



POLICY COMMITTEE AGENDA

Wednesday, 20 March 2019

1:00 p.m., Council Chamber,
Level 2 Philip Laing House, 144 Rattray Street,
Dunedin

Membership

Cr Gretchen Robertson	<i>(Chairperson)</i>
Cr Michael Laws	<i>(Deputy Chairperson)</i>
Cr Graeme Bell	
Cr Doug Brown	
Cr Michael Deaker	
Cr Carmen Hope	
Cr Trevor Kempton	
Cr Ella Lawton	
Cr Sam Neill	
Cr Andrew Noone	
Cr Bryan Scott	
Cr Stephen Woodhead	

Disclaimer

Please note that there is an embargo on agenda items until 48 hours prior to the meeting. Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

For our future

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1. APOLOGIES

Cr Andrew Noone

2. LEAVE OF ABSENCE

3. ATTENDANCE

4. 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.

5. 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.

6. PUBLIC FORUM

7. PRESENTATIONS

8. CONFIRMATION OF MINUTES

Recommendation

That the minutes of the meeting held on 30 January 2019 be received and confirmed as a true and accurate record.

Attachments

1. Minutes of Policy Committee - 30 January 2019 **[8.1.1]**

9. ACTIONS

Status report on the resolutions of the Policy Committee

Draft Biodiversity Strategy Feedback	13/06/18	<i>That a paper on implementation be brought to the Policy Committee in the next 2-3 months</i>	ON HOLD. Strategy out. Reference group meeting to be held before end of year and bring the next stage to Policy Committee in 2019
Minimum Flow Plan Change Update	01/08/18	<i>That the CEO engage an appropriately qualified facilitator to help consultation associated with Priority Catchments Minimum Flows and Residual Flow Plan Change. (Mrs Gardner advised this action was in process, with a facilitator to be appointed.)</i>	In process. Facilitator has been arranged for community engagement. Further discussion to be held in item 10.4 of the agenda.

Biodiversity Action Plan	17/10/18	<i>Approve the draft Biodiversity Action Plan in Attachment 2 for consultation with iwi and key stakeholders before a final draft is brought back to this committee for approval on 28 November 2018.</i>	ON HOLD.
Options for resolution on Priority Catchments Minimum Flow	29/11/18	<i>That Council undertake a targeted community consultation meeting regarding the three options listed in the report</i>	IN PROGRESS

10. MATTERS FOR COUNCIL DECISION

10.1. New Approach for managing water in the Priority Catchments

Prepared for:	Policy Committee
Report No.	PPRM1878
Activity:	Governance Report
Author:	Tom De Pelsemaeker, Senior Policy Analyst
Endorsed by:	Andrew Newman, Acting Director Policy, Planning & Resource Management
Date:	4 March 2019

PURPOSE

- [1] The purpose of this report is to present the Policy Committee with:
- An overview of the feedback received from our iwi partners, stakeholders and consultants during and after the recent meeting in Cromwell, on a proposal for progressing the development of water management plans for the Arrow, Cardrona and Manuherikia (*Manuherekia*) catchments.
 - A recommendation to progress the development of water management plans for these three catchments.

EXECUTIVE SUMMARY

- [2] Following a recent Council workshop that outlined a possible new approach to progressing our policy work in the Arrow, Cardrona and Manuherikia catchments, further discussions were held with our iwi partners ahead of a meeting in Cromwell on 26 February 2019. While our partners have always maintained a “do it once and do it right” position for this work and a desire that catchments be managed holistically, ORC staff understood there was some support, although not a preference, for the approach later discussed with other stakeholders, with our iwi partners present, in Cromwell.
- [3] This new approach provides for notifying two plan changes for managing water in these catchments prior to 2021. Both plan changes are intended to be parts of Chapters of the reviewed Water Plan for Otago, which in accordance with the Progressive Implementation Plan (P.I.P) will be completed by 31 December 2025. It is proposed that the Otago Regional Council (ORC) endorses this new approach.

RECOMMENDATION

That the Council:

- 1) **Notes** the feedback received from our iwi partners, consultants and stakeholders on the proposed new approach for progressing the development of water management plans for the Arrow, Cardrona and Manuherikia (*Manuherekia*) catchments.
- 2) **Adopts** the proposal to: simultaneously develop a set of principles for the overarching regional water plan consistent with the values and intent of the partnership with Iwi.

- 3) **Note** that many but possibly not all of these principles will already be developed within existing ORC policies and plans i.e., the regional Policy Statement
- 4) **Agree** the relationship agreement with Aukaha be further developed with a view to formalising it between ORC and Ngai Tahu thereby enabling a systematic approach to be undertaken on the plan development process at a staff level.
- 5) **Initiate** the development of two plan changes to set freshwater objectives and comprehensive planning framework for managing water in the Arrow, Cardrona and Manuherikia (Manuherekia) catchments in accordance with the process outlined in policies CA1-CA4 of the National Policy Statement for Freshwater Management 2014 (amended 2017)
- 6) **Notify** before 1 January 2021 the plan changes for managing water in the Arrow, Cardrona and Manuherikia (Manuherekia) catchments as pilots for Stage 1 of the full Water Plan review
- 7) **Establish** a Technical Advisory Group (TAG) and Community Reference Group (CRG), with formalised terms of reference, to provide ongoing technical and strategic advice and input to the ORC that supports the delivery of the plan change for managing water in the Manuherikia (Manuherekia) catchment.
- 8) **Consider** the skills and capabilities of an individual or individuals to co-chair the reference group.

BACKGROUND

- [4] At the Council meeting on 29 November 2018, staff presented Councillors with three options for progressing the minimum flow setting process in the Arrow, Cardrona and Manuherikia (Manuherekia) Priority Catchments (Priority Catchments) in accordance with the process outlined in National Policy Statement for Freshwater Management 2014 (amended 2017) (NPSFM). At this meeting the Otago Regional Council (ORC) resolved to discuss these options further with key stakeholders.
- [5] A facilitated consultant and stakeholder workshop was organised by ORC staff in Cromwell on 13 December 2018 to discuss those options. At this workshop the three original options were debated, and seven new options promulgated. Representatives from our iwi partners, the Department of Conservation, Fish and Game, Central Otago Environmental Society, Irrigation NZ, rural land users, the territorial authorities, irrigation companies and local consulting firms were all in attendance.
- [6] No clear preference for one option emerged as a result of the meeting, however there was strong consensus between the majority of the parties involved in this consultation that whichever option was progressed, there was a need for:
 - a clear, effective and efficient process;
 - a focus on outcomes and solutions;
 - compliance with the requirements of the NPSFM.

Some parties also emphasised the need for longer term certainty around resource management decisions, while others expressed a desire to apply a holistic and comprehensive approach to managing the region's natural resources.

[7] The feedback received during the December 2018 consultant and stakeholder workshop, and the seven alternative options that were identified during this workshop, were presented back to the Councillors during the 30 January 2019 Policy Committee Meeting. At this meeting Council resolved to:

- *Further engage with stakeholders on the options previously identified, as well as the option of: "A full plan review and FMU process to be the single policy process to address water management in the Manuherikia (Manuherekia), Arrow, and Cardrona catchments, and; deemed permits to be consented under the existing Regional Plan Water Framework. "*

ISSUE

[8] The feedback received from Councillors and stakeholders over the period November to January 2019 was used by staff to further refine and develop one of the options into a proposal for a new approach for progressing the development of water management plans for the Priority Catchments.

[9] This new approach was presented to Councillors during a Council workshop on 22 February 2019. At this workshop, councillors agreed to discuss this new approach with our iwi partners and present it with key stakeholders during an upcoming facilitated workshop on 26 February 2019.

DISCUSSION

[10] ORC staff recognise and acknowledge the significance of the perspective our iwi partners bring to the challenges around water management in the Arrow, Cardrona and Manuherikia catchments.

[11] The importance of the partnership and the way we work together must be a focus and something that is developed with clarity in the near future, to ensure that we can give effect to the partnership appropriately during our Water Plan Review.

[12] In particular staff are acutely aware, and respect, the desire of our partners to see these catchments managed in a holistic manner through a process that ensures our decision making and policy setting is done comprehensively rather than in a piecemeal or largely iterative way.

[13] ORC staff have heard the request that the important work in these catchments be conducted in a way that delivers good long-term outcomes for the environment and its values, including its cultural values, ecological values, recreational values and water use values. ORC staff appreciate that our iwi partners value the robustness of this work over the more arbitrary timeframe to have new policy in place for deciding deemed permit applications.

[14] Staff also understand and support the development of principles as overarching policy for the region relating to water management. This would need to be a separate but concurrent workstream in the near future for both our iwi partners and our Policy Team.

[15] With the understanding of our partners and their perspectives in mind ORC staff have devised an approach which is intended to undertake the most holistic and robust policy setting process possible before we must determine the replacement of deemed permits in 2021. We fully recognise that if this timeframe is not met deemed permits will need to

be decided on existing policy and for terms that are sufficient to allow new policy to be determined.

Key aspects of the new approach

- [16] Our work with our iwi partners needs the support of a foundation agreement that defines not only our relationship but also our approach to working together for Otago and particularly on water. We intend to focus on developing this partnership and its supporting arrangements in the near future.
- [17] In addition, a new workstream is proposed to develop a set of “overarching principles” that will guide all future plan components developed at FMU/Catchment level including the priority catchments, i.e., the overall Regional Water Plan will retain its integrity whilst specific plans are developed progressively.
- [18] Addressing the approach for development of water management plans for the Priority Catchments is a further priority. It is intended that the development will be in two parts of what will become Chapters of the reviewed Water Plan for Otago. One part will be new policy that addresses water quantity and water quality (as far as possible) through a plan change for the Manuherekia and the other a plan change for the Arrow and Cardrona catchments.
- [19] The new approach is designed to be holistic (as in whole of catchment wide) while also taking a zonal approach to managing water in the Manuherekia (*Manuherekia*) catchment, whereby tailored management instruments would be used to address the various issues specific to each of the proposed zones.
- [20] The new approach provides for the following indicative timelines:
- Initiation phase of the new approach for progressing the development of a water management plan for the Priority Catchments: March - April 2019
 - Notify the Arrow and Cardrona plan change: end of 2019.
 - Notify the Manuherekia (*Manuherekia*) plan change: end of 2020.
 - Complete the full Water Plan Review: by 2025.
- [21] These timelines will be further finalised through the development of the detailed project plan. (See paragraph 31 of this report).
- [22] The scope of each of these plan changes includes the following:
- Setting Freshwater Objectives in consultation with the community;
 - Setting policies, rules and limits for managing surface water quantity; and
 - Setting policies, rules and limits for managing groundwater quantity.
- [23] Both plan changes will also endeavour to set in place a comprehensive framework for managing rural water quality in these catchments. It is proposed that the provisions and principles introduced to the Operative Plan under Plan Change 6A will continue to guide the framework for managing rural discharges in these catchments. Further changes to the framework for managing rural discharges may be proposed to bring these provisions in line with the requirements of the NPSFM. Some uncertainty remains around the ability to extend the scope of these plan changes to include the setting of provisions to manage urban discharges and groundwater quality (aquifer limits). It may not be possible to

undertake a full review of the current provisions for managing urban discharges and develop water quality limits for groundwater within the timeframes discussed above. These parts of the relevant Chapters of the Water Plan would be added before 2025.

- [24] Notifying these Plan Changes for the Priority Catchments prior to 2021 will have several benefits, including:
- Respecting, as far as possible, our iwi partners desires for one process that has a holistic catchment management focus and long-term resource management outcomes;
 - Providing better guidance for applicants (preparing applications to replace deemed permits) and council officers and decision-makers (involved in the processing and consideration of resource consent applications);
 - Providing more certainty for consent holders (to support investment decisions);
 - Reducing the need for ORC and our iwi partners, stakeholders and local communities to be involved in iterative consultation processes; and
 - Avoiding the need for future updates to the technical work that has been initiated and undertaken in recent years to support the setting of minimum flows in Priority Catchments.
- [25] Potential risks related to the new approach and any measures proposed to manage these risks will be discussed in detail in the detailed project plan (see paragraph 31 of this report).
- [26] To assist ORC in this work it is proposed that Council form a Technical Advisory Group (TAG) with formalised terms of reference i to provide technical advice on the development and execution of a technical work programme for the Manuherikia (*Manuherekia*) Plan Change and assist with the interpretation of the science information for policy development. It is envisaged that the TAG will include ORC staff and our iwi partners as well as one or two technical experts from key stakeholder organisations or agencies such as Manuherikia River Limited, the Department of Conservation and Otago Fish and Game Council.
- [27] The establishment of a Community Reference Group (CRG) is also proposed. This body, also with formalised terms of reference, is tasked with the provision of ongoing strategic advice to the ORC in support of the successful delivery of the plan change for managing water in the Manuherikia (*Manuherekia*) catchment. The CRG will be comprised of ORC staff and our iwi partners, individual representatives of community and interest groups, and relevant agencies.
- [28] It is proposed that the CRG will review and consider the benefit cost issues associated with a range of environmental scenarios – potentially zone by zone, which in turn will assist with forming a robust strategic view on the long-term water management options for the catchments.

Response from consultants and stakeholders on the new approach

- [29] The new approach for progressing the development of water management plans for the Priority Catchments was presented by ORC staff and with our iwi partners in attendance, to consultants and key stakeholders during a facilitated workshop in Cromwell on 26

February 2019 (a reference document outlining the various original and alternative options and introducing the new approach was distributed to invitees prior to the workshop, while the new approach was explained in greater detail by ORC staff during the workshop).

- [30] During the workshop participants were first asked whether they would support the new approach for progressing the development of water management plans for the Arrow, Cardrona and Manuherikia (*Manuherekia*) catchments. Most groups and participants gave qualified support for the timeframe and scope of the proposed approach for these catchments, and for this work being progressed in two separate efforts (one for the Arrow and Cardrona and one for the Manuherikia (*Manuherekia*)). The matters for which this support was qualified that were mentioned most often were on the grounds that:
- [31] Our iwi partners maintain their clear preference for a Water Plan Review that is done once and done well, with a holistic approach to water management and without the confines of driving a process to timeframes linked to deemed water permit replacement in 2021.
- ORC satisfactorily completes the technical work necessary to develop these plans;
 - ORC is adequately resourced for completing these work packages within the tight timeframe proposed; and
 - ORC recognises connectivity between water bodies and takes steps to ensure consistency between the management approach for these catchments and the approach that will be applied to managing water in the rest of the region.
- [32] Some groups gave unconditional support for the new approach, while some individuals did not support the approach, primarily because of concerns around the adequacy of the supporting information and the need for greater resourcing.
- [33] Responses to taking a zonal approach to this work were more varied, with some groups worried about connections across the catchment, and some individuals within one group suggesting a different basis for taking a zonal approach (e.g. divide zones based on issues rather than on bio-physical and land management characteristics)
- [34] Support for the formation of a Technical Advisory Group (TAG) and Community Reference Group (CRG) was unanimous but qualified.
- [35] A more detailed overview of the responses obtained during the workshop is included the meeting notes of the workshop, attached to this report as **Attachment 1**.

OPTIONS

- [36] Overall, it is considered that the proposed new approach for developing water management plans for the Priority Catchments is generally supported by key stakeholders and interested parties and achieves many of the key outcomes sought by these parties. It also provides a real opportunity to simplify the transition of deemed permits to water permits in these catchments.
- [37] If the ORC decides not to adopt the proposed new approach, various alternative options remain available, including:

- the options presented to Councillors during the 30 January 2019 Policy Committee Meeting. The costs and benefits of this options are discussed in the paper provided to Councillors prior to the 30 January Policy Committee workshop; and
- the option set out in the resolution of the Policy Committee drafted during the 30 January 2019 (See paragraph 5 of this report).

CONSIDERATIONS

Policy Considerations

[38] The proposed new approach for developing water management plans for the Priority Catchments fits within the Water Plan review framework as set out in the P.I.P adopted by Council.

Financial Considerations

[39] The Policy Team administers existing budgets for setting minimum flows in the priority catchments and general Water Planning.

[40] Additional resources will be required to simultaneously develop the overarching architecture of the Water Plan, support the Kai Tahu (Aukaha) partnership and enable systematic scenario development for Manuherikia specifically. Otherwise expenditures arising from the proposed new approach for developing a water management plan for the Priority Catchments will be funded from t budgets previously discussed for this coming annual plan budgets. Where costs arise directly from any further science work undertaken in support of this project (e.g. ecological surveys and hydrology), funding can be obtained from the appropriate budget(s) administered by the Resource Science Team.

[41] It is further proposed that separate ORC implementation teams are formed for Arrow/Cardrona and Manuherikia (*Manuherekia*) respectively. Whilst there will be some overlap in personnel (e.g. science) the intention is to keep the processes highly focused to ensure momentum is built and milestones deadlines are met. Cross-functional teams are also being considered so that consequential consent/compliance and land management issues are considered/embedded in the plan framework.

Significance and Engagement

[42] The proposed new approach for developing water management plans for the Priority Catchments will trigger ORC's Significance and Engagement Policy (SEP) as this project is likely to have potentially significant impacts on many people. In each Priority catchment the proposal will involve the roll-out of a consultation process prescribed by Schedule 1 of the Resource Management Act 1991 (RMA) and undertaken in accordance with the principles of the Local Government Act 2002 (LGA). For these reasons, the new approach is considered consistent with the SEP.

Legislative Considerations

[43] The Plan Change process proposed under the new approach is consistent with the requirements of the NPSFM 2014 (amended 2017).

Next Steps:

[44] If the ORC adopts the new approach, staff will commence the initiation phase for this project in conjunction with our iwi partners. This phase will *provide* for the following process steps:

- Continuation of the technical work needed to support the development of a water management plan for the Arrow, Cardrona and Manuherikia (*Manuherekia*) catchments.
- Development of detailed project plans for the delivery of the plan changes for the Arrow, Cardrona and Manuherikia (*Manuherekia*) catchments.
- Formation of dedicated ORC project teams tasked with the delivery of these plan changes in accordance with the project plan.
- Establishment of a Technical Advisory Group (TAG) with formalised terms of reference, comprised of technical experts from all key stakeholder groups.
- Establish a Community Reference Group (CRG) with formalised terms of reference comprised of individual representatives of community and interest groups, and relevant agencies.

ATTACHMENTS

1. Attachment 1 - ORC Water Allocation Workshop Report 26-2-19 **[10.1.1]**

11. MATTERS FOR NOTING

11.1. Director's Report on Progress

Prepared for:	Policy Committee
Report No.	PPRM1877
Activity:	Governance Report
Author:	Anita Dawe, Acting Manager Policy
Endorsed by:	Andrew Newman, Acting Director Policy, Planning & Resource Management
Date:	6 March 2019

PURPOSE

- [1] This report contributes toward the following Strategic Priorities from the Long-Term Plan 2018 -2028:
- Maintain and enhance the natural environment
 - Resilient communities that are engaged and connected to the Otago Regional Council
- [2] Future focused – readiness for change, proactive approach and risk focused

EXECUTIVE SUMMARY

- [3] The Directors Report focuses on emerging issues and these are presented at the front of the report. Some issues raised may be in their infancy, such as Central Government legislative changes that are signalled, and some will be a policy/planning project update that doesn't yet warrant a separate report.

STAFF RECOMMENDATION

That the Council:

- 1) **Receives** this report.

BACKGROUND

Emerging Issues

- [4] The Ministry for the Environments' latest newsletter (from 5 March) highlights some actions that will impact on ORC. They have signalled an intention to consult on amendments to the NPSFM (2014) and on options for fairly sharing responsibility for reducing nutrient discharges (nutrient allocation) in around July or August this year. The MfE also updated the work their advisory groups are engaged in across a range of issues, including how to better strengthen Te Mana o te Wai as the framework for freshwater management, how to better provide for ecosystem health, how to better protect wetlands and estuaries, ways to control high risk farming activities and limit

intensification, support to improve farm management practices and the nutrient allocation issue outlined above.

- [5] There is also progress on the at-risk catchments work, with workshops to better capture national level information in the vulnerability, risks and pressures in each catchment from a Te Ao Maori and western view.
- [6] Work is also progressing on the Three Waters review, led by the Department of Internal Affairs, which has the potential to impose additional regulatory requirements on regional councils. A decision from Cabinet on an alternative regulatory arrangement for three waters is expected in June.

Responses to external policies, plans etc

- [7] Council has a cost centre for time spent on submissions to Central Government and providing input and feedback to ensure District Plans' properly give effect to the RPS, and proposed RPS. As noted last month, this budget is currently overspent. Council has appealed several provisions in the Dunedin City 2GP, and as a consequence, this trend will continue. The staff time against this project is in line with anticipated budget forecasts. Consultants are continuing to assist with the QL District Plan appeals, and mediation has already occurred in January. Further mediation will be scheduled for the remainder of the financial year, and the first days of Environment Court hearings occurred in late February 2019.

Dunedin City Council District Plan Review (2GP) Decisions

- [8] ORC has become party to numerous lodged against the 2GP. These appeals relate to numerous provisions such as natural hazards, urban development, zoning, mining/quarrying and natural environment. ORC interests in these appeals largely relate to ensuring that the decision give effect to the operative and partially operative regional policy statements. Also, there are a number of appeals that look to revisit matters that ORC has previously been involved with. ORC needs to ensure its interests and responsibilities remain represented in these instances.

Proposed Regional Policy Statement

- [9] Staff are developing a workshop to consider the implications of the Partially Operative Otago RPS. This work has been delayed by contributions to the 2GP.
- [10] The High Court hearing on the Port topic has been set down for 5 and 6 June 2019. ORC and our legal counsel are in discussions with the parties involved to see if an acceptable compromise position can be reached before the hearing goes ahead.
- [11] The Environment Court is yet to release a decision on the Mining and Indigenous Biodiversity Offsetting topic, with the original hearing now over a year ago. Consent orders for Chapter 3 and the implementation section are also still with the court.

Biodiversity

Engagement in Central Government initiatives

- [12] Staff are engaging in the development of two significant pieces of central government policy on biodiversity: a review of the New Zealand Biodiversity Strategy (NZBS) led by the Department on Conservation (DoC), and a National Policy Statement on Indigenous Biodiversity (NPSIB) led by the Ministry for the Environment (MfE) and DoC.
- [13] Over the last few months staff have attended:
- a NZBS workshop in Dunedin;
 - a workshop for local government on the NPSIB in Wellington; and
 - a meeting of regional council representatives in Auckland to work towards a regional sector view on both documents.
- [14] It was initially indicated that the NPSIB would cover land, fresh water and coastal environments, however Ministers have decided to confine the scope of the NPSIB to terrestrial environments, including wetlands, at this stage.
- [15] Drafts of the NZBS and the NPSIB will be released for formal consultation in June/July 2019. Due to staff's early engagement, ORC will be well-placed to respond constructively when formal consultation commences.

Council's biodiversity/biosecurity work programme

- [16] In light of the ORC's new strategic priorities, one of which is Biodiversity/Biosecurity, work is underway to better integrate these two elements into a coherent and effective work programme going forward. In the week of 5 March, staff from different parts of Council visited Hawkes Bay Regional Council and Taranaki Regional Council to learn about their Biodiversity/Biosecurity work programmes. Discussions with these councils will inform the final version of the Biodiversity Action Plan, which will come back to this Committee for approval in May 2019.

Environment Court Hearing Plan Change 5A (Lindis: Integrated Water Management)

- [17] The Environment Court hearing commenced on 7 November 2018. The Court adjourned on 15 November 2018 and resumed again for a second round of hearings on 28, 29 and 30 January 2019 in Cromwell.
- [18] After the conclusion of the evidence of all expert witnesses on 30 January 2018, the Environment Court discussed the timetable for closing submissions and tentatively settled on the following due dates:
- 29th March 2019 for the S274 parties (The Department of Conservation, and Otago Fish and Game Council)
 - 26th April 2019 for the respondent (Otago regional Council) and appellant (Lindis Catchment Group)
- [19] During the hearing Environment Court Judge J R Jackson indicated that if the Environment Court were to grant resource consents to the applicant, it was likely to do so via an interim

decision in which the Court would not be settling the conditions on these resource consents. Judge J R Jackson also suggested that if consents were granted via an interim decision, the Environment Court would call upon the appeal parties to try and finalise a proposed set of consent conditions through expert conferencing. Judge Jackson expressed the hope that agreement between parties on the consent conditions would obviate the need for further hearing and cross-examination.

- [20] The Environment Court did not detail the timeframe for issuing a decision or interim decision.

Priority catchments minimum flow

- [21] A separate Council item is included that outlines the latest progress on the Three Priority Minimum Flows Catchments.

Mediation on the Queenstown Lakes Proposed District Plan

- [22] Progress on the appeals to the QLDP is continuing at speed, with mediations scheduled on back to back weeks, and with Environment Court hearings occurring as well. No particular technical issues have arisen so far, however with the pace of the mediations, availability of someone with delegation to sign off is challenging.

ATTACHMENTS

Nil

Appendix 1: Regulatory Responses

1.1 National Plans, Policies, Strategies

The following were received over the period to 1 March 2019:

Agency	Number	Document
None.	-	

The following responses were made over the period to 1 March 2019:

Proposal	Response Type	Issues
None		

1.2 Territorial Authority District Plan Changes and Reviews

The following summarises the current situation regarding changes and reviews of District Plans:

District or City	Change or review	Current situation
DCC	2GP: District Plan Review	ORC is preparing for mediation as a s274 party to a number of appeals. Staff are reviewing which appeals are a priority to continue being party to and attend mediation, and which appeals (due to further information or the withdrawal of an appeal) it can exit the process.
CODC	Review pending	ORC staff understand the earliest the plan review will commence is 2 nd half of 2019.
	PC13 (River Terrace)	Recommending Report is yet to be released.
QLDC	District Plan Review	Stage 1 of 4: Notified: 12 February 2016 Stage 1 decisions released 7 May 2018. Stage 2 notified 23 November 2017. Submissions closed 23 February 2018 ORC has appealed the decision on Stage 1, specifically the Subdivision and Development and Natural Hazards chapters, as the decisions do not give effect to the proposed Regional Policy

		Statement. Furthermore, under section 274 of the RMA, ORC has joined several appeals of other parties where those appeals are of interest/concern to ORC.
WDC	Review pending	Stage 1: Initial consultation underway Proposed Notification: ORC is seeking an update from WDC.
CDC	Notification of Plan Change 41A – variation to Milton Industrial Zone	ORC has reviewed the notified variation to Plan Change 41 which seeks to implement a structure plan for this 300ha area of industrial zoned land. ORC staff visited the site last year to assist the applicant understand any issues from ORC’s perspective and/or activities that would require ORC approval. The upshot of that visit was that certain activities to develop the land will require consent under ORC’s water plan and Flood Protection Management Bylaw. This new notification appeared consistent to all previous information ORC has received therefore ORC did not submit on it, but did provide comment confirming previous staff advice.

1.3 Territorial Authority and Regional Council Resource Consent Applications

The following were received over the period to 1 March 2019:

Agency	Number	Document
DCC	2	Resource Consent applications Issues: rural development
CODC	4	Resource Consent applications

QLDC	6	Resource Consent applications Issues: Subdivision and commercial developments of small to medium scale
QLDC	1	Special Housing Area – Lauren Hills (Ladies Mile) - No issues assessed as of significant concern for ORC.

No other responses were made, nor proposals received over the period to 1 March 2019.

11.2. Overseer update

Prepared for:	Policy Committee
Report No.	PPRM1873
Activity:	Regulatory: Policy Development
Author:	Julia Briggs, Policy Analyst
Endorsed by:	Andrew Newman, Acting Director Policy, Planning & Resource Management
Date:	4 March 2019

PURPOSE

- [1] To provide an update on the recent releases from Overseer Limited and advise on the recommendations from a recent review of Overseer's use in regulation.

EXECUTIVE SUMMARY

- [2] Overseer was developed as an agricultural management tool to help farmers track nutrients on their farm, with the aim of understanding and reducing loss to the environment. It is now the accounting system used by many regional councils to regulate farmers.
- [3] New versions are released frequently to increase accuracy. Overseer is now transitioning to a new platform, which requires a farm to pay an annual subscription fee.
- [4] A review of Overseer by the Parliamentary Commissioner for the Environment recommends a number of measures to ensure the model is robust enough for use in regulation. The review recognises that many regional councils are currently using Overseer in their regulatory framework and acknowledges this as necessary to track improvement in water quality. Recommendations of the review focus on a thorough review by the Ministry for the Environment and Ministry of Agriculture. A general review of modelling in regulation is also recommended to be undertaken by the Ministry for Science and Innovation.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.

BACKGROUND

- [5] Overseer is a model used for agricultural management. It was designed as an accounting system for nutrients, helping farmers understand what fertiliser their land required. Overseer allows farmers to run scenarios for future management, which allows them to ensure their farm management decisions improve nutrient leaching loss. Now, many regional councils throughout the country are using Overseer to regulate farmers as part of their role to improve water quality. Councils use Overseer in a range of ways; from

requiring its use in a farm plan to meet permitted activity status to checking compliance with a specific nitrogen loss limit in a regional plan.

- [6] ORC uses Overseer to check compliance with the nitrogen leaching limit for permitted activities under Rule 12.C.1.3. If the limit cannot be met farmers will need to apply for a discharge consent. This rule requires landholders to provide to Council the data to run Overseer or to provide a report run through Overseer by a Certified Nutrient Management Advisor (CNMA).
- [7] Overseer publishes regular updates to improve accuracy. Recently it has also released a new interface for the model and now requires annual subscriptions to the product, at an annual cost to farmers.
- [8] A report from the Parliamentary Commissioner for the Environment, Simon Upton, (Attachment 1), was released in December 2018 entitled '*Overseer and regulatory oversight: Models, uncertainty and cleaning up our waterways*'. It recommends a thorough review of the model be undertaken to determine its appropriateness in regulation.

Latest Overseer release

- [9] Overseer develops new versions of its model to continually improve its accuracy and keep up with the latest in farming practices. The latest changes which incorporate the ability to model outdoor pigs, revisions to crop grazing and feed allocation were released in February 2019 with the current version, Overseer 6.3.1. Recently there have also been changes to the way users access and use the model with the release of new software OverseerFM. This is not a change to the version but introduces a new interface for users and intends to simplify ease of use when managing data.
- [10] OverseerFM was first released for trial in June 2018 and was available under subscription from 11 February 2019. The old interface will continue to be available until June 2019.
- [11] The benefits of OverseerFM include ease of use, and central storage of farm data on an online platform, reducing duplication of data and allowing easier publication of data and results to professionals and councils. This differs from how Overseer originally worked, where free access to data was available for CNMAs and a farmer would engage a CNMA to input data, run the model and produce reports. With OverseerFM, each farm is required to pay an annual \$200 subscription fee, in addition to then engaging a CNMA to complete the analyses.
- [12] These recent developments do not affect ORC directly. There will be an impact on farmers using Overseer to ensure compliance with the Regional Plan: Water given the new annual fee for OverseerFM.

Report from the Parliamentary Commissioner for the Environment

Background:

- [14] This review was undertaken due to concern from industry, landholders and regulators about the suitability of using Overseer in regulation. Many regional councils are using overseer in setting and measuring compliance with plan rules, but there has been no national review or guidance on using Overseer in this way.
- [15] The report noted the original purpose of Overseer, to improve nutrient use on farms and also recognises why regional councils are using it in regulation.
- [16] Councils are tasked with improving water quality, and although regulation could rely on good farm management practices generally known to improve water quality, when bigger improvements are required, Councils will often use Overseer to track progress.
- [17] The concern among landholders is that Overseer doesn't use real data but rather long-term annual averages and modelled data. This raises concerns for farmers who are required to measure or meet particular limits of Overseer. Farmers are comfortable and familiar using it as a decision-support tool, but they demand a much higher level of assurance when the outputs have regulatory consequences.

The assessment and issues:

- [18] The Overseer model was assessed using guidance from the United States Environmental Protection Agency due to a lack of locally available and suitable guidance. Broadly the questions asked were: is the model based on sound science? Is the model managed to ensure quality? Does the model's behaviour approximate the real system being modelled? Is the model appropriate for a specific regulatory application?
- [19] The review found many elements of the model that are unsatisfactory or unknown and require more in-depth analysis, with a few of these listed below:
- Overseer is a model and inherently this carries risk of inaccuracy, it is therefore more suited to tracking the progress of improvement on a farm rather than meeting a set leaching limit.
 - The model is made to deal with farm scale, not catchment scale.
 - There is a lack of guidance on using Overseer for regulation.
 - There is a lack of understanding and transparency of how the model works.
 - No compliance action using Overseer has been evaluated by the Environment Court, and there is concern the model may not meet the 'beyond reasonable doubt' standard required for prosecution.
- [20] The report recommends a comprehensive review of Overseer to determine its suitability for use in regulation. However, the report recognises that in the meantime Overseer has a place in regulation as the best option available. The alternative to modelling is likely to mean more stringent rules on activities which are inflexible and often less desirable than the uncertainty of modelling.

Recommendations of the report:

[21] The report makes 10 recommendations. In summary:

- The Ministry for the Environment and Ministry of Agriculture indicate whether they want Overseer to be used to regulate water quality, and if so provide guidance on using this model. Additionally, they should consider becoming involved in governance and funding of the model.
- Overseer ensure a comprehensive review is undertaken and make it open-source, allowing users to understand how the model works.
- The Minister for Science and Innovation complete a review of all the nutrient transport models and databases (catchment scale 105) used nationally as a resource for water quality managers, including regional councils. Additionally, the Minister is to ensure the Crown's investment in these models/databases meets the aim of protecting the life-supporting capacity of air, water, soil and ecosystems.

What this means for regional councils:

[22] Essentially, the report recommends further in-depth analysis of Overseer. The report also sets out a few matters for regional councils to be aware of:

- If a version number is specified in a regional plan this can cause the plan to become outdated, as Overseer versions regularly change. The Regional Plan: Water requires Overseer 6 be used. It is likely any change to a new 7 version would carry significant changes to Overseer.
- Council should have the ability to audit the Overseer files it receives. At present our plan requires farmers to provide sufficient information to run Overseer or the results of Overseer run by a CNMA. Either option will allow Council to audit these files.
- Overseer assumes that good management practices are occurring on all farms. To have confidence in the model, councils must be satisfied these practices are occurring.
- To tackle water quality issues, Councils need to understand catchment dynamics, not just individual farm leaching losses. The review also recommends that regulatory use of modelling in general be reviewed.

CONSIDERATIONS

Policy Considerations

- [23] The recent releases from Overseer and the review of the model do not impact on the operation of the Regional Plan: Water at this stage. Any new versions of Overseer may mean that there are future implications.

Financial Considerations

- [24] No immediate actions are noted for ORC to undertake from this report, and there are therefore no financial implications.

Significance and Engagement

- [25] The review summarised in this paper recommends further reviews by central government. At this time specific engagement is not required beyond this report.

Legislative Considerations

- [26] At this stage there are no legislative implications from this review of overseer.

NEXT STEPS

- [27] Council to await the reaction of central government to the review recommendations which suggest the Ministry for the Environment and Ministry of Agriculture review overseer and providing guidance to regional councils.

ATTACHMENTS

1. Overseer and regulatory oversight Models, uncertainty and cleaning up our waterways Dec 2018 **[11.2.1]**

12. NOTICES OF MOTION

13. CLOSURE