 3, Subpart 2 of the NPS-IB exposure draft)

While Significant Natural Areas (SNA) must be identified in district plans, the exposure draft of the NPS-IB requires both regional councils and TAs to develop or amend their policy statements and plans to include objectives, policies and methods that seek to avoid certain specified effects on SNAs from subdivision, use or development. For other types of effects on SNAs an effects management strategy is to be applied.

At present, ORC is already giving effect to some of these requirements through the provisions of its proposed RPS 2021. However, further changes to the provisions of the proposed RPS are likely to be required to ensure that its provisions fully reflect the approach to managing the effects of activities on SNAs as outlined in the exposure draft.

Overall, ORC supports the requirement to avoid specific effects, while applying an effects management hierarchy with respect to other effects or specified activities.

The NPS-IB exposure draft requires regional councils to provide TAs with assistance when undertaking district-wide assessments to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs. ORC considers that this will provide opportunities for information sharing and greater consistency in standards applied by district councils.

¹ For example, there are considerable differences in approach and inconsistencies in wording exist between the exposure draft of the NPS-IB and the NPS-FM. This is illustrated by the following:

- The NPS-FM applies to Threatened species, while the NPS-IB applies to Threatened and At Risk species.
- The NPS-IB includes references to “specific infrastructure”, while the NPS-FM applies the term “specified infrastructure”. However, both terms have similar but not identical definitions.
- The NPS-IB includes references to “improved pasture”, while the recently released exposure draft for changes to the NPS-FM seeks to remove this concept to reduce ambiguity.



ORC supports the provision outlined in the exposure draft of the NPS-IB that requires regional council to provide TAs with assistance when undertaking district-wide assessments to identify areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs.

ORC's current budgets and work plans developed under the Long-Term Plan 2021-2031 do not anticipate assisting TAs on mapping and identifying SNA's. Having a clear understanding of the level of assistance that must be provided by regional councils to TAs when identifying SNAs will assist ORC with better preparing for this role and ensuring sufficient resources are budgeted for in order to carry out this role in an effective manner.

ORC requests that the wording in the exposure draft be amended to provide greater clarity around the type and the level of assistance that must be provided by regional councils to TAs or if they are to charge TAs for the assistance requested.

Exceptions to the approach for managing adverse effects on Significant Natural Areas (Part 3, Subpart 2 of the NPS-IB exposure draft)

ORC's 2020 submission recognised that restoring indigenous biodiversity will lead to conflicts with activities that are of importance to the wellbeing of our communities.

Clause 3.11 of the exposure draft of the NPS-IB provides for exceptions to the effects management approach outlined above. These exceptions include:

- SNAs on Māori land (Clauses 3.12 and 3.18);
- Geothermal SNAs (Clause 3.13);
- SNAs within plantation forestry (clause 3.14); and
- New uses or developments that meet specific tests (e.g. having a significant national or regional public benefit, functional or operational need or no practicable alternative location) or are for the purpose of biodiversity maintenance and restoration (Clause 3.11 (2)-(4))

Clause 3.15 of the NPS-IB exposure draft also requires local authorities to make or change regional plans to ensure that existing activities identified in regional policy statements, can continue to exist as long as the effects on any SNA (including cumulative effects):

- a) are no greater in intensity, scale, or character over time than at the commencement date; and
- b) do not result in the loss of extent or degradation of ecological integrity of the SNA.²

Some of the principles outlined in the NPS-IB exposure draft clauses are already incorporated within the provisions of the proposed RPS 2021, but that further amendments are required to achieve full alignment.

ORC recognises that there is a need to allow for certain existing activities to continue to exist in SNAs, subject to specific conditions being met. However, as currently drafted the wording of the exposure draft allows a wide range of activities with an adverse effect on indigenous biodiversity to continue to exist without a change in practice.

² Clause 3.15 (2) of the exposure draft of the NPS-IB.



Clause 3.15 in the exposure draft is also unclear as to whether the existing activities should be provided for by relevant plans as permitted or consented activities. Where existing activities within an SNAs are currently permitted, the conditions outlined in Clause 3.15(2) of the exposure draft for allowing this activity to continue, are appropriate. However, the exposure draft of the NPS-IB does not recognise that where an existing activity within an SNA is currently consented, the consent renewal process provides an opportunity for exploring whether any adverse effects on the SNA can be reduced.

ORC requests that the wording of the provisions that set up the framework for providing for the continuation of existing activities in SNAs is:

- further refined to provide more guidance around the types of activities that can continue to exist in SNAs; and
- amended to promote the reduction or mitigation of any adverse effects on SNAs from existing activities currently operating under a resource consent.

Maintaining indigenous biodiversity outside SNAs (Part 3, Subparts 2 and 3 and Appendix 2 of the NPS-IB exposure draft)

ORC recognises the need to manage indigenous biodiversity outside of SNAs and welcomes the inclusion in the NPS-IB of an appendix listing species of specific highly mobile fauna.

However, the exposure draft of the NPS-IB does not specify the type of land to which the requirement applies. For example, it is not clear whether the requirement to identify highly mobile fauna areas includes urban areas, farmland, conservation land or water bodies managed under the NPS-FM. ORC also notes that the requirement to manage adverse effects of new activities on indigenous biodiversity outside of SNAs is likely to have implications on the resourcing needs of ORC's science team, while also triggering the need for development of new skills within the science and regulatory teams.

It is also unclear if any consideration has been given to the pathways that birds and insects may utilise as flight corridors and habitats and that enables them to contribute to the indigenous ecosystem services and processes, such as pollination. While it may not be practical to manage aerial corridors, recognition of important areas such as those used for breeding/nesting may be appropriate to recognise and provide for.

ORC requests that given the potential implications of these requirements on budgets, training needs and work programme, the wording of the NPS-IB exposure draft be further refined to specify the type of land to which the requirement applies and the minimum size threshold for highly mobile fauna areas.

ORC requests that within the NPS-IB recognition is provided for bird and insect habitats that contribute to indigenous ecosystems services.



Regional Targets to increase indigenous biodiversity cover (Part 3, Subpart 3 of the NPS-IB exposure draft)

ORC previously opposed the setting of regional targets for indigenous vegetation cover in its 2020 submission on an earlier consultation draft of the NPS-IB. This requirement has been retained in the recent exposure draft, requiring regional councils to achieve at least 10% indigenous vegetation cover for any urban or non-urban environment where this target is not being met and set these targets in policy statements. ORC's proposed RPS 2021 does not currently include such targets.

The requirement to have targets set for 'any' urban or non-urban area effectively means setting targets for all of Otago, although the exposure draft does not state at what scale these targets must be set. For a large region like Otago, with a diverse range of topography, the scale of application will have significant impacts on practical implementation and resourcing needs.

ORC's 2020 submission outlined that the tenure neutral ecological prioritisation process that is set out in the ORC's Biodiversity Action Plan 2019 is a more effective approach than a blanket 10% threshold as it provides robust, measurable environmental outcomes while promoting the most efficient use of our resources.

The proposed RPS 2021 promotes the use of other mechanisms or incentives to assist achieving the objectives of the proposed RPS, as well as the objective anticipated to be included in the NPS-IB when it comes into effect. One of these mechanisms is ORC's long running and successful ECO fund programme to support community led restoration projects.

ORC considers that the tenure neutral ecological prioritisation process that regional councils have, or are currently undertaking, across the country is more likely to achieve the intended outcome. Setting regional targets is currently not a budgeted or planned work stream.

ORC requests further refinement of the exposure draft to allow for prioritisation, enabling a more strategic use of limited resources, and the consideration of alternative approaches to achieve the restoration of threatened ecosystems, particularly for large and geographically diverse regions and ecosystems.

While recognising the importance of biodiversity restoration, ORC requests that the NPS-IB expresses support for the fundamental principle that the protection of existing ecosystems must be prioritised as this provides for better ecological integrity. Where resources are limited, the protection of existing ecosystems is also more cost effective as it has a lower cost/higher benefit ratio over restoration.

Regional biodiversity strategies (Part 3, Subpart 3 and Appendix 5 of the NPS-IB exposure draft)

Under Clause 3.23 of the NPS-IB exposure draft regional councils need to implement regional biodiversity strategies. This must be done in collaboration with TAs, tangata whenua, communities and other identified stakeholders. The intent of these regional biodiversity strategies is to ensure greater consistency between the policy statements and plans developed by the regional council and the TAs within the relevant region.



ORC recognises that the development of regional biodiversity strategies requires strong alignment of all local authorities and communities within a region behind a shared vision and agreed set of actions and methods. However, the process for developing these strategies with tangata whenua, communities, and stakeholders as it is currently outlined in the NPS-IB exposure draft is overly prescriptive.

ORC requests further amendments are made to the exposure draft to better recognise existing partnership agreement with iwi (such as ORC has with Kai Tahu) and provide more flexibility for engagement with various stakeholders.

Information and monitoring requirements (Part 3, Subpart 3 of the NPS-IB exposure draft)

The exposure draft requires that local authorities make or change their policy statements or plans to set minimum information requirements for resource consent applications in relation to indigenous biodiversity matters. This includes a requirement for applications to include a report prepared by a qualified and experienced ecologist. The information requirements imposed on consent applicants have the potential to increase the complexity and cost of resource consent processes.

ORC requests that the NPS-IB sets thresholds that trigger various levels of information requirements depending on the scope and scale of applications. This would better ensure this requirement achieves its intended outcome without causing an undue burden to applicants. In addition, ORC requests that more clarity is provided around the term "in relation to indigenous biodiversity matters" and the criteria or methods that should be applied to assess whether someone is a "qualified and experienced ecologist."

The exposure draft further requires regional councils to work with TAs, relevant agencies and tangata whenua to develop monitoring plans for indigenous biodiversity. ORC notes that while it supports the monitoring of indigenous biodiversity this is likely to have considerable impacts on resourcing for regional councils.

ORC requests that, rather than requiring the development of individual monitoring plans for each region, the Ministry focusses on the development of a national monitoring framework. This national monitoring framework could be implemented at regional scale, while allowing for some flexibility to recognise local or region-specific circumstances. This would ensure greater national consistency in data collection and enable national reporting.

ORC would welcome its staff/councillors to be able to engage in further discussion with MfE staff on its submission, and if available, we would like the opportunity to speak to our submission.

ORC does not oppose its submission being made public on the MfE website.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Borren", with a long horizontal flourish extending to the right.

Dr Pim Borren
Chief Executive, Otago Regional Council



Our Reference: A1665468

21 July 2022

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

fe@parliament.govt.nz

Dear Sir/Madam

Otago Regional Council Staff Submission on the Water Services Entities Bill

Otago Regional Council appreciates the opportunity to submit on the Water Services Entities Bill (the Bill) before the Finance and Expenditure Committee (the Committee). Due to the timing of this consultation, the submission is made as an ORC staff submission.

1. Water Service Entities and Regional Council functions

ORC staff understands the Bill intends to establish the framework for the ownership, governance, and accountability arrangements of the Water Services Entities (WSE). The WSE are to take over the management of water supply, wastewater, and storm water services, and related infrastructure, that until now has been undertaken directly by territorial authorities.

The objectives of a WSE as set out in section 11 of the Bill are to:

- (a) deliver water services and related infrastructure in an efficient and financially sustainable manner;*
- (b) protect and promote public health and the environment;*
- (c) support and enable housing and urban development;*
- (d) operate in accordance with best commercial and business practices;*
- (e) act in the best interests of present and future consumers and communities; and*
- (f) deliver water services in a sustainable and resilient manner that seeks to mitigate the effects of climate change and natural hazards.*

2. Relationship with Regional Council Functions

With the aim of improving integrated management and environmental outcomes, Central government legislation of recent years has increased the strategic and operational responsibilities of Regional Councils, and Territorial Authorities, across a broad set of issues such as urban growth and development, freshwater management, land use change, indigenous biodiversity, natural hazard and risk management, and climate change adaptation and mitigation. All these issues affect, or are affected by, freshwater management.

For our future

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To achieve integrated management, the strategic and functional relationship between regional and territorial councils is legislated not only in the Resource Management Act 1991 (RMA) through sections 30 (Regional Council functions) and 31 (Territorial Authority functions) and planning instrument requirements, but in national directions, more recently in the National Policy Statement for Freshwater Management 2020 (NPSFM), and the NPS for Urban Development (NPSUD).

Provision (b) of Section 30 of the RMA sets out that a function of regional councils is:

“the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region”

Section 30(5) of the RMA clarifies that ‘development capacity’ (as underlined above) includes the provision of adequate development infrastructure to support the development land; and that development infrastructure means network infrastructure for water supply, wastewater and stormwater.

WSE will comprise three main oversight bodies:

- Regional Representative Group (RRG)
- Regional Advisory Panel (RAP)
- Board of the water services entity (the Board)

The role of the RRG, which is of particular relevance to our submission given the RRG’s role, includes participating in the process of setting the entity’s strategic direction, particularly as it will have oversight of the board’s strategic and operation elements required in its annual Statement of Intent.

Therefore, ORC staff see that under its own section 30 RMA responsibilities it has a critical interest in the role of the RRG.

3. ORC comments on the Water Service Entities Bill

The Bill does not reference Regional Councils which means there is no clarity on how the WSE’s will interact with Regional Councils.

With WSE to take over a critical service which underpins the sustainability of where and how people choose to live, this severs a significant space in which regional and territorial authorities interface through collaboration and regulatory processes on freshwater management so that regional strategic direction on the issues identified at the beginning of section 2 align with spatial, urban and district planning activities.

ORC staff consider greater clarity is required to be provided to understand and provide for how regional councils will be able to exercise their functions, to support and inform the strategic directions of WSE (particularly the strategic and operation elements required in an annual Statement of Intent). This is of particular importance as WSE take over responsibility for providing, operating, and maintaining and upgrading services and network infrastructure.

ORC staff requests the Committee consider any necessary amendments of the Bill to require and enable WSE to have Regional Council input into its strategic decision making and planning in order to achieve integrated management within the extent of a WSE’s duties, functions and power. The level and effectiveness of integrated management to the communities the WSE serves should be added as a performance measure monitored by the RAP.



ORC staff consider the Bill needs to clarify that a WSE must give effect to the Regional Policy Statement for the Region/s in which it operates and within the context of the duties, functions, and power of a WSE. As Regional Policy Statements must give effect to the principles of *Te Mana o te Wai*, this would also assist the WSE, with the process of *Te Mana o te Wai* statements enabled under the Bill. It may also be of benefit to mana whenua, who in the process of drafting the proposed Otago Regional Policy Statement have been a partner in developing what *Te Mana o te Wai* means for Otago.

4. Other Concerns

The issue of climate change is one which could directly impact the WSE role, yet it is only referenced a few times throughout the Bill, and as a very broadly stated objective.

Climate change has the potential to adversely affect surety of potable water supplies. Staff consider Regional Council's work programmes and knowledge would assist WSE by informing their strategic decision making so they can ensure the sustainability and surety of water services within the area the WSE is responsible for.

ORC staff request that the Bill must ensure that WSE decision making appropriately accounts for the impacts of climate change on three water services, specifically provisions for the security of water supplies.

The use of 'regional' in the naming of RRG and RAP is understandable within the WSE, as the appointees are to be drawn from within the region or regional areas that the WSE services. However, it may create some confusion that Regional Councils are included within this representation, which they are not.

ORC staff would welcome any questions from the Committee in relation to this staff submission.

ORC staff do not oppose its submission being shared publicly.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Borren", with a long horizontal flourish extending to the right.

Pim Borren
Interim Chief Executive
Otago Regional Council

7.4. Zero Carbon Alliance

| | |
|----------------------|--|
| Prepared for: | Council |
| Report No. | GOV2246 |
| Activity: | Governance Report |
| Author: | Francisco Hernandez, Principal Advisor Climate Change Anne Duncan, Manager Strategy |
| Endorsed by: | Amanda Vercoe, General Manager Governance, Culture and Customer |
| Date: | 24 August 2022 |

PURPOSE

- [1] This report provides the Otago Regional Council (ORC) with an update on the Dunedin City Council led Zero Carbon Alliance (ZCA) and presents the updated formal documentation for the Council to note.

EXECUTIVE SUMMARY

- [2] The Zero Carbon Alliance is a city-wide initiative led by the Dunedin City Council to reduce city-wide emissions in concert with major institutions in the city. The Alliance consists of the Dunedin City Council, the Otago Regional Council, Otago University, Otago Polytechnic and Health New Zealand (formerly known as the Southern District Health Board).
- [3] This report also provides an update on the revised Memorandum of Understanding for noting and the proposed Terms of Reference for the Zero Carbon Alliance Collaboration and Key Representative Group.

RECOMMENDATION

That the Council:

- 1) **Notes** this briefing titled *Zero Carbon Alliance Briefing*
- 2) **Notes** the Chair will sign the revised Memorandum of Understanding incorporating updated terms of reference for the Zero Carbon Alliance Collaboration and Key Representative Group.
- 3) **Appoints** the Chief Executive as ORC's representative on the Collaboration Group
- 4) **Notes** that the CE will appoint Principal Advisor Climate Change Francisco Hernandez as ORC's representative on the Key Representatives group.
- 5) **Notes** that six monthly reporting on progress with the Zero Carbon Alliance can be provided.

BACKGROUND

- [4] In a Council Public forum on 26 June 2019, members of the public asked Council to declare a climate emergency. After considering the possibility of doing so, Council passed a motion on 14 August 2019 saying that *"Otago must continue to prepare for the certainty that climate change will present emergency situations in many areas of our*
-

region and will therefore continue to give high priority to adaptation to climate change, especially in our flood and drainage schemes and in South Dunedin, and to minimising our carbon emissions.”

- [5] On 23 June 2021, Council discussed the Zero Carbon Alliance Memorandum of Understanding. Council passed this motion:
1. *Notes the Council agreed on 24 February 2021 to participate in a founding group developing a Memorandum of Understanding and Terms of Reference for the Dunedin City Zero Carbon 2030 Alliance.*
 2. *Approves the attached Dunedin City Zero Carbon 2030 Alliance Memorandum of Understanding, thereby making ORC a formal member of the Alliance.*
 3. *Delegates authority to the Chair to incorporate any amendments to the Memorandum of Understanding sought by other members, and to sign the final version on the Council's behalf.*
 4. *Notes that should Council agree to sign up to the Alliance, staff will provide reporting to Council on how the Alliance discussions and activities are progressing.*
- [6] The ZCA was envisioned by the DCC as a mechanism to facilitate collaboration on city-wide emissions reduction, share good practice across organisations and increase visibility of emission reduction operations across Dunedin. The proposed initial membership of the ZCA consisted of: Dunedin City Council, Otago Regional Council, Southern District Health Board, University of Otago, Otago Polytechnic, Kāti Huirapa Rūnaka ki Puketeraki and Ōtākou Rūnaka.

DISCUSSION

- [7] Since 23 June 2021, staff across the foundation group have been working to finalise the terms of reference and engage with Rūnaka on the most appropriate way to represent mana whenua on the Zero Carbon Alliance.
- [8] Although the Chair was delegated to sign the agreement, it is coming back before Council for noting at the recommendation of the Chair due to the significant amount of time that has elapsed between the agreed delegation.
- [9] Feedback was received from all parties on the draft MoU and suggested changes incorporated into this final document.
- [10] The biggest change in the draft MoU and this final version is the way in which Rūnaka will engage with the Alliance, which will be through respective parties existing relationship and collaboration mechanisms (rather than being separate members).
- [11] Other minor changes to the MOU include:
1. The insertion of a clause stating that parties keep mana whenua according to each party's existing relationship.
 2. The shift of some items from the main agreement to the terms of reference for key representatives and the collaboration group.
 3. Changes to reflect the new legal status of the entity formerly known as the Southern District Health Board and Otago Polytechnic.
 4. Providing a concrete definition of Emissions Profile in a new clause.

5. Clarification that the Zero Carbon 2030 Target means the city-wide emissions reduction target adopted by the DCC and developed with input from members of the ZCA (as opposed to Net Zero Carbon by 2030).
6. A change from Te Tiriti o Waitangi to The Treaty of Waitangi.
7. Clarification that staff members represent the parties in the ZCA in the Key Representatives Group and the Collaboration Group.
8. Clarification that senior or executive-level representation is preferred in the Collaboration Group.
9. Other minor technical changes.

[12] The ZCA Collaboration Group will meet six monthly and reporting on the Alliance activities and any progress would be possible after each of these meetings. This would enable Council to keep informed of activities, developments and directions.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[13] Approving the ZCA is consistent with our strategic direction on climate change.

Financial Considerations

[14] There are no specific financial considerations associated with this paper

Significance and Engagement

[15] The consideration of this consultation, and any subsequent submission is consistent with ORC's Significance, Engagement and Māori Participation policy.

Legislative and Risk Considerations

[16] There are no obvious legislative or risk considerations.

Climate Change Considerations

[17] The paper is about climate change and climate change considerations are described in the body of the paper.

Communications Considerations

[18] ORC will need to consider how to communicate its ratification of the ZCA when all parties have signed it.

NEXT STEPS

[19] Officers will arrange for the Chair to sign the MOU and contact the DCC to inform them that the ORC has ratified the agreement.

ATTACHMENTS

1. Terms of Reference Zero Carbon Collaboration Group July 2022 [7.4.1 - 2 pages]
2. Working Terms of Reference Key Representatives July 2022 [7.4.2 - 2 pages]
3. Zero Carbon Alliance Revised MOU Amendments July 2022 [7.4.3 - 14 pages]
4. Zero Carbon Alliance Revised MOU July 2022 [7.4.4 - 12 pages]

Zero Carbon Alliance Collaboration Group Terms of Reference

Note: Capitalised terms not otherwise defined in this Terms of Reference have the meaning given to those terms in the Memorandum of Understanding in relation to the Zero Carbon Alliance for Dunedin (**MOU**).

1 Purpose

- 1.1 The purpose of the Zero Carbon Alliance Collaboration Group (**Collaboration Group**) is to provide oversight of, and to facilitate actions required to support, achievement of the following Agreed Objectives:
- (a) Greater visibility and support for existing collaborative emissions-reducing initiatives;
 - (b) Shared understanding of Dunedin's emissions profile;
 - (c) Sharing of good practice around reducing both organisational and city-wide emissions;
 - (d) Identification of additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 Target specifically;
 - (e) Wider and more coordinated promotion of good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 Target;
 - (f) Opportunities to input into the development of a city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target; ; and
 - (g) Opportunities for research that may be transferable to the reduction of emissions in other contexts.

2 Membership

- 2.1 Collaboration Group Representatives are appointed by each Party in accordance with clause 8 of the MOU. The duration of each Collaboration Group Representative's term is at the discretion of the Party they represent.

3 Chair

- 3.1 The Collaboration Group Chair is to be determined by Collaboration Group Representatives on an annual basis. The Collaboration Group will strive for a consensus decision as to who will be Collaboration Group Chair, but a simple majority will suffice in the event that consensus cannot be reached. There is no term limit for the Collaboration Group Chair.

4 Meetings

- 4.1 Collaboration Group meetings (**Meetings**) will be held twice annually, unless otherwise agreed by the Collaboration Group. Meeting dates will be set at the start of each financial year, through liaison of Key Representatives, in discussion (if necessary) with their organisation's Collaboration Group Representatives, through a process led by the DCC.
- 4.2 Meetings may be attended by the Collaboration Group Representatives by telephone or video. A majority of Collaboration Group Representatives attending will constitute a quorum.
- 4.3 Agendas and draft minutes will be agreed between Key Representatives, in discussion (if necessary) with their organisation's Collaboration Group Representatives, through a process

led by the DCC. Final minutes will be confirmed by the Collaboration Group at their next meeting.

- 4.4 Voting will be by simple majority, with the Chair having a deciding vote in case of a tie.
- 4.5 Key Representatives (or an appropriate nominee) may also be in attendance at Collaboration Group meetings at the discretion of each Party. A minute taker will attend, and others may attend all or part of the meeting by invitation of the Chair.

5 Reporting and Confidentiality

- 5.1 It is the responsibility of each Collaboration Group Representative, in consultation with their Key Representative, to manage reporting back to the Party they represent.
- 5.2 The status of each agenda item in terms of confidentiality will be determined by the Collaboration Group at the commencement of each Meeting.

6 Deliverables

- 6.1 Collaboration Group Representatives will:
 - (a) Use best endeavours to attend Collaboration Group meetings.
 - (b) Review progress and provide leadership to achieve collective greenhouse gas emission reduction goals.
 - (c) Act as a strategic liaison point between the Party they represent, and the Alliance, with respect to facilitating action on the Agreed Objectives. This means:
 - (i) assisting with the identification of opportunities and initiatives
 - (ii) supporting the establishment of, and championing progress on, agreed collaborative projects
 - (iii) ensuring future resourcing requirements required to support agreed collaborative projects are considered by each Party in annual and long-term planning cycles
 - (iv) keeping mana whenua informed as anticipated by any pre-existing agreements.

Zero Carbon Alliance Key Representative Working Terms of Reference

Note: Capitalised terms not otherwise defined in this Terms of Reference have the meaning given to those terms in the Memorandum of Understanding in relation to the Zero Carbon Alliance for Dunedin (**MOU**).

1 Role

- 1.1 The purpose of the Zero Carbon Alliance Key Representatives (**Key Representatives**) is to facilitate the Alliance work programme between meetings of the Zero Carbon Alliance 2020 Collaboration Group, and through that, achieve the following agreed objectives:
- (a) Greater visibility and support for existing collaborative emissions-reducing initiatives;
 - (b) Shared understanding of Dunedin's emissions profile;
 - (c) Sharing of good practice around reducing both organisational and city-wide emissions;
 - (d) Identification of additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 Target specifically;
 - (e) Wider and more coordinated promotion of good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 Target;
 - (f) Opportunities to input into the development of a Zero Carbon 2030 Target; and
 - (g) Opportunities for research that may be transferable to the reduction of emissions in other contexts.

2 Delegations and term

- 2.1 Key Representatives are appointed by each Party in accordance with clause 7 of the MOU, with the duration of delegations at the discretion of the Party they represent.

3 Key Representative role in Collaboration Group Meetings

- 3.1 With respect to the Zero Carbon Alliance Collaboration Group, Key Representatives will liaise, through processes led by the DCC to:
- (a) set meeting dates
 - (b) agree agendas, and
 - (c) agree draft minutes.
- 3.2 Key Representatives (or an appropriate nominee) may also attend the Collaboration Group meetings at the discretion of the Party it represents.

4 Key Representative Meetings

- 4.1 Meetings of Key Representatives (**Meetings**) will be held monthly, unless otherwise agreed by all the Key Representatives. Meeting dates will be set at the start of each financial year, through liaison of Key Representatives, through a process led by the DCC.
- 4.2 Ahead of each Meeting, the DCC's Key Representative will circulate a proposed venue and draft agenda to all other Key Representatives. Key Representatives will engage cooperatively to confirm meeting details, and to finalise the agenda in advance of the scheduled Meeting.

- 4.3 Meetings may be attended by the Key Representatives by telephone or video.
- 4.4 Decisions will be made by way of consensus of the Key Representatives in attendance at the relevant Meeting.
- 4.5 Following each Meeting, a summary of decisions and action points will be circulated by DCC's Key Representative (or an appropriate nominee) and approved the Key Representatives in attendance at the relevant Meeting.

5 Reporting and Confidentiality

- 5.1 It is the responsibility of each Key Representative, in consultation with their Collaboration Group Representative, to manage reporting back to the Party they represent.
- 5.2 The status of each agenda item in terms of confidentiality will be determined at the commencement of each Meeting.

6 Deliverables

- 6.1 Key Representatives will:
 - (a) Use best endeavours to attend meetings of Key Representatives
 - (b) Act as a functional liaison point between the Party they represent, and the Alliance, with respect to facilitating action on the Agreed Objectives. This means:
 - (i) proactively identifying collaboration opportunities and initiatives to meet the Agreed Objectives
 - (ii) facilitating establishment of, and progress on, agreed collaborative projects, including in line with agreed action points following meetings of Key Representatives
 - (iii) liaising with the Party's Collaboration Group Representative with respect to the forward work programme, reporting requirements, and Zero Carbon Alliance Collaboration Group meeting agendas and minutes
 - (iv) working together to implement any decisions of the Zero Carbon Alliance Collaboration Group;
 - (v) quantifying future resourcing requirements required to support agreed collaborative projects, and facilitating their consideration through annual and long-term planning cycles; and
 - (vi) keeping mana whenua informed as anticipated by any pre-existing agreements.

Draft Memorandum of Understanding

in relation to the establishment of a Zero Carbon ~~2030~~ Alliance for Dunedin

~~Kāti Huirapa Rūnaka ki Puketeraki Incorporated~~

~~Te Rūnanga o Ōtākou~~

Dunedin City Council

Otago Regional Council

University of Otago

Otago Polytechnic Limited

~~Te Whatu Ora – Southern District Health New Zealand Board~~

MOU dated

202~~1~~⁴

Parties

~~Kāti Huirapa Rūnaka ki Puketeraki, an incorporated society and a regional Papatipu Rūnanga of Ngāi Tahu (KHRP)~~

~~Te Rūnanga o Ōtākou, a regional Papatipu Rūnanga of Ngāi Tahu (OR)~~

Dunedin City Council, a local authority under the Local Government Act 2002 (DCC)

Otago Regional Council, a local authority under the Local Government Act 2002 (ORC)

University of Otago, a body corporate established under the University of Otago Ordinance of the Provincial Council 1869, the University of Otago Amendment Act 1961 and a university within the meaning of the Education Act 1989 (UO)

Otago Polytechnic Limited, a company incorporated under cl 20 of Schedule 1 of the Education and Training Act 2020 and wholly owned by Te Pūkenga—New Zealand Institute of Skills and Technology (OP)

~~Southern District Health New Zealand Board, a district health board established by Section 1149 of the Pae Ora (Healthy Futures) Act and a Crown agent within the meaning of section 10(1) of the Crown Entities Act 2004, known as Te Whatu Ora – New Zealand Public Health New Zealand (Te Whatu Ora) and Disability Act 2000 (SDHB)~~

(each a Party, together the Parties)

1

Commented [ZC1]: A number of minor amendments have been made throughout the document to reflect the near final status of the document, or to improve clarity or readability. These are considered editorial and are therefore not annotated with rationale.

Commented [ZC2]: Amendments have been made to achieve consistency of names as follows:
- Zero Carbon Alliance
- Zero Carbon Alliance Collaboration Group
(multiple instances)

Commented [ZC3]: Amendment to give effect to preference of ngā rūnaka to be kept apprised of activity under the Alliance by MoU partners via existing MoU mechanisms, rather than as parties to the agreement (multiple instances)

Commented [ZC4]: Amendment to reflect change from Southern District Health Board to new entity Te Whatu Ora - Health New Zealand (multiple instances)

Commented [ZC5]: Amendment to reflect status of new entity Te Whatu Ora - Health New Zealand

Introduction

- A The Parties have a shared interest in reducing both organisational and city-wide greenhouse gas emissions, and wish to collaborate on emissions monitoring and reduction initiatives.
- B The Parties wish to set up a framework for their ongoing engagement and collaboration.
- C The Parties record the terms of that framework in this MOU.

Agreement

1 Interpretation

- 1.1 In this MOU, unless the context requires otherwise:

Agreed Commitments has the meaning given in clause 5.3;

Agreed Objectives has the meaning given in clause ~~2.32-2~~;

Alliance means the ~~a~~Alliance established by this MOU, to be known as the Zero Carbon ~~2030~~ Alliance for Dunedin;

Collaboration Group Representative has the meaning given in clause ~~8.28-4~~;

Commencement Date means the date that this MOU is signed by all Parties;

Emissions Profile has the meaning given in clause 5.3(a);

Expiry Date means 31 December 2030;

Key Representative has the meaning given in clause ~~7.27-4~~;

MOU means this Memorandum of Understanding;

New Intellectual Property means all intellectual property rights of any sort (including design rights, copyright and knowhow in all concepts, design, drawings, specifications, plans, studies, reports and documentation) prepared or created in relation to the Agreed Objectives by any one or more of the Parties (or any of their employees, representatives, contractors or consultants) but not including Pre-existing Intellectual Property;

Pre-existing Intellectual Property means all intellectual property rights owned by a Party or any third party which existed prior to the Commencement Date or created or prepared after the Commencement Date but not specifically created or prepared in relation to the Agreed Objectives;

Terms of Reference means the terms of reference for the Zero Carbon ~~2030~~ Alliance ~~2030~~ Collaboration Group to be adopted under clause 5.1(a); ~~and~~

~~Zero Carbon Alliance 2030 Collaboration Group~~ means the group formed under this MOU to provide oversight of, and to facilitate actions required to support, achievement of the Agreed Objectives, and is comprised of the Collaboration Group Representatives in accordance with clause 2.4; and

~~Zero Carbon 2030 Target~~ means the city-wide emissions reduction target adopted by the DCC.

Commented [ZC6]: Amendment to add clarity in relation to:
 - the Agreed Objectives, specifically clause 2.3 (d) and (f)
 - the DCC's roles as lead Party, specifically clause 5.1 (d)
 - the Agreed Commitments, specifically clause 5.3 (e), (h) and (i)

2 Establishment of the Alliance and its Agreed Objectives

2.1 ~~The Parties acknowledge that OP is currently a 100% subsidiary of Te Pūkenga - New Zealand Institute Skills and Technology (Te Pūkenga), a Crown Entity and tertiary institution created on 1 April 2020 and continued under the Education and Training Act 2020 (ETA). The creation of Te Pūkenga is one of the key components of the Reform of Vocational Education (RoVE) which seeks to create a strong, unified, sustainable vocational education system that is fit for the future of work and delivers the skills that learners, employers and communities need to thrive. Under the legislation implementing RoVE, OP will be dissolved by no later than 31 December 2022 and its operations (including all assets and liabilities) will be assumed by Te Pūkenga. By operation of law (refer Schedule 14, clause 4, ETA), Te Pūkenga will become a party to this Agreement on dissolution of OP.~~

Commented [ZC7]: Amendment to reflect the evolving status of Otago Polytechnic, and the involvement of Te Pūkenga as party to the MoU on dissolution of Otago Polytechnic.

~~2.2.2~~ The Parties agree to form ~~the Alliance~~ an alliance, to be known as the Zero Carbon 2030 Alliance for Dunedin.

~~2.2.3~~ The purpose of the Alliance is to address and/or achieve the following Agreed Objectives:

- (a) Greater visibility and support for existing collaborative emissions-reducing initiatives;
- (b) Shared understanding of Dunedin's emissions profile;
- (c) Sharing of good practice around reducing both organisational and city-wide emissions;
- (d) Identification of additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 ~~T~~target specifically;
- (e) Wider and more coordinated promotion of good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 ~~T~~target;
- (f) Opportunities to input into the development of a ~~city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target~~ Plan for Dunedin; and
- (g) Opportunities for research that may be transferable to the reduction of emissions in other contexts.

Commented [ZC8]: Amendment to link to the DCC's emissions reduction target, while avoiding pre-empting the name of the city-wide emissions reduction plan (multiple instances)

~~2.2.4~~ A Zero Carbon ~~Alliance 2030~~ Collaboration Group, comprised of each Party's Collaboration Group Representatives, shall be formed to provide oversight of, and to facilitate actions required to support, achievement of the Agreed Objectives.

~~2.4.5~~ The Parties' Key Representatives shall meet and will facilitate the Alliance's work programme between meetings of the Zero Carbon ~~Alliance 2030~~ Collaboration Group.

~~2-52.6~~ The Parties agree that the Agreed Objectives will guide the activities of the Zero Carbon Alliance~~2030~~ Collaboration Group and of each of their Key Representatives, unless agreed otherwise or they are found not to be practicable.

3 Guiding Principles

3.1 The Parties acknowledge that the following guiding principles will inform the pursuit of Agreed Objectives:

- (a) ~~The Treaty of Te Tiriti o Waitangi~~, with a particular emphasis on partnerships with mana whenua; and
- (b) Sustainability, with particular emphasis on the concept of a just transition and addressing existing inequalities.

Commented [ZC9]: Amended to reflect the DCC's position that, until the groundwork of understanding and implementing the true meaning of 'Te Tiriti o Waitangi' is undertaken at a local and national level, the DCC will continue to use the Treaty of Waitangi.

4 Relationship Principles

4.1 The Parties acknowledge that the following relationship principles will govern their interactions:

- (a) The Parties will be committed to the establishment and successful execution of the Zero Carbon ~~2030~~ Alliance;
- (b) The Parties will be collaborative, conduct their interactions with each other in a professional manner, and communicate in a way that is open and effective; ~~and~~
- (c) The Parties will address any issues that arise in a timely manner, and engage in discussions to resolve any issues in good faith; and
- (d) The Parties will, while seeking to collaborate on both organisational and city-wide emissions reduction, respect the independence and individual circumstances of each Party.

5 General collaboration

5.1 The Parties agree that DCC will be the lead Party responsible for coordinating the Zero Carbon ~~2030~~ Alliance, and the DCC will:

- (a) finalise and adopt the Terms of Reference for the Zero Carbon Alliance~~2030~~ Collaboration Group;
- (b) provide administrative support for meetings of Key Representatives and the Zero Carbon Alliance~~2030~~ Collaboration Group;
- (c) service Key Representatives and the Zero Carbon Alliance~~2030~~ Collaboration Group with information relating to Dunedin's ~~city-wide~~ emissions profile;
- (d) lead the development of a ~~city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target Plan for Dunedin~~; and
- (e) invite potential new parties to the Zero Carbon-~~2030~~ Alliance, in accordance with clause 13.

- 5.2 Notwithstanding clause 5.1, the Parties acknowledge that the purpose of this MOU is to establish a framework whereby each Party will provide advice and knowledge for the purpose of pursuing the Agreed Objectives. In order to achieve this, each Party will:
- (a) monitor and report on operational emissions in line with the Agreed Commitments set out in clauses 5.3(a) - 5.3(c);
 - (b) use best endeavours to achieve the other Agreed Commitments set out in clauses 5.3(d)-(j);
 - (c) deploy and commit its Key Representatives in line with clause 7.27-4;
 - (d) deploy and commit representation on the Zero Carbon Alliance 2030 Collaboration Group;
 - (e) give serious consideration to co-funding or co-resourcing initiatives that are considered mutually beneficial and aligned with pursuit of the Agreed Objectives; ~~and~~
 - (f) keep mana whenua informed as to its involvement in the Alliance as anticipated by each Party's own pre-existing agreements with mana whenua; and
 - ~~(g)~~ otherwise assist and support the DCC in the pursuit of the Agreed Objectives.

Agreed Commitments

- 5.3 In pursuit of the Agreed Objectives, the Parties each agree to:
- (a) Establish a baseline organisational emissions profile in line with ISO 14064, and an associated emissions reduction plan (Emissions Profile), within one year of ~~the~~ signing of this MOU;
 - (b) Update its Emissions Profile~~this emissions profile~~ no later than 2023/24, and annually thereafter;
 - (c) Share its Emissions Profile~~this emissions profile~~ with other Parties, to enable the identification of opportunities to collaborate on emissions reduction;
 - (d) Use best endeavours to support and amplify existing collaborative emissions-reducing initiatives;
 - (e) Use best endeavours to identify and progress additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 Target specifically;
 - (f) Use best endeavours to strive to achieve substantial cuts in organisational emissions by 2030, and to contribute to city-wide emissions reduction;
 - (g) Use best endeavours to share good practice around reducing organisational emissions;
 - (h) Use best endeavours to promote and publicise good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 Target;
 - (i) Use best endeavours to support the development of a city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target~~Plan for Dunedin~~; and

Commented [ZC10]: Amendment to give effect to preference of ngā rūnaka to be kept apprised of activity under the Alliance by MoU partners via existing MoU mechanisms, rather than as parties to the agreement

Commented [ZC11]: Amendment to reflect the correct group of standards

- (j) Use best endeavours to support research on emissions reduction that may be transferable to the reduction of emissions in other contexts.

(together the Agreed Commitments)

- 5.4 The parties have each agreed to carry out the initiatives set out in clause 5.3(a) - 5.3(c). Nothing in this MOU obliges a Party to implement or contribute to any other specific initiatives supported by the Alliance, that that Party does not see merit in, or have the means to progress.

Meetings of the Zero Carbon Alliance Collaboration Group

- 5.5 ~~The Zero Carbon 2030 Collaboration Group meetings will be held twice annually, unless otherwise agreed by the Zero Carbon 2030 Collaboration Group.~~

- 5.6 ~~Meeting dates will be set at the start of each financial year. DCC's Key Representative will circulate proposed dates and venues to all other Key Representatives. Key Representatives will liaise with their respective Collaboration Group Representatives and engage cooperatively to confirm meeting details.~~

- 5.7 ~~One month prior to the meeting, DCC's Key Representative will circulate a draft agenda to all other Key Representatives. Key Representatives will liaise with their respective Collaboration Group Representatives and engage cooperatively to confirm meeting details.~~

- 5.8 ~~Meetings may be attended by the Collaboration Group Representatives by telephone or video. The Parties will each use their best endeavours to ensure their Collaboration Group Representatives (or an appropriate nominee) attend each meeting.~~

- 5.9 ~~At the discretion of each Party, that Party's Key Representative (or an appropriate nominee) may also be in attendance at Zero Carbon 2030 Collaboration Group meetings.~~

- 5.10 ~~Following each meeting, meeting minutes will be circulated by DCC's Key Representative (or an appropriate nominee) and approved by the Key Representatives, in discussion (if necessary) with their organisation's Collaboration Group Representatives.~~

- 5.11 ~~5.5 Except as set out in clause 5.5 to 5.9, the Terms of Reference regulate the proceedings of the Zero Carbon Alliance Collaboration Group.~~

Meetings of Key Representatives

- 5.12 ~~To initiate a meeting of Key Representatives, DCC's Key Representative will circulate a proposed date, venue and draft agenda to all other Key Representatives. Key Representatives will engage cooperatively to confirm meeting details, and to finalise the agenda in advance of the scheduled meeting.~~

- 5.13 ~~Meetings may be attended by the Key Representatives by telephone or video. The Parties will each use their best endeavours ensure that their Key Representatives (or an appropriate nominee) attend each meeting.~~

- 5.14 ~~Following each meeting, a summary of the discussion, decisions and action points will be circulated by DCC's Key Representative (or an appropriate nominee) and agreed by the attending Key Representatives.~~

Commented [ZC12]: Amended to reflect that Proceedings of the Zero Carbon Alliance Collaboration Group will be regulated by the Terms of Reference.

Commented [ZC13]: Removed to reflect agreement that matters relating to meetings of Key Representatives will be agreed operationally between the parties as required to fulfil the needs of the work programme.

6 Term

- 6.1 The Parties agree that this MOU commences on the Commencement Date and, unless terminated pursuant to clause 6.2, will continue until the Expiry Date, at which time the Parties will consult in good faith in respect of any ongoing arrangements they may wish to enter into in respect of collaboration on emissions reduction.
- 6.2 Any Party may, in its discretion, terminate ~~its that Party's~~ participation in this MOU at any time on written notice to the other Parties.

7 Key Representatives

7.1 ~~The role of the Key Representatives is as set out in clause 2.5.~~

Commented [ZC14]: Added to ensure clarity for parties as to the role of Key Representatives.

~~7.4.2~~ Each Party nominates the ~~staff member~~ ~~person~~ identified in the table below as ~~its~~ ~~their~~ representative in respect of any discussions, actions to be carried out, or decisions to be made under this MOU (each a **Key Representative**):

Commented [ZC15]: Amended to provide each Party with additional guidance in determining its Key Representative (multiple instances)

| Party | Key Representative | Current delegate | Email Contact Details |
|---------------------------------|--------------------|------------------|-----------------------|
| KHRP | | | |
| OR | | | |
| DCC | | | |
| ORC | | | |
| UO | | | |
| OP | | | |
| Te Whatu Ora SBHB | | | |

~~7.2.3~~ A Party may change its Key Representative from time to time by notice in writing to the other Parties.

~~7.3.4~~ Any notice under this MOU must be delivered by email to a Party's Key Representative at the email address identified in the table at clause 7.3, or any Key Representatives changed in accordance with clause ~~7.3.2~~.

8 Collaboration Group Representatives

8.1 ~~The role of the Zero Carbon Alliance Collaboration Group is set out in clause 2.4.~~

Commented [ZC16]: Added to ensure clarity for parties as to the role of the Zero Carbon Alliance Collaboration Group.

~~8.18.2~~ Each Party nominates the ~~staff member~~ ~~people~~ identified in the table below as ~~its~~ ~~representative~~ ~~their representatives~~ in respect of attendance at Zero Carbon ~~Alliance~~ ~~2030~~ Collaboration Group meetings (each a **Collaboration Group Representative**):

Commented [ZC17]: Amended to provide each party with additional guidance in determining its Collaboration Group Representative (multiple instances)

Commented [ZC18]: Amended to reflect a preference for one Collaboration Group Representative from each party (multiple instances)

| Party | Collaboration Group Representative | Current office bearer | Email Contact Details |
|--------------|------------------------------------|-----------------------|-----------------------|
| KHRP | | | |
| OR | | | |
| DCC | | | |
| ORC | | | |
| UO | | | |
| OP | | | |
| Te Whatu Ora | | | |
| SDHB | | | |

8.3 In determining its Collaboration Group Representative, each Party will have regard to their ability to give effect to the purpose, and the deliverables set out in the Terms of Reference. Senior or executive-level management representation is preferred.

8.28.4 A Party may change its Collaboration Group Representative(s) from time to time by notice in writing to the other Parties.

Commented [ZC19]: Amended to provide each party with additional guidance in determining its Collaboration Group Representative (multiple instances)

9 Intellectual Property

- 9.1 Where the Parties wish to conduct a research project under this MOU, the relevant Parties will agree upon and sign project specifications and a contractual agreement in respect of that Project. Protocols relating to New Intellectual Property and publication resulting from contract-specific collaborations between the Parties will be outlined in such contractual agreements.
- 9.2 Subject to clause 9.4, all New Intellectual Property developed other than under a research project, will be jointly owned by the Parties, unless otherwise agreed in writing.
- 9.3 The Parties acknowledge that where a student or students of the University of Otago or Otago Polytechnic Limited contribute to a research project under this MOU, ownership of the New Intellectual Property may be addressed under a prior written agreement with the student(s), and any ownership agreed to under this MOU must be consistent with such agreements.
- 9.4 Where publications and New Intellectual Property result from non-contract specific collaborations, Parties must give recognition to other contributing parties and third parties and meet through designated representatives to seek an equitable and fair understanding as to ownership and other property interests that may arise.
- 9.5 All Pre-existing Intellectual Property will remain the property of the original owner. The Parties hereby grant to each other an unrestricted, royalty-free licence to use and copy Pre-existing Intellectual Property to the extent reasonably required in carrying out the Agreed

Objectives which will terminate upon the expiration or earlier termination of this MOU on any basis.

9.6 The Parties provide no warranty to each other as to the suitability of the New Intellectual Property for any purpose other than the Agreed Objectives.

9.7 Notwithstanding anything to the contrary in this Agreement, the Parties recognise the interest of kaitiaki in mātauranga Māori and taonga works (as defined in Ko Aotearoa Tēnei: Report on the Wai 262 Claim), and agrees that nothing in this Agreement transfers ownership, or any other rights, title or interests, in mātauranga Māori or taonga works.

Commented [ZC20]: Amended to provide clarity for the parties in relation to mātauranga Māori and taonga works.

10 Publicity

10.1 The Parties agree that any public statements and/or media releases by any Party in relation to the Zero Carbon ~~2030~~ Alliance will be in accordance with the relationship principles at clause 4 and confidentiality provisions in clause 11.

10.2 Subject to clause 11, the Parties agree that, to the extent reasonably possible, they will liaise with the other Parties prior to making any public statement and/or media releases in accordance with clause 10.1.

11 Confidentiality

11.1 Each Party must keep confidential- all information made available by or on behalf of another Party under or in relation to this MOU (**Confidential Information**), and must not use or disclose Confidential Information to any third party unless:

- (i) the disclosure is required by law; or
- (ii) the information is already publicly available (other than through a breach of this clause) or which a party can prove it was independently created or acquired; or
- (iii) the Party who provided the information has given its written consent to the disclosure; or
- (iv) clause 11.2 applies.

11.2 The Parties acknowledge that they are subject to official information and privacy legislation (the Local Government Official Information and Meetings Act 1987, -the Official Information Act 1982, and the Privacy Act 2020,- as applicable) and that pursuant to a request made under such legislation the Parties may disclose information relating to this MOU to the requester.

11.3 The Parties agree that the undertakings given in relation to the Confidential Information shall continue notwithstanding the termination of this MOU.

12 Disputes

12.1 While this MOU is based on a spirit of collaboration, if a dispute arises under the MOU, the Key Representatives of the Parties involved in the dispute will meet and seek to resolve the

dispute through good faith discussions. Those discussions will be guided by the relationship principles set out at clause 4.

- 12.2 If those attempts do not resolve the dispute within a reasonable period of time, any Party may refer the dispute to mediation, with the choice of mediator to be agreed between the Parties. If the Parties are unable to agree on a mediator within 10 days of commencing discussions, one will be appointed by the Chairperson of the Resolution Institute.
- 12.3 Each Party to the mediation shall bear its own costs.

13 Admission of New Parties

13.1 The Alliance comprises of entities meeting one or more of the following criteria:

- (a) Mana whenua;
- (b) Public sector agencies or local authorities with a key strategic role in decarbonising Dunedin’s public sector specifically, and Dunedin’s economy generally;
- (c) Major emitters in the Dunedin context, with a commitment to achieving significant (80%-100%) reduction in emissions by 2030 in line with those prescribed by the Science Based Target initiative; or
- (d) Membership-based organisations representing major Dunedin sectors.

Commented [ZC21]: Amended to reflect best practice and to provide a measurable criterion against which to assess alignment.

13.2 A new party to the Zero Carbon ~~2030~~ Alliance meeting one of the criteria set out in clause 13.1 may be admitted, on the invitation of the DCC following the unanimous recommendation of the Zero Carbon ~~Alliance~~2030 Collaboration Group. The new party shall sign a Deed in the form set out in Schedule 1 (under which the new party agrees to be bound by this MOU). The Parties agree that, from the date the Deed is signed, the new party shall have the benefit of, and be bound by, all the terms of this MOU as if the new party was an original Party to this MOU.

14 General

- 14.1 Notwithstanding any other clause in this MOU, this MOU does not bind or restrict DCC or ORC as ~~a~~ regulatory authorities, and any consent or agreement given by DCC and ORC under this MOU is not an agreement or consent in its regulatory capacity, ~~or vice versa~~.
- 14.2 Nothing in this MOU shall be construed to constitute a partnership in a legal sense or an agency or joint venture between the Parties. No Party has any authority to bind another Party.
- 14.3 No amendments to this MOU will be effective unless agreed in writing by all of the current Parties.
- 14.4 No Party may transfer or assign its rights, interests or obligations under this MOU. This clause does not apply in the context of the dissolution of OP due to the operation of clause 4, Schedule 14, ETA.
- 14.5 This MOU is binding on the Parties and their respective successors.
- 14.6 Each Party shall bear its own costs in relation to this MOU.

- 14.7 This MOU may be executed (including by electronic signature) in any number of counterparts (which may be facsimile or sent via email in pdf) all of which when taken together shall constitute one and the same document.
- 14.8 This MOU shall be read and construed in accordance with New Zealand law and shall be subject to the exclusive jurisdiction of New Zealand Courts.

Signed for and on behalf of **Kāti Huirapa Rūnaka ki Puketeraki Incorporated** by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **Te Rūnanga o Ōtākou** by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **Dunedin City Council** by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **Otago Regional Council** by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **University of Otago** by:

Authorised signatory's full name

Authorised signatory's full name

Signed for and on behalf of **Otago Polytechnic Limited** by:

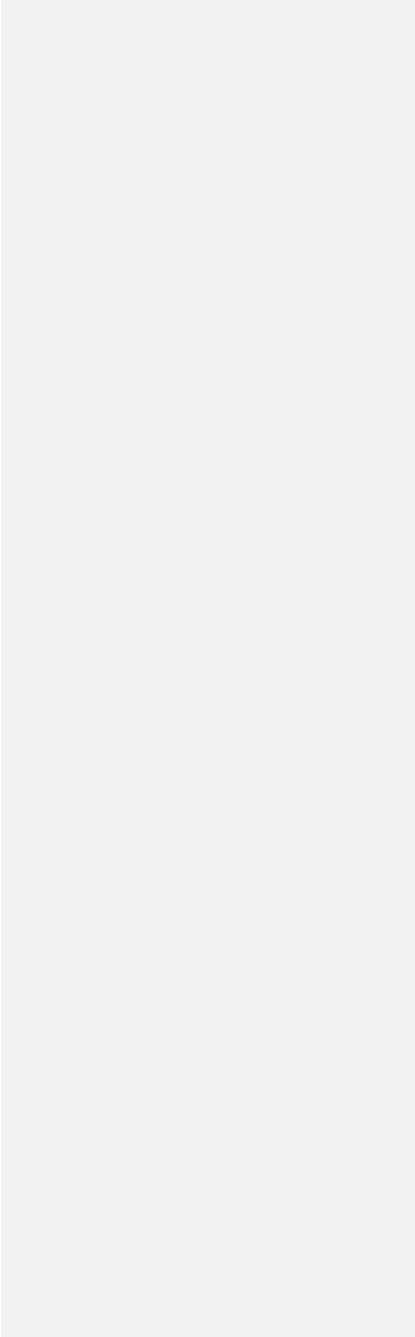
Authorised signatory's full name

Authorised signatory's full name

Signed for and on behalf of **Te Whatu Ora Southern District Health Board** by:

Authorised signatory's full name

Authorised signatory's full name



Schedule 1 – Form of the Deed to be signed by a new Party

DEED ADMITTING A NEW PARTY TO THE ZERO CARBON ~~2030~~ ALLIANCE FOR DUNEDIN

Date: _____ 20__

PARTIES

[name and details of the new Party] (**New Party**)

BACKGROUND

- A. Under a 'Memorandum of Understanding in relation to the establishment of a Zero Carbon ~~2030~~ Alliance for Dunedin' dated [date] 202~~21~~ (**MOU**) the parties to the MOU formed an alliance, known as the Zero Carbon ~~2030~~ Alliance for Dunedin.
- B. Following a unanimous recommendation of the Zero Carbon ~~Alliance~~ ~~2030~~ Collaboration Group, the Dunedin City Council has invited the New Party to be admitted to the Zero Carbon ~~2030~~ Alliance for Dunedin and as a Party to the MOU.
- C. The New Party wishes to be admitted to the Zero Carbon ~~2030~~ Alliance for Dunedin and as a Party to the MOU, and enters into this Deed in accordance with clause 13.2 of the MOU.

THIS DEED RECORDS

- 1. From the date of this Deed:
 - (a) The New Party shall be bound by the MOU, and have all the benefits and obligations under the MOU, as if the New party was an original Party to the MOU.
 - (b) The New Party agrees that its covenants under this Deed are given in favour of the Parties to the MOU from time to time, and agrees that such persons may enforce these covenants under the Contract and Commercial Law Act 2017.
- 2. For the purposes of clause ~~7.27-1~~ the New Party nominates the following ~~staff member~~ ~~person~~ as its Key Representative:

| Key Representative | Current delegate | Email Contact Details |
|--------------------|------------------|-----------------------|
| | | |

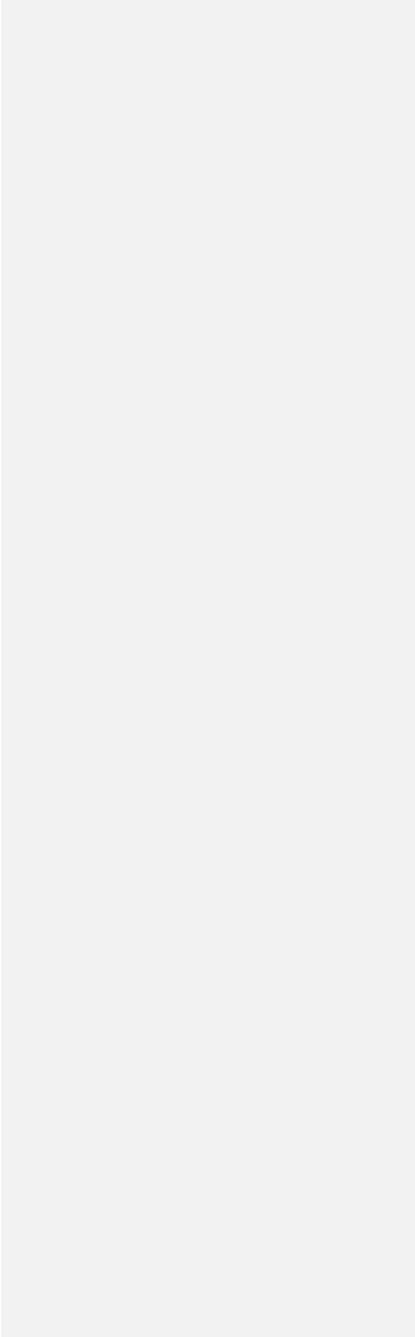
- 3. For the purposes of clause ~~8.28-1~~ the New Party nominates the following ~~staff member~~ ~~people~~ as its Collaboration Group Representatives:

| Collaboration Group Representative | Current office bearer | Email Contact Details |
|------------------------------------|-----------------------|-----------------------|
| | | |
| | | |

- 4. This ~~Deed~~ will be read with the MOU. This ~~Deed~~ and the MOU together will be construed as one instrument.

5. This Deed may be executed in counterparts (including by copy sent via email in PDF format and including by electronic signature). Each counterpart will be deemed to be an original and all counterparts together are to constitute one instrument. A party will enter in to this Deed if it executes a counterpart.

[Execution clause – to be signed as a Deed]



Memorandum of Understanding

in relation to the establishment of a Zero Carbon Alliance for Dunedin

Dunedin City Council

Otago Regional Council

University of Otago

Otago Polytechnic Limited

Te Whatu Ora – Health New Zealand

MOU dated

2022

Parties

Dunedin City Council, a local authority under the Local Government Act 2002 (**DCC**)

Otago Regional Council, a local authority under the Local Government Act 2002 (**ORC**)

University of Otago, a body corporate established under the University of Otago Ordinance of the Provincial Council 1869, the University of Otago Amendment Act 1961 and a university within the meaning of the Education Act 1989 (**UO**)

Otago Polytechnic Limited, a company incorporated under cl 20 of Schedule 1 of the Education and Training Act 2020 and wholly owned by Te Pūkenga—New Zealand Institute of Skills and Technology (**OP**)

Health New Zealand, established by Section 11 of the Pae Ora (Healthy Futures) Act and a Crown agent within the meaning of section 10(1) of the Crown Entities Act 2004, known as Te Whatu Ora – Health New Zealand (**Te Whatu Ora**)

(each a **Party**, together the **Parties**)

Introduction

- A The Parties have a shared interest in reducing both organisational and city-wide greenhouse gas emissions, and wish to collaborate on emissions monitoring and reduction initiatives.
- B The Parties wish to set up a framework for their ongoing engagement and collaboration.
- C The Parties record the terms of that framework in this MOU.

Agreement

1 Interpretation

1.1 In this MOU, unless the context requires otherwise:

Agreed Commitments has the meaning given in clause 5.3;

Agreed Objectives has the meaning given in clause 2.3;

Alliance means the alliance established by this MOU, to be known as the Zero Carbon Alliance for Dunedin;

Collaboration Group Representative has the meaning given in clause 8.2;

Commencement Date means the date that this MOU is signed by all Parties;

Emissions Profile has the meaning given in clause 5.3(a);

Expiry Date means 31 December 2030;

Key Representative has the meaning given in clause 7.2;

MOU means this Memorandum of Understanding;

New Intellectual Property means all intellectual property rights of any sort (including design rights, copyright and knowhow in all concepts, design, drawings, specifications, plans, studies, reports and documentation) prepared or created in relation to the Agreed Objectives by any one or more of the Parties (or any of their employees, representatives, contractors or consultants) but not including Pre-existing Intellectual Property;

Pre-existing Intellectual Property means all intellectual property rights owned by a Party or any third party which existed prior to the Commencement Date or created or prepared after the Commencement Date but not specifically created or prepared in relation to the Agreed Objectives;

Terms of Reference means the terms of reference for the Zero Carbon Alliance Collaboration Group to be adopted under clause 5.1(a);

Zero Carbon Alliance Collaboration Group means the group formed in accordance with clause 2.4; and

Zero Carbon 2030 Target means the city-wide emissions reduction target adopted by the DCC.

2 Establishment of the Alliance and its Agreed Objectives

2.1 The Parties acknowledge that OP is currently a 100% subsidiary of Te Pūkenga - New Zealand Institute Skills and Technology (**Te Pūkenga**), a Crown Entity and tertiary institution created on 1 April 2020 and continued under the Education and Training Act 2020 (**ETA**). The creation of Te Pūkenga is one of the key components of the Reform of Vocational Education (RoVE) which seeks to create a strong, unified, sustainable vocational education system that

is fit for the future of work and delivers the skills that learners, employers and communities need to thrive. Under the legislation implementing RoVE, OP will be dissolved by no later than 31 December 2022 and its operations (including all assets and liabilities) will be assumed by Te Pūkenga. By operation of law (refer Schedule 14, clause 4, ETA), Te Pūkenga will become a party to this Agreement on dissolution of OP.

- 2.2 The Parties agree to form the Alliance, to be known as the Zero Carbon 2030 Alliance for Dunedin.
- 2.3 The purpose of the Alliance is to address and/or achieve the following Agreed Objectives:
- (a) Greater visibility and support for existing collaborative emissions-reducing initiatives;
 - (b) Shared understanding of Dunedin's emissions profile;
 - (c) Sharing of good practice around reducing both organisational and city-wide emissions;
 - (d) Identification of additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 Target specifically;
 - (e) Wider and more coordinated promotion of good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 Target;
 - (f) Opportunities to input into the development of a city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target; and
 - (g) Opportunities for research that may be transferable to the reduction of emissions in other contexts.
- 2.4 A Zero Carbon Alliance Collaboration Group, comprised of each Party's Collaboration Group Representatives, shall be formed to provide oversight of, and to facilitate actions required to support, achievement of the Agreed Objectives.
- 2.5 The Key Representatives shall meet and will facilitate the Alliance's work programme between meetings of the Zero Carbon Alliance Collaboration Group.
- 2.6 The Parties agree that the Agreed Objectives will guide the activities of the Zero Carbon Alliance Collaboration Group and of each of their Key Representatives, unless agreed otherwise or they are found not to be practicable.

3 Guiding Principles

- 3.1 The Parties acknowledge that the following guiding principles will inform the pursuit of Agreed Objectives:
- (a) The Treaty of Waitangi, with a particular emphasis on partnerships with mana whenua; and
 - (b) Sustainability, with particular emphasis on the concept of a just transition and addressing existing inequalities.

4 Relationship Principles

- 4.1 The Parties acknowledge that the following relationship principles will govern their interactions:
- (a) The Parties will be committed to the establishment and successful execution of the Zero Carbon Alliance;
 - (b) The Parties will be collaborative, conduct their interactions with each other in a professional manner, and communicate in a way that is open and effective;
 - (c) The Parties will address any issues that arise in a timely manner, and engage in discussions to resolve any issues in good faith; and
 - (d) The Parties will, while seeking to collaborate on both organisational and city-wide emissions reduction, respect the independence and individual circumstances of each Party.

5 General collaboration

- 5.1 The Parties agree that DCC will be the lead Party responsible for coordinating the Zero Carbon Alliance, and the DCC will:
- (a) finalise and adopt the Terms of Reference for the Zero Carbon Alliance 2030 Collaboration Group;
 - (b) provide administrative support for meetings of Key Representatives and the Zero Carbon Alliance Collaboration Group;
 - (c) service Key Representatives and the Zero Carbon Alliance Collaboration Group with information relating to Dunedin's emissions profile;
 - (d) lead the development of a city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target; and
 - (e) invite potential new parties to the Zero Carbon Alliance, in accordance with clause 13.
- 5.2 Notwithstanding clause 5.1, the Parties acknowledge that the purpose of this MOU is to establish a framework whereby each Party will provide advice and knowledge for the purpose of pursuing the Agreed Objectives. In order to achieve this, each Party will:
- (a) monitor and report on operational emissions in line with the Agreed Commitments set out in clauses 5.3(a) - 5.3(c);
 - (b) use best endeavours to achieve the other Agreed Commitments set out in clauses 5.3(d)-(j);
 - (c) deploy and commit its Key Representatives in line with clause 7.2;
 - (d) deploy and commit representation on the Zero Carbon Alliance Collaboration Group;
 - (e) give serious consideration to co-funding or co-resourcing initiatives that are considered mutually beneficial and aligned with pursuit of the Agreed Objectives;

- (f) keep mana whenua informed as to its involvement in the Alliance as anticipated by each Party's own pre-existing agreements with mana whenua; and
- (g) otherwise assist and support the DCC in the pursuit of the Agreed Objectives.

Agreed Commitments

5.3 In pursuit of the Agreed Objectives, the Parties each agree to:

- (a) Establish a baseline organisational emissions profile in line with ISO 14064, and an associated emissions reduction plan (**Emissions Profile**) within one year of signing this MOU;
- (b) Update its Emissions Profile no later than 2023/24, and annually thereafter;
- (c) Share its Emissions Profile with other Parties, to enable the identification of opportunities to collaborate on emissions reduction;
- (d) Use best endeavours to support and amplify existing collaborative emissions-reducing initiatives;
- (e) Use best endeavours to identify and progress additional collaborative opportunities to reduce both operational and city-wide emissions generally, and to contribute to the city's Zero Carbon 2030 Target specifically;
- (f) Use best endeavours to strive to achieve substantial cuts in organisational emissions by 2030, and to contribute to city-wide emissions reduction;
- (g) Use best endeavours to share good practice around reducing organisational emissions;
- (h) Use best endeavours to promote and publicise good practice and success in emissions reduction, and the importance of the Zero Carbon 2030 Target;
- (i) Use best endeavours to support the development of a city-wide emissions reduction plan to give effect to the Zero Carbon 2030 Target; and
- (j) Use best endeavours to support research on emissions reduction that may be transferable to the reduction of emissions in other contexts.

(together the **Agreed Commitments**)

5.4 The parties have each agreed to carry out the initiatives set out in clause 5.3(a) - 5.3(c). Nothing in this MOU obliges a Party to implement or contribute to any other specific initiatives supported by the Alliance, that that Party does not see merit in, or have the means to progress.

Proceedings of the Zero Carbon Alliance Collaboration Group

5.5 The Terms of Reference regulate the proceedings of the Zero Carbon Alliance Collaboration Group.

6 Term

- 6.1 The Parties agree that this MOU commences on the Commencement Date and, unless terminated pursuant to clause 6.2, will continue until the Expiry Date, at which time the Parties will consult in good faith in respect of any ongoing arrangements they may wish to enter into in respect of collaboration on emissions reduction.
- 6.2 Any Party may, in its discretion, terminate its participation in this MOU at any time on written notice to the other Parties.

7 Key Representatives

- 7.1 The role of the Key Representatives is as set out in clause 2.5.
- 7.2 Each Party nominates the staff member identified in the table below as its representative in respect of any discussions, actions to be carried out, or decisions to be made under this MOU (each a **Key Representative**):

| Party | Key Representative | Current delegate | Email Contact Details |
|--------------|--------------------|------------------|-----------------------|
| DCC | | | |
| ORC | | | |
| UO | | | |
| OP | | | |
| Te Whatu Ora | | | |

- 7.3 A Party may change its Key Representative from time to time by notice in writing to the other Parties.
- 7.4 Any notice under this MOU must be delivered by email to a Party's Key Representative at the email address identified in the table at clause 7.3, or any Key Representatives changed in accordance with clause 7.3.

8 Collaboration Group Representatives

- 8.1 The role of the Zero Carbon Alliance Collaboration Group is set out in clause 2.4.
- 8.2 Each Party nominates the staff member identified in the table below as its representative in respect of attendance at Zero Carbon Alliance Collaboration Group meetings (each a **Collaboration Group Representative**):

| Party | Collaboration Group Representative | Current office bearer | Email Contact Details |
|--------------|------------------------------------|-----------------------|-----------------------|
| DCC | | | |
| ORC | | | |
| UO | | | |
| OP | | | |
| Te Whatu Ora | | | |

- 8.3 In determining its Collaboration Group Representative, each Party will have regard to their ability to give effect to the purpose, and the deliverables set out in the Terms of Reference. Senior or executive-level management representation is preferred.
- 8.4 A Party may change its Collaboration Group Representative(s) from time to time by notice in writing to the other Parties.

9 Intellectual Property

- 9.1 Where the Parties wish to conduct a research project under this MOU, the relevant Parties will agree upon and sign project specifications and a contractual agreement in respect of that Project. Protocols relating to New Intellectual Property and publication resulting from contract-specific collaborations between the Parties will be outlined in such contractual agreements.
- 9.2 Subject to clause 9.4, all New Intellectual Property developed other than under a research project, will be jointly owned by the Parties, unless otherwise agreed in writing.
- 9.3 The Parties acknowledge that where a student or students of the University of Otago or Otago Polytechnic Limited contribute to a research project under this MOU, ownership of the New Intellectual Property may be addressed under a prior written agreement with the student(s), and any ownership agreed to under this MOU must be consistent with such agreements.
- 9.4 Where publications and New Intellectual Property result from non-contract specific collaborations, Parties must give recognition to other contributing parties and third parties and meet through designated representatives to seek an equitable and fair understanding as to ownership and other property interests that may arise.
- 9.5 All Pre-existing Intellectual Property will remain the property of the original owner. The Parties hereby grant to each other an unrestricted, royalty-free licence to use and copy Pre-existing Intellectual Property to the extent reasonably required in carrying out the Agreed Objectives which will terminate upon the expiration or earlier termination of this MOU on any basis.
- 9.6 The Parties provide no warranty to each other as to the suitability of the New Intellectual Property for any purpose other than the Agreed Objectives.
- 9.7 Notwithstanding anything to the contrary in this Agreement, the Parties recognises the interest of kaitiaki in mātauranga Māori and taonga works (as defined in Ko Aotearoa Tēnei: Report on the Wai 262 Claim), and agrees that nothing in this Agreement transfers ownership, or any other rights, title or interests, in mātauranga Māori or taonga works.

10 Publicity

- 10.1 The Parties agree that any public statements and/or media releases by any Party in relation to the Zero Carbon Alliance will be in accordance with the relationship principles at clause 4 and confidentiality provisions in clause 11.
- 10.2 Subject to clause 11, the Parties agree that, to the extent reasonably possible, they will liaise with the other Parties prior to making any public statement and/or media releases in accordance with clause 10.1.

11 Confidentiality

- 11.1 Each Party must keep confidential all information made available by or on behalf of another Party under or in relation to this MOU (**Confidential Information**), and must not use or disclose Confidential Information to any third party unless:
- (i) the disclosure is required by law; or
 - (ii) the information is already publicly available (other than through a breach of this clause) or which a party can prove it was independently created or acquired; or
 - (iii) the Party who provided the information has given its written consent to the disclosure; or
 - (iv) clause 11.2 applies.
- 11.2 The Parties acknowledge that they are subject to official information and privacy legislation (the Local Government Official Information and Meetings Act 1987, the Official Information Act 1982, and the Privacy Act 2020, as applicable) and that pursuant to a request made under such legislation the Parties may disclose information relating to this MOU to the requester.
- 11.3 The Parties agree that the undertakings given in relation to the Confidential Information shall continue notwithstanding the termination of this MOU.

12 Disputes

- 12.1 While this MOU is based on a spirit of collaboration, if a dispute arises under the MOU, the Key Representatives of the Parties involved in the dispute will meet and seek to resolve the dispute through good faith discussions. Those discussions will be guided by the relationship principles set out at clause 4.
- 12.2 If those attempts do not resolve the dispute within a reasonable period of time, any Party may refer the dispute to mediation, with the choice of mediator to be agreed between the Parties. If the Parties are unable to agree on a mediator within 10 days of commencing discussions, one will be appointed by the Chairperson of the Resolution Institute.
- 12.3 Each Party to the mediation shall bear its own costs.

13 Admission of New Parties

- 13.1 The Alliance comprises of entities meeting one or more of the following criteria:
- (a) Mana whenua;
 - (b) Public sector agencies or local authorities with a key strategic role in decarbonising Dunedin's public sector specifically, and Dunedin's economy generally;
 - (c) Major emitters in the Dunedin context, with a commitment to achieving reduction in emissions by 2030 in line with those prescribed by the Science Based Target initiative; or
 - (d) Membership-based organisations representing major Dunedin sectors.

- 13.2 A new party to the Zero Carbon Alliance meeting one of the criteria set out in clause 13.1 may be admitted, on the invitation of the DCC following the unanimous recommendation of the Zero Carbon Alliance Collaboration Group. The new party shall sign a Deed in the form set out in Schedule 1 (under which the new party agrees to be bound by this MOU). The Parties agree that, from the date the Deed is signed, the new party shall have the benefit of, and be bound by, all the terms of this MOU as if the new party was an original Party to this MOU.

14 General

- 14.1 Notwithstanding any other clause in this MOU, this MOU does not bind or restrict DCC or ORC as regulatory authorities, and any consent or agreement given by DCC and ORC under this MOU is not an agreement or consent in its regulatory capacity.
- 14.2 Nothing in this MOU shall be construed to constitute a partnership in a legal sense or an agency or joint venture between the Parties. No Party has any authority to bind another Party.
- 14.3 No amendments to this MOU will be effective unless agreed in writing by all of the current Parties.
- 14.4 No Party may transfer or assign its rights, interests or obligations under this MOU. This clause does not apply in the context of the dissolution of OP due to the operation of clause 4, Schedule 14, ETA.
- 14.5 This MOU is binding on the Parties and their respective successors.
- 14.6 Each Party shall bear its own costs in relation to this MOU.
- 14.7 This MOU may be executed (including by electronic signature) in any number of counterparts (which may be facsimile or sent via email in pdf) all of which when taken together shall constitute one and the same document.
- 14.8 This MOU shall be read and construed in accordance with New Zealand law and shall be subject to the exclusive jurisdiction of New Zealand Courts.

Signed for and on behalf of **Dunedin City Council**
by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **Otago Regional Council** by:

Authorised signatory's full name

Authorised signatory's signature

Signed for and on behalf of **University of Otago** by:

Authorised signatory's full name

Authorised signatory's full name

Signed for and on behalf of **Otago Polytechnic Limited** by:

Authorised signatory's full name

Authorised signatory's full name

Signed for and on behalf of **Te Whatu Ora** by:

Authorised signatory's full name

Authorised signatory's full name

Schedule 1 – Form of the Deed to be signed by a new Party

DEED ADMITTING A NEW PARTY TO THE ZERO CARBON ALLIANCE FOR DUNEDIN

Date: 20__

PARTIES

[name and details of the new Party] (**New Party**)

BACKGROUND

- A. Under a Memorandum of Understanding in relation to the establishment of a Zero Carbon Alliance for Dunedin' dated [date] 2022 (**MOU**) the parties to the MOU formed an alliance, known as the Zero Carbon Alliance for Dunedin.
- B. Following a unanimous recommendation of the Zero Carbon Alliance Collaboration Group, the Dunedin City Council has invited the New Party to be admitted to the Zero Carbon Alliance for Dunedin and as a Party to the MOU.
- C. The New Party wishes to be admitted to the Zero Carbon Alliance for Dunedin and as a Party to the MOU, and enters into this Deed in accordance with clause 13.2 of the MOU.

THIS DEED RECORDS

- 1. From the date of this Deed:
 - (a) The New Party shall be bound by the MOU, and have all the benefits and obligations under the MOU, as if the New party was an original Party to the MOU.
 - (b) The New Party agrees that its covenants under this Deed are given in favour of the Parties to the MOU from time to time, and agrees that such persons may enforce these covenants under the Contract and Commercial Law Act 2017.

- 2. For the purposes of clause 7.2 the New Party nominates the following staff member as its Key Representative:

| Key Representative | Current delegate | Email Contact Details |
|--------------------|------------------|-----------------------|
| | | |

- 3. For the purposes of clause 8.2 the New Party nominates the following staff member as its Collaboration Group Representative:

| Collaboration Group Representative | Current office bearer | Email Contact Details |
|------------------------------------|-----------------------|-----------------------|
| | | |

- 4. This Deed will be read with the MOU. This Deed and the MOU together will be construed as one instrument.

5. This Deed may be executed in counterparts (including by copy sent via email in PDF format and including by electronic signature). Each counterpart will be deemed to be an original and all counterparts together are to constitute one instrument. A party will enter in to this Deed if it executes a counterpart.

[Execution clause – to be signed as a Deed]

7.5. Living Wage for Bus Drivers

| | |
|----------------------|--|
| Prepared for: | Council |
| Report No. | OPS2232 |
| Activity: | Transport: Public Passenger Transport |
| Author: | Doug Rodgers, Manager Transport |
| Endorsed by: | Gavin Palmer, General Manager Operations |
| Date: | 24 August 2022 |

PURPOSE

- [1] The purpose of this report is to seek Council direction to increase the wage rate to equivalent to the September 2022 Living Wage for bus drivers driving Council contracted bus services.

EXECUTIVE SUMMARY

- [2] On 27 May 2021, Council resolved to increase bus driver wage rates to match the 2019, 2020 and 2021 Living Wage rates. Those decisions were consistent with Waka Kotahi New Zealand Transport Agency policy.
- [3] Since that time, the national and regional shortage of bus drivers has become much more visible (complicated by the Covid-19 pandemic and seasonal influenza), manifesting in significant impacts on Council's (ORC) timetabled Queenstown and Dunedin bus services.
- [4] While central government announced extra funding in the May 2022 budget for bus driver pay and conditions, the Minister is yet to release that and the pathway to access a share of it is yet to be specified.
- [5] Council's Implementation Committee considered a report on 11 August 2022 that recommended that staff prepare a further detailed outlining options to address the issues of bus driver recruitment and retention.
- [6] While that report is still to come, an interim step could be to lift bus drivers that are paid a wage rate below the 1 September 2022 Living Wage to that rate. That increase is estimated at \$0.47m per annum and is unbudgeted in the 2022-23 Annual Plan and 2021-31 Long Term Plan.
- [7] In addition to not being budgeted, there are other complexities that will make any wage increase challenging to implement.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
 - 2) **Agrees** to fund from 1 September 2022, an increase in the wage rate for bus drivers delivering Council's contracted bus services to match the difference between either the
-

2021 Living Wage rate or the wage rate currently being paid by operators (whichever is the higher) and the 2022 Living Wage rate.

- 3) **Notes** the estimated cost to do so is estimated at \$0.471 million per annum.
- 4) **Notes** that the funding required to support this additional payment to bus operators is not budgeted in the 2022-23 Annual Plan or 2021-31 Long Term Plan.
- 5) **Notes** that while central government announced extra funding in the May 2022 budget for bus driver pay and conditions, the Minister is yet to release that and the pathway to access a share of it is yet to be specified. That may mean Waka Kotahi may not co-invest in raising bus driver wages in Otago at this time.

BACKGROUND

- [8] At the start of May 2021, Waka Kotahi New Zealand Transport Agency (Waka Kotahi) set out its position on providing additional funding to support the increase in bus driver pay rates to the level of the Living Wage. It states:

“The Government has an expectation that bus drivers on services contracted by Public Transport Purchasing Authorities (PTAs) should be paid a minimum base rate that is at least equivalent to the Living Wage as determined by Living Wage Aotearoa.

Waka Kotahi will support the Government’s expectation by providing additional funding to help meet the direct additional costs of increasing the base pay rate of bus drivers to a minimum base rate equivalent to the 2021 level of the Living Wage ...

Our additional funding support is specifically to lift drivers that are paid a base rate below the current Living Wage to that rate (September 2021 value). This does not include increases beyond that rate or any ‘relativity’ adjustments to other staff.”

We will be making changes to our procurement manual to make it a requirement that all future procurement for public transport services includes a wage floor or minimum hourly rate for bus drivers. PTAs that are undertaking any procurement should look to make this a requirement immediately, using the 2021 Living Wage hourly rate of \$22.75”.

- [9] Consistent with that policy, on 27 May 2021, Council resolved that:
- *“3) Agrees to pay an increase for the base wage rate for bus drivers delivering Council’s contracted bus services that aligns with the 2021 Living Wage from 1 September 2021 (conditional on Waka Kotahi NZ Transport Agency co-investment)”*; and
 - *“1) Agrees to pay an increase for the base wage rate for bus drivers delivering Council’s contracted bus services that aligns with the 2019 and 2020 Living Wage from the Effective Date of 1 July 2020.”*
- [10] Council did not make a decision to match increases in the Living Wage beyond September 2021. That is, it capped the increase in future years to the September 2021 value, adjusted for inflation. The 2021/31 Long Term Plan is consistent with that decision of Council.
- [11] Staff gave effect to those decisions following the meeting and they were fully met by 22 March 2022.

- [12] In May 2022, the Government announced as part of the Budget that it was committing \$61m over four years to fund a nationwide multi-sector agreement for better bus driver working conditions (essentially to pay bus drivers more).
- [13] Waka Kotahi is currently developing processes and templates to enable regional councils to claim a share of the additional \$61m funding to top up bus driver wages, once the Minister has approved its release (expected to be in the next few months). To claim that additional co-investment, regional councils will also need to provide matching local share.
- [14] Discussions with Waka Kotahi have indicated its intention that indexation will fund the increase; i.e. operators are expected to apply the labour component of the indexation adjustments to wages. Waka Kotahi is just finalising how to ensure that the labour component of the diesel bus index equates to at least the Living Wage percentage increase from 1 September 2021 to 1 September 2022.
- [15] On 28 July 2022, Auckland Council confirmed funding for Auckland Transport to implement a bus driver wage uplift of an average increase of 8 per cent, which will take average driver wages in Auckland up to \$25.62 per hour. Greater Wellington also committed to raising driver wages to \$27 per hour, from 1 December 2021.
- [16] The next uplift in the Living Wage, to be implemented on 1 September 2022, is \$23.65 per hour. In accordance with the May 2021 Council decisions (also consistent with Waka Kotahi policy), Council has not budgeted to increase bus driver wages in Otago to match this value. A subsequent paper to Council will be addressing this matter.
- [17] The agreed contract variations to match the September 2021 Living Wage rate do provide for an inflation adjustment, but that is based on the movement in Waka Kotahi's current cost index applied, rather than the actual movement in the Living Wage (in terms of the quantum of money, the former is much less than the latter).
- [18] The agreed contract variations also provide for driver wages to increase periodically if agreed between the parties (such as to match future increases in the Living Wage).
- [19] Council staff also reported to the 11 August 2022 Implementation Committee on the national and regional issue of a shortage of bus drivers that is impacting service delivery (complicated by Covid-19 and influenza) in Dunedin and Queenstown.
- [20] One of the recommendations in that report was for staff to prepare a further detailed outlining options to address the issues of bus driver recruitment and retention, to inform preparation of the Draft 2023/34 Annual Plan.
- [21] While that report is still to come, an interim step addressed in this paper is to lift bus drivers that are paid a rate below the 1 September 2022 Living Wage to that rate. That increase is unbudgeted in the 2022-23 Annual Plan and 2021-31 Long Term Plan, apart from a small provision for annual inflation.

DISCUSSION

[22] The 11 August 2022 Implementation Committee report¹ noted:

- there are not enough bus driver's nationally to deliver full timetabled services including in Otago;
- this has been made worse by the Covid-19 pandemic and influenza season;
- a significant reason for the shortage relates to pay and conditions;
- the Minister of Transport has recognised this and established a national working group investigating solutions to those shortcomings;
- central government has budgeted additional funding to increase driver pay that regional councils will be able to access in the future (providing they provide matching local share), but does not recognise bus drivers as a skilled occupation in terms of immigration status;
- ORC agreed in May 2021 to match the September 2021 Living Wage rate for bus drivers (but not subsequent Living Wage rises); and
- Greater Wellington Regional Council and Auckland Council have agreed to pay bus drivers more than the September 2022 Living Wage rate.

[23] As mentioned above, an interim step is to lift bus driver wages to match the 1 September 2022 Living Wage. The challenges that come with that include:

- current bus driver wage rates;
- how an uplift is funded;
- alignment with central government and its agencies so as to access co-investment (or not);
- how future movements in the Living Wage are addressed; and
- implementing any increase.

[24] In regard to the last bullet point above, based on the time that it took to implement the wage uplift to match the 2109, 2020 and 2021 Living Wage, it could take as long as six months from Council making a decision to pay drivers more, to those drivers receiving that in their pay packets. That said, having been through this process once already, it should be much quicker the next time around (the timeline that gave effect to the May 2021 decisions is appended).

OPTIONS

[25] Council has the following options to increase minimum bus driver wage rates to align with the Living Wage:

- Option 1 - Status quo: Rely on bus operators to gradually increase bus driver pay rates in the course of negotiation as collective agreements expire, with no additional funding assistance (other than provided by inflation).
- Option 2 - Implement from 1 September 2022 - bus operators will be able to claim additional funding from ORC to cover the direct cost of increasing bus driver pay rates.

¹ PPT2205 Bus Driver Recruitment and Retention

[26] Assessment of the options is set out in the following table:

| | Option 1 | Option 2 |
|---|--|--|
| Advantages | No additional funding required. | Allows operators to lift pay rates sooner than would otherwise be possible |
| Disadvantages | <p>Delays operator ability to increase driver pay rates</p> <p>Likely that the increase will not be achieved during the remaining term of the Contracts</p> <p>An uplift in driver rates to match the living wage would be delayed until the time the bus contracts are re- tendered.</p> <p>Risk from disruption if driver rates are not improved</p> | <p>Most additional funding required</p> <p>Risk that bus operators choose to rely on the funding to lift the rates, rather than lifting the rates in the course of negotiating an updated collective agreement (i.e. where pay rates would potentially be raised at the operators cost).</p> |
| Promotion of community outcomes | Negative impacts on the following ‘Sustainable, safe & inclusive transport’ community outcome | Positive impacts on the ‘Sustainable, safe & inclusive transport’ community outcome |
| Impact on capacity to meet present and future needs | <p>No financial impact</p> <p>Continued risk to service capacity from disruption and difficulties in recruiting and retaining of drivers if driver rates are not improved, impacting the reliability of the ORC services</p> | <p>Most increase in cost of providing ORC services</p> <p>Improves capacity to provide reliable ORC services sooner</p> |

[27] Option 2 is the recommended option because it:

- allows bus operators to lift the rates for their bus drivers to the new Living Wage, sooner than would otherwise be possible; and
- recognises the value we place on our bus drivers and the essential part they play in our network.

[28] The following challenges/key risks associated with the recommended option (Option 2) and mitigations are set out below. The majority of the risks are practical and commercial and can be managed by ORC taking time to complete careful contractual arrangements with its bus operators to clearly set out the terms and conditions upon which the additional funding may be claimed.

| Risk | Comment | Mitigation |
|---|--|---|
| <p>Uncertainty on what Council is purchasing</p> | <p>Bus operators may currently be paying in excess of the 2021 Living Wage. If so, should Council fund the difference between what they are paying and the 2022 Living Wage (and is that fair to both if they are paying different hourly rates); or the difference between the 2021 and 2022 Living Wage rate (so the operator get a windfall).</p> <p>What if they are paying more?</p> <p>If Council can obtain co-investment from Waka Kotahi does that reduce the amount Council is required to fund, or increase the total uplift able to be paid?</p> | <p>Council provides clarity on the outcome that it is seeking; e.g. lift bus driver wages to \$23.65 from 1 September 2022 by funding the difference between current actual operator pay rates and the 1 September 2022 Living Wage rate.</p> |
| <p>The wage uplift comes at Council's full cost</p> | <p>While the 2022 Budget announced extra funding for bus drivers, the detail around how that can be accessed has not been released. There is a risk that Council committing to lifting wages to match the 2022 Living Wage will result in Council funding that 100%.</p> | <p>This risk can be mitigated some by connecting more closely with Waka Kotahi.</p> |
| <p>Overpromising</p> | <p>ORC overpromises the extent of its funding and it is required to fund unexpected costs.</p> | <p>This risk can be managed by carefully analysing the costings and capturing these and the funding obligations accurately in the contractual arrangement that sets out the terms and conditions of the available funding.</p> |
| <p>Internal relativities</p> | <p>Other workers that are not drivers may seek a "Living Wage" payment (e.g. cleaners).</p> | <p>This risk can be managed by ensuring that communications are clear that the primary purpose of the uplift is to help address the shortage of bus drivers.</p> |
| <p>Involvement in employment relationship</p> | <p>Practically, there is a risk of becoming too involved or appearing to be too involved in the employment relationship between bus operators, their</p> | <p>This risk can be mitigated by interfacing with the bus operators in a cautious, professional, and appropriate way and keeping the operators</p> |

| | | |
|--------------------------|--|--|
| | employees and unions. This could put strain on ORC's relationships with its operators. | well informed of any concerns or views ORC may have. |
| Probity/equity risk | Risk of claims by operators that do not meet the conditions for the additional funding. | Mitigated by clearly documented and approved processes and decision making. |
| Implementation timeframe | As demonstrated by the timeframe to implement an increase to match the 2021 Living Wage, the process takes time and is not simple. | Apply the lessons from last time. Seek a delivery timeline from Waka Kotahi with respect to the templates that it is developing to give effect to the 2022 budget announcements. If timely, use those templates. |

CONSIDERATIONS

Strategic Framework and Policy Considerations

[29] Council's Long Term Plan community outcome (vision) is sustainable, safe and inclusive transport in Otago. Council's public transport services are an important component of that vision and bus drivers are critical to deliver those.

Financial Considerations

[30] The financial considerations are described in this paper.

[31] As noted earlier in the paper, the additional cost of raising Otago bus driver wages from the September 2021 to the September 2022 Living Wage is estimated at \$0.47m and is not budgeted.

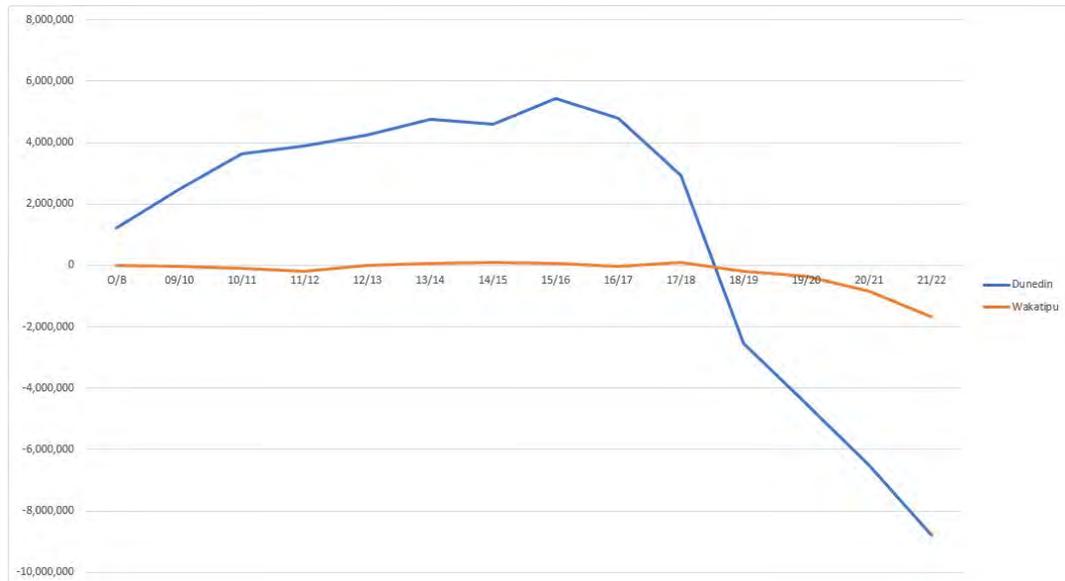


Figure 1: Public Transport Rates Reserves

[32] That would mean a further increase in the public transport rates reserves from that shown in Figure 1 above.

Significance and Engagement

[33] There are no significance and engagement considerations in regard to this paper.

Legislative and Risk Considerations

[34] Risks are considered throughout the report.

Climate Change Considerations

[35] The matters requiring decision in this report are not considered by officers to have a direct impact on Climate Change, except to say that public transport services are an emission reducing tool to combat greenhouse gas emissions from private vehicle use.

Communications Considerations

[36] If Council agrees with the staff recommendation, it will need to communicate the outcome to operators, Waka Kotahi and unions.

NEXT STEPS

[37] Should Council agree with the recommendations in this report, staff will continue their work with operators to implement the change.

[38] Similarly, Council staff will increase engagement with Waka Kotahi staff with the objective of seeking confirmation of its commitment to increase funding.

[39] Further engagement will also be required with the Unions representing bus drivers in Otago to ensure they have visibility of the process.

ATTACHMENTS

1. Bus Driver Wage Uplift Timeline [7.5.1 - 2 pages]

Bus Driver Wage Uplift Timeline

| Date | Who | Interaction |
|-------------------|------------------------------------|--|
| 24 June 2020 | ORC | Approval of 2020-21 Annual Plan. |
| 26 June 2020 | ORC | Advice to Unions and bus operators that Annual Plan has been adopted. |
| 26 June 2020 | ORC | Advice to Waka Kotahi that ORC's Annual Plan contained an aspiration to increase bus driver wages from 1 July 2020 and seeking clarity on what was needed to confirm WKNZTA co-investment. |
| 29 June 2020 | Waka Kotahi | Acknowledged the inquiry and escalated the matter within Waka Kotahi. |
| 3 July 2020 | Waka Kotahi | Advice that business case approach not required, and gave an indication of the matters that would need covered off in a funding application. |
| 12 September 2020 | Minister of Transport Phil Twyford | Minister of Transport Phil Twyford announces that all bus drivers will progressively move towards being paid at least the living wage of \$22.10 per hour. |
| 5 May 2021 | Waka Kotahi | Waka Kotahi NZ Transport Agency's position on providing additional funding to support the increase in bus driver base pay rates to the level of the Living Wage. |
| 11 May 2021 | Go Bus/Ritchies | Initial discussions with PT staff and transport operators. |
| 26 May 2021 | Waka Kotahi | Advice from National Office that for payments from 1 July 2020 for the 2020-21 financial year, Waka Kotahi will not be able to provide retrospective funding assistance for this and Waka Kotahi was happy to support a funding application for a bus driver wage floor being paid from 1 July 2021. |
| 27 May 2021 | ORC | ORC decision to pay up to equivalent to the 1 September 2021 Living Wage from 1 July 2020. |
| 27 May 2021 | ORC | Advice to Unions and bus operators that ORC had agreed to the bus driver wage uplift. |
| 28 May 2021 | ORC | Advice to Unions and bus operators that the parties need to land the process for the wage uplift to be paid. |
| 31 May 2021 | Go Bus | Provided feedback on the process that could be employed for the wage uplift to be paid. |
| 31 May 2021 | ORC | Clarification to Waka Kotahi National Office that ORC had raised this matter for 2020/21 in that financial year (Communications provided). |
| 31 May 2021 (?) | ORC | Met with Go Bus; question about back-paying drivers that had left. |
| 2 June 2021 | Go Bus | Request for commentary to include in Go Bus staff newsletter on bus driver wage uplift (provide to Go Bus on the same day). |

| Date | Who | Interaction |
|-------------------|-------------------|---|
| 10 June 2021 | Ritchies | Ongoing discussions with Operators on Living Wage data provision and methodology. |
| 17 June 2021 | Ritchies | Ongoing discussions with Operators on Living Wage data provision and methodology. |
| 18 June 2021 (?) | ORC | Request to local Waka Kotahi office to co-invest in an increase in the base wage increase for bus drivers equivalent to the Living Wage. |
| 18 June 2021 (?) | Waka Kotahi | Advice from National Office that for payments from 1 July 2020 for the 2020-21 financial year, Waka Kotahi will not be able to provide retrospective funding assistance for this. |
| 23 June 2021 | ORC | Review of first tranche of Transport Operator data. |
| 24 June 2021 | ORC / Waka Kotahi | Discussion on supporting data and funding |
| 15 July 2021 | First Union | Request for update on implementing the bus driver wage uplift. |
| 15 July 2021 | ORC | Responded to First Union's questions. |
| 22 July 2021 | ORC / Waka Kotahi | Meeting on data, audit, analysis and other factors required for co-investment from WKNZTA. |
| 3 August 2021 | ORC | Legal review of contractual agreements |
| 17 August 2021 | Ritchies | Signed agreements to provide the bus driver wage uplift for Dunedin and Queenstown. |
| 21 August 2021 | First Union | Inquiry about implementation date and methodology (acknowledged by ORC on 23/08/21) |
| 24 August 2021 | Ritchies, Go Bus | Financial discussions with Operators |
| 20 September 2021 | ORC | ORC pays Ritchies' invoice for its drivers 2020/21 back-pay. |
| 27 September 2021 | Go Bus | Signed agreement to provide the bus driver wage uplift for Dunedin. |
| 1 October 2021 | ORC | ORC pays Go Bus' invoice for its drivers 2020/21 back-pay. |
| 21 October 2021 | Ritchies | Payroll reconciliation data received for ORC review |
| 15 November 2021 | ORC | ORC pays Go Bus' invoice for its drivers 2021/22 |
| 7 December 2021 | Go Bus | Leave Liability data received for review |
| 15 December 2021 | Go Bus | Discussions on leave revaluations and invoice reconciliation. |
| 16 December 2021 | Waka Kotahi | Approved co-investment to match 1 September 2021 Living Wage. |
| 20 January 2022 | Ritchies | Leave Liability data received for review |
| 24 February 2022 | Go Bus | Payroll reconciliation data received for ORC review |
| 10 March 2022 | ORC | ORC pays Ritchies' invoice for its drivers 2021/22. |
| 21 March 2022 | Ritchies | Further invoice reconciliation received and reviewed. |

7.6. Kuriwao Land

| | |
|----------------------|---|
| Prepared for: | Council |
| Report No. | CS2250 |
| Activity: | Internal Projects: Corporate |
| Author: | Peter Kelliher, Legal Counsel |
| Endorsed by: | Nick Donnelly, General Manager Corporate Services |
| Date: | 24 August 2022 |

PURPOSE

- [1] This report seeks Council's approval of the sale of surplus land subject to the Otago Regional Council (Kuriwao Endowment Lands) Act 1994.

EXECUTIVE SUMMARY

- [2] The Otago Regional Council administers property under the Otago Regional Council (Kuriwao Endowment Lands) Act 1994.
- [3] This includes disposing of land subject to the Act.
- [4] Council holds a specific property in Kuriwao that is not subject to a current lease.
- [5] Consistent with Council's previous approach to Kuriwao land, staff recommend that this property is sold with the proceeds applied in accordance with the Act.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the sale of the land contained in record of title 7963 subject to Council agreement of satisfactory terms and conditions (to be considered at a public excluded session of Council).

Subject to recommendation 2.

- 3) **Approves** Council staff commencing a public process for the sale of the Land.
- 4) **Authorises** the Chief Executive or the General Manager Corporate Services to execute any proposed Sale and Purchase Agreement (subject to obtaining satisfactory commercial terms).
- 5) **Authorises** the Chief Executive or the General Manager Corporate Services to sign an authority and instruction form for the sale of the Land.

BACKGROUND

- [6] The Otago Regional Council (Kuriwao Endowment Lands) Act 1994 ("the Act") was enacted to:
- a. Confirm the vesting of land in the Otago Regional Council.
 - b. Redefine the purposes for which the land is held by the Council.
-

- c. Recognise existing leases of the land.
 - d. Transfer the lessor's interest in leases of the land to the Council.
 - e. Empower the Council to dispose of the land.
 - f. Define the purposes for which any of the proceeds from the sale of the land may be used.
- [7] Under the Act, responsibility for administering the land was passed from the Crown to the Otago Regional Council.
- [8] In 1994, there were 18 Kuriwao Endowment Leases. 16 of these have since been sold to the respective lessees (including those considered at the Council meeting of 29 June 2022).
- [9] There is one Kuriwao property (record of title 7963) that is not subject to a current lease ("the Land").
- [10] The Land (which comprises of 50.16 hectares) was formerly part of a Kuriwao lease comprising of 1,316.24 hectares. In 2001, the land subject to this lease was resurveyed and subdivided where all but 50.16 hectares was sold to the current lessee of the land. The balance of 50.16 hectares was intended to be transferred to the Department of Conservation for conservation purposes (to include it as part of the Catlins Forest Park).
- [11] The transfer to the Department of Conservation did not take place and the Land remains in the Council's name.
- [12] Council staff have been advised by the Department of Conservation that the Department is no longer interested in the Land.
- [13] Kuriwao lands are endowments. They are vested in the Council, on trust, for the purposes set out in section 7 of the Act. The trust applies not only to the land itself, but to proceeds from the sale. The trust funds are to be used first for administration of the endowment and the balance for the benefit of the Lower Clutha district.
- [14] On 29 September 2021 (Report CS2150), Council considered the sale of the Land and requested further information. That information will be considered in a public excluded session of the Council.
- [15] Subject to any resolution from the public excluded session of the Council, consistent with Council's approach of freeholding and selling Kuriwao land, we consider it is appropriate for the Land to be sold.

DISCUSSION

- [16] The Land is located off Cairn Road 27kms from the rural township of Clinton. It has an area of 50.16 hectares and is legally defined as section 1 Survey Office Plan 300321. Maps of the Land is set out below:

Map 1



Map2: Red star showing location of the Land



- [17] The Council has contributed to the maintenance of the Land, namely pest control and fencing. The Land has not been leased since the date it was separated from the original pastoral lease in May 2001.
- [18] The Land is primarily forest and shrubland area.
- [19] The Act empowers the Council to dispose of the Land provided the process within the Act is followed.
- [20] The procedure for disposal of the land is governed by section 13 of the Act. The following steps must be taken:

- a. The Council must give public notice of its intention to sell the land.
- b. The public notice must state the date, time and place of the meeting at which the resolution is to be submitted to the Council authorising the disposal of the land.
- c. The notice must be given not more than 14 clear days before the date of the meeting.
- d. The Council must then make a resolution to sell the land.
- e. The land must be sold at a price not less than the capital value of the land as determined by a Registered Valuer, no earlier than six months before the date of sale, unless the Minister of Local Government otherwise consents.
- f. The Chief Executive of the Council must certify that public notice has been given before any transfer of land can be registered.

[21] Steps (a) to (c) above have been completed.

[22] If the Council makes a resolution to sell the Land, the terms of the sale, including price (but subject to the limitations imposed by the Act) will be negotiated with any prospective purchaser.

[23] Any sale will be a public process, noting that the Land cannot be sold at a price less than the capital value of the land as determined by a Registered Valuer without the consent of the Minister of Local Government.

[24] There may be a limited market given the lack of access.

Proceeds of Sale

[25] The Act defines the purposes for which any of the income (including the proceeds from the sale of land) may be used.

[26] Such proceeds are held upon trust:

- a. To pay firstly the costs, charges, and expenses reasonably incurred by the Council in administering the land, any leases of the land, or any funds obtained by the sale.
- b. To use the balance for, as the Council, in its absolute discretion, thinks fit:
 - i. Works for the benefit of the Lower Clutha District.
 - ii. Servicing any loans raised for works for the benefit of the Lower Clutha Special Rating District.
 - iii. Carrying out the functions, performing the duties, and exercising the powers of the Council under section 5 of the Act for the benefit of the Lower Clutha District, including the Council's general administration expenses incurred in respect of the Lower Clutha District.

OPTIONS

[27] Options for terms and conditions will be considered at a public excluded session of the Council.

[28] Subject to the above, if Council makes a resolution to sell the property, staff will arrange for the Land to be listed for sale.

[29] If the Land is to be retained, the Council will continue to hold the Land and incur costs as the landowner. Under the Act, Council could also seek to lease the land under the Public Bodies Leases Act 1969.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[30] Since 2010, Council has actively promoted selling Kuriwao endowment land.

Financial Considerations

[31] The Act defines the purposes for which any of the income (including the proceeds from the sale of the Land) may be used.

[32] The Council incurs costs in holding the Land. Over the 24 months prior to 29 September 2021, Council had spent \$3,013.29 on the Land.

Significance and Engagement

[33] The Act requires public notice of the meeting to consider the sale of the Land.

[34] The Significance and Engagement policy is not triggered.

Legislative and Risk Considerations

[35] The sale procedure is regulated by the Act.

[36] Nothing in the Local Government Act 2002 alters this procedure.

Climate Change Considerations

[37] There are no climate change considerations with the sale.

Communications Considerations

[38] The Act requires public notice of the meeting to consider the sale of the Land.

ATTACHMENTS

Nil

8.1. Recommendations of the Regulatory Committee

Resolution

That the Council adopts the resolutions of the 29 June 2022 Regulatory Committee.

| Report | Resolution | Res# | Mover/ Secunder |
|--|---|-------------|------------------------|
| Regulatory Group - Quarterly Activity Report | <ol style="list-style-type: none"> 1. Notes the Quarterly Update Report from the Regulatory Group. 2. Approves the Compliance Audit and Performance Monitoring Schedule for the 2022-23 year. | REG22-103 | Cr Noone / Cr Calvert |
| Compliance - Drinking Water Update Report | <ol style="list-style-type: none"> 1. Notes this report. 2. Notes that the Annual Compliance Report will include information on the compliance of consented activities that relate to drinking water in the Otago region. | REG22-104 | Cr Hope / Cr Calvert |

8.2. Recommendations of the Otago Southland Regional Transport Committee**Resolution**

That the Council adopts the resolutions of the 15 July 2022 Otago Southland Regional Transport Committee.

| Report | Resolution | Mover/ Seconder |
|--|---|-------------------------|
| Aotearoa New Zealand's First Emissions Reduction Plan | 1. Notes this report. | Cr Wilson / Cr Forbes |
| Regional Land Transport Plan 2021-2027 – Mid-term Review | 1. Notes the report and provide direction on initial changes to be incorporated in the proposed RLTP review to be discussed at the workshop that follows the meeting. | Cr Baird / Cr Wilson |
| Regional Speed Management Plans | <ol style="list-style-type: none"> 1. Notes this report. 2. Notes there is no published guidance relating to speed management planning available from Waka Kotahi NZ Transport Agency as of yet. 3. Agrees not to prepare interim Regional Speed Management Plans. 4. Agrees that the Otago and Southland Technical Advisory Groups prepare a concise, draft strategic section for each RSMP for further consideration of the Committees. | Cr Wilson / Cr O'Malley |
| Waka Kotahi NZ Transport Agency Update | 1. Notes the report and provide any feedback to the Waka Kotahi NZ Transport Agency on the topics included in the presentation. | Cr O'Malley / Cr Forbes |
| Freight Presentation – Dunedin City Council | 1. Notes the report. | Cr O'Malley / Cr Baird |

8.2. Recommendations of the Strategy and Planning Committee**Resolution**

That the Council adopts the resolutions of the 13 July 2022, 27 July 2022 and 10 August 2022 Strategy and Planning Committee.

| Report | Resolution | Resolution # | Mover/Seconder |
|--|--|---------------------|------------------------|
| Joint Future Development Strategy with Dunedin City Council | <ol style="list-style-type: none"> 1. Notes this report. 2. Endorses the recommendation that DCC act as lead coordinator in the preparation of the Dunedin FDS and Implementation Plan, subject to endorsement of Dunedin City Council. 3. Endorses the workshop approach, noting that workshops are held in public excluded sessions. 4. Endorses the interim governance arrangement for the period leading to the 2022 local government elections, and refers the ESG membership and the public/non-public nature of the proposed workshops and any ancillary matters to the incoming Council to discuss who and how it moves forward. | SP22-112 | Cr Calvert / Cr Wilson |
| Joint Future Development Strategy with Queenstown Lakes District Council | <ol style="list-style-type: none"> 1. Notes this report. 2. Endorses the approach to build on the Spatial Plan for Queenstown Lakes District to fulfil the requirements of delivering an FDS. 3. Endorses the use of the existing Grow Well Whaiora Partnership to deliver the FDS in partnership with QLDC. | SP22-113 | Cr Noone / Cr Wilson |
| South Dunedin Future – Programme Plan | <ol style="list-style-type: none"> 1. Notes this report titled South Dunedin Future – Programme Plan. 2. Notes the contents of the attached South Dunedin Future Programme Plan, which outlines the proposed process for developing a climate change adaptation strategy | SP22-114 | Cr Wilson / Cr Scott |

| | | | |
|--|---|--|--|
| | <p>and implementation plan for South Dunedin.</p> <p>3. Endorses the proposed approach to delivering the South Dunedin Future programme, which includes utilising the Dynamic Adaptive Planning Pathways (DAPP) methodology, as recommended by the Ministry for the Environment for climate change adaptation work.</p> <p>4. Notes the proposed strategic intent for the South Dunedin Future programme, noting this is interim, will be further developed to incorporate mana whenua inputs, and that Council approval of a final version will be sought in due course.</p> <p>5. Endorses the proposed scope of the South Dunedin Future programme, noting the complexity, uncertainty and interdependence of the issues involved, and the graduated and flexible nature of the scope.</p> <p>6. Notes the systemic nature of climate change and urban development issues will require the South Dunedin Future programme to examine the wider natural hazards environment, and to consider city-wide planning and infrastructure issues, when assessing the implications for South Dunedin.</p> <p>7. Endorses the proposed South Dunedin Future governance and management arrangements, noting these arrangements may need to be revisited in future, including following the local government elections in October 2022.</p> <p>8. Endorses the continued collaboration between</p> | | |
|--|---|--|--|

| | | | |
|---|---|----------|-----------------------|
| | <p>Dunedin City Council (DCC) and Otago Relational Council (ORC) to manage and deliver the South Dunedin Future programme</p> <p>9. Approves the South Dunedin Future Programme Plan attached to this report.</p> | | |
| Proposed National Policy Statement for Indigenous Biodiversity (NPS-IB) | <p>1. Notes this report.</p> <p>2. Approves the lodgement of a submission, signed by the Chief Executive under authorised delegation; on the Ministry for the Environment 2022 exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB).</p> <p>3. Notes that a copy of the submission will be included in a report back to a full Council meeting in August 2022.</p> <p>4. Appoints Cr Robertson and Cr Wilson to work with staff to develop a whole of Council submission in line with this paper.</p> | SP22-116 | Cr Calvert / Cr Scott |
| Summary of feedback received and policy guidance derived from region wide policy direction and guidance workshop April 2022 | <p>1. Notes this report.</p> <p>2. Notes the policy guidance confirmed by Councillors and Iwi representatives on the Strategy and Planning Committee during workshops held between 29 September 2021 and 13 April 2022 and appended as Attachment 1.</p> <p>3. Agrees that recommendation 3 in the report lay on the table until the next Strategy and Planning Committee meeting.</p> | SP22-117 | Cr Laws / Cr Calvert |
| Overview of approach and timing for future consultation stages for the development of the LWRP | <p>1. Lay papers 7.8 and 7.9 on the table to allow the Land and Water Governance Group to feed into it and then meet late July 2022 for a workshop, then Strategy and Planning meet to confirm a way forward.</p> | SP22-119 | Cr Hope / Cr Wilson |
| Climate Change Briefing and Update | <p>1. Notes this briefing titled Climate Change Briefing and Update.</p> | SP22-122 | Cr Hope / Cr Wilson |

| | | | |
|---|--|-----------------|---------------------------|
| | <ol style="list-style-type: none"> 2. Notes the high-level direction of the Climate Change Roadmap. 3. Notes that further work will be developed and presented to the Council early in 2023. | | |
| <p>Integrated Catchment Management Programme - Path Forward</p> | <ol style="list-style-type: none"> 1. Endorses the Catlins FMU as the preferred catchment in which to pilot the community collaboration plan and CAP development process. 2. Requests staff seek iwi, catchment and community group views on the suitability of the Catlins FMU in which to pilot the community collaboration plan and CAP development process. 3. Approves the establishment of an ICM working group to: <ol style="list-style-type: none"> a. Stocktake current and planned iwi, catchment and community group and ORC initiatives within the pilot catchment. b. Develop a community collaboration plan for ICM and CAP co-design, using the “Recommendations for a Collaborative Framework for Integrated Catchment Management and Catchment Action Plans” (Ahika Consulting, 2022) as a starting point. c. As part of the community collaboration plan, develop detail around the community reference group concept (if appropriate) including a terms of reference, appointment process and resourcing. d. Develop a process for CAP development including consideration of: <ol style="list-style-type: none"> i. at what point community | <p>SP22-123</p> | <p>Cr Scott / Cr Hope</p> |

| | | | |
|--|--|--|--|
| | <p>collaboration (co-design) should begin (as informed by the community collaboration framework),</p> <ul style="list-style-type: none"> ii. how to collate and incorporate relevant knowledge, data, activities, plans and strategies including citizen science, iii. a revised programme logic (if appropriate) as a conceptual basis and communication tool for CAP development, iv. a multi-criteria analysis framework for prioritising key actions within CAPs which can be tailored by each CAP collaboration group as required, <p>e. Develop a communications plan for ICM and CAPs based on the community collaboration plan and the CAP development process</p> <p>f. Begin implementation of the community collaboration plan and CAP development process where actions do not require further approval of Council.</p> <p>4. Adopts option 1 as the preferred membership of an ICM working group (if recommendation 3 above is approved).</p> <p>5. Nominates the Chair and Deputy Chair as interim representatives for the ICM working group (if recommendations 3 and 4 are approved).</p> <p>6. Requests staff seek catchment</p> | | |
|--|--|--|--|

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|--|--|----------|-------------------------|
| | <p>and community group interest in being members of the ICM Working Group for the Catlins FMU.</p> <p>7. Requests staff report back to Council no later than 30 September 2022 with an update on progress with implementing these recommendations, and a proposed terms of reference for the ICM Working Group.</p> <p>8. Notes the proposed timeframe for continued work on the ICM programme during 2022/23.</p> | | |
| Recommended Policy Guidance on Outstanding Regionwide Issues | <p>1. Adopts the recommended policy guidance for:</p> <p>a. Management of industrial discharges in the proposed Land and Water Regional Plan.</p> <p>b. Providing for water storage for the purpose of Renewable Energy Generation in the proposed Land and Water Regional Plan.</p> | SP22-125 | Cr Scott / Cr Robertson |
| Recommended Policy Guidance on Outstanding Regionwide Issues | <p>1. Adopts the recommended policy guidance for the approach with respect to the use of short-term consents and consent review processes in the proposed Land and Water Regional Plan.</p> | SP22-126 | Cr Scott / Cr Robertson |

9.1. Chairperson's Report

Prepared for: Council
Activity: Governance Report
Author: Cr Andrew Noone, Chairperson
Date: 24 August 2022

MEETINGS

- Interviewed by The Hits radio station about the new bus contract with Ritchies Transport that will enable electric buses to service a number of bus routes, commencing October 2023. This is a significant step towards our objective in the Regional Public Transport Plan to introduce zero-carbon emission vehicles, in alignment with national plans for public transport decarbonisation.
 - Attended several LGNZ zoom meetings. Topics and items discussed were:
 - Progress updates on Central Government reforms.
 - The time pressure that Councils are under to deliver work programmes, and capacity and capability within the sector.Of course, none of these topics are new however they all require a focus to fully understand when opportunities arise to engage.
 - In June I attended the Otago Civil Defence Emergency Management Joint Committee meeting. The partnership agreement has been signed by all of Otago's Territorial Authorities. The agreement formally defines roles and responsibilities, primarily ORC is the lead agency with support from each local authority.
 - CE Pim Borren, Tami Sargeant (Manager Compliance) and I met with representatives from Fonterra. Topics discussed were:
 - On farm environmental management.
 - Moving to renewable energy at processing sites
 - Generally reducing carbon emissions.Fonterra have recently launched New Zealand's first electric milk tanker.
 - I arranged a meeting between MP Rachel Brooking and Jeff Wilson from Roxburgh, to discuss opportunities within Otago for small hydro electricity generation.
 - Canceled flights meant I was unable to attend the Regional Sector Tour and the LGNZ conference held in Palmerston North. Although Cr Forbes flights were disrupted, she managed to attend both the tour and conference. Our CE Pim Borren also attended the conference.
 - The CE Pim Borren and I joined the LGNZ Annual General Meeting via zoom, where all remits were passed.
 - I attended a zoom meeting with opposition MP's Michael Woodhouse and Scott Simpson.
 - CE Pim Borren, Deputy Chair Cr Kevin Malcom and I met with Oceana Gold regarding the proposed Regional Policy Statement.
-

- Attended the last Regional Sector Meeting for the triennium via zoom. Topics discussed included:
 - An introduction of Dr Chris Daughney, Chief Science Advisor, who was appointed by the Regional and Unitary Councils early in 2022. Chris's initial focus has been focusing on environmental science in relation to national direction setting and working with the country's 16 individual regional councils and unitary authorities to understand their needs and the opportunities for further cross section science.
- CE Pim Borren, Deputy Chair Cr Kevin Malcolm and I met with members of the Island Park Golf Course (adjacent to the Kaikorai stream), where the club are considering the development of a wetland as part of the management of some of the low-lying parts of the course.
- CE Pim Borren, Deputy Chair Cr Kevin Malcolm and I also met with the GM Amanda Symond and Business Board Chair Alister Robinson, from the Orokonui Ecosanctuary, to discuss their education programme.
- An opportunity for both Dunedin City Council and Queenstown Lakes District Council to provide feedback about what each Council is wanting to discuss (formally at a later date) in relation to public transport will occur on the 31 August 2022 via zoom.

CORRESPONDENCE

- Letter from Minister Parker referencing Professor Skelton Report and High Court judgement (27 July 2022)
- [Professor Skelton's report to the Minister](#)
- Letter to Ministry for the Environment in support of the Wanaka Catchment Group Wai Ora project (29 July 2022).
- Grey Power Otago, letter sent to Minister of Transport - shared with ORC (1 August 2022)
- Letter to Otago Mayors regarding Progress on Controlling Wilding Conifers (15 August 2022)
- Letter from Minister for Biosecurity acknowledging receipt of the ORC Biosecurity Operational Plan (August 2022)

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

ATTACHMENTS

1. Letter from Minister Parker referencing Professor Skelton's Report and High Court Judgement (27 July 2022) [9.1.1 - 2 pages]
2. Letter to Ministry for the Environment in support of the Wanaka Catchment Group Wai Ora Project (29 July 2022) [9.1.2 - 2 pages]
3. Grey Power Otago, letter sent to Minister of Transport - shared with ORC (1 August 2022) [9.1.3 - 1 page]
4. Letter to Otago Mayors regarding Progress on Controlling Wilding Conifers (15 August 2022) [9.1.4 - 1 page]
5. Letter from Minister for Biosecurity acknowledging receipt of the ORC Biosecurity Operational Plan (August 2022) [9.1.5 - 1 page]

Hon David Parker BCom, LLB

Attorney-General
Minister for the Environment
Minister for Oceans and Fisheries
Minister of Revenue
Associate Minister of Finance



27 July 2022

Cr Andrew Noone
Chairperson
Otago Regional Council
By email: Andrew.Noone@orc.govt.nz

Dear Andrew

Professor Skelton's report of June 2022, and High Court judgment of July 2022

I have received from Professor Peter Skelton his June 2022 report and recommendations, *Follow up Investigation of Freshwater Management and Allocation Functions at Otago Regional Council*, which I attach.

This report examines your Council's progress on my recommendations following an earlier report from Professor Skelton in 2019. These included a recommendation to notify a new Land and Water Regional Plan (LWRP) by 31 December 2023.

The further investigation by Professor Skelton was initiated following your 28 March 2022 letter to me requesting a discussion on a longer timeframe for notifying the LWRP, and advising that the Council would welcome an indication on an extension by the end of May 2022.

I wrote to you on 31 May 2022 based on Professor Skelton's interim findings. Since receiving his final report, I have also reviewed the High Court judgment of 22 July 2022, *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777, which provides helpful direction as to what is and is not a freshwater planning instrument.

The judgment requires the Council to re-notify those parts of the proposed regional policy statement (pRPS) that it determines are parts of a freshwater planning instrument. I expect that your staff would have begun this task. I initially thought one month would be sufficient time to complete this. However, to ensure that this is not unreasonably tight, I suggest the reformatted freshwater planning instrument be re-notified by 30 September 2022. My expectation is that the Council will have re-notified these parts by 30 September 2022.

Following Professor Skelton's report and the High Court judgment, I reiterate my expectation that you meet the recommendations and timeframes I set in 2019, including the requirement to notify a new LWRP by 31 December 2023.

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand
+64 4 817 8710 | d.parker@ministers.govt.nz | beehive.govt.nz

Professor Skelton's report raises some concerns regarding Councillors not making decisions on freshwater management matters where they appear to be supported by an appropriate level of scientific evidence. I do not propose to take that issue further at this time, but highlight the issue for you to consider for the future.

I will be releasing Professor Skelton's report publicly on the Ministry for the Environment (MfE) website, as I did with his 2019 report.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Parker', is enclosed in a light blue rectangular box.

Hon David Parker
Minister for the Environment



29 July 2022

Ministry for the Environment
PO Box 10362
Wellington 6143

Wanaka Catchment Group

To Whom It May Concern

I would like to provide this letter of support on behalf of the Otago Regional Council for the Wanaka Catchment Group Wai Ora project.

The project has entered its second year, and given the challenges presented through COVID has made good progress on their goals.

The establishment of over 6 kilometres of riparian planting of close to 7000 native plants at several sites throughout the Wanaka Catchment is a fantastic environmental outcome for the lake. Projects like these are critical for supporting rural community initiatives to improve water quality entering our waterways from farmland.

The Otago Regional Council is very happy to remain an in-kind supporter of this project, of which most of our support was through our Good Water Quality project that concluded last year. This year data collected will further support reporting on water quality for selected WCG sites in-kind to the value of around \$43,000 dollars.

Yours sincerely

A handwritten signature in black ink, appearing to read "Andrew Noone".

Cr Andrew Noone

Chairperson

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz

Dear Minister

Otago Regional Council Biosecurity Operational Plan 2022-23

On behalf of Otago Regional Council (ORC), I am pleased to provide you with a copy of ORC's Regional Pest Management Plan – 2022-2023 Operational Plan. The Operational Plan was approved by Council when it met on 29 June 2022. It describes how ORC will deliver on a significant programme of work.

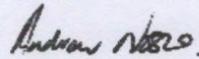
The Operational Plan provides for delivery of Otago's parts of the National Wilding Conifer Control Programme and the National Wallaby Programme. We are grateful for the government's continued funding of these programmes which are making a positive difference to Otago's environment.

Our biosecurity programme for 2022/23 includes developing regional strategies for wilding conifers and for the control of lagarosiphon in Otago's lakes and waterways. These will help ensure that investments are targeted to where they will be most effective.

Rabbits continue to be a significant pest. The Operational Plan therefore provides for ORC continuing to facilitate the establishment and operation of community-led rabbit control groups. In response to community concerns about the way public land is managed we have increased our targeted compliance inspections of land owned by or under the control of territorial authorities and Crown entities. It is pleasing to see territorial authorities and Crown entities acknowledging their pest management responsibilities.

I look forward to your response to our Operational Plan.

Yours sincerely



Cr Andrew Noone
Chairperson

Attached: ORC Regional Pest Management Plan – 2022-2023 Operational Plan

For our future

70 Stafford St, Private Bag 1964, Dunedin 9084 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz



Biosecurity...proval).pdf

1.4 MB



GREY POWER OTAGO INC.

211A KING EDWARD
ST GREYPOWEROTAGO@GMAIL.COM

DUNEDIN 9012 PHONE 456 1685

1 AUGUST 2022

HON M WOOD
MINISTER OF TRANSPORT
PARLIAMENT BUILDINGS WELLINGTON

DEAR MINISTER

I WOULD APPRECIATE ANY ASSISTANCE YOU CAN GIVE TO A PREDICAMENT OUR ELDER PEOPLE IN DUNEDIN ARE CURRENTLY FACING AT A TIME WHEN FOR THEIR HEALTH SAKE WE ARE ENCOURAGING THE ELDER GENERATION TO GO OUT AND ABOUT IN THEIR COMMUNITY WE ARE FACED IN DUNEDIN WITH A CURTAILED BUS SERVICE DUE TO ILLNESS AND SHORTAGE OF STAFF.

GREY POWER OTAGO REQUESTED THAT TO MAKE IT EASIER FOR THOSE OVER 65 TO CONTINUE TO TRAVEL THE OTAGO REGIONAL COUNCIL REMOVE THE TIME RESTRICTION ON THE USE OF THE SUPER GOLD CARD. THEY HAVE INFORMED US THAT THE GOVERNMENT IS RESPONSIBLE FOR SUBSIDIZING THIS FREE TRAVEL AND THE TIME CONSTRAINTS.

FOR THIS REASON WE SEEK INFORMATION RE THE PAYMENT OF THE SUBSIDY. IS IT BULK FUNDED OR PAID PER SERVICE PROVIDED WITHIN THE RESTRICTED TIME. IF IT IS BULK FUNDED WHY IS THE COUNCIL NOT ABLE TO ALTER THE TIME CONSTRAINTS TO OPERATE WITHIN THEIR AMENDED TIMETABLE AND IF THE RESTRICTIONS DO APPLY DOES THE COUNCIL HAVE TO REFUND ANY OF THE SUBSIDY?

IF IT IS PAID PER SERVICE WHY CAN THE COUNCIL NOT APPLY TO THE GOVERNMENT FOR A VARIATION OF THE REGULATIONS WHEN SERVICE CHANGES ARE NECESSARY.

ANYTHING YOU CAN DO TO ASSIST OUR ELDERLY PEOPLE TO RETURN TO THEIR NORMAL SOCIAL ACTIVITIES OUTSIDE THE HOME WOULD BE GREATLY APPRECIATED AS WE HAVE GRAVE CONCERNS FOR THE HEALTH IF SOCIAL ISOLATION IS A RESULT OF NOT BEING ABLE TO FREELY TRAVEL.

WE ARE AWARE THAT THE GOVERNMENT HAS INSTALLED HALF PRICE FARE BUT WITH THE INCREASING COST OF LIVING EVEN A \$1 FOR A BUS TRIP OUTSIDE THE FREE HOURS IS CONSIDERED UNNECESSARY.

YOURS SINCERELY

JO MILLAR



From the Office of the Chairperson

Our Ref: A1678500

15 August 2022

The Mayor for:
Clutha District Council
Central Otago District Council
Dunedin City Council
Queenstown Lakes District Council
Waitaki District Council

Dear Otago Mayors

Progress on controlling Wilding Conifers

The Otago Regional Council continues to support Wilding Conifer control works across Otago, particularly in Central Otago and the Queenstown Lakes District.

The Whakatipu and Central Otago Wilding Conifer Control Groups are community “not for profit” organisations doing great work, focused on protecting vast areas of Otago’s landscape from the spread of wilding conifers.

Wilding conifers have major implications on landscape values, water yield, native biodiversity and can increase fire risk.

With close to 6 million dollars of additional Jobs for Nature funding being allocated over the next 2 to 3 years, tens of thousands of hectares are being targeted by various control methods. For this project, the Otago Regional Council is the lead entity and has a funding agreement with Biosecurity New Zealand.

City and District Councils play a vital role through their policy plans to ensure wilding conifers don’t further invade our regional landscape. Giving greater effect to Otago Regional Council’s policies for control of wilding conifers will ensure an even more successful outcome in the future.

Kind regards

A handwritten signature in black ink that reads "Andrew Noone".

Cr Andrew Noone
Chairperson



Hon Damien O'Connor

MP for West Coast-Tasman
Minister of Agriculture
Minister for Biosecurity
Minister for Land Information
Minister for Rural Communities
Minister for Trade and Export Growth



MIN22-0469

09 AUG 2022

Cr Andrew Noone
Chairperson
Otago Regional Council
Andrew.Noone@orc.govt.nz

Dear Andrew

Thank you for your correspondence of 21 July providing me with the Otago Regional Council Biosecurity Operational Plan.

I subsequently received an email from Otago Regional Council with a copy of the Biosecurity Operational Plan for Otago, demonstrating how "the Otago Regional Pest Management Plan" is being implemented in 2022-23. I would like to congratulate the council on this plan to deliver significant work on the National Wilding Conifer Control and National Wallaby programs, as well as work on other significant challenges, such as rabbits and lagarosiphon.

Though this is not a requirement, I would like to thank you for taking the time to write with this update.

Yours sincerely

Hon Damien O'Connor
Minister for Biosecurity

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9.2. Chief Executive's Report

Prepared for: Council
Activity: Governance Report
Author: Pim Borren, Interim Chief Executive
Date: 24 August 2022

- My focus in the past month has been getting up to speed with the major issues causing ORC challenges. The first of these has been ensuring that we have a much better working relationship between Council and the Executive Leadership Team. Related to that is my own working relationship with the Chair. In my view there have been improvements in both of these areas.
- Obviously the two commissioned external reports by Panckhurst and Skelton have caused some additional consideration and response. From an organisational perspective I have led those responses with the view to learning from them and looking forward rather than backward. While we could draw some conclusions from some of the commentary in each report, I think it is more constructive to reflect on the issues which have required them to be commissioned in the first place. A better more trusting and respectful relationship where we are all on one page (and acknowledge we all work together for one organisation) is the solution in preventing the need for these types of enquiries.
- It has become clear to me that ORC has gone through some growing pains as we are resourcing up to do a better job across our region. We are a bigger and busier environment. Coupled with the challenges we have all faced in the past two years with Covid-19. I am very keen to ensure we maintain a positive staff culture and that people enjoy working here (and are professional and productive). The fact that we have had over 15% staff turnover through the last 12 months concerns me (i.e. it is too high) and has made the challenge of recruiting more staff even more challenging as we move from 180 FTEs to 330 FTEs.
- My other focus is trying to shift community perception around ORC in general as well as ORC performance. This will require a lot of work in engaging more effectively with each of our communities across the region and making sure there is an opportunity for those communities to be heard. Our Council members can assist with these opportunities (and we need to utilise them) although this at times does blur the lines between operational responsibilities through the work we do with each community and the councillors' governance role. I don't think this tension is insurmountable if everyone is working together and there is good will, although we need to ensure staff are clear around their reporting lines so that we don't confuse staff around clarity of management and governance requests (i.e. not the same).
- Overall, I am happy with progress. ORC has many very talented people. We need to ensure our communities get the opportunity to recognise that too. We are working hard on both clearer communications as well as publicising our many good news stories to counter some of the negative press.

- I have been very grateful for the support (and patience) I have received from Andrew and other councillors as well as staff (especially ELT) as I come up to speed and more familiar with how ORC works.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.

ATTACHMENTS

Nil

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

| General subject of each matter to be considered | Reason for passing this resolution in relation to each matter | Ground(s) under section 48(1) for the passing of this resolution |
|--|---|---|
| <i>Minutes of the 29 June 2022 public excluded Council Meeting</i> | Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons; Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). | |
| <i>Kuriwao Land – Options</i> | Section 7(2)(h) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). | Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist. |
| <i>National Ticketing System Participation Agreement</i> | Section 7(2)(h) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities; Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). | Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist. |
| <i>Hearings Panel Appointment – pORPS Sch 1 Process</i> | Section 7(2)(a) To protect the privacy of natural persons, including that of deceased natural persons; Section 7(2)(b)(ii) To protect | Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part |

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| | <p>information where the making available of the information—would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.</p> | <p>of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p> |
| <p><i>Process for appointing a permanent Chief Executive</i></p> | <p>Section 7(2)(i) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</p> | <p>Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</p> |

This resolution is made in reliance on [section 48\(1\)\(a\)](#) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by [section 6](#) or [section 7](#) of that Act or [section 6](#) or [section 7](#) or [section 9](#) of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are shown above