

OTAGO REGIONAL COUNCIL

Agenda for a meeting of the Policy Committee to be held in the Council Chamber, 70 Stafford Street, Dunedin on Wednesday 3 May 2017, following the Technical Committee

Membership:

- Cr Gretchen Robertson** (Chairperson)
- Cr Michael Laws** (Deputy Chairperson)
- Cr Graeme Bell**
- Cr Doug Brown**
- Cr Michael Deaker**
- Cr Carmen Hope**
- Cr Trevor Kempton**
- Cr Sam Neill**
- Cr Andrew Noone**
- Cr Bryan Scott**
- Cr Stephen Woodhead**

Apologies:

In attendance:

**Please note that there is an embargo on agenda items until 8.30 am on
Monday, 1 May 2017.**

CONFIRMATION OF AGENDA

CONFLICT OF INTEREST

PUBLIC FORUM

MINUTES

The minutes of the meeting held on 22 March 2017, having been circulated for adoption.

ACTIONS

Status report on the resolutions of the Policy Committee.

Report No.	Meeting	Resolution	Status
2016/1139 Terms of Reference for the Policy Committee	23/11/16	<i>That the Terms of Reference for the Policy Committee be considered a final version to be presented to the Council on 7 December 2016 for adoption</i>	Completed
2017/0679 Director's report on policy progress to March 2017	22/3/17	<i>Request legal clarification of appropriate mediation reporting to councillors</i>	Agenda item 3 of Policy Committee – 3 May 2017

PART A – RECOMMENDATIONS

Page Nos.

- Item 1
2017/0751 **Director's Report on policy progress to April 2017.** DPPRM, 13/04/17

-

The report gives an overview of significant activities undertaken by the Policy section for the period 10 March to 13 April 2017.

Attached to this report are several technical reports referred to in previous Director Reports, for Councillor's information and receipt. These reports support the Urban Water Quality Strategy, and Coastal Strategy project.

The following appendices are circulated separately with the agenda.

PART B - FOR NOTING

- Item 2
2017/0759 **Resource Legislation Amendment Act 2017.** DPPRM, 19/4/17

-

The Resource Legislation Amendment Bill passed its final reading on 6 April 2017, with most provisions coming into force as soon as Royal assent was received on 18 April 2017. The new Act amends a number of pieces of legislation, including the Resource Management Act (RMA), Public Works Act, Environment Protection Authority Act and Conservation Act.

The report summarises the main changes with implications for Council.

The report entitled "*Checklist for councils: New Mandatory actions form the 2017 Resource Legislation Amendments*" is appended to the report.

Item 3
2017/0770

Environment Court Mediation. DPPRM, 20/4/17

-

The report provides a response to Council request for a legal clarification of appropriate mediation reporting to Councillors.

OTAGO REGIONAL COUNCIL

Minutes of a meeting of the Policy Committee held in the Council Chamber, 70 Stafford Street, Dunedin on Wednesday 22 March 2017, commencing at 11:01am

Membership: Cr Gretchen Robertson (Chairperson)
Cr Michael Laws (Deputy Chairperson)
Cr Graeme Bell
Cr Doug Brown
Cr Michael Deaker
Cr Carmen Hope
Cr Trevor Kempton
Cr Sam Neill
Cr Andrew Noone
Cr Bryan Scott
Cr Stephen Woodhead

Apologies: Nil

In attendance: Peter Bodeker
Scott MacLean
Gavin Palmer
Caroline Rowe
Nick Donnelly
Marian Weaver (for the Director PPRM)

CONFIRMATION OF AGENDA

The agenda was confirmed as listed.

CONFLICT OF INTEREST

There were no conflicts of interest advised.

PUBLIC FORUM

No public forum was held.

MINUTES

The minutes of the meeting held on 8 February 2017, having been circulated were adopted on the motion of Crs Noone and Hope.

PART A – RECOMMENDATIONS

Item 2

2017/0679 **Director's Report on policy progress to March 2017.** DPPRM,
22/03/17

The report provided an overview of significant activities undertaken by the Policy section for the period 21 January to 10 March 2017.

The following appendices were circulated separately with the agenda.

Appendix 1: *Waterways Research: Qualitative and Quantitative Findings*, a report prepared by Versus Research for the Otago Regional Council, December 2016

Appendix 2: *Literature review of the risks and adverse effects from discharges of stormwater, wastewater, industrial and trade waste, and other hazardous substances in Otago*

Appendix 3:

- *Coastal Environment of Otago Natural Character and Outstanding Natural Features and Landscapes Assessments*
- *Natural Features and Natural Landscapes Assessments*
- *Natural Character Assessment Sheets for:*
 - *Clutha District*
 - *Dunedin City*
 - *Waitaki District*

Clean Water 2017

A request was made for staff to table a paper to the 5 April Council meeting. The submission deadline was confirmed as 28 April 2017.

Review of RPS

During the course of discussion, staff provided explanations of the principles of court assisted mediation, the role of delegated staff, confidentiality of mediation outcomes and the report back process.

A request was made for the Chief Executive to seek a legal opinion on the definition/interpretation of the word “parties” in the Environment Court mediation process. The legal opinion to include how this affects the role of councillors, where a delegation has been made to staff. This information to be circulated to councillors.

Cr Kempton left the room at 11:14am and returned at 11:18am

Water Quality, Biodiversity and Coastal Strategies

Discussion was held on the reports attached to the Director's report for waterways research and coastal values assessment to be received by Council. Staff confirmed once the reports were endorsed by Council they would be circulated to all parties and be available on the ORC website.

A request was made for an executive summary be included with these reports at release, providing a brief on the purpose of the report.

Moved Cr Scott
Seconded Cr Laws

Request legal clarification of appropriate mediation reporting to councillors.
(This motion was taken as the third recommendation of the report).

- a) *That the reports on the waterways research and coastal values assessments are received.*
- b) *That this report is noted.*
- c) *Request legal clarification of appropriate mediation reporting to councillors*

Motion carried

PART B - FOR NOTING

Item 1
2017/0719 **Plan Change 1D: Flow Requirements for Water Takes.** DPPRM,
22/03/17

The report sought Council approval to proceed with preparation of Plan Change 1D: Flow Requirements for Water Takes, under the First Schedule of the Resource Management Act.

Discussion was held on matters including: when a residual flow is appropriate; how a residual flow is set; understanding of natural character and instream values; where residual flows should be monitored.

Staff commented on the report and responded to questions from Councillors.

Moved Cr Deaker
Seconded Cr Laws

That the recommendation “That Council proceed with preparation of Plan Change 1D: Flow Requirements for Water Takes, under the First Schedule of the Resource Management Act.” be left to lie on the table until activated again.

A division was called. Vote: For 10, Against 1

Motion carried

A request was made for staff to prepare a workshop to discuss the issues raised at the meeting.

The meeting was declared closed at 12:25pm

Chairperson

REPORT

Document ID: A993057

Report Number: 2017/0751

Prepared For: Policy Committee

Prepared By: Director Policy, Planning and Resource Management

Date: 13 April 2017

Subject: **Director's Report on Policy Progress April 2017**

This directorate report contributes towards:

Strategic Plan Goals:

1. Active resource stewardship
2. Active regional partnerships
3. Realisation of new opportunities

Annual Plan Projects

- G: Governance & Community
- L: Land
- P: Policy Development
- T: Transport
- W: Water

Proposed Regional Policy Statement:

1. Resource management is integrated
2. Kai Tahu values and interests are recognised and kaitiakitaka is expressed
3. The values of Otago's natural resources are recognised, maintained and enhanced
4. Communities in Otago are resilient, safe and healthy
5. People are able to use and enjoy Otago's natural and built environment

1. POLICY RESPONSES

1.1 National Policies, Strategies and Plans

The following were received over the five-week period to 13 April 2017:

Agency	Number	Document
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None

The following responses were made over the seven-week period:

Proposal	Response Type	Issues
MfE – Draft NES Plantation Forestry regulations	Submission	ORC provided feedback on the draft regulations. ORC has previously communicated its concern that the

		regulating of the forestry industry with an NES which is not effects based is inconsistent with the framework of the RMA and consequently the ORC water plan.
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1.2 Territorial Authority and Regional Authority Plan Changes and Resource Consent Applications

The following were received over the seven-week period to 13 April 2017:

Agency	Number Received	Document
CODC	1	Resource Consent application
DCC	2	Resource Consent application

The following responses were made over the seven-week period:

Proposal	Response Type	Issues
Shotover Country Limited's Special Housing Area development	Hearing	<p>ORC presented at the hearing outlining its concerns around natural hazards the site is subject to. It was confirmed at the hearing QLDC will take responsibility in perpetuity for the physical hazard mitigation structures.</p> <p>ORC is awaiting the decision which cannot be appealed under the HASHA Act.</p>

1.3 Other Proposals

Proposal	Response Type	Issues
NZ Productivity Commission - Better Urban Planning	No response required	Sets out the Commission's findings relating to a future urban planning framework. Refer to section 1.5 below.

1.4 Urban Development Authorities

The government released a discussion document, 'Urban Development Authorities', in February 2017, which sets out a proposal for the introduction of urban development authorities to enable nationally or local significant urban development projects to be built more quickly. Submissions close on 19 May 2017.

In summary, a city or district council could apply to the Minister for the Environment to establish such an authority, to deliver agreed objectives within a set time. The powers potentially available for an urban development project would relate to:

- Land – powers to assemble parcels of land, including existing compulsory acquisition powers under the Public Works Act 1981;
- Planning and resource consenting – powers to override existing and proposed district and regional plans (including the Regional Policy Statement), and streamlined consenting processes;

- Infrastructure – powers to plan and build infrastructure such as roads, water pipes and reserves;
- Funding – powers to buy, sell and lease land and buildings; powers to borrow to fund infrastructure; and powers to levy charges to cover infrastructure costs.

The relevant powers would apply to a particular project and would expire when the project is completed.

This proposal could have significant implications for Council if such an authority were to be established within Otago. A submission will be prepared.

Further information can be found on <http://www.mfe.govt.nz/more/towns-and-cities/urban-development-authorities-proposal> .

1.5 Better Urban Planning

The NZ Productivity Commission has released a 500-page report to Government, ‘Better Urban Planning’, in February 2017. This report presents their findings on New Zealand’s urban planning system, with the aim of setting out what a high-performing urban planning system would look like.

They concluded that the current system is failing to deliver on five critical goals. They then set out a future planning framework that would achieve these goals. The most important changes are listed:

1. Clearer statutory objectives and principles for the natural and built environments;
2. A revamped and cohesive set of regulatory plans for each region;
3. Timely and systematic review of plans by Independent Hearings Panels; and
4. New mechanisms and models to free up supply of infrastructure-service land for development.

These proposals foreshadow further changes to the RMA, Local Government Act and Land Transport Management Act.

The full report can be found at <http://www.productivity.govt.nz/inquiry-content/2682?stage=4> .

2. ORC: POLICY, PLANS AND STRATEGIES

2.1 Review of Regional Policy Statement

Twenty six appeals have been received on the proposed Regional Policy Statement. In addition to most of these parties lodging an interest in becoming party to another appellant’s appeal, a further 18 new parties have joined in, as provided for under Section 274 of the RMA.

Two weeks of Court assisted mediation have now been completed, and good progress is being made. The Court has agreed to a further three days of mediation. In the meantime, discussions with the various parties are ongoing. A number of matters have been resolved, subject to how the balance of changes unfolds.

At this stage, the Environment Court is still reserving time in July for hearing any unresolved appeals.

2.2 Comprehensive Water Quality Strategy

The preliminary urban water quality goal tree has now been shared with all city and district councils (councillors and staff), Kai Tahu and Public Health South.

On 26 and 27 April 2017 the Water Quality Strategy Workshop will be held at the Dunedin Public Art Gallery, bringing together councillors, key stakeholders and technical experts. Planning is well in hand for this event.

The Forum will be followed by a brief round of consultation with the community, in the middle of May, testing the approach that is being developed using some form of on-line engagement.

2.3 Biodiversity Strategy

The Biodiversity Reference Group has now met for the first time. The group identified a number of outcomes that they would like to see achieved in managing biodiversity, and met with consultants from Wildlands and Beca who have been contracted to prepare the Ecosystems and Biological Diversity Strategy.

2.4 Proposed Plan Change for Lower Waitaki Aquifer

Staff are discussing a possible plan change with the Lower Waitaki Irrigation Company Limited. It would set tailor-made groundwater quality limits for the Lower Waitaki Aquifer in Schedule 15 of the Regional Plan: Water for Otago. The proposal arises from mediation agreements with respect to Plan Change 6A (Water Quality). A presentation will be made to a Council workshop in the near future.

3. WATER QUANTITY PLANNING

3.1 Proposed Plan Change 5A Lindis: Integrated water management

Council received 1 appeal on Proposed Plan Change 5A Lindis: integrated water management, while a further 15 Section 274 parties to the proceedings notices have been lodged.

Environment Court-assisted mediation was held on 8 and 9 December 2016, with some 25 people attending. Further hydrological, cultural, and ecological investigations and a social impact assessment have been undertaken as a result of this mediation.

The parties have agreed to report back to the Court by 28 April 2017 on progress and potential dates for reconvened mediation.

3.2 Proposed Plan Change 5D Cardrona: Integrated water management

Preliminary work is being undertaken to resume the development of an integrated water management plan change for the water resources in the Cardrona catchment and the Wanaka Flats (the Cardrona River, Cardrona Alluvial Ribbon Aquifer and Wanaka-Cardrona Aquifer).

Project management materials (including Terms of Reference, Project Execution Plan, Programme Gantt Chart, Risk Register) have been prepared, and existing technical reports are being updated.

The next consultation round on the options for managing water quantity in the catchment is tentatively scheduled for mid-late 2017.

3.3 Proposed Plan Change 5C: Manuherikia Catchment: Integrated water management

First community consultation on options for the plan change occurred on 21 to 23 March in Oturehua, Omakau and Alexandra. Drop-in sessions were held from 1:00 pm to 3:00 pm and 6:30 pm to 8:00 pm at each location. At the drop-ins the community had the opportunity to discuss the options with council staff, take information on the options home with them, and provide feedback. Feedback could also be provided via a feedback form, an online feedback form or via email. Feedback has been received from 120 individuals/groups. This feedback will be summarised and the summary made available on the council website.

Along with receiving community feedback, a Social Impact Assessment, Cultural Impact Assessment, and an Economic Assessment are being commissioned. These reports are anticipated to be received mid this year.

A draft plan change will then be developed, using all technical and scientific investigation to date, all consultation feedback, and the economic, cultural, and social reports. The draft plan change will then be workshopped with councillors and presented to the community for feedback later this year, before a proposed plan change is formally notified.

3.4 Proposed Plan Change 1D: Flow Requirements for Water Takes

Plan Change 1D: Flow Requirements for Water Takes is currently on hold.

3.5 Proposed Plan Change 3E: Arrow catchment minimum flow

Preliminary work is being undertaken on development of a minimum flow plan change for the surface water in the Arrow catchment, and the connected Arrow Bush Creek Ribbon Aquifer.

Project management materials (including Terms of Reference, Project Execution Plan, Programme Gantt Chart, Risk Register) have been prepared and existing technical reports are being updated.

The first stage of consultation is tentatively scheduled for mid-2017.

4. REGIONAL TRANSPORT

Regional Transport Committees' Roadshow

The Otago and Southland Regional Transport Committees (RTCs) are holding Roadshows to introduce the Regional Transport Committees to the district/city councillors, and to explain the Regional Land Transport Plans (RLTPs), as well as NZ

Transport Agency's approach to state highway investment and to its planning and investment function. At the time of writing, Roadshows so far: have been held with Clutha, Queenstown Lakes, Central Otago and Waitaki District Councils and Dunedin City Councils; and are planned for Gore and Southland District Councils and Invercargill City Council.

At the four Roadshows held already, territorial authority councillors noted they liked the close working relationship portrayed by the joint presentation: central government, the two regional councils and the territorial authorities working together. Many of the questions from councillors sought to gain a better understanding of the funding process between their council and the RTC. Territorial authority councillors noted that this was the first time that they had a full presentation on the RLTP, the RTC and related roading matters; they greatly appreciated the opportunity. Some councils raised the local government annual planning timeline and the RLTP timeline not aligning well; these councils are likely to raise this matter through LGNZ in an effort to get the timing of these processes better aligned.

South Island Regional Transport Committees collaboration

Councillors Trevor Kempton (Chair, Otago RTC) and Graeme Bell (Deputy Chair, Otago RTC), and ORC Manager Strategic and Transport Planning attended a meeting of the South Island Regional Transport Chairs held in Christchurch on 20 March 2017.

The meeting covered the following topics:

1. Confirmation that the collaboration charter is still fit-for-purpose (a further objective was added concerning improving the resilience and security of the South island transport network);
2. Development of a joint work programme (explained below);
3. Endorsement of a common message to go in the front of all South Island RLTPs;
4. Presentation from Ministry of Transport (MOT) officials on the draft Government Policy Statement on Land Transport (GPS);
5. Presentation on NZ Transport Agency's vision;
6. Content of a proposed submission on the draft GPS [subsequently sent] from the Chairs group.

The Chairs group agreed the following initial action steps for a joint South Island work programme:

- Jointly funding and scoping the work required to prepare a South Island-wide network model and a South Island-wide visitor flows model (working with NZTA/MOT; by August 2017, to enable the requisite funding to be included in RLTPs and LTPs for 2018-21)
- Identifying existing resilience information for South Island transport network.

The regional and unitary councils, ORC included, have started on this work.

5. ATTACHMENTS

Attached to this report are several technical reports referred to in previous Director Reports, for Councillor's information and receipt. These reports support the Urban Water Quality Strategy, and Coastal Strategy project.

6. RECOMMENDATION

- a) *That the reports on the waterways research, effects from urban discharges and coastal values assessments are received.*
- b) *That this report is noted.*

Fraser McRae

Director Policy Planning and Resource Management

Appendices:

Appendix 1: *Waterways Research: Qualitative and Quantitative Findings', a report prepared by Versus Research for the Otago Regional Council, December 2016*

Appendix 2: *Literature review of the risks and adverse effects from discharges of stormwater, wastewater, industrial and trade waste, and other hazardous substances in Otago*

Appendix 3:

- *Coastal Environment of Otago Natural Character and Outstanding Natural Features and Landscapes Assessments*
- *Natural Features and Natural Landscapes Assessments*
- *Natural Character Assessment Sheets for:*
 - *Clutha District*
 - *Dunedin City*
 - *Waitaki District*

REPORT

Document ID: A994052

Report Number: 2017/0759

Prepared For: Policy

Prepared By: Manager Policy

Date: 19 April 2017

Subject: **Resource Legislation Amendment Act 2017**

1. Précis

The Resource Legislation Amendment Bill passed its final reading on 6 April 2017, with most provisions coming into force as soon as Royal assent was received on 18 April 2017. The new Act amends a number of pieces of legislation, including the Resource Management Act (RMA), Public Works Act, Environment Protection Authority Act and Conservation Act.

This report summarises the main changes with implications for Council, however it is not an in-depth analysis.

2. Main changes with implications for Council

2.1 *Significant natural hazard risk*

The management of significant risks from natural hazards becomes a matter of national importance under Section 6 RMA. The Ministry for the Environment (MfE) is expected to begin consulting on a new National Policy Statement for Natural Hazard Management soon which will provide clearer direction as to what this may mean in practice. Council supported this change.

2.2 *Procedural principles*

The requirement to carry out RMA functions in a timely, efficient, consistent and cost-effective way is now made explicit in new section 18A RMA. Council already strives to achieve this outcome.

2.3 *New functions re residential and business development capacity*

Both regional councils and territorial authorities are given new functions to ensure long term development capacity of residential and business land (under sections 30 and 31 RMA). This more clearly formalises the new NPS Urban Development Capacity requirements within the RMA.

2.4 *Administrative charges*

The new provisions relating to setting of administrative charges (sections 36, 36AAA and 36 AAB RMA) enable local authorities to recover the reasonable costs incurred by the local authority in respect of the activity to which the charge relates. Council had submitted that these provisions clearly enable charges to be set to monitor permitted activities; however this clarification has not been made.

2.5 National environmental standards

The new provisions enable the Minister to set national environmental standards generally, within a specified district or region, or for any specified part of New Zealand (section 43 RMA). Changes introduced to the Bill clarify what prevails over any new national environmental standard. Council had opposed this unfettered ability for governmental involvement in resource management at any level.

2.6 National planning standards

The draft Bill provided for the development of national planning templates to provide a more consistent nation-wide approach to plan writing. These templates are renamed as National Planning Standards (Planning Standards) and they will apply to regional policy statements, regional plans, district plans and any changes or variations to the above (new sections 58B – 58I RMA).

The first set of Planning Standards must be prepared within 2 years and will set out, as a minimum:

- a structure and form for policy statements and plans;
- include references to relevant national planning instruments and regulations;
- definitions;
- requirements for electronic functionality and accessibility

Some Planning Standards will be incorporated directly into policy statements and plans by amendment, within a year. Other planning Standards will still need to be worked through the Schedule 1 plan change consultation processes, within the specified time or if no time is specified, within 5 years of the policy statement or plan becoming operative.

It is difficult to assess the scale of impact of these requirements. Council will be commencing full reviews of its regional plans (Coast, Air, Water, and Waste) over the next few years, as provided for in the Long Term Plan. The impact could be minimal if the new Planning Standards provide a framework that aligns with Otago's planning approach. However, if the planning approaches are different – and this is the situation with freshwater management – then substantial reworking and additional costs could result, both to Council and resource users.

2.7 Iwi participation arrangements – *Mana Whakahono a Rohe*

A new mechanism is provided for iwi authorities and local authorities to establish how tangata whenua, through their iwi authorities, are to participate in resource management and decision-making processes under the RMA (new sections 58K – 58T). Such an arrangement can be initiated by either the iwi authority or the local authority.

It is unknown how these provisions may alter the relationship that Council already has with Kai Tahu ki Otago Limited and Te Ao Marama Incorporated.

2.8 New planning processes: *collaborative and streamlined*

Two new planning processes are introduced, largely as proposed in the original Bill (sections 80A – 80C and Schedule 1 new Parts 4 and 5). The new processes are optional, and used instead of the current Schedule 1 plan making process. Approval of the responsible Minister is required for use of the streamlined process. Council submitted that these processes should be optional.

2.9 Notification of consent applications

While the provisions for public notification or limited notification of consent applications have been changed (sections 95 – 95E RMA), restrictions limiting who is an affected party in the original proposal have been removed, in line with Council's submission.

2.10 Subdivision and natural hazards

A preliminary reading of provisions relating to the approval of subdivision applications indicates that consent can only be declined if the activity has non-complying status in the district plan (Section 108 RMA). It is unclear whether Council would be considered an affected party for restricted discretionary or discretionary activity status subdivisions (sections 95A – 95E RMA). Legal opinion is being sought.

2.11 Stock exclusion from waterways

New regulations are introduced for stock exclusion, including provisions for infringements (section 260(1) RMA). Amendments made clarify that more stringent rules prevail. Regulations may also require that inconsistent rules are withdrawn or amended.

2.12 Other matters

A number of other changes are made, including to the work of the Environment Protection Authority, designation processes, conditions of resource consents, fixing of charges, electronic transfer of information and management of activities within the Exclusive Economic Zone.

The 'Checklist for Councils: New Mandatory actions from the 2017 Resource Legislation Amendments' provides a concise summary of the full suite of changes and is attached as Appendix 1.

3. Recommendation

That the report is received.

Fraser McRae
Director Policy, Planning and Resource Management

Appendix 1



Resource Legislation Amendments 2017

Checklist for councils: New mandatory actions from the 2017 Resource Legislation Amendments

The Resource Legislation Amendment Bill became law on 18 April 2017. This table lists the new actions that councils must take to implement the changes. It does not include:

- new *optional* processes for councils
- mandatory requirements that may arise through new *regulations, national policy statements, or national environmental standards* that may be issued under the RMA

Topic	RMA section(s)	Task	Fact sheet number (for more info)
<i>Apply from day after [Royal Assent]</i>			
Natural hazards	s6	Recognise and provide for management of significant risks from natural hazards.	2
Animal drinking water	s14	Treat 'natural' and 'non-natural' persons (including companies and trusts) the same as private individuals when managing animal drinking water.	2
Procedural principles	s18A	Incorporate new principles for efficiency, clarity and collaboration in council RMA procedures.	2
Development capacity	s30-31	Establish, implement and review objectives, policies and methods to ensure sufficient development capacity to meet long-term demands of the region/district/city (also see NPS Urban Development Capacity).	2
Hazardous Substances	s30 and s31	Be aware that regional and territorial authorities no longer have the explicit function to control certain matters related to hazardous substances.	2
Section 32 reports	s32	Include iwi authority advice and the response to this in section 32 evaluation reports.	3

Topic	RMA section(s)	Task	Fact sheet number (for more info)
Plan hearing panel	s34A	Consult iwi about including a commissioner with tikanga Maori and local iwi/hapu perspective to a plan hearing panel, and appoint if appropriate.	3
Monitoring RMA processes	s35	Monitor efficiency and effectiveness of council processes, powers, functions, duties.	2
Mana whakahono a rohe/iwi participation arrangement	s35A, s58K-T, cl 1A, 1B and 26A of Schedule 1	Respond to requests by iwi authorities for a mana whakahono a rohe/iwi participation arrangement, and prepare it within 18 months (unless otherwise agreed) – see new section 58P Keep records about these arrangements.	3
Combined plans	s80	Apply RMA Part 5 requirements when preparing a combined plan.	4
Written notice to requiring authorities about district plan reviews	Schedule 1 cl 4	State which planning process the council intends to use (SPP, CPP or Part 1 Schedule 1) in written notices to requiring authorities (and other information if the council intends to use the collaborative planning process).	4, 5 and 6
Iwi input to draft plans	Schedule 1 cl 4A	Seek and have particular regard to iwi advice on draft policy statements and plans.	3
Land acquisition	<i>Public Works Act</i> s 72 – 72E	Adjust compensation payments for taking private land under the Public Works Act.	16
Apply from 1 October 2017			
Public notices	s2AB	Publish public notices on an internet site, with a summary in one or more newspapers. Ensure the notice and the short summary are worded in clear and concise manner.	13
Subdivision	s11	Check implications of subdivision being permitted unless it is restricted by a rule in a NES or a plan.	2
	s6, 106, and 220	Ensure subdivision consent processes incorporate new requirements related to natural hazards.	10
Fast-track consents	s87AAC and 87AAD	Apply new consent process for fast-track consent applications.	8
Boundary activities	s87AAB – 87BA	Establish a system to record, charge and issue notices for permitted ‘boundary activities’.	8
Consent Exemptions	s87BB	Establish a system to record, charge and issue resource consent waivers for marginal/temporary non-compliance.	8
Consent notification	s95 – 95E	Apply new step by step process to determine public or limited notification of resource consent applications.	9
Consent decisions	s104	Have regard to measures proposed by an applicant to offset or compensate for adverse effects	10
	s108AA	Ensure resource consent conditions comply with new section 108AA.	10
Consent appeals	s120	Ensure that any advice is consistent with the new limits on Environment Court appeal rights.	14

Topic	RMA section(s)	Task	Fact sheet number (for more info)
Electronic address	s352	If a person has specified an electronic address for service, and has not requested an alternative, ensure the electronic address is used as an address for service.	13
Objections to consents	s357AB, 357C, and 357CA	Incorporate independent commissioner changes to the objection process for consents.	14
Plan-making extensions	Schedule 1 clause s10A	If required, apply to the Minister for any extension to the 2-year timeframe for plan-making.	4
<i>Apply within one year of first national planning standards publication (which will be within 2 years of [Royal Assent])</i>			
National planning standards	s58H	Amend planning documents to give effect to the directions provided by the national planning standards that do not require using the Schedule 1 process, unless the standard itself provides a different timeframe.	1
Online plans	s58J	Ensure all planning documents (and changes/variations) are freely available for use on a single website	
<i>Apply within five years of [Royal Assent]</i>			
Financial contributions	Schedule 12 cl 18	Amend plans to remove financial contribution provisions.	4
<i>Apply within five years of first national planning standards publication</i>			
National planning standards	s58I	Amend planning documents to give effect to the national planning standards that require using the Schedule 1 process, unless the standard itself provides a different timeframe.	1

Find out more

Contact the Ministry for the Environment by emailing info@mfe.govt.nz or visit www.mfe.govt.nz/rma.

If you are a council staff member you can subscribe to the Resource Legislation Amendments forum on the Society of Local Government Managers 'LG Connect' service.

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REPORT

Document ID: A995947

Report Number: 2017/0770

Prepared For: Policy Committee

Prepared By: Marian Weaver

Date: 20 April 2017

Subject: Environment Court Mediation

1. Background

At the last Policy Committee meeting the following discussion took place:

“Action: Mr Bodeker to seek a legal opinion on the definition of the word “parties” and the interpretation of the word “parties” in the Environment Court mediation process. Including how does this affect the role of Councillors where a delegation has been made to staff, and to circulate this information to Councillors.

Mrs Weaver made the recommendation that the legal opinion include a statement on the effects of delegation.

Cr Robertson confirmed the need to identify who are the parties in the mediation process and what does this mean for those who hold delegated authority.

Reference was made to the practise note provided with the Environment Court mediation (and appended under the mediation procedures under the RMA); section 8 which refers to the confidentiality of the parties to mediation. One interpretation was given that as Council is named as a party, that the governance team is a part of Council and therefore a party member.”

It was Moved Cr Scott Seconded Cr Laws

Request legal clarification of appropriate mediation reporting to Councillors.

2. Legal opinion

A legal opinion was obtained and forms the base of the report below:

The Otago Regional Council (Council) is a “party” to Environment Court proceedings in various roles including applicant, appellant, respondent and s274 party to an appeal, depending on the matter before the Court. For Regional Plans and the RPS mediations Council is the respondent.

The Council as a body corporate is the “party”. The body corporate is established by the Local Government Act 2002. It comprises elected members, the Chief Executive and staff.

- Mediation is a voluntary process.
- What happens at mediation is confidential to parties.

- At least one of the Council representatives must have authority to make decisions binding on Council when in mediation.
- The Council has delegated various functions under the RMA and other legislation to staff positions. For mediation on appeals Council has delegated the ability to attend mediation and sign off agreements in mediation to resolve appeals to senior staff.
- If agreement is reached at mediation the outcome will be a Court Order. Orders made by the Court are publicly available and therefore can be reported to the Council.
- If mediation is unsuccessful, material prepared for mediation and what is said during mediation is privileged and cannot be used in subsequent Court proceedings.
- An outcome of mediation may be a private agreement between parties. The agreement may include a provision that the terms are confidential. If Council is a party to an agreement, it can be subject to official information requests¹.

3. Reporting to Council

Mediation outcomes and progress can be reported to Council, as elected members have a legitimate interest in legal proceedings that Council is involved in. The following applies:

- If a Court Order has been made as a consequence of mediation, it can be reported to Council in the public agenda and in open meeting.
- If mediation is not successful, or is ongoing, the reporting must be in that part of the agenda that is not publicly available and the reporting must be done in a public excluded part of the meeting.
- If a mediated outcome requires endorsement by elected members, then confidentiality must be preserved, at least until the outcome is approved by Council and completed with other parties.

Councillors individually are bound to respect the confidentiality of information conveyed in this manner and maintain the integrity of the mediation process.

4. Recommendation

That the report is noted.

Fraser McRae
Director Policy Planning and Resource Management

¹ Local Government Official Information and Meetings Act 1987