

Council MINUTES

Minutes of an ordinary meeting of the Otago Regional Council held in the Council Chamber, Level 2 Philip Laing House, 144 Rattray Street, Dunedin on Wednesday 22 March 2023, commencing at 1:00 PM.

PRESENT

Cr Gretchen Robertson	<i>(Chairperson)</i>
Cr Lloyd McCall	<i>(Deputy Chairperson)</i>
Cr Alexa Forbes	
Cr Gary Kelliher	
Cr Michael Laws	
Cr Kevin Malcolm	
Cr Tim Mephram	
Cr Andrew Noone	
Cr Bryan Scott	
Cr Alan Somerville	
Cr Elliot Weir	

1. WELCOME

Chairperson Robertson welcomed Councillors, members of the public and staff to the meeting at 1:00 pm and gave a karakia. Staff present included Pim Borren, (interim Chief Executive), Nick Donnelly (GM Corporate Services), Anita Dawe (GM Policy and Science), Gavin Palmer (GM Operations), Richard Saunders (GM Communications), Amanda Vercoe (GM Governance, Culture and Customer), Joanna Gilroy (interim GM Regulatory), Liz Spector (Governance Support), Trudi McLaren (Governance Support), Jo Galer (Manager Comms and Marketing), Andrea Howard (Manager Executive Advice), Simon Hartley (Media Lead), Mike Roesler (Manager Corporate Planning), Warren Hanley (Sr Resource Planner Liaison), Fleur Matthews (Manager Policy and Planning), Lorraine Cheyne (Manager Transport) and Doug Rodgers (interim Manager Transport).

2. APOLOGIES

Resolution: Moved: Cr Noone. Seconded: Cr Weir
That the apologies for Cr Wilson be accepted.

MOTION CARRIED

3. PUBLIC FORUM

Quentin Jane, President of the Otago Uni Students' Association and Tessa Campbell, political representative of the Association, spoke to the Councillors about provision of free bus fares for tertiary students. Following questions by Councillors, Cr Robertson thanked them for attending the meeting.

Alex Gorrie and a group of supporters addressed the Council about the importance of honouring te tiriti. Following questions by Councillors, Cr Robertson thanked them for attending the meeting.

Pierre Marasti, representing Extinction Rebellion spoke to the Councillors about climate change. Following questions by Councillors, Cr Robertson thanked him for attending the meeting.

4. CONFIRMATION OF AGENDA

Cr Robertson requested to move the report *Opening and Closing ORC Council Meetings* to the first item of business under Matters for Consideration.

Moved: Cr Robertson, Seconded: Cr Scott:

That the Opening and Closing ORC Council Meetings report be considered the first item of business under Matters for Consideration.

MOTION CARRIED

5. DECLARATIONS OF INTERESTS

No changes to the Declarations were noted.

6. CONFIRMATION OF MINUTES

6.1. Minutes of the 22 February 2023 Council Meeting

Resolution: Cr Weir Moved, Cr Somerville Seconded

That the minutes of the (public portion of the) Council meeting held on 22 February 2023 be confirmed as a true and accurate record.

MOTION CARRIED

6.2. Minutes of the 8 March 2023 Council Meeting

Resolution: Cr Forbes Moved, Cr Noone Seconded

That the minutes of the (public portion of the) emergency Council meeting held on 8 March 2023 be confirmed as a true and accurate record.

MOTION CARRIED

7. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

7.1. Actions

Councillors reviewed the open actions from resolutions of Council with staff. No changes were noted.

8. MATTERS FOR CONSIDERATION

8.1. Opening and Closing ORC Council Meetings

This report was provided to enable discussion at Council around opening and closing Council and Committee meetings. Cr Robertson spoke to the paper, noting ORC Standing Orders currently provides for use of a formal welcome including karakia to open or close meetings where appropriate.

Several Councillors stated their reasons for using or not using karakia to open or close council and committee meetings. Cr Mepham noted the significance of the karakia that had been gifted to the Otago Regional Council by the rūnaka and Cr Somerville said he thought it was important to acknowledge mana whenua and the function of a karakia brings focus to matters at hand. Cr Forbes said an important function of the karakia was to show council and committee meetings are a safe place for Māori to engage. Cr Weir suggested the karakia created a sense of purpose for the meeting and signaled commitment to partnership. Cr Noone said bicultural competency was an individual journey, but he had no concerns regarding the wording of Standing Orders as an appropriate guide for the use of karakia at meetings. Cr Laws stated he had an objection to religion or the supernatural being imposed in council meetings and said freedom from religion is legislated in the Bill of Rights. Cr Scott asked that his objection to Cr Laws statement be recorded in the minutes.

Cr Robertson noted the karakia gifted by the rūnaka was not religious and Councillors had a choice on whether to attend meetings where they would be used. Cr Malcolm stated he had no objection to the karakia but thought the question should be where and when to use it. He asked for more training and understanding and to find other ways to bring the community together. Cr Kelliher said Standing Orders gives the decision on whether to use a karakia to chairs of each meeting. He said as a meeting chair he would not use the karakia but would respect anyone who chooses to. Cr McCall agreed the opportunity to use the karakia is determined by the meeting chair and said its use would be a significant step in the development of the partnership with mana whenua.

Following further discussion, Cr McCall moved the report be noted.

Resolution CM23-127: Cr McCall Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

Cr Laws requested his vote against the motion be recorded in the minutes.

8.2. Six Monthly Report to the Minister

The report was presented to update Council on the seventh progress report to the Minister for the Environment which updated the Minister on capacity and capability, and work programmes in accordance with the requirements set out in the initial 2019 correspondence from Minister Parker. Anita Dawe (Manager Policy and Science) and Fleur Matthews (Manager Policy and Planning) were present to respond to questions about the report. Ms Matthews noted that the draft letter included in the agenda had been written before receiving the extension approval from Minister Parker. She noted an amended draft letter had been circulated to Councillors to reflect the extension.

Following questions by Councillors, it was moved:

Resolution CM23-128: Cr McCall Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the seventh report to the Minister for the Environment, that reports on progress against the recommendations made in his letter dated 19 November 2019.
- 3) **Notes** that the next report will be brought to Council in September 2023.

MOTION CARRIED

8.3. Update from Lakes Management Working Group

At its 7 December 2022 meeting, Council agreed to establish a Lakes Management Working Group to respond to the opportunities for improvement raised by the Parliamentary Commissioner for the Environment. This report provided an update to Council on the activities of the newly formed Lakes Management Group and a draft Terms of Reference for the working group. Andrea Howard (Manager Executive Advice) was available to respond to questions about the report.

Councillors asked for clarity on which lakes were to be included in the working group's terms of reference. Dr Borren (interim CE) noted that the group was set up in response to the letter from the Parliamentary Commissioner for the Environment Simon Upton noting concerns over the deep water alpine lakes. Dr Borren suggested that he was looking to the MfE for possible co-funding opportunities to address the concerns. He said there was a separate body of work planned to prioritise work on all 7000 lakes in Otago.

Cr Somerville asked if the Otago Lakes Strategic Plan and the Lake Management Strategy were separate. Ms Howard said staff were undergoing a further review that would input into whether a broader strategy was needed and would bring back recommendations to Council by 1 June

2023. Dr Borren stated this working group should not be isolated from the rest of the work underway on lake management. He then asked Councillors for a steer on whether the deep-water alpine lakes should be prioritised or if staff should stay with the original work program of 7000 lakes. Cr Somerville noted there was some confusion in the Terms of Reference that should be clarified.

Following further discussion, Dr Borren said initial work would focus on the deep-water alpine lakes, then move on to a wider focus. Cr McCall said this working group should be focusing on alpine lakes only. He said if their focus was to expand to all Otago lakes, the working group would need to expand its membership to obtain representation from across Otago. Cr Borren agreed the wording in the Terms of Reference needed to be clarified to focus on the five deep water alpine lakes and to acknowledge a bigger program of work is still necessary.

Cr Malcolm then moved:

Resolution CM23-129: Cr Malcolm Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the Terms of Reference for the Working Group subject to clarification of the focus on the five deep-water alpine lakes.
- 3) **Notes** the complementary work underway to prepare for an overarching Lakes Management Strategy.

MOTION CARRIED

Cr Noone left the meeting at 2:53 pm.

Cr Noone returned to the meeting at 2:56 pm.

Cr Robertson adjourned the meeting at 3:10 pm for a 15-minute break.

Cr Robertson reopened the meeting at 3:30 pm.

8.4. Proposal to participate in CouncilMARK programme

This report sought Council approval to participate in the national CouncilMARK™ programme, an independent performance assessment and continuous improvement initiative. Richard Saunders (GM Communications) was present to respond to questions about the report. He noted if Council decided to participate in the programme, it would be unrelated to the 22 February 2023 Council resolution to have an independent efficiency review conducted.

Following a discussion of the report and the CouncilMARK programme, a motion was made:

Resolution CM23-130: Cr Laws Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** Council's participation to the CouncilMARK™ programme.
- 3) **Approves** the Chief Executive to enter into a formal agreement with CouncilMARK™ to undertake an independent assessment in 2023.

MOTION CARRIED

8.5. Queenstown Lakes Future Development Strategy: Governance Arrangements

This report set out how ORC would work with Queenstown Lakes District Council (QLDC) on the development of the Queenstown Future Development Strategy. Anita Dawe (Manager Policy and Science) and Fleur Matthews (Manager Policy and Planning) were present to respond to questions about the report. Ms Matthews noted that joint workshops between ORC and QLDC Councillors and staff would be conducted, and future key decisions would be brought to Council for consideration.

Following further discussion and questions, Cr Noone moved:

Resolution CM23-131: Cr Noone Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** that at its meeting on 13 July 2022, the Council endorsed the use of the existing Grow Well Whaiora partnership to deliver the FDS in partnership with QLDC.
- 2) **Notes** that joint workshops will be held with QLDC Councillors to seek ORC input on the FDS; and
- 3) **Notes** that there will be key decisions that both Councils will be required to approve during the development and approval of the FDS.

MOTION CARRIED

8.6. Appointed Member Remuneration

This report was provided to give Councillors options for setting remuneration rates for external appointments to ORC's Committees for the 2022-2025 triennium. Amanda Vercoe (GM Governance, Culture and Customer) was present to respond to questions about the report.

Following a discussion of the options presented, Cr Mepham suggested the rate of 20% of a Councillor salary divided by the number of meetings would be reasonable way to manage the payments and Cr Laws moved:

Resolution CM23-132: Cr Laws Moved, Cr Weir Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Agrees** a per-meeting mechanism for remunerating external members to ORC Committees for the 2022-2025 triennium and that be funded out of the Governance budget.
- 3) **Approves** remuneration for the Land and Water Governance Group external appointments funded out of the LWRP budget.
- 4) **Notes** that the remuneration will be operationalised by the Chief Executive.

MOTION CARRIED

8.7. ORC consultation responses to The Future for Local Government draft report, the Natural and Built Environment Bill and Spatial Planning Bill

This report was provided to formally document two submissions lodged in February on behalf of Council, regarding the Natural and Built Environment Bill and Spatial Planning Bill before the

Environment Select Committee, and the Review into the Future for Local Government draft report. Anita Dawe (GM Policy and Science) and Warren Hanley (Sr Resource Planner Liaison) were present to respond to questions about the report and submissions.

Cr Somerville noted an inconsistency in one of the submissions. Ms Dawe stated she would clarify the inconsistency with an email to Councillors.

Cr Weir then moved:

Resolution CM23-133: Cr Weir Moved, Cr McCall Seconded

That the Council:

- 1) **Notes** the attached submission on the Natural and Built Environment Bill and Spatial Planning Bill, lodged with the Environment Committee on 4 February 2023; and
- 2) **Notes** the attached response to the Future for Local Government draft report, submitted to the review panel on 28 February 2023.

MOTION CARRIED

8.8. ORC Submission Made on the Local Government Official Information and Meetings Amendment Bill (Natural Hazards)

This report provided Council with an overview of a 3 February 2023 submission lodged by staff on the 'Local Government Official Information and Meetings Amendment Bill' to the Governance and Administration Committee (the Select Committee). Anita Dawe (GM Policy and Science) and Warren Hanley (Sr Resource Planner Liaison) were present to respond to questions about the submission.

Following questions by Councillors, Cr Noone moved to note the report.

Resolution CM23-134: Cr Noone Moved, Cr Scott Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Notes** the staff submission lodged on the Local Government Official Information and Meetings Amendment Bill.

MOTION CARRIED

8.9. Draft ORC submission for Resource Management (Infringement Offences) Regulations 1999

This report was provided to recommend to Council a submission on the Resource Management (Infringement Offences) Regulations 1999 consultation from the Ministry for the Environment (the Ministry). Anita Dawe (GM Policy and Science), Warren Hanley (Sr Resource Planner Liaison), and Tami Sargeant (Manager Compliance) were present to respond to questions about the submission.

Following questions for staff, Cr Malcom asked for a greater understanding on how staff time, legal costs, and other associated costs are considered when making infringement decisions. He

suggested a workshop could be useful. Richard Saunders (GM Communications) agreed to arrange a workshop.

Cr Scott then moved:

Resolution CM23-135: Cr Scott Moved, Cr Weir Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the attached draft ORC submission on the Resource Management (Infringement Offences) Regulations 1999 consultation and authorises it be lodged with the Ministry for the Environment by 31 March 2023.

MOTION CARRIED

9. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

9.1. Recommendations of the Finance Committee

Resolution CM23-136: Cr Malcolm Moved, Cr Somerville Seconded

That the Council adopt the recommendations of the [23 February 2023 Finance Committee](#).

MOTION CARRIED

9.2. Recommendations of the Public and Active Transport Committee

Resolution CM23-137: Cr Forbes Moved, Cr Noone Seconded

That the Council adopts the recommendations of the [22 February 2023 Public and Active Transport Committee](#).

MOTION CARRIED

10. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

10.1. Chairperson's Report

Resolution: Cr Scott Moved, Cr Noone Seconded

That the Chairperson's report be noted.

Motion Carried

10.2. Chief Executive's Report

Resolution: Cr Noone Moved, Cr McCall Seconded

That the Chief Executive's report be noted.

Motion Carried

11. RESOLUTION TO EXCLUDE THE PUBLIC

Cr Robertson moved to go into public excluded per the reasons specified in the agenda and Cr McCall seconded.

Cr Laws then stated his opposition to any of the three reports being considered with the public excluded. He urged the decisions to be made in public to promote transparency to the

community. Interim CE Pim Borren said staff undergo a process prior to putting reports on a confidential agenda, including a review by the in-house legal counsel to ensure the reasons selected under the LGOIMA are appropriate and applied consistently.

Cr Weir said while all three reports may meet the legal threshold for exclusion, Councillors may still opt to consider the reports in public. Cr Malcolm agreed and asked that the entire process be examined. Cr Mepham said exclusions should be used sparingly and a more robust process around the Executive Leadership Team could be part of that. Councillors then agreed they would like more information on public exclusion rules and Amanda Vercoe (GM Governance, Culture and Customer) said she would be happy to provide more information including a possible workshop on LGOIMA rules and procedures. Cr Robertson asked that processes related to release of confidential information be included in that workshop.

Cr Robertson then put the motion to the vote.

Resolution: Cr Robertson Moved, Cr McCall Seconded:

That the Council moved into confidential session under LGOIMA 48(1)(a) to consider:

- *Confidential Minutes of the 22 February 2023 Council Meeting*
- *Confidential Minutes of the 8 March 2023 Council Meeting*
- *Median Wage Uplift for Bus Drivers*
- *Appointment of Iwi Representatives to Committees*
- *On-lending Agreement Variation*

MOTION CARRIED

A division was called:

Vote

For:	Cr Forbes, Cr McCall, Cr Mepham, Cr Noone, Cr Scott, Cr Somerville and Cr Robertson
Against:	Cr Kelliher, Cr Laws and Cr Malcolm
Abstained:	Cr Weir

The general subject of each matter considered while the public was 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>Confidential Minutes of the 22 February 2023 Meeting</i>	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)(b)(ii) To protect information which is subject to an obligation of confidence or which	

	<p>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)(c)(i)</p> <p>To avoid prejudice to measures protecting the health or safety of members of the public – Section 7(2)(d)</p> <p>To maintain legal professional privilege – Section 7(2)(g)</p> <p>To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h)</p> <p>To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</p> <p>To prevent the disclosure or use of official information for improper gain or improper advantage – Section 7(2)(j)</p>	
<i>Confidential Minutes of the 8 March 2023 Meeting</i>	<p>To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)</p> <p>To maintain legal professional privilege – Section 7(2)(g)</p>	
<i>3.1 Median Wage Uplift for Bus Drivers</i>	<p>To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h)</p> <p>To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)</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 of the proceedings of the meeting would be likely to result in</p>

		the disclosure of information for which good reason for withholding would exist.
<i>3.2 Appointment of iwi representatives for Committees</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	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.
<i>3.3 On-lending Agreement Variation</i>	To maintain legal professional privilege – Section 7(2)(g) To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h) To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i)	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.

Cr Laws left the meeting at 4:36 pm.

12. CLOSURE

There was no further business and Chairperson Robertson declared the meeting closed at 4:34 pm.



Chairperson

26 April 2023

Date