

# Council Meeting Agenda 29 January 2020

Meeting is held in the Council Chamber, Level 2, Philip Laing House  
144 Rattray Street, Dunedin



## Members:

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

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Liz Spector, Committee Secretary

29 January 2020 02:00 PM

| <b>Agenda Topic</b>  | <b>Page</b> |
|--|-------------|
| 1. APOLOGIES<br>No apologies were received prior to publication of the agenda.   |             |
| 2. ATTENDANCE<br>Staff present will be identified.   |             |
| 3. CONFIRMATION OF AGENDA<br>Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.   |             |
| 4. CONFLICT OF INTEREST<br>Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have. |             |
| 5. PUBLIC FORUM<br>Members of the public may request to speak to the Council.  |             |
| 6. PRESENTATIONS<br>Catchment Group leaders Randall Aspinall, Geoff Crutchley, Lloyd McCall and Lyndon Strang will present information to the Councillors.   |             |
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| 10.2   | <a href="#">Otago Regional Transport Committee Terms of Reference and Membership</a>  | 31     |
|        | To propose terms of reference and recommend membership for the Otago Regional Transport Committee (RTC)                             |        |
| 10.2.1 | <a href="#">Attachment: Terms of Reference for the RTC</a>  | 34     |
| 10.3   | <a href="#">Ratify the Otago Local Authorities' Triennial Agreement</a>   | 37     |
|        | Ratification of the Otago Local Authorities' Triennial Agreement 2020-22, including terms of reference for the Otago Mayoral Forum. |        |
| 10.3.1 | <a href="#">Attachment 1: Otago Local Authorities' Triennial Agreement 2020 - 2022</a>  | 40     |
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| 10.4   | <a href="#">ORC Submission on Resource Management Act Review</a>  | 50     |
|        | To approve the draft ORC submission on the Resource Management Act 1991 review "Opportunities for Change - and Options" paper.      | Issues |
| 10.4.1 | <a href="#">Attachment: Proposed ORC Response to MfE on RMA Review paper</a>  | 53     |
| 10.5   | <a href="#">ORC Submission on the Urban Development Bill</a>  | 67     |
|        | To approve the draft ORC submission on the Urban Development Bill.  |        |
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| 11.1   | <a href="#">Documents signed under Council Seal</a>   | 82     |
|        | To inform the Council on documents signed under the Council Seal during the period 25 September 2019 to date.                       |        |
| 11.2   | <a href="#">Updated Regional Policy Statement Communications and Engagement Plan</a>  | 83     |
|        | To note the updated RPS comms and engagement plan.  |        |
| 11.2.1 | <a href="#">Attachment: Updated Communications Plan - RPS</a>   | 85     |
| 11.3   | <a href="#">Report from the Communications Working Party 17 Jan 2020 meeting</a>  | 94     |
|        | Cr Laws will report back to the Councillors on matters discussed at the 17 January 2020 Communication Working Party meeting.        |        |
| 12.    | REPORT BACK FROM COUNCILLORS  |        |
|        | Councillors may update the members on Council-related business undertaken since the previous Council Meeting.                       |        |
| 13.    | RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS   | 95     |
| 13.1   | <a href="#">Strategy and Planning Committee Resolutions adopted on 22 January 2020</a>  | 95     |

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The meeting may move into public excluded session to consider Plan Change 6AA - Adoption of Commissioner Recommendations under LGOIMA (48(1)(d), 48(2)(a)(i) and Lake Wakatipu Public Water Ferry Service Business Case under LGOIMA (48(1)(a), 7(2)(i)).

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15. RESOLUTION TO RESUME MEETING IN PUBLIC

16. CLOSURE



Minutes of an ordinary meeting of Council held in the  
Council Chamber, Lvl 2 Philip Laing House  
144 Rattray Street, Dunedin on  
Wednesday 11 December 2019 at 2 p.m.

**Membership**

Cr Marian Hobbs

*(Chairperson)*

Cr Michael Laws

*(Deputy Chairperson)*

Cr Hilary Calvert

Cr Alexa Forbes

Cr Michael Deaker

Cr Carmen Hope

Cr Gary Kelliher

Cr Kevin Malcolm

Cr Andrew Noone

Cr Gretchen Robertson

Cr Bryan Scott

Cr Kate Wilson

**Welcome**

Hon Marian Hobbs welcomed Councillors, members of the public and staff to the meeting at 02:03 pm.

*For our future*

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## 1. APOLOGIES

### Resolution

*That the apologies for Cr Deaker be accepted.*

Moved: Cr Hobbs  
Seconded: Cr Kevin Malcolm  
CARRIED

## 2. ATTENDANCE

Sarah Gardner (Chief Executive)  
Nick Donnelly (General Manager Corporate Services and CFO)  
Gavin Palmer (General Manager Operations)  
Sally Giddens (General Manager People, Culture and Communications)  
Richard Saunders (General Manager Regulatory)  
Gwyneth Elsum (General Manager Strategy, Policy and Science)  
Amanda Vercoe (Executive Advisor)  
Liz Spector (Committee Secretary)

## 3. CONFIRMATION OF AGENDA

Chair Hobbs noted that due to a meeting last week, a late paper has been submitted for inclusion in the agenda. She asked for a motion to accept the late paper.

### Resolution

That the late item, Consider Establishment of a Communications Working Party be added to the agenda.

Moved: Cr Wilson  
Seconded: Cr Hope  
CARRIED

## 4. CONFLICT OF INTEREST

Chair Hobbs asked for any conflicts of interest to be identified. Cr Noone said he would sit back from voting on item 9.1 *Adoption of Terms of Reference and Delegations for Committees*. Crs Kelliher and Wilson both indicated conflicts on item 9.4 *S24A Resource Management Act Investigation*, and both said they would not participate in this item.

## 5. PUBLIC FORUM

Mr Stephen Dickson spoke to the Councillors about rabbit control. He indicated concerns about the lack of rabbit control in the newly adopted Pest Management Plan. Several Councillors asked Mr Dickson questions, and then thanked him for coming.

## 6. CONFIRMATION OF MINUTES

### Resolution

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DRAFT MINUTES - Council Meeting 20191211

*That the minutes of the Council meeting held on 13 November 2019 be received and confirmed as a true and accurate record.*

Moved: Cr Hope  
Seconded: Cr Noone  
CARRIED  
**Resolution**

*That the minutes of the Council meeting held on 27 November 2019 be received and confirmed as a true and accurate record.*

Moved: Cr Hope  
Seconded: Cr Noone  
CARRIED

## **7. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)**

The Council reviewed the outstanding actions of Council.

## **9. MATTERS FOR COUNCIL DECISION**

### **9.1. Adopt Terms of Reference and Delegations for Committees and Subcommittees 2019-2022**

Chairperson Hobbs introduced the report, noting Cr Noone will not participate in discussions related to his appointment on the Invermay (AgResearch) Animal Ethics Committee. A general discussion of the final terms of reference was held, with some clarifications requested. Cr Laws noted that there was a discrepancy in the membership of the Mana to Mana group. Cr Robertson was appointed to the group to address his concern. Cr Calvert noted that the independent member to be appointed to the Audit & Risk Subcommittee would not necessarily be appointed chair and she asked this be noted on the summary membership page.

Cr Hobbs asked that the target dates for the various plans and the FMU map be added to the Freshwater Management Unit and rohe Liaison section. There were no more changes requested and Cr Hobbs asked for a motion.

*Cr Forbes left the meeting at 02:40 pm.*

### **Resolution**

*That the Council:*

- 1) **Receives** this report.
- 2) **Adopts** the Committee Structure, Membership and Representation booklet, with or without amendments.
- 3) **Reconfirms** the nomination of Councillor Andrew Noone on the Invermay (AgResearch) Animal Ethics Committee.
- 4) **Notes** the attached updated portfolio responsibilities across the Council.

Moved: Cr Hope  
Seconded: Cr Wilson  
CARRIED

## 9.2. Adopt Amended Meeting Schedule 2020

Cr Hobbs introduced the report which detailed proposed meeting dates for Council and Committees for 2020. It was noted that the meeting set for 9 December 2020 in Cromwell be held either there or in Alexandra. Cr Malcolm also noted that the first of the clearing meetings would be conducted on 22 January 2020.

### Resolution

*That the Council:*

- 1) **Receives** this paper.
- 2) **Adopts** the attached proposed meeting schedule for 2020.
- 3) **Agrees** to the proposed locations and timing of Council meetings held outside of Dunedin for 2020.

Moved: Cr Kelliher

Seconded: Cr Noone

CARRIED

## 9.3. ECO Fund Applications - October 2019 Funding Round

Cr Hobbs introduced the ECO Fund report which was provided to Council for approval of the panel's funding recommendations. GM People, Culture and Communications Sally Giddens was present to answer questions. A general discussion was held about the applications and selection criteria, noting some applications were held over for the next round. Cr Calvert asked that the name of the fund recipients as well as the specific project name be provided to the Council for future funding.

### Resolution

*That the Council:*

- 1) **Receives** this report.
- 2) **Approves** the funding recommendations of the ECO Fund decision panel for the following applications, to a value of \$117,425.68 as per attached summary sheet of projects:

#### **Applications under \$5,000**

*ALREC Bioblitz - Phase 1 and Phase 2*

*Capturing Aerial Images of Environmental Projects*

*No More Pests in Makarora*

*Papatowai Barberry Control*

#### **Applications over \$5,000**

*Clutha Water Project*

*Grand and Otago Skink Collaboration Survey*

*Jewelled Gecko Breeding and Advocacy Enclosure*

*Open Valley Urban Ecosanctuary (VUE)*

*Planting Projects for Biodiversity*

*Project coordinator for the Hereweka Harbour Cone property on Otago Peninsula*

*Skippers/Londonderry Creek Beech Forest*

Moved: Cr Wilson  
Seconded: Cr Laws  
CARRIED

**9.4. S24A Resource Management Act Investigation: Follow up to Extraordinary Council Meeting 27 November 2019**

*(Cr Kelliher and Cr Wilson declared conflicts of interest and did not participate in consideration of the item)*

Cr Hobbs introduced the report from Consultant Planner Peter Constantine which was provided to update the Council with information they requested at the 27 November Council Meeting. Also present was GM Strategy, Policy and Science Gwyneth Elsum. Staff provided follow up information as requested including a draft formal response from ORC to Minister David Parker about the S24A RMA investigation recommendations, a community engagement plan and information on a proposed 7 January 2020 workshop on the water permits plan change.

Councillors suggested a few changes to the draft response to Minister Parker, including inviting him to the 29 April 2020 Council Meeting to review ORC progress on the recommendations. A discussion was held about the 7 January workshop. Cr Calvert asked if members of the public could attend the workshop or if it would be public excluded. Mr Constantine said he anticipated the workshop was to be Councillor and staff only. Chief Executive Sarah Gardner said the public was being kept informed through regular website updates, an online consultation through YourSay which would start prior to Christmas 2019, a boosted Facebook campaign to encourage public participation in the consultation, and regular media releases.

Cr Malcolm stated the 7 Jan workshop should be public for transparency to ensure the public no decisions were being made prior to consultation. Cr Laws suggested Cr Malcolm move an amendment to the resolution inviting stakeholders and interested parties to provide information at a pre-workshop public forum as it is too important to not take community into confidence on this. Cr Malcolm then moved to add to the resolution:

**Resolution**

*That the Council:*

- 1) *Invites stakeholders to make a brief submission on the proposed water plan change prior to the public-excluded workshop on 7 January 2020, allowing up to a ten-minute briefing per person.*

Moved: Cr Kevin Malcolm  
Seconded: Cr Laws  
CARRIED

A division was called:

**Vote**

For: Cr Kevin Malcolm, Cr Calvert, Cr Hope, Cr Laws, Cr Noone  
Against: Cr Hobbs, Cr Scott, Cr Robertson  
Abstained: nil  
(Absent: Cr Deaker, Cr Forbes)

After the Councillors voted to approve the invitation for public input prior to the workshop on 7 January, Cr Laws moved:

*That the Council:*

- 1) **Receives** this report.
- 2) **Approves** the draft letter to Minister for the Environment, Hon David Parker, with or without amendments.
- 3) **Agrees** the letter will be signed out by Council Chairperson, Councillor Marian Hobbs.
- 4) **Notes** six monthly reports from the Otago Regional Council to Minister Parker are required until the end of 2025. The next report is due by 30 April 2020.
- 5) **Notes** the attached Community Engagement Plan for the Water Permits Plan change.
- 6) **Agrees** that a workshop on the Water Permits Plan change be scheduled for 7 January 2020.
- 7) **Agrees** that this workshop should be Councillor and staff only.
- 8) **Invites** stakeholders to make a brief submission on the proposed water plan change prior to the public-excluded workshop on 7 January 2020, allowing up to a ten-minute briefing per person.

Moved: Cr Laws  
Seconded: Cr Noone  
CARRIED

#### **Late Paper, 1.1 Consider Establishment of Communications Working Party**

Cr Hobbs then introduced the late paper, Consider Establishment of Communications Working Party, which was submitted by Cr Laws. Cr Laws noted he met with GM People, Culture and Communications Sally Giddens, Eleanor Ross (Manager Communications Channels) and Lisa Gloag (Manager Communications and Engagement). He said the team had identified gaps in the communications systems which needed to be addressed quickly to proactively meet the increased engagement ORC will need to have going forward. He said it was decided a working party comprised of himself along with Crs Calvert, Deaker, Forbes and Hope would be created to provide a structure to overview this engagement as well as publicly promote and support elected members in ward, project or portfolio-based roles. He said the group will meet as required and make recommendations to either the Strategy and Policy Committee or to Council, depending on timing. No formal minutes or agendas are proposed, and staff involvement will be determined in conjunction with Ms Giddens. After a general discussion of the working party's purpose, Cr Calvert made a motion.

#### **Resolution**

*That the Council:*

- 1) **Receives** this report.
- 2) **Establishes** the Communications Working Party to meet as required and make recommendations to Council or the Strategy and Planning Committee.
- 3) **Approves** the membership of the Communications Working Party as Crs Calvert, Deaker, Forbes, Hope and Laws;

- 4) **Appoints** Cr Laws Chair of the Communications Working Party;
- 5) **Receives** progress reports and recommendations as required from the Communication Working Party at regular intervals.

Moved: Cr Calvert  
Seconded: Cr Kelliher  
CARRIED

## 10. MATTERS FOR NOTING

### 10.1. Consent Processing under operative and notified plans

GM Regulatory Richard Saunders, Joanna Gilroy (Manager Consents) and Charles Horrell (Team Leader Consents) were present to speak to the paper which was provided to explain the consent process and how an application for a water permit relating to a deemed permit is processed in advance of any notified plan change. After a general discussion, Cr Calvert made a motion.

#### Resolution

*That the Council:*

- 1) **Notes** the content of this report

Moved: Cr Calvert  
Seconded: Cr Hope  
CARRIED

## 11. REPORT BACK FROM COUNCILLORS

Cr Hobbs asked if any Councillors would like to report on any Council business undertaken since the last meeting. Cr Wilson said she and Cr Forbes travelled to Queenstown to meet with various QLDC staff to discuss regional transport issues. Cr Wilson also indicated she thought Councillors should correspond with individuals who speak during public forum. Cr Hobbs asked Cr Wilson if she wanted this correspondence to come from the Chair. Cr Wilson suggested the letter could come from the Councillor whose portfolio most closely aligned with the speaker's issue. The Councillors agreed that a letter of response could be drafted from the portfolio holder, thanking the speaker for their time and informing them of what ORC is doing towards the particular concern, and then also how to submit requests for the annual plan. Cr Hope noted she and Cr Deaker attend the two-day Ag@Otago Symposium, which was sponsored by the ORC and attended by water team and science team staff. Cr Malcolm noted he and Cr Noone attended the NOSLM Annual General Meeting. He also said he attended the Lower Waitiki Management Group AGM with Dr Palmer.

## 12. NOTICES OF MOTION

There were no notices of motion.

## 13. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

- 13.1. Recommendations of the Finance Committee
- 13.2. Recommendations of the Infrastructure Committee
- 13.3. Recommendations of the Regulatory Committee
- 13.4. Recommendations of the Strategy and Planning Committee

Cr Hobbs reviewed the recommendations adopted at the previous Finance, Infrastructure, Regulatory and Strategy and Policy Committee meetings and asked if the Councillors were happy to move the recommendations in one motion. The Councillors agreed and Cr Wilson made a motion.

**Resolution**

*That the recommendations of the 27 November 2019 Finance Committee Meeting, the 27 November 2019 Strategy and Planning Committee, the 11 December 2019 Infrastructure Committee Meeting and the 11 December 2019 Regulatory meeting be adopted by Council.*

Moved: Cr Wilson  
 Seconded: Cr Noone  
 CARRIED

*Cr Kevin Malcolm left the meeting at 03:20 pm.  
 Cr Kevin Malcolm returned to the meeting at 03:35 pm.*

**14. RESOLUTION TO EXCLUDE THE PUBLIC**  
**14.0.2. Public Excluded Recommendation**

*That the public be excluded from the following parts of the proceedings of this meeting, namely:*

CS1920 Port Otago Limited Annual Shareholders' Meeting - December 2019

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

| General subject of each matter to be considered                        | Reason for passing this resolution in relation to each matter  | Ground(s) under section 48(1) for the passing of this resolution |
|--|--|--|
| CS1920 Port Otago Limited Annual Shareholders' Meeting - December 2019 | To protect the privacy of natural persons and to enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities | Section 7(2)(a)<br>Section 7(2)(h)                               |

**Resolution**

That the public be excluded from consideration of the Port Otago Limited Annual Shareholders' Meeting report under Section 48(1), Sec 7(2)(a) and 7(2)(h), To protect the privacy of natural persons and to enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.

Moved from the Chair: Cr Hobbs  
CARRIED

*Cr Kelliher left the meeting at 04:26 pm.*  
*Cr Hope left the meeting at 04:26 pm.*  
*Cr Kelliher returned to the meeting at 04:28 pm.*  
*Cr Hope returned to the meeting at 04:29 pm.*

**Resolution**

*That the meeting resume in public session at 05:03 pm.*

Moved: Cr Hope  
Seconded: Cr Kelliher  
CARRIED

**15. CLOSURE**

There was no further business and Cr Hobbs declared the meeting closed at 05:03 pm.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date



Minutes of an ordinary meeting of Council held in the  
Council Chamber on  
Tuesday 7 January 2020 at 10:00 am

**Membership**

Hon Marian Hobbs

*(Chairperson)*

Cr Michael Laws

*(Deputy Chairperson)*

Cr Hilary Calvert

Cr Alexa Forbes

Cr Michael Deaker

Cr Carmen Hope

Cr Gary Kelliher

Cr Kevin Malcolm

Cr Andrew Noone

Cr Gretchen Robertson

Cr Bryan Scott

Cr Kate Wilson

**Welcome**

Cr Hobbs welcomed Councillors, members of the public and staff to the meeting at 10:00 am.

*For our future*

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## 1. APOLOGIES

There were no apologies. Councillor Scott was in attendance via an electronic meeting link.

## 2. ATTENDANCE

Staff in attendance included:

|                  |   |
|------------------|---|
| Sarah Gardner    | <i>(Chief Executive)</i>                                    |
| Gavin Palmer     | <i>(General Manager Operations)</i>                         |
| Sally Giddens    | <i>(General Manager People, Culture and Communications)</i> |
| Richard Saunders | <i>(General Manager Regulatory)</i>                         |
| Gwyneth Elsum    | <i>(General Manager Policy, Strategy and Science)</i>       |
| Amanda Vercoe    | <i>(Executive Advisor)</i>                                  |
| Liz Spector      | <i>(Committee Secretary)</i>                                |

Also in attendance were Anita Dawe (Acting Manager Policy), Tom De Pelsaemaker (Team Leader Freshwater and Land), Joanna Gilroy (Manager Consents), Lucy Summers (Sr Communications and Engagement Advisor - Water), Lisa Gloag (Manager Communications and Engagement), Eleanor Ross (Manager Communications Channels), Ryan Tippet (Media Communications Lead), Andrea Howard (Manager Good Water Programme), and Simon Wilson (Manager Consent Systems and Administration).

## 3. CONFIRMATION OF AGENDA

Cr Hobbs asked to reorder the agenda to conduct the public forum after consideration of item 6.1 Confirm Appointment of Iwi Representatives. The Councillors agreed and moved to consideration of item 6.1 before the Public Forum.

## 4. CONFLICT OF INTEREST

No conflicts of interest were advised.

## 6. MATTERS FOR COUNCIL DECISION

### 6.1. Confirm Appointment of Iwi Representatives

Cr Hobbs reviewed the appointment of the two representatives nominated for membership on the Strategy and Planning Committee. Cr Wilson asked that the Rūnaka provide named alternates for the representatives in the event one of them is unable to attend. The Councillors agreed to add this request as item d to the resolution and Cr Wilson made a motion.

#### Resolution

*That the Council:*

- a) **Receives** this report.
- b) **Notes** the finalised Terms of Reference 2019-2022 for the Strategy and Planning Committee include two iwi representatives in the membership of the Committee.
- c) **Appoints** Dr Lyn Carter and Edward Ellison as members of Strategy and Planning Committee.
- d) **Approach** the Rūnaka to offer them the opportunity to provide named alternates for their two representatives with the same speaking and voting rights.

Moved: Cr Wilson

Seconded: Cr Calvert  
CARRIED

## 5. PUBLIC FORUM

Twenty-one individuals or groups were present to speak to the Council about the bespoke water permits plan change. Cr Hobbs reminded the speakers how the Council was going to respond to the recommendations of Minister Parker on the Water Permits Plan. She noted the Council resolution adopted at the 27 November meeting which said the water permits plan change would be informed by specific key principles and reassured the speakers this will not be their only chance to engage on the proposed plan change. She stated this is pre-notification stage for the proposed plan and once a plan is notified, submissions will be called for, either written or oral, and via public hearings.

Referring to the Otago Regional Council Standing Orders, Cr Hobbs then reminded the speakers to not repeat what had been previously said and asked the Councillors to hold their questions until either the workshop or talk to presenters during the break.

The speakers provided a range of information and opinions and included Gerry Eckhoff, Sally Dicey and Kate Scott (MCK Consulting), Matt Hickey (Water Resource Management), Ken Gillespie and Susie McKeague (Otago Water Resource Users Group), Anna Gillespie and Jan Manson (Manuherekia Catchment Group), Sue Maturin (Forest and Bird), Edward Ellison and Lyn Carter (Aukaha), Neil Deans and Elizabeth Haig (Department of Conservation), Peter Barrett (Linnburn Station), Hilary Lennox (Ahika Consulting), Boyd McDonald (Strath Taieri Catchment Group), Issi Anderson (Cardrona permit holder), Dugald MacTavish and Allan Mark (Wise Response Society Inc), Allison Sutton (Manuherekia Irrigation Co-op Society Ltd), Niall Watson (Fish and Game), Tony Lepper (Earnscleugh Irrigation), Judy Andrews and Hamish MacKenzie (Kyeburn Catchment Group), Will Nicholson and Claire Perkins (Landpro), Gavan Herlihy (Sowburn Water Co Ltd ), Graeme Martin, Caroline Tamblyn (Coal Creek Catchment Group, Roxburgh). The speakers represented a variety of interests including agriculturalists, irrigators, environmental professionals and consultants.

After the public forum was concluded, Cr Hobbs thanked everyone for their input and suggested they forward written documentation to the Committee Secretary for distribution to the Councillors.

## 7. CLOSURE

As there was no further business, Cr Hobbs declared the Council meeting closed at 12:22 pm.

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Hon Marian Hobbs, Chairperson

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Date

Status report on the resolutions of Council Meetings

**Status report on the resolutions of Council Meetings**

2019-2022 triennium

2016-2019 triennium

| REPORT TITLE                            | MEETING DATE | RESOLUTION   | STATUS                              | UPDATE   |
|---|--------------|--|-------------------------------------|--|
| 11.3 Delegations                        | 3 April 2019 | Direct CE to bring a review of delegations for Council decision.   | IN PROGRESS – Regulatory/Governance | Underway for reporting in early 2020.  |
| 11.3 Disposal of Poison Services Assets | 15 May 2019  | ORC to consult with community on proposed sale of poison services assets and include the Galloway land as part of a proposed sale  | ASSIGNED - Operations               | Part of 2020/21 Annual Plan process.   |
| 11.3 Finalise Biodiversity Action Plan  | 26 June 2019 | Develop business case options for resourcing biodiversity and biosecurity activities to inform the next LTP (2021 - 2031) and enable implementation of the Biodiversity Action Plan.   | IN PROGRESS - Operations            | Underway for reporting in March 2020.  |
| 10.5 Lake Hayes Culvert                 | 25 Sept 2019 | Invite QLDC, DoC and NZTA to co-fund with ORC scoping investigation and establishment of a target water level range for Lake Hayes and scoping the investigation, consenting, design, construction, maintenance and funding of infrastructure to manage the lake level to that range. This will require incorporation of activity and funding of ORC's share of the costs into draft Annual Plans. | IN PROGRESS -Operations             | Consultant preparing cost estimate for scoping exercise.                               |
| 10.8 Delegation of Harbourmaster        | 25 Sept 2019 | Conduct a review and amendment of the ORC Navigational Safety Bylaw 2019, noting date of relinquishment of transfer  | IN PROGRESS - Regulatory            | Report to be tabled in early 2020 to seek approval to consult on changes to the bylaw. |

|  |                  |   |                                  |   |
|--|------------------|---|----------------------------------|---|
| Duties   |                  | agmt will be the same as the effective date of the amended bylaw.   |                                  |   |
| 9.1 Decision Making Structure                  | 13 Nov 2019      | That a review of the committee structure including membership be reviewed at 6-months.  | ASSIGNED - Governance            | Report will be brought to Council in May 2020.        |
| 3.1 Port Otago Ltd Shareholder Meeting (PE)    | 11 December 2019 | That the Finance Committee review the Port Otago constitution and rules to ensure the director appointments procedure reflects best practice and report back to Council on options. | IN PROGRESS – Corporate Services |   |
| 6.1 Confirm appointment of Iwi Representatives | 7 January 2020   | That the Chairperson contact the Rūnaka to offer the opportunity to provide named alternates for the two representatives.   | COMPLETE – Governance Team       | Letter was emailed to Chairs of Rūnaka on 15/01/2020. |

## 9.1. Chairperson's Report

**Prepared for:** Council

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**Activity:** Governance Report

**Author:** Cr Marian L Hobbs, Chairperson

**Date:** 23 January 2020

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- [1] Although we have had two extraordinary Council meetings, our last ordinary Council meeting was 11<sup>th</sup> December, and this is my report since then.
- [2] Other than the issues we all deal with as with the transition of deemed permits, I have had the opportunity to respond to invitations throughout the province.

### Lake Hayes

- [3] Prior to spending a day with the Lake Hayes team, I met with freshwater specialist, Marc Schallenberg. We went through the science of water degradation, and my experiences and knowledge of work done in Lakes Taupo, Rotorua and Rotoiti all helped in my understanding of issues in Central Otago lakes, rivers and wetlands, and estuaries. I very much value his knowledge and expertise.
- [4] I drove Jemima to Mike Hanff's place, and we walked right round Lake Hayes, the inlets and outlets. The following day I met with the Lake Hayes group. Alexa was there, arriving by bike. It was a valuable meeting and has helped me with some clarity about a multi-pronged way forward.

### Manuherekia

- [5] *A visit to the Manuherekia and its tributaries:* This was at the invitation of the Central Otago Environment Society. They had hired a van and we travelled to chosen spots including the Falls Dam. Again, I appreciated seeing things for myself. It was a day well spent.

### Transport: Public and Active

- [6] On that same trip as above, a Queenstown resident, who has been advocating for the ferry and improved public transport, and who is antagonistic to the proposed airport growth, took me around the new subdivisions – Shotover, Lake Hayes, Jacks Point and Hanley's farm. What worried me there was the lack of community facilities such as shops, coffee bars. To get anywhere you had to be in a car and out on the main road to access these different dormitory suburbs. So, the work we will face on urban planning will require good positive work with our councils. There are some large public and active transport issues in the Dunstan area, which also might apply to the commuting traffic growing from coastal towns south of Dunedin.

### Rabbits

- [7] This issue is large, but very different in different areas. My farming friends on coastal Otago are not worried by them, yet Moeraki is just kilometres up the coast and the ground is constantly moving with rabbits, as was land around Lake Hayes. The

Maniototo farmers have banded together, and while that is positive, within those groups we also have to get central government agencies such as the Department of Conservation (DoC), Railways, NZ Transport Agency (NZTA) and Land Information NZ (LINZ) to be in these groups. We do have a role in bringing the communities together and I think that is in the paper being presented by Gavin Palmer. I am also hoping for a very cold winter.

#### **Dumping of Old Cars**

[8] In that precious week of Christmas to New Year, my peace and Gavin's, were shattered by loud demands from Peninsula residents demanding that the ORC remove wrecked cars from Hoopers Inlet and Smaills Beach. It was done, organised by both Gavin Palmer and Richard Saunders, but there are some issues around cost recovery and legal responsibility that we need to think about. If the cars were left there, the fluids would contaminate fragile wildlife breeding areas.

#### **Port Chalmers**

[9] The Rio container ships have managed to engineer a solution to their engine noise in Port. This has been a welcome relief, but there are still significant issues about air quality. Ports are exempted from the NES on Air Quality. I am pursuing this with central government, but we do need to measure the particulates in order to make a case.

#### **Farm Economics**

[10] To gain some understanding about farm growth, and about farm cash flows, I called in on an old friend, a farmer and an advisor to farmers, helping them with their accounts and cash flow. It was a lively two hours! I am following this up with meetings with Rabo Bank, ANZ, and with some insurance companies. We are facing increasingly damaging weather events as well as global warming. We work and write plans for the future; I think we need to be thinking ahead, not just with the status quo.

#### **Meetings with Other Regional Councils**

[11] I went to the first of the quarterly meetings in Wellington, and found some relief being able to compare on different issues. I have since met with the new Chair of ECan, our northern neighbour – that was a very worthwhile day.

[12] I am enjoying the diversity of this job and do appreciate the work being carried out by all the councillors, particularly outside meeting hours.

[13] I also strongly value the advice, conversations and constructive arguments I am having with our very able ORC staff.

#### **RECOMMENDATION**

*That the Council:*

1) **Receives** this report.

#### **ATTACHMENTS**

Nil

## 9.2. Chief Executive's Report

|                      |                                |
|----------------------|--------------------------------|
| <b>Prepared for:</b> | Council                        |
| <b>Activity:</b>     | Governance Report              |
| <b>Author:</b>       | Sarah Gardner, Chief Executive |
| <b>Date:</b>         | 17 January 2020                |

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### KEY MEETINGS ATTENDED

- [1] 23 December 2019 to 10 January 2020 – annual leave.
- [2] 7 January – Council meeting (public forum only) followed by workshop.
- [3] 16 January – chaired Health & Safety Committee meeting.
- [4] 22 January – Strategy & Planning Committee and workshops.
- [5] 24 January – Otago Chief Executives Forum followed by Otago CDEM Coordinating Executive Group (CEG) meeting.

### DISCUSSION

As this report covers the Christmas break there is a limited amount to report on. Primarily Council staff have been occupied by preparing the workshops and agendas for the meetings held since 7 January 2020.

As we move into the height of summer we are now entering low flow periods across Otago catchments. This period requires a concentrated water monitoring and flow gauging effort to collect data to inform our State of the Environment reporting and our work on the Land and Water Plan making process. Staff will be working across Otago to ensure the best quality data is captured over this period.

We continue to have a high level of environmental incidents reported, 715 over the past six months. We have increased resources in incident response but are still balancing an overflow with routine compliance monitoring.

Internally we have been focused on health and safety. After an internal working group made some recommendations about staff security, we have begun to implement new arrangements and procedures, including additional security measures at Philip Laing House. We are also looking at improvements to our overall health and safety systems, assessing outdoor work risks and hazards, and have reviewed equipment storage and procedures in some areas.

### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.

### 10.1. Future Support for Catchment Groups

|                      |  |
|----------------------|--|
| <b>Prepared for:</b> | Council  |
| <b>Report No.</b>    | GOV1886  |
| <b>Activity:</b>     | Environmental: Land<br>Environmental: Rivers & Waterway Management<br>Environmental: Water   |
| <b>Author:</b>       | Andrea Howard, Manager Good Water Programme, Acting Manager<br>Biosecurity and Rural Liaison |
| <b>Endorsed by:</b>  | Gavin Palmer, General Manager Operations   |
| <b>Date:</b>         | 29 January 2020  |

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#### PURPOSE

- [1] To consider the Otago Regional Council's future role in the development and on-going support of community-based, environmentally focused, Catchment Groups.

#### EXECUTIVE SUMMARY

- [2] The Council has a history of providing support to groups that focus on improving environmental outcomes in their local communities. As such groups grow in number and environmental issues continue to increase, it is timely to review what future role the Council might have in providing support to help such groups achieve their aims.
- [3] A range of regulatory tools (legislation, plans and rules) and non-regulatory interventions are available to solve environmental problems. Non-regulatory approaches provide significant opportunities and flexibility to both Council and its communities to progress water quality objectives through the application of best practice, harnessing local expertise and translating new knowledge into innovative approaches to environmental management.
- [4] At the community level, Catchment Groups operate as an effective vehicle to facilitate environmentally focused behavioural change. In addition to direct financial support, the Otago Regional Council could offer communities assistance in the form of technical expertise and resources to help groups achieve their environmental goals. Closer partnership with community-led initiatives may assist the Council to build trust with its communities and improve its social licence to operate<sup>1</sup>. Additional investment might also be used as a mechanism to assist with the alignment of priorities between the Council and groups.
- [5] This report proposes two options for consideration. The first option, effectively the status quo, involves Council continuing to support Catchment Groups where able. This support is achieved through attendance at meetings, connecting groups with internal or external expertise and responding to requests for help or information. The second option proposes a more strategic approach and one that involves a greater level of investment. This option would see the Council providing funding for a range of support

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<sup>1</sup> Social Licence can be defined as a measure of confidence and trust society has in an organisation to behave in a legitimate, transparent, accountable and socially acceptable way.

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activities and proactively driving, in partnership with local communities, the development of Catchment Groups in the region.

## RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Decides** whether to support Option 1 or Option 2.

## BACKGROUND

- [6] Globally, natural resource management has moved from traditionally being the sole responsibility of government towards more collective, community-based approaches. This shift has occurred in the context of increased pressure for government funding, expanding roles and responsibilities of local authorities, as well as recognition that the knowledge and expertise to solve environmental issues often exists within the local community. Likewise, as the direction of the current government seeks to set out in policy and regulation outcomes to be achieved for environmental challenges like freshwater, non-regulatory solutions come into focus as tools that can complement such instruments.
- [7] Reflecting trends elsewhere, Otago has seen a steady rise in the number of community-based groups whose aims include improving water quality and understanding of catchment hydrology, implementing on farm improvements and fostering community connections. These groups (often called catchment<sup>2</sup>, land care or water care groups) are typically formed around a geographical feature (river, lake, town) and involve community members working together to achieve long-term environmental outcomes, such as improved water quality or ecosystem health. Catchment Groups play a fundamental role in bringing communities together, through meetings and topic focused events, to talk about issues and develop solutions.
- [8] Catchment Groups undertake a range of activities to improve the natural environment, including:
- Water quality monitoring
  - Waterway fencing/riparian planting
  - Knowledge sharing
  - Biodiversity/ecosystem management
  - Development of integrated catchment plans
  - Native plant protection
  - Pest management
  - Walkway construction
  - Wetland restoration
  - Water detention and levels of treatment

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<sup>2</sup> For the purpose of this report community-led environment groups will be referred to as Catchment Groups.

- [9] Research<sup>3</sup> shows that community groups use local knowledge, are highly motivated and when projects are self-initiated, they are more likely to commit to longer-term stewardship of their local environment.

#### **Otago Regional Council and Catchment Groups**

- [10] There are at least 16<sup>4</sup> known Catchment Groups operating in the Otago region, with the primary focus of these groups being on issues related to water quality and quantity (Figure 1). There is a degree of variation amongst these groups in terms of both levels of maturity and formality.
- [11] The Otago Regional Council has been involved in the formation and support of Catchment Groups in the region for a long period of time. Initially the Council played a lead role in the establishment of such groups, but the level of support has diminished over time as groups have increased, priorities have been altered and competing demands have been placed on resources. That said, approximately \$100,000 of funding over the past four years has been given to Catchment Groups. Most of this funding has been provided to the Pomahaka Water Care and the North Otago Sustainable Land Management Groups to help fund co-ordinator support and projects including the establishment of a plant nursery and a farmer to farmer advice network. The ORC has also undertaken sampling and analysis of wetland sites for the Pomahaka Water Care Group.
- [12] While tangible outcomes can be observed from current investment<sup>5</sup>, there is room to improve the criteria used to distribute funding and Council's understanding of the benefits gained as a result of investing in this activity. There is also an opportunity to create underpinning strategy to ensure clear priorities and overall direction that complement the outcomes sought through regulation, policy statements and plans.
- [13] Within the 2019/2020 year, the Council has provision for approximately \$30,000 of funding to continue to support the Pomahaka Water Care and North Otago Sustainable Land Management Groups. Staff will also maintain in-kind support, such as contributing to governance committees, providing advice and facilitating connections to other groups. As part of planning for the 2020/2021 Annual Plan a further \$200,000 has been tentatively ringfenced should Council decide to pursue other related initiatives.
- [14] The Council continues to work collaboratively with a range of industry, government and non-governmental organisations to support Catchment Groups, including New Zealand Land Care Trust who play a pivotal role in encouraging sustainable land and water management through community involvement.

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<sup>3</sup> Jones, Christopher & Kirk, Nick. (2018). Shared visions: Can community conservation projects' outcomes inform on their likely contributions to national biodiversity goals?. *New Zealand Journal of Ecology*. 42. 10.20417/nzjecol.42.14.

<sup>4</sup> Lakes Catchment Group, Coal Creek Catchment Group, East Otago Catchment Group, North Otago Sustainable Land Management, Lake Tuakitoto Catchment Group, Lake Mahinerangi Catchment, Lower Clutha Catchment Group, Owaka Catchment Group, Pomahaka Water Care Group, Teviot Valley Catchment Group, Thomsons Creek Catchment, Tokomairiro Catchment Group, Upper Taieri Catchment Group, Waihemo Catchment Group, Waitahuna-Tuapeka Catchment Group and Waiwera Catchment Group.

<sup>5</sup> For example, the Pomahaka Water Care Group report a slowdown in the deterioration of water ways since the group's establishment.



Figure 1: Otago Catchment Group Coverage (Light green)  
Source: NZ Landcare Trust

## ISSUE

- [15] Over the past decade or so, support to Catchment Groups has varied with periods of active leadership and more passive support. There is currently no firm mandate from Council on what support, if any, should be provided and there are limited systems in place to monitor the return on current investment. Similarly, the Council does not have a framework for determining what constitutes a Catchment Group.
- [16] Given the benefits associated with community-led environment preservation and restoration (see paragraph 8 above), Council is being asked to decide what level and type of support it would like to provide to such groups.
- [17] The creation of a more formal approach may be desired to support the implementation of non-regulatory tools likely to be further developed through new policy for water. It is also a vehicle for bridging the gap between our current Water Plan and the notification of the new policy for water, where progress in addition to that regulated can be made by employing non-regulatory environmental improvement or enhancement strategies. In both instances such an approach may well provide the Council with a tangible way to improve community engagement and provide a mechanism for establishing a greater number of community/government partnerships aimed at facilitating better environmental outcomes.

## DISCUSSION

- [18] Over the past year or so the Chief Executive and ORC staff have engaged with several catchment group leaders<sup>6</sup> and members to better understand what ORC support or partnership with these groups means to them. While these views are not necessarily representative of all Catchment Groups, there was a high degree of commonality

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<sup>6</sup> Initial feedback was facilitated by Randall Aspinall, Geoff Crutchley, Lloyd McCall and Lyndon Strang and discussed more widely during a representative Catchments of Otago meeting held in November 2019.

amongst the responses provided by the four and arguably most established groups in Otago.

- [19] While specific support options are detailed below, several themes emerged from the feedback that could serve as principles to guide the Council's thinking on how best to work with community groups, these included:
- The need to recognise diversity between catchment groups (in terms of their stage of development and the environment issues being addressed).
  - The importance of providing opportunities to capitalise on local knowledge and aspiration.
  - The desire to develop systems and processes that foster and facilitate community self-management, ownership and responsibility.
  - The recognition that behavioural and environmental change takes time to achieve.
- [20] In addition to the considerations above, staff recommend a further 'partnership' principle be adopted with a view to ensuring that desired outcomes from investment support the Council's own objectives.
- [21] Feedback from Catchment Group leaders highlighted that there is a wide spread of catchment groups in Otago characterised by size, maturity, land use and effectiveness and that these groups would need different types of support depending on their particular circumstances.
- [22] Catchment Group leaders noted the desire to avoid being dependent on the Council for survival and recommended that Council funding should supplement but not replace contributions from the local community. This would ensure local autonomy and ownership is retained. However, the idea of establishing an umbrella entity (e.g. Otago Catchments) to provide leadership, expertise and shared practice across groups was mooted.
- [23] Leaders believed that efforts should be focused on the 'coalition of the willing' and that the key to fostering community involvement was to allow communities to develop their own approaches to dealing with the unique issues and challenges present in their catchments. That said ORC efforts also need to be within an accountability framework and to ensure that improvement or change in the quality of the environment is being achieved.
- [24] It was noted that as the environmental space is fast moving, Catchment Groups needed to have the flexibility to adapt to changing demands from its members. Inflexible and resource heavy funding systems were perceived to diminish effectiveness and the ability to innovate and be dynamic. Similarly, the type of support provided by the Council may need to change as the focus of Catchment Groups shifted (e.g. not only water quality but also climate change, biodiversity, biosecurity etc.).
- [25] Recognising that resolving environmental issues requires long-term commitment, leaders expressed the view that if funding was provided it should be for longer than one year (e.g. a minimum of three years).

- [26] Specific support options identified by stakeholders and staff can be classified into financial and non-financial categories, as outlined below:

#### **Financial Support Options**

- a. Establishment Funding
  - i. Seed funding to support the establishment of groups.
- b. Project Funding
  - i. Contestable funding for catchment specific projects.
- c. Co-ordination/Administration Support
  - i. On-going funding for locally-based roles to co-ordinate activities and/or undertake administrative duties for the group (e.g. funding applications, meeting organisation, communications, education support).
  - ii. Otago-wide Catchment Group role to liaise between the Council and Groups, and to identify and resolve barriers to achieving desired outcomes.

#### **Non-Financial Support**

1. Technical Support
  - i. Continued local science and monitoring to determine success of catchment groups actions (e.g. physio chemical and instream values including Macroinvertebrate Community Index).
  - ii. Analysis of data and translation of that into information which shows trends and progress (or not) toward target objectives.
  - iii. Development and analysis of effectiveness of different mitigation methods.
  - iv. Easy access to current and historical scientific data.
  - v. Science expertise to address catchment specific issues.
  - vi. Geographic Information System catchment mapping.
  - vii. On farm assistance (e.g. land management advice, rural liaison support, farm environment assessments, development and implementation planning for Good Management Practices).
2. Administrative/ORC Engagement Support
  - i. Dedicated resource as the first point of contact for Catchment Groups, connecting groups to different expertise within the organisation, undertaking project work and supporting new groups with administrative tasks and good governance processes.
  - ii. Professional development – e.g. social media/media training, workshop facilitation, budgeting, establishment of organisational structure.
  - iii. Assistance with iwi engagement and developing partnerships with other key stakeholders (e.g. University, DoC, Beef and Lamb etc).
  - iv. Support to communicate the work undertaken by Catchment Groups and results achieved.
3. Strategy Support
  - i. Assistance with funding grant applications.

### **Potential Benefits to Otago Regional Council of Increased Investment**

- [27] Increased partnership with Catchment Groups can be mutually beneficial to both parties. Leaders suggested that Catchment Groups serve as efficient access points into local communities to facilitate increased and improved engagement. The recent Executive Leadership Team outreach sessions organised by Catchment Groups were viewed as a positive example of such a partnership approach.
- [28] The Council could also benefit from harnessing local knowledge in terms of community education, communication, monitoring, reporting and problem-solving. This kind of effort may develop ORC's social licence in communities and could achieve the desirable outcome of communities becoming advocates for our work and value.
- [29] Catchment Groups could continue to be an outreach resource for the Council to promote positive on-farm change. Council investment might also be used as a mechanism to assist with the alignment of priorities between the Council and groups. Similarly, Catchment Groups could be used as a vehicle to progress freshwater management unit discussions and consultation.
- [30] Catchment Groups leaders felt that by giving individuals and communities ownership, superior outcomes would be achieved as groups worked to progress their vision, values and goals rather than meeting minimum rules. Efficiencies for the Council might also be achieved as a result of enabling communities to undertake simple compliance or monitoring work via local education, awareness and peer pressure.
- [31] Research shows that engaging communities early in environmental projects can lead to the maintenance of benefits beyond what may be possible for organisations to maintain.
- [32] Other benefits include the potential to realise the power of the 'people on the ground' to assist with the implementation of environmental actions e.g. riparian planting, citizen science, water quality monitoring.

### **Potential Risks to Otago Regional Council of Increased Investment**

- [33] There are a range of stakeholders currently supporting (via guidance and/or funding) the efforts of Catchment Groups in Otago. These include the Ministry for the Environment, Ministry for Primary Industries, Fonterra, NZ Landcare Trust, DairyNZ, Fish & Game, Beef and Lamb and local businesses. If the Council were to increase its support, it would be important to identify where it can most add value to avoid unnecessary duplication of effort and/or funding.
- [34] Measuring the success or outcome of any additional investment may be difficult to quantify due to:
- Time-lag between actions and environmental responses – natural systems take time for quantifiable changes to accrue, often beyond the duration of project funding.

- Difficulty in attributing environmental responses to actions taken in what are often complex and variable natural systems.
- Costs and technical requirements of collecting robust data on outcomes.

## OPTIONS

[35] Two options were considered by staff regarding ORC's future support of Catchment Groups:

### **Option 1: Status Quo**

Under this option support would continue to be organic and largely reactive. Staff would continue to connect Catchment Groups with key stakeholders and provide advice on matters such as central and local government legislation and policy. Some services would be provided, such as basic catchment mapping and staff would show visible support through attendance and meetings and workshops. The focus would be on supporting existing groups rather than facilitating the development of new groups.

To date staff time has been spent on developing supporting material, providing information/advice on ORC activities, funds, plans and policies, environmental observation, community group meeting support, facilitation and attendance, and the interpretation of government direction. The financial cost of historic support has not been quantified.

#### **Advantages:**

- Catchment Groups retain full autonomy, without Council driven accountability measures.
- No further funding required.

#### **Disadvantages:**

- Risk of not meeting community expectations (diminishing social licence).
- Risk of not achieving desired environmental outcomes.
- Inability to capitalise on the knowledge, expertise and voluntary time invested by community members to progress environmental goals.
- Loss of shared success in the outcomes achieved by Catchment Groups.
- Funding provided to support Catchment Groups could be diverted to other activities.
- Limited opportunity for developing successful uses for non-regulatory tools to achieve water quality outcomes
- Catchment Group funding options are limited to the Council's ECO Fund thereby contributing to an over subscription of this fund.
- Existing funding provided to the Pomahaka Water Care and the North Otago Sustainable Land Management Groups was distributed on a 'first come, first served basis' resulting in overall inequity of funding pool. The lack of criteria surrounding this funding also has the potential for accountability risks.

### **Option 2: Develop a series of increased support options for consideration during the Long Term Plan process**

This option would allow further consideration of the support options available. It is recommended that a small Working Group could undertake the following activities to inform a budget and implementation plan in time for the Long-Term Plan consultation:

- Agreed criteria for classifying a Catchment Group.
- Develop and establish an appropriate governance structure (potentially similar model to the Manuherehia Reference Group) to create:
  - an overall strategy;
  - a funding approach/grant scheme; and
  - an accountability framework.

In addition to the activities above, staff can prepare supporting information including:

- consideration of how increased support can best link with other strategic priorities (e.g. at-risk catchments);
- analysis of approaches undertaken by other Council's and results achieved; and
- consideration of barriers to achievement for existing groups.

**Advantages:**

- Potential for improved environmental outcomes.
- Ability to better respond to community need.
- Development of a more strategic approach to the provision of support.
- Increased leadership, resulting in greater alignment of priorities between Council and Catchment Groups.
- Enhanced opportunities for meaningful/tangible engagement with communities.
- Facilitation of increased community-driven ownership of environmental issues and remediation action.
- The development of a more formal reporting framework would allow Council to gain a greater level of insight into community activities and environmental data and outcomes.

**Disadvantages:**

- Due to workload pressures and available resources, any additional support will require new resources.
- Potential for duplication of funding/support effort if Council and stakeholders are unable to determine how best to contribute.
- Results of investment may be unclear due to the time taken to achieve environmental change.
- Risk of perceived unfairness if all Catchment Groups are unable to be supported equally.

**CONSIDERATIONS**

**Policy Considerations**

[36] Not applicable.

**Financial Considerations**

[37] If the Council wishes to increase support provided to Catchment Groups, the funding focus, mechanism and amount would need to be considered as part of the standard Annual Plan or Long Term Plan process.

**Significance and Engagement**

[38] Not applicable.

**Legislative Considerations**

[39] Not applicable.

[40] Not applicable.

**Risk Considerations**

[41] See above.

**NEXT STEPS**

[42] If Option Two is endorsed, a more detailed implementation plan and options for funding would be developed by a small Working Group for consideration by Council as part of the annual plan process.

**ATTACHMENTS**

Nil

**Prepared for:** Council  
**Report No.** GOV1880  
**Activity:** Governance Report  
**Author:** Garry Maloney, Manager Transport  
**Endorsed by:** Gavin Palmer, General Manager Operations  
**Date:** 9 December 2019

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## PURPOSE

- [1] This report proposes a term of reference and recommends membership for the Council's Otago Regional Transport Committee (RTC).

## EXECUTIVE SUMMARY

- [2] The RTC is a committee of Council, re-established each triennium and requires terms of reference. The proposed terms of reference are those adopted by the Otago and Southland Regional Councils in previous trienniums for their RTCs. They provide for Otago RTC's continued collaboration with the Southland RTC.

## RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Endorses** the continued collaboration of the Otago RTC with the Southland RTC.
- 3) **Adopts** the attached Terms of Reference for the Otago Regional Transport Committee as a draft and seeks input from the Committee on those terms.
- 4) **Appoints** the following members to this Otago Regional Transport Committee:
  - a. to represent Clutha District Council - Cr Bruce Graham
  - b. to represent Central Otago District Council - Cr Stuart Duncan
  - c. to represent Dunedin City Council - Cr Jim O'Malley and Cr David Benson-Pope (alternate)
  - d. to represent Waitaki District Council - Cr Guy Percival and Cr Bill Kingan (alternate)
  - e. to represent New Zealand Transport Agency - Jim Harland, Director Regional Relationships (South Island) and Graeme Hall, Manager, System Management – Lower South Island (alternate).
- 5) **Notes** that the Council has already appointed Cr Forbes as Chair of the Otago Regional Transport Committee and Cr Wilson as Deputy Chair.

## TERMS OF REFERENCE

- [3] The attached terms of reference are a slightly amended version (such as replacing full terms with acronyms, etc) of those adopted by the Otago and Southland Regional Councils for their RTCs in previous trienniums (and recommended for adoption for this triennium). They provide for Otago RTC's continued collaboration with the Southland RTC, which staff recommend continues.

- [4] The RTC's composition, functions and procedures are prescribed in sections 105 to 107 of the Land Transport Management Act 2003 (LTMA).

#### **REGIONAL TRANSPORT COMMITTEE MEMBERSHIP**

- [5] Section 105 (1) of the LTMA requires every regional council to establish an RTC for their region.
- [6] The membership of the RTC is also prescribed in the legislation as being two members from the Regional Council (one of whom will Chair the Committee) and one each from the region's territorial authorities and the New Zealand Transport Agency (NZTA).
- [7] As such, the Council does not have discretion as to which authorities it appoints to the Committee. That said, the Committee is not a "joint committee" (which is defined in the Local Government Act), but a Committee of Council.
- [8] To give effect to the legislation, following the 2019 local government elections, the Council invited those parties to nominate who should represent their organisation on the RTC and encouraged them to identify an alternate representative.
- [9] The Council has already appointed Cr Forbes as Chair and Cr Wilson as Deputy Chair of this Committee. The Otago territorial authorities and the NZTA Agency have subsequently each nominated their representative as follows for the Committee:
- Clutha District Council - Cr Bruce Graham
  - Central Otago District Council - Cr Stuart Duncan
  - Dunedin City Council - Cr Jim O'Malley and Cr David Benson-Pope (alternate)
  - Queenstown Lakes District Council –yet to be advised.
  - Waitaki District Council - Cr Guy Percival and Cr Bill Kingan (alternate)
  - New Zealand Transport Agency - Jim Harland, Director Regional Relationships (South Island) and Graeme Hall, Manager, System Management – Lower South Island (alternate).

#### **WORK PROGRAMME**

- [10] The primary function of the RTC is to prepare for the Regional Council's approval, a Regional Land Transport Plan (RLTP) for the Otago Region. That work has currently begun in partnership with the Southland region and will mirror the timeframe for preparation of the Council's next Long-Term Plan.
- [11] For the Otago Region, two key inputs to its RLTP will be the work being undertaken under the oversight of the Connecting Dunedin and Way to Go partnerships.
- [12] The Regional Council will also be reviewing the Regional Public Transport Plan in the same period and must consult the RTC on the document (that is the RTC will have an opportunity to submit).

#### **OPTIONS**

- [13] The Council is required by statute to appoint an RTC and therefore has no other options.

## **CONSIDERATIONS**

### **Policy Considerations**

[14] There are no policy considerations.

### **Financial Considerations**

[15] The Committee does not have a financial delegation. The work of the Committee (e.g. prepare the RLTP) is currently separately budgeted for by the Regional Council.

### **Significance and Engagement**

[16] The significance of the recommended decision is low, being a statutory requirement of the Land Transport Management Act 2003.

[17] No public engagement is required. Following Council's decision, staff will relay that outcome to the region's territorial authorities and the NZTA.

### **Legislative Considerations**

[18] Appointing a new RTC complies with the legislation.

### **Risk Considerations**

[19] Appointing a new RTC should not give rise to any risk. Not appointing the Committee however, may potentially delay the RLTP process, or other Committee business requiring a decision.

## **NEXT STEPS**

[20] The next steps are to:

- appoint RTC members/alternates;
- seek feedback from the RTC on the Committee's draft terms of reference;
- subsequently, finalise the Committee terms of reference.

## **ATTACHMENTS**

1. ORC RTC Terms of Reference 2019-22 [**10.2.1** - 3 pages]

## Terms of Reference for the Otago Regional Transport Committee

### Membership

The Regional Transport Committee (RTC) for Otago comprises:

- two Regional Council representatives (Chair and Deputy Chair);
- one representative from the New Zealand Transport Agency (NZTA);
- one District Council representative from each of the:
  - Clutha District Council;
  - Central Otago District Council;
  - Dunedin City Council;
  - Queenstown Lakes District Council; and
  - Waitaki District Council.

Representatives are appointed by the Regional Council on the nomination of NZTA and each of the territorial authorities (TAs).

### Objective

To undertake the functions as prescribed by the Land Transport Management Act 2003 (LTMA).

### Meeting Schedule

The RTC normally meets at least three times a year but may meet more regularly depending on the work to be undertaken or the issues to be addressed. Where possible, members will be advised, in advance, of the meeting schedule for the year.

### Role and Functions

The role and functions of the RTC are as follows:

1. To undertake the statutory requirements of the LTMA.
2. To prepare the Regional Land Transport Plan (RLTP) in cooperation with the Southland RTC, to prepare any applications to vary the RLTP and to process any applications to vary the RLTP (*LTMA section 106(1)(a)*).
3. To prepare and adopt a policy that determines significance in respect of:
  - a) any variations made to the RLTP.
  - b) activities included in the RLTP (*LTMA section 106(2)*).

4. To provide any advice and assistance the regional council may request on its transport responsibilities generally (*LTMA section 106(1)(b)*).
5. To undertake monitoring to assess implementation of the RLTP including monitoring of the performance of activities (*LTMA section 16(3)(f) and 16(6)(e)*), in cooperation with the Southland RTC.
6. To consult on a draft RLTP for the Region in accordance with the consultation principles specified in sections 18 and 18A of the *Land Transport Management Act 2003*, in cooperation with the Southland RTC.
7. To complete a review of the RLTP during the six-month period immediately before the expiry of the third year of the Plan (*LTMA section 18CA*) in cooperation with the Southland RTC.
8. To advise the Council on any significant legislative changes, programmes, plans or reports relating to the region's transport system.
9. To prepare and implement regional transportation planning studies, or pan-regional studies with the Southland RTC, when necessary.
10. To represent and advocate for transport interests of regional and/or pan-regional Otago/Southland concern.
11. To consider and submit on transport-related policies, plans and consultation documents issued by the Ministry of Transport, NZTA, regional/district councils, and other relevant organisations as considered appropriate, including submitting jointly with the Southland RTC when appropriate.
12. To liaise with the Ministry of Transport, NZTA, Commissioner of Police, regional/district councils, and other interested parties on transport matters, and advise the Council on any appropriate new initiatives as considered appropriate.
13. To cooperate with the Southland RTC and to engage with other RTCs and working parties, which from time to time may be established.
14. To consider advice and recommendations from the Otago/Southland Regional Technical Advisory Group.

#### **Members' responsibilities for reporting back to the organisation they represent**

Each member of the RTC is expected to report back regularly to their organisation on matters discussed at Committee meetings, on the RLTP transport priorities for the region, its objectives and policies, and other content.

#### **Terms of Membership**

Should a vacancy occur in the membership of the RTC, the Committee Secretary shall report this to the next meeting of the Council, which shall invite the nominating organisation to nominate a replacement.

#### **Quorum and Voting Rights**

An RTC meeting cannot proceed unless five committee members are present, at least one of whom shall be a representative of the Regional Council.

No voting will occur unless there is a quorum of committee members from those organisations allowed to vote on these matters.

The Chair has a deliberative vote and in the case of an equality of votes does not have a casting vote. Clause 24 of the 7<sup>th</sup> schedule of the Local Government Act otherwise applies to voting.

The purpose of encouraging each organisation to have alternates to ensure that each of the organisations involved in the RTC - the TAs, NZTA and the regional council - is able to bring their organisation's view to the table and to report back the outcome to their organisation.

Each organisation (i.e. the Regional Council, NZTA and each TA) is therefore encouraged to have alternative representatives to act as a replacement should the appointed representative be absent from a meeting. The participation of an alternate in an RTC meeting or workshop will be at the discretion of the RTC Chair.

Alternates do not count towards a quorum and do not have voting rights.

#### **Delegated Authority – Power to Act**

The RTC:

1. Does have the ability to appoint a sub-committee to hear RLTP, submissions, working parties, advisory groups and, where there is urgency or special circumstances, a subcommittee to deal with any matters of responsibility within the Committee's Terms of Reference and areas of responsibility, and to make recommendations to the Committee on such matters, provided that a subcommittee does not have power to act other than by a resolution of the committee with specific limitations.
2. Does have the ability to make decisions in accordance with its Terms of Reference and the LTMA.

#### **Power to Act (for the information of Council)**

The RTC has the power to:

1. Monitor any transport activities of the Regional Council, territorial authorities and NZTA in order to report on progress on the RLTP.
2. Prepare and recommend variations to the RLTP that trigger the RTC's significance policy.
3. Consider and recommend transportation planning studies and associated outcomes.
4. Provide recommendations to relevant Government agencies on transport priorities for the region and the allocation of national or regional transport funds.

### 10.3. Ratifying the Otago Local Authorities' Triennial Agreement 2020-22

|                      |  |
|----------------------|--|
| <b>Prepared for:</b> | Council  |
| <b>Report No.</b>    | OMF201912  |
| <b>Activity:</b>     | Governance Report                                  |
| <b>Author:</b>       | Marianna Brook, Senior Adviser Otago Mayoral Forum |
| <b>Endorsed by:</b>  | Sarah Gardner, Chief Executive                     |
| <b>Date:</b>         | 17 January 2020                                    |

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#### PURPOSE

- [1] This paper requests that the Otago Regional Council ratify the Otago Local Authorities' Triennial Agreement (the Agreement) 2020–22, including terms of reference for the Otago Mayoral Forum.

#### EXECUTIVE SUMMARY

- [2] The Agreement, required under Section 15 of the Local Government Act 2002, formalises how Otago's local authorities communicate, co-operate and collaborate. It mandates the Mayoral Forum as the primary mechanism for implementing the Agreement.
- [3] The parties to the Agreement are the six local authorities of Otago: five territorial authorities and the Otago Regional Council.
- [4] To comply with the Local Government Act, all councils are required to ratify the Agreement no later than 1 March 2020.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this paper
- 2) **Approves** the attached Otago Local Authorities' Triennial Agreement 2020–22
- 3) **Authorises** the Chair to sign the Otago Local Authorities' Triennial Agreement 2020–22 on behalf of Otago Regional Council

#### BACKGROUND

- [5] The Local Government Act 2002 (section 15) requires all local authorities within a region to enter into a triennial agreement not later than 1 March after each triennial election of members.
- [6] The purpose of a triennial agreement is to ensure that appropriate levels of communication, co-ordination and collaboration are maintained between local authorities within the region. Agreements must include:
- a. protocols for communication and co-ordination between councils,

- b. the process by which councils will comply with section 16 of the Act, which applies to significant new activities proposed by regional councils, and
- c. processes and protocols through which all councils can participate in identifying, delivering and funding facilities and services of significance to more than one district.

- [7] Triennial agreements may also include commitments to establish joint governance arrangements to give better effect to the matters set out in paragraph 6 above.
- [8] A triennial agreement may be varied by agreement between all the local authorities within a region and remains in force until local authorities ratify a new agreement.

### **OTAGO TRIENNIAL AGREEMENT**

- [9] Attached is the Otago Triennial Agreement as adopted by the Otago Mayoral Forum on Friday 29 November 2019. The Agreement was prepared by the Otago Mayoral Forum Secretariat, drawing on a draft Agreement prepared for Canterbury authorities by the secretariat of the Canterbury Mayoral Forum.
- [10] The Agreement includes terms of reference for the Otago Mayoral Forum and mandates it as the primary mechanism for implementing the Agreement in Otago (Agreement, paragraph 9). The Agreement (paragraph 11) also mandates the Chief Executives Forum.

### **OTAGO MAYORAL FORUM**

- [11] While a non-statutory body, the Otago Mayoral Forum is the primary mechanism to give effect to a statutory requirement (the Triennial Agreement). The Otago Mayoral Forum's terms of reference forms part of the Triennial Agreement and makes explicit that decisions of the Otago Mayoral Forum are not binding on member councils.
- [12] The Otago Mayoral Forum is supported by the Otago Chief Executives Forum, which is also mandated by the Triennial Agreement.

### **CONSIDERATIONS**

#### **Policy Considerations**

- [13] There are no policy implications from signing this Agreement.

#### **Financial Considerations**

- [14] There are no new financial implications from signing this Agreement.

#### **Significance and Engagement**

- [15] Adopting and ratifying a triennial agreement as required by the Local Government Act 2002 section 15 is unlikely to trigger Significance and Engagement Policies as adopted by councils to comply with section 76AA of the Local Government Act 2002.

#### **Legislative Considerations**

- [16] The Agreement complies with requirements in section 15 of the Local Government Act 2002.

- [17] The Agreement needs to be ratified by the parties to the agreement – the five territorial authorities in Otago and the regional council – no later than 1 March 2020.

**Risk Considerations**

- [18] No risks have been identified in association with signing this Agreement.

**NEXT STEPS**

- [19] If Council agrees, the Chair will sign the Agreement on behalf of the Otago Regional Council.
- [20] Alternatively, if Council does not agree to sign the Agreement as proposed this will result in a potential failure to meet the requirements of the Local Government Act by the 1 March 2020 timeframe as such a decision impacts all Territorial Authorities in the region.
- [21] Once all member councils have ratified the Agreement, the Otago Mayoral Forum Secretariat will arrange for the Agreement to be signed.
- [22] The signed agreement will be available on request from the Otago Mayoral Forum Secretariat. No public communication is planned.
- [23] The Otago Mayoral Forum terms of reference allow for a Forum website, but members have agreed not to establish a website for the time being. The Agreement may be published if a website is set up at a later date.

**ATTACHMENTS**

1. Otago Local Authorities' Triennial Agreement 2020-22 [**10.3.1** - 7 pages]
2. Local Government Act 2002 S 15 and S 16 [**10.3.2** - 3 pages]

## **Otago Local Authorities' Triennial Agreement 2020–22**

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### **Background**

1. Section 15 of the Local Government Act 2002 (the Act) requires local authorities within a region to enter into a Triennial Agreement (the Agreement) by 1 March following triennial local body elections.
2. The purpose of the Agreement is to ensure appropriate levels of communication, co-ordination and collaboration between local authorities within the region. The agreement must include:
  - protocols for communication and co-ordination between the councils
  - the process by which councils will comply with s. 16 of the Act, which applies to significant new activities proposed by regional councils
  - processes and protocols through which all councils can participate in identifying, delivering and funding facilities and services of significance to more than one district.
3. Agreements may also include commitments to establish joint governance arrangements to give better effect to the matters set out in paragraph 2 above.

### **Parties to the Agreement**

4. The Parties to the Agreement are the Queenstown Lakes, Central Otago, Waitaki and Clutha District Councils, the Dunedin City Council, and the Otago Regional Council.

### **Working together for Otago**

5. The focus of this Agreement is issues and opportunities of significance to the Otago region. The Parties commit to working together in good faith for the good governance and sustainable development of Otago.
6. The Parties recognise that:
  - a. shared objectives and a collective voice can better serve Otago's communities and environment; and
  - b. working together can bring efficiencies, including through reduced duplication of effort and practical solutions such as shared services.
7. While collaboration and cooperation are desirable, Otago's communities and landscapes are diverse, and each local authority has the legislative mandate to govern its own area as appropriate.
8. The Parties value and will maintain open communication, collaboration and trust. In the interest of "no surprises", where practicable the Parties will give early notice of potential disagreements or actions likely to impact significantly on other Parties.

## **Governance**

9. The primary mechanism to implement this Agreement is the Otago Mayoral Forum, comprised of the region's Mayors and the Chair of the Otago Regional Council. The Forum will meet quarterly and operate in accordance with its agreed terms of reference, which are **attached**.
10. The Otago Mayoral Forum will be supported by the Otago Chief Executives Forum and other regional forums and working groups as agreed from time to time.
11. The Otago Chief Executives Forum will:
  - identify and escalate to the Otago Mayoral Forum strategic issues and opportunities for collaboration, and
  - report to the Otago Mayoral Forum on the delivery of its agreed actions, work programmes or collaborative projects
12. The Otago Regional Council will host a permanent secretariat to support both the Otago Mayoral Forum and the Otago Chief Executives Forum.

## **Significant new activities**

13. When a Party is considering a major policy initiative or proposal that may have implications for other Parties, and unless such disclosure is inconsistent with the Local Government Official Information and Meetings Act 1987 or commercial confidences precludes such disclosure, they will give early notification to the affected Parties and share the information with the Otago Mayoral Forum and the Otago Chief Executives Forum.
14. The Otago Regional Council will provide early advice to the Otago Chief Executives Forum and the Otago Mayoral Forum of any significant new activity, in addition to other requirements specified in s.16 of the Act.

## **Significant facilities and services**

15. The Otago Mayoral Forum and Otago Chief Executives Forum may from time to time explore options for identifying, delivering and funding facilities and services of significance to more than one district. Any Party to this Agreement may raise these issues for consideration at the Forums.

## **Regional Policy Statement review**

16. The Agreement applies to any change, variation or review of the Otago Regional Policy Statement.

**Other agreements**

17. This Agreement does not prevent the Parties from entering into other agreements among themselves or outside the Otago region. Any other such agreement should not, however, be contrary to this Agreement.

**Agreement to review**

18. A triennial agreement may be varied by agreement between all the local authorities within the region and remains in force until local authorities ratify a new agreement.
19. Any one or more of the Parties can request an amendment to this Agreement by writing to the Chair of the Otago Mayoral Forum at least two weeks before a regular quarterly meeting of the Forum.
20. The Otago Mayoral Forum will review the Agreement no later than the final meeting before triennial local body elections and recommend any changes to the incoming councils.
21. Any agreed amendment will be referred to each local authority for ratification. No amendment to this Agreement has effect until signed by all parties.

**Authority**

22. This Otago Local Authorities' Triennial Agreement 2020–22 is signed by the following on behalf of their respective authorities:

| COUNCIL  | SIGNATURE | DATE |
|--|-----------|------|
| Central Otago District Council<br>Mayor Tim Cadogan    |           |      |
| Clutha District Council<br>Mayor Bryan Cadogan         |           |      |
| Dunedin City Council<br>Mayor Aaron Hawkins            |           |      |
| Queenstown Lakes District Council<br>Mayor Jim Boulton |           |      |

|  |  |  |
|--|--|--|
| <b>Otago Regional Council</b><br><b>Chair Marian Hobbs</b>   |  |  |
| <b>Waitaki District Council</b><br><b>Mayor Gary Kircher</b> |  |  |

## **Appendix: Otago Mayoral Forum terms of reference**

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### **1. Name**

The name of the group shall be the Otago Mayoral Forum.

### **2. Objectives**

- (a) To identify, prioritise and work towards shared positions on issues and opportunities for the Otago region.
- (b) To provide a collective voice to advocate for and raise the profile of these issues and opportunities.
- (c) To enable Otago councils to work more collaboratively with each other, with central government and with other key sector leaders in Otago.
- (d) To increase the effectiveness of local government in meeting the needs of Otago communities.

### **3. Principles**

In pursuit of these objectives the Otago Mayoral Forum will observe the following principles:

- (a) Members of the Forum speak in their own right, rather than as representatives of their councils.
- (b) The Forum will work towards shared positions on issues of mutual concern, and may formalise these through letters of support, submissions and/or public statements as appropriate.
- (c) The Forum will exercise its functions with due regard to the tangata whenua and cultural diversity of the Otago community.
- (d) The Forum will establish processes for reporting back to its respective councils and communities.

### **4. Powers**

- (a) The Otago Mayoral Forum does not have the power to legally bind any council to any act or decision, unless that act or decision has been agreed to by decision of that council.
- (b) The Otago Mayoral Forum shall have the power to:
  - i. receive any grant or subsidy
  - ii. receive financial contributions from member authorities, as may be mutually determined and acceptable to individual local authorities
  - iii. determine and make payments from its funds for any or all of the purposes of its objects

## 5. Membership

- (a) Membership of the Otago Mayoral Forum shall be open to the following councils:
  - Central Otago District Council
  - Clutha District Council
  - Dunedin City Council
  - Queenstown Lakes District Council
  - Otago Regional Council
  - Waitaki District Council
- (b) Each member council shall be represented by its Mayor (or Chairperson in the case of Otago Regional Council) and supported by its Chief Executive. On occasions where the Mayor or Chair cannot attend, a council may be represented by its Deputy Mayor or Chair.
- (c) The Otago Mayoral Forum will have the power to co-opt other members on a permanent and/or issues basis.
- (d) Te Rōpu Taiao Otago is the formal structure underpinning the relationship between Kāi Tahu ki Otago and Otago local authorities. It meets in accordance with its Governance Charter, with meetings usually scheduled alongside those of the Otago Mayoral Forum.

## 6. Chairperson

- (a) The Otago Mayoral Forum shall select a Chairperson at the first meeting immediately following the Triennial Elections. This appointment may be reviewed after a period of 18 months.
- (b) The Chairperson selected will preside at all meetings of the Otago Mayoral Forum.
- (c) The Otago Mayoral Forum may appoint spokespersons from its membership for issues being considered, in which case each member council agrees to refer all requests for information and documents to the duly appointed spokespersons.

## 7. Meetings

- (a) Meetings will be held quarterly at venues to be determined.
- (b) Special meetings may be called at the request of members.
- (c) The secretariat will prepare an agenda for Mayoral Forum meetings in consultation with the Chair and the Chief Executives Forum.
- (d) Agendas for meetings will be issued and minutes will be taken and circulated.
- (e) A summary of each meeting will be drafted, agreed by the Chair, and circulated by the secretariat to members for distribution within member councils as a high-level record of the meeting.
- (f) Approved minutes and approved final reports and papers will be made available via a Mayoral Forum website.

**8. Decision making**

- (a) The practice of the Forum will be to determine issues before it by consensus.
- (b) If the consensus is to determine issues by voting, the determination shall be determined by a majority of votes of the authorities represented at the meeting through the Mayor (or Chair) or their nominated representative.

**9. Secretariat**

The Otago Mayoral Forum will appoint Otago Regional Council to carry out the secretariat function on such terms and conditions as it shall decide for the discharge of duties, including the taking of minutes and the keeping of any books and accounts and attending to any other business of the forum.

## Local Government Act 2002

### Subpart 3—Co-ordination of responsibilities of local authorities

#### **15 Triennial agreements**

(1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.

(2) An agreement under this section must include—

- (a) protocols for communication and co-ordination among the local authorities; and
- (b) a statement of the process by which the local authorities will comply with [section 16](#) in respect of proposals for new regional council activities; and
- (c) processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.

(3) An agreement under this section may also include—

- (a) commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
- (b) the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.

(4) An agreement under this section may be varied by agreement between all the local authorities within the region.

(5) An agreement under this section remains in force until it is replaced by another agreement.

(6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—

- (a) the inconsistency; and
- (b) the reasons for the inconsistency; and
- (c) any intention of the local authority to seek an amendment to the agreement under subsection (4).

(7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection.

Section 15: replaced, on 8 August 2014, by [section 9](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

## 16 Significant new activities proposed by regional council

(1) This section applies if,—

- (a) in the exercise of its powers under [section 12\(2\)](#), a regional council proposes to undertake a significant new activity; or
- (b) a regional council-controlled organisation proposes to undertake a significant new activity; and
- (c) in either case, 1 or more territorial authorities in the region of the regional council—
  - (i) are already undertaking the significant new activity; or
  - (ii) have notified their intention to do so in their long-term plans.

(2) When this section applies, the regional council—

- (a) must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it; and
- (b) must include the proposal in the consultation document referred to in [section 93A](#).

(3) A proposal included in the consultation document referred to in [section 93A](#) must include—

- (a) the reasons for the proposal; and
- (b) the expected effects of the proposal on the activities of the territorial authorities within the region; and
- (c) the objections raised by those territorial authorities, if any.

(4) If, after complying with subsection (2), the regional council indicates that it intends to continue with the proposal, but agreement is not reached on the proposal among the regional council and all of the affected territorial authorities, either the regional council or 1 or more of the affected territorial authorities may submit the matter to mediation.

(5) Mediation must be by a mediator or a mediation process—

- (a) agreed to by the relevant local authorities; or
- (b) in the absence of an agreement, as specified by the Minister.

(6) If mediation is unsuccessful, either the regional council or 1 or more affected territorial authorities may ask the Minister to make a binding decision on the proposal.

(7) Before making a binding decision, the Minister must—

- (a) seek and consider the advice of the Commission; and
- (b) consult with other Ministers whose responsibilities may be affected by the proposal.

(8) This section does not apply to—

- (a) a proposal by a regional council to establish, own, or operate a park for the benefit of its region; or
- (b) a proposal to transfer responsibilities; or
- (c) a proposal to transfer bylaw-making powers; or
- (d) a reorganisation under [Schedule 3](#); or
- (e) a proposal to undertake an activity or enter into an undertaking jointly with the Crown.

(9) For the purposes of this section,—

**affected territorial authority means a territorial authority—**

- (a) the district of which is wholly or partly in the region of a regional council; and
- (b) that undertakes, or has notified in its long-term plan its intention to undertake, the significant new activity

**new activity—**

- (a) means an activity that, before the commencement of this section, a regional council was not authorised to undertake; but
- (b) does not include an activity authorised by or under an enactment

**regional council-controlled organisation means a council-controlled organisation that is—**

- (a) a company—
  - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
    - (A) held by 1 or more regional councils; or
    - (B) controlled, directly or indirectly, by 1 or more regional councils; or
  - (ii) in which 1 or more regional councils have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
- (b) an organisation in respect of which 1 or more regional councils have, whether or not jointly with other regional councils or persons,—
  - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
  - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.

Section 16(1)(c)(ii): amended, on 22 October 2019, by [section 6\(1\)](#) of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

Section 16(1)(c)(ii): amended, on 27 November 2010, by [section 49](#) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 16(2)(b): replaced, on 8 August 2014, by [section 10\(1\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 16(3): amended, on 8 August 2014, by [section 10\(2\)](#) of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 16(8)(d): amended, on 22 October 2019, by [section 6\(2\)](#) of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

Section 16(8)(d): amended, on 5 December 2012, by [section 9](#) of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Section 16(9) **affected territorial authority** paragraph (b): amended, on 22 October 2019, by [section 6\(3\)](#) of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

Section 16(9) **affected territorial authority** paragraph (b): amended, on 27 November 2010, by [section 49](#) of the Local Government Act 2002 Amendment Act 2010 (2010 No 124).

Section 16(9) **annual plan**: repealed, on 22 October 2019, by [section 6\(4\)](#) of the Local Government Act 2002 Amendment Act 2019 (2019 No 54).

#### 10.4. ORC Submission on Resource Management Act Review

**Prepared for:** Council  
**Report No.** P&S1815  
**Activity:** Environmental: Air  
Environmental: Land  
Environmental: Water  
**Author:** Warren Hanley, Senior Resource Planner Liaison  
**Endorsed by:** Gwyneth Elsum, General Manager Strategy, Policy and Science  
**Date:** 21 January 2020

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#### PURPOSE

- [1] To approve the submission on the *Resource Management Act 1991 review “Opportunities for Change – Issues and Options paper”*

#### EXECUTIVE SUMMARY

- [2] The Government has established the Resource Management Review Panel to undertake a comprehensive review of the RMA
- [3] ORC’s submission provides support, in general, for the overall goal of a clearer and more straightforward resource management system and provides specific comment on the options for reform as identified by the panel.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Approves** the Chief Executive, on or before 5pm on Monday 3 February 2020 to:
  - a) Lodge a staff submission on the *Resource Management Act 1991 review “Opportunities for Change – Issues and Options paper; or*
  - b) *approve the attached draft submission, subject to changes made today, to be lodged under delegation from the Otago Regional Council.*

#### BACKGROUND

- [4] The Resource Management Act 1991 (RMA) is almost 30 years old. Since its inception, many factors have changed, particularly around the growth New Zealand has undergone which has presented new challenges.
- [5] As a result of the rapidly changing landscape, the RMA has been subject to multiple tweaks, in attempts to respond to issues that arise. In addition, national direction has been layered over the top of the RMA, creating a complex framework for resource management that seeks to manage everything from built form and landscape, to water quality and the coastal environment.

- [6] In addition, managing natural hazard risk, and addressing climate change, are far more prevalent issues now than they were in 1991.
- [7] The Government appointed a review panel to undertake a comprehensive review of the suite of legislation that forms New Zealand's resource management structure needs reform and has become consultation that has led to a paper proposing a number of options to do so.
- [8] The review panel was chaired by Tony Sanderson, retired Judge and lawyer. In 1990, Hon Randerson chaired the group that reviewed the Resource Management Bill before it was enacted as the RMA in 1991.
- [9] The review panel, in December 2019, released an Issues and Options paper to get feedback on some of the more systemic or complex issues they identified. Many of these options will affect the resources that the ORC manages.

## **ISSUES**

- [10] To provide a submission from the ORC on the Issues and Options Paper looking at comprehensive resource management system review. ORC feedback is that it is important the review takes a systematic approach including focusing on two broad issues as a priority, those being:
  - Cumulative effects
  - Planning Hierarchy, structure and integration

## **DISCUSSION**

- [11] The attached draft feedback outlines what position council staff have taken on the proposed issues and options.

## **CONSIDERATIONS**

### **Policy Considerations**

- [12] The outcome of the review will lead to changes to legislation that may impact the resources ORC manages. The breadth of the changes could be wide reaching.

### **Financial Considerations**

- [13] Changes to legislation may have impacts on existing ORC budgets, especially where they involve changes in processes, and functions. Any impacts as a result of legislative changes would be accommodated within existing budgets but would be unscheduled work.

### **Significance and Engagement**

- [14] Changes to the RMA would trigger the Significance and Engagement Policy however given the public consultation undertaken, this satisfies the Local Government Act requirements and therefore satisfies the policy.

**Legislative Considerations**

- [15] Any proposed changes of resource management related legislation will need to be assessed for potential impacts on ORC's regulations, and potentially functions and structure.

**Risk Considerations**

- [16] The risks from legislation change are:
- a. Pressure on existing ORC work programmes;
  - b. Pressure of incorporating unplanned work;
  - c. Additional pressure for finding staff resources.

**NEXT STEPS**

- [17] Staff anticipate the review will be followed (with the first half of 2020) the release of proposed legislative changes and further consultation. Staff will assess any proposed changes and develop a high-level view on potential impacts and seek to advise council as early as possible to help develop a submission.

**ATTACHMENTS**

Nil

3 February 2020

Resource Management Review Panel

Ministry for the Environment

**Wellington**

RMreview@mfe.govt.nz

**Attention: Hon Tony Randerson QC.**

Dear Chair,

**Otago Regional Council (ORC) feedback on the Ministry for the Environment's 'Transforming the Resource Management System: Opportunities for Change - Issues and Options paper**

**Introduction**

1. Otago, like other regions, has a diversity in geography and natural character which contributes to its regional identity.
2. Otago's natural resources provide opportunities and experiences which is an important part of living, working in and visiting, Otago. They also present challenges in terms of management.
3. The introduction of the Resource Management Act 1991 (RMA) led to ORC having its first suite of first-generation planning document operative by 2004 to meet these challenges. These documents comprised Otago's Regional Policy Statement for Otago and the Regional plans for Water, Coast, Air and Waste.
4. In that time, the centres of Queenstown, Alexandra and Cromwell have seen significant development and growth, with steady activity in Dunedin and other smaller Otago settlements. Otago's overall growth has seen an increase in pressure on Otago's natural resources, as well both regional and district planning and infrastructure resources.
5. In addition to development, since 1991 Otago has witnessed a greater diversity in land use such as land based renewable power generation, Otago's young, yet successful, viticulture industry and the tourism sector.
6. However, ORC accepts that as an authority, and a region, there are still existing and emerging challenges to be addressed to improve outcomes across Otago's natural domains. Necessary Improvements to the New Zealand's resource management framework will be a significant step to addressing planning framework issues and setting a fit for purpose planning frame to progress a 21<sup>st</sup> century Otago.
7. The Structure of ORC's feedback is;
  - a) Introduction and comment on the priority issues ORC would see addressed
  - b) Comments on Part A of the Paper – Context of the Review
  - c) Comments on Part B of the Paper – Issues 1 – 10

d) Appendix 1 – summary of ORC responses to some options and questions raised in the paper.

**Systemic Review Opportunity**

8. While numerous areas of the resource management system have been highlighted for improvement, the review should be clear that the many issues necessitate a systemic review approach.
9. With almost 30 years of implementation and continuous ‘tinkering’, there is sufficient data to inform a rapid and systemic-focused overhaul of the RMA.
10. The primary systemic issues of New Zealand’s resource management approach is:

|   |  |
|---|--|
|    | <p><b><u>Time</u></b></p> <p>Plan making and consenting are two critical processes that can often take too long based on cost benefit outcome.</p>   |
|   | <p><b><u>Resources and Expense</u></b></p> <p>Resource management processes can be overly costly and complex for both practitioners and the public</p>   |
|  | <p><b><u>Public engagement</u></b></p> <p>Engagement is often not timely enough or the process does not correctly identify who should be identified, as well as how, when and why. Lack of quality public engagement is often a causation of the first two issues of time and expense.</p> |

11. These issues are significant in themselves, but also contribute to flow on effects in more specific parts of resource management processes, some which are addressed in the priority issues that ORC would ask the panel to address in section 16 of this submission.

**Time**

12. An ORC example encompassing all three systemic issues is its experience in plan making. Firstly, its first-generation plans took from 1991 to 2004 to become all fully operative. While some were full or partially operative before this time, this is clearly too long, particularly given plans only have a 10-year life span before needing a review.
13. If a plan takes any long that 3 to 4 years to become operative and implemented, it is highly likely to be out of date as issues it seeks to address may have changed.

### **Capacity**

14. Capacity to deliver on desired outcomes, is a significant challenge for New Zealand – an issue broader than reviewing the relevant legislations. Supporting and encouraging education and career pathways for numerous disciplines (science, planning, engineering, hazard analysts) that contribute to implementing resource management is important to ensure New Zealand builds a skilled pool of practitioners it can draw from to offer rewarding careers and contribute to achieving positive outcomes for our environment and communities.
15. Servicing resource management in New Zealand has created a significant and lengthy skills shortage and there little to no support at the ground level for building capacity and capability into the required industries. There is also little to no ability to cadet graduates further restricting people not coming through to the sector.
16. The Ministry for Business, Innovation and Employment records there has been a decline in completed planning degrees between 2013 to 2016<sup>1</sup>, though this may be recovering. However, it is important to recognise than many other disciplines will continue to be needed in areas such as engineering, sciences and environmental law to implement resource management.
17. Conversely there is also high attrition at the experienced end of the sector as they grow frustrated with processes take too long.
18. Capacity is also a significant issue for our iwi partners. ORC agrees with the paper, that avenues for Maori participation has improved since the RMA's inception. ORC's experience is that while it has assisted local iwi with resource management capabilities, often more is asked of iwi than it is resourced to respond to, or that they are capable of delivering to the desired level.

### **Engagement**

19. Engagement over any longer timeframe than 2-3 years is often too big a commitment for many people, specifically in terms of time and costs. This contributes significant to being able to attract meaningful engagement, particularly if it occurs during formal steps of resource management processes.
20. In addition, if a plan cannot be implemented in a timely fashion, it risks being out of date, decreased by-in by stakeholders and too higher cost for the benefits it delivers.

### **ORC's Two Priority Resource Management issues the Review should address**

21. The Issues and Options paper (the paper) identifies many specific issues, challenges and opportunities that the review panel can consider. In addition to requesting the Panel ensure a systemic scope is applied to this review, ORC's position is that the two priority issues to address must be;
  - a) Assessment of Cumulative Effects
  - b) Planning hierarchy, structure and integration

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<sup>1</sup> <https://occupationoutlook.mbie.govt.nz/construction-and-infrastructure/urban-planners/>

### **Assessment of Cumulative Effects**

22. Understanding and managing cumulative effects has been a significant weakness in implementing the RMA. In isolation, practitioners have the tools and experience for assessing and controlling specific effects from an activity. However, when activities are compounded one on top of the other, there is often uncertainty or unwillingness to address cumulative effects. The issue is not having a clear and certain way to measure the impact of many effects and determine when that impact is more than minor.
23. Common examples of cumulative effect failings are in urban creep or conversion by stealth in rural areas, leading to impacts on intangible values such as landscape. Ad hoc developments can also lead to longer term service expectations on local authorities. The resulting costs are often born by the wider community.
24. Cumulative effects also fall across a range of natural resource demands, including associated with discharges to water and/or land. The following have contributed to this situation;
  - An absence of empirical 'bottom lines' to set environmental limits;
  - Variances in the interpretation of regulations; and
  - Private development interests outpacing district or regional strategy development.

The result has been inconsistencies in resource management outcomes, some which have resulted in undesirable or unacceptable effects.

### **Planning Hierarchy**

25. Regional and district government has proven to be an important function of New Zealand's democracy. While the resource management system started out as an effective way to enable local engagement this has been compromised by ongoing amendments to the RMA resulting in perverse outcomes around consultation and engagement.
26. There has been a focus to speed up processes within District Council work without thinking of the consequences for the regional sector. This has led to alignment tensions between each sector, particularly in issues (such as plan development) where there is a crossover of interest and need to approach issues in a more integrated and collaborative manner.
27. ORC agrees that to meet today's expectations of resource management, a wholistic review is needed to inform subsequent change. Continual amendments to the RMA are no longer effective, and arguably have contributed to systemic problems.
28. Greater vision, direction and support from central government will be necessary to provide the resources local government needs to manage not only issues that have grown in parallel with growth and development of our communities, but also enable it to take action developing strategies to address challenges on the immediate and foreseeable planning horizon – specifically the those related to climate change which need action at all levels of government.
29. Similarly, ORC is supportive of local government working collaboratively with central government to implement a more consistent approach to resource management across New Zealand.

## Part A – Te Horopaki o te Arotakenga/Context of the Review

### Challenges facing the resource management system

#### Issues with Status Quo

30. ORC's experience is that consent holders often anticipate that, as their consent nears expiry, it will be simply 'rolled over' as of right for a significant period of time. Typically, any investment made by a user, based on a consented right is a reason a consent holder expects the status quo of their consent to be maintained – be that the scope, expiry and/or conditions of consent.
31. **ORC REQUESTS** that the review consider giving greater clarity around if the consideration of applications for existing lawful activities should differ to those for new activities. Those with existing investments often argue for longer durations and the need for a 'quick' consent process as nothing has changed. However, under the Act each application for consent is treated as a new activity and must be re-assessed, which is not well understood by the public.

#### Natural Hazards

32. As a region, Otago has the full range of natural hazards, from flooding, and coastal inundation, to landslides, rock fall, and major fault lines. Many complex natural hazards problems are becoming clearer as we plan for climate change, in part due to the continuing growth in our urban and rural areas.
33. Climate change poses increasing risk to South Dunedin, and other low-lying coastal areas in Otago from erosion, inundation and, in some instances, the potential for a convergence of multiple threats.
34. ORC is working with Otago's TA's across a number of hazard issues to support them with expertise and data so that appropriate planning responses can be implemented. In addition, ORC continues to manage and review its flood management protection assets to ensure they function in accordance within their designed service level.
35. What is clear is that the scope and scale of some challenges before our communities will be larger than what district and regional authorities can manage on their own. A national strategy that is deployed at all tiers of government will be necessary to effectively meet these challenges.
36. In terms of managing existing natural hazards, continuing growth pressures within hazard prone areas are a matter ORC has experience, and some level of frustration with. Some of this frustration is due to a disconnect between existing regulations that are not structured or integrated sufficiently to control both hazard management and development activities. For example, growth pressures in the Queenstown Lakes district has seen development push into areas with identified natural hazard risks.
37. Stronger national direction would also assist communities (current and future) not taking on inappropriate levels of risk and that decisions are more robust from challenge.
38. **ORC REQUESTS** the review panel consider in terms of a systems approach how disconnects between regulation to control resource management and development activities might be

addressed. For example, an existing limitation of the Building Act 2004's 50-year limited planning horizon is it does not align with the consideration of natural hazard issues under the RMA which are typically no less than 100-year horizon.

#### Growth and development

39. Otago has several centres where high house pricing and limited housing options has created social and economic pressures for our communities. Increasingly, those on lower incomes are finding it more difficult to find housing that is reasonably close to either their places of employment or transport hubs that make commuting accessible.
40. In ORC's experience, this challenge has been exacerbated in instances where private developments have outpaced strategically planned growth. This has created infrastructure and transport issues, some which have contributed to adverse environmental impacts.
41. Greater national direction will assist with strategic planning being prioritised and robust, ensuring expansion is appropriate and not ad hoc.
42. However, current growth areas cannot grow indefinitely due to unsustainable pressures on natural resources, unplanned impacts on infrastructure and increased risk exposure. National direction should also encourage growth through opportunities in other centres which have current capacity and ability to respond appropriately to growth. Leaving this outcome solely to market forces will not result in a timely and planned reduction of pressure in current growth areas.

#### **Part B – Whaiwhakaaro/Thinking**

##### Issue 1: Legislative Architecture

43. **ORC REQUESTS** central government provides greater clarity in resource management regulations, and a focusing on outcomes in addition to effects-based planning Any outstanding conflicts between regulations should be overcome with a common outcome goal as the driver.

##### Issue 2: Purpose and Principles

As currently structured, the purpose and principles of the RMA, while worthy of leading our resource management legislation, have not provided enough certainty as to how environmental management and growth and development should be balanced. This is evident from the very litigious nature of resource management in New Zealand.

44. The RMA's effects-based approach is positive in that it does not tell people how to do something, rather just what cannot happen. However, defining when a 'more than minor effect' will occur has proved to be infinitely debatable at a consent assessment level. Coupled with the weight existing uses are given, authorities with only so many resources have struggled to identify when an effect will be cumulative to the point that it is unsustainable. As such, many activities have, and continue, to be granted even when a resource is in a state of decline.

45. **ORC SUPPORTS** a reframing of sections 5, 6 and 7 of the RMA to be more outcomes focused. The opportunity exists to set clear environmental bottom lines in these sections that give greater certainty for all resource users and administrators. Implementing these bottom lines can be further enhanced through national direction such as in national policy statements and standards. environmental standards as well as regional and district plans.
46. These bottoms lines would then serve to guide any statement on the environment, which would be developed within that context. This is consistent with the principle of Te Mana o te Wai for fresh water – in which the health of the environment is given primacy before all other uses.
47. In supporting a change from effect-based to outcome focused planning, the review panel should keep in mind how this will align with the compulsory national planning standards.

#### Issue 3 – Recognising Te Tiriti o Waitangi

48. The wording, and importantly the weighting to be given to Maori interests in sections 6 through 8 of the RMA could be strengthened or moved further up the hierarchy of Part 2. Given the recognised importance of Te Mana O te Wai from the Courts<sup>2</sup> and the end of the Statutory Acknowledgement process for Ngai Tahu strengthening the reference to the Treaty in section 8 would be helpful in ORC's consenting experience. A common issue is that, to '*Have regard to*' is legally the least stringent wording for assessing an activity for consistency against other statutory documents and often other interests or matters 'trump' these. Increasing the weight given to Maori interests in Part 2 would resolve this and also provide further avenues for Maori participation in the consent process.
49. **ORC SUPPORTS** further consideration of funding mechanisms to support Maori participation. ORC's experience is that it can be a challenge to engage with, and receive timely responses from, iwi representatives, as there is more demand for their input than they are resourced to manage. Provision for Maori participation should be structured so it can provide sufficient and timely input into processes in which that is required.

#### Issue 4 – Strategic integration across the resource management system

50. **ORC DOES NOT SUPPORT** creating an integrated planning statute above the RMA (question 87(a) of the paper). The RMA's purpose and principles, along with other relevant legislation, should be written in such a way that they are the primary legislation for their subject and where issues straddle legislation, the legislation is horizontally integrated. Creating a further level of planning above them would only add unnecessary duplication, complexity and exacerbate existing resourcing issues.
51. **ORC SUPPORTS** central government providing stronger direction on the use of spatial planning. Spatial planning is a powerful planning tool when combined with robust policy and plan development. It can help users visually navigate information in regional or district planning documents more efficiently. In addition, successful strategic planning ensures decisions around infrastructure are more transparent, and infrastructure planning can be better provided for.

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<sup>2</sup> Decision 2019NZEnvC208 Aratiatia Livestock Limited vs Southland Regional Council (ENV-2018-CHC-029)

52. At a regional level, spatial planning would be helpful in setting a consistent approach to environmental bottom lines and could be set within a regional policy statement. The mapping could include where bottom lines apply as well as 'no-go' areas for a range of activities.
53. Spatial planning is important at the district plan level to give effect to regional spatial information, but at a more detailed level, and to manage matters that might be unique at a district level.
54. The national direction should give clarity how spatial planning operates in the hierarchy of national, regional and district planning.
55. Spatial planning with an outcomes-based approach and setting of environmental bottom lines should improve the assessment and management of cumulative effects.

Issue 5 – Addressing climate change and natural hazards

56. **ORC SUPPORTS** central government direction that will support local authorities' planning and management of climate change and natural hazard issues. This could include strengthening provisions in the RMA.
57. This direction/support for local authorities might take the form of;
  - a) Additional technical resources and information to support risk assessment in decision making;
  - b) Identifying activities that are needed to transition New Zealand to a low carbon economy, and for this to then be reflected in regional and district plans;
  - c) Direction to provide clearer planning restrictions for development in high or significant risk areas; and
  - d) Development of a national adaptation plan to assist councils including using spatial planning to identify future responses (such as managed retreat).

A national direction would set up subsequent regulatory framework that contributes to addressing climate change and reduces the impact of regulatory change on other local government processes and functions as these will already have been considered. This approach will also increase consistency of application assessment and decision making across the country.

58. An Otago example of the issues with managing disparate resource issues is reflected in South Dunedin. South Dunedin is one of New Zealand's high-profile areas at risk due to its exposure to the effects of climate change as well as natural hazards. While any specific response how to mitigate, and adapt to, any effects is yet to be developed, it is likely funding for any solutions will be significant. South Dunedin is also a heavily populated area, and has significant social infrastructure, including high schools, sports grounds, primary schools and kindergartens.
59. **ORC SUPPORTS** central government considering options for funding support for such areas as a matter of priority. A finalised funding model would give local and regional authorities facing such scenarios a degree of certainty in scoping out their mitigation and adaptation options.

Issue 6 - National Direction

60. ORC's feedback has identified greater clarity in regulations would be useful for effecting change on important issues, and where there is either gaps or weaknesses in the RMA that might be addressed by RMA amendments and/or as part of a wider systemic review.
61. While a powerful tool, care must also be taken that direction is well considered and communicated as early as possible in any development as the impact of such changes can create resourcing challenges in setting and administering its policy framework. Capacity limitations is a key concern for ORC.
62. In addition to reviews and development of the RMA and other national directions, the recent National Planning Standards is a primary tool for central government to provide consistent national direction in terms of plan content.

Issue 7 – Policy and planning framework

63. As discussed for Issue 4, ORC supports spatial planning at a regional level. There is a clear delineation of the many different functions regional and district authorities undertake. Spatial planning set at a regional level would not only assist district plan development with clear direction but would also bring consistency to management of region wide issues.
64. In supporting this approach, it is important that this review ensures any framework change gives clarity to how this will be reflected and implemented in the policy and planning outputs by both central and local government. For example, if regional policy statements are required to incorporate spatial planning, then this should give certainty to district councils as to what is to be given effect to.
65. Having some strategic direction sit with the responsibility of either central government or regional authorities might better support smaller district councils who have significant financial constrictions.
66. The benefit of spatial planning at the regional level may be to not only support and create efficiencies for district plan development, but also give district plan development greater clarity and robustness, potentially reducing the volume of district plan challenges to the Environment Court, as well as subsequent private plan changes not adopted by a district council.
67. **ORC SUPPORTS** in principle, consideration of a central government role to either approve draft plans prior to public notification or provide recommendations back to the local authority for a final decision. However, care must be taken to understand whether these approaches will reduce or add to the process. If appropriate, these may provide central government an effective way to monitor and assist with national consistency in plan development which will lead to greater efficiencies and consistency of the planning process nationally, as well as strengthening outcomes.

Issue 8 – Consents/approvals

68. ORC recognises many of the issues the paper outlines with respect to criticisms and tensions of the consenting process. ORC welcomes any improvements to the efficiency and effectiveness of the consenting process, including appropriate provision for protecting natural justice.

69. With approximately 40,000 consent applications lodged nationally each year and with most being granted, it is not surprising that the robustness of assessing cumulative effects is in question. In ORC's experience, it is generally argued by applicants that if effects of a proposed activity are no more than minor, or less than minor then it follows any cumulative effect is likewise. This is an ambiguous assessment and, without a specific bottom line, or defined outcome to assess against, it is in most cases difficult to refute this line of argument.
70. One of the most significant outcomes this review could achieve is to support the consent process by providing a definition and/or further guidance on cumulative effects and how to ensure the assessment process of these is robust.
71. Please refer to the table in Appendix 1 for ORC's detailed comments on the options and questions for this section of the paper.

#### Issue 9 – Economic Instruments

72. ORC experience is that it appreciates the current options to use economic instruments and has done so where it has been assessed as appropriate.
73. If further instruments can be developed, along with any guidance, ORC would welcome this as more tools often prove more useful than not.

#### Issue 10 - Allocation

74. Overallocation, in terms of water quantity, for Otago is largely a legacy issue due to the prevalence of old mining water rights in some of our driest Districts'. Part of the allocation issue is that what is allocated on paper, and what is available in our rivers (the naturalised flow) is different.
75. **ORC SUPPORTS** that the RMA framework is still the most effective tool to manage the allocation of resources.
76. In principle, the 'first in, first served' for allocation can be appropriate for managing a resource if the effects and use of the resource can be shown to be sustainable and efficient.
77. However, ORC holds concerns that the system is overbalanced in favour of existing use holders and the planning framework makes it difficult to reduce water takes where there might be merit in doing so. This can be particularly important if there are other potential water users who's use would be more efficient.
78. As mentioned in paragraph 18, investment by resource users is often used as leverage as the primary argument that a previous consented allocation be renewed and/or have a maximum term applied. This argument does not reflect the direction for managing natural resources which is to provide for the natural resource first, and then allocate the remainder.
79. **ORC SUPPORTS** further consideration of either national direction, or changes to the RMA framework that gives clear direction for addressing allocation issues and a regime to address where there is over allocation.

80. This may be more difficult where catchments cross regional boundaries. While only of limited relevance to Otago, providing clear direction to manage cross boundary issues would also assist.
81. ORC is comfortable that setting consent terms at the regional level continues to be appropriate, due to the many factors that need to be considered in consent applications. However, the maximum consent term of 35 years may be, in the face of uncertain climate change effects and changing social views on how we use our environment is, strategically, not a logical starting default.
82. A consent term of 35 years locks down resources and given the many unknowns in terms of climate change, technology, population, issuing consents for 35 years is problematic. It is also 3.5 times the duration of any plan's lifespan under the RMA. If it is necessary to revisit the very plans used to grant consents than many times over 35 years, it seems appropriate that those consents should have a more robust trigger for review. The current mechanism of s128 can be a protracted and cost burden on councils to administer.
83. Currently environmental improvements are often only 'on the table' if the consent duration is significantly long enough. This is due to banks and businesses needing certainty to invest in efficiencies. ORC appreciates that businesses and banks feel they need the certainty of 35 years to undertake upgrades, but consent term should not be a bargaining tool for environmental outcomes.
84. Further, if things change undertaking a review of these long-term consents is problematic and as seen nationally are generally not undertaken by Councils. ORC considers the maximum term of a consent should be shortened to something more reflective of not making decisions on behalf of the next generation. In the Otago context this is 25 years as demonstrated through the policies in Ngai Tahu's iwi management plans. This would align with our support of increased recognition of Maori values within the RMA.

#### **Conclusion**

85. ORC is supportive of this level of review and that it is timely.
86. There are many existing, new and emerging issues before our region, some which also will bring opportunity.
87. ORC welcomes this consultation and wishes to contribute to a regeneration of the resource management system that is truly fit to address the resource management challenges and opportunities of today, and our future providing good outcomes our communities can benefit from and be proud of.

**Appendix One: ORC response to Issue and Options Whaiwhakaaro and Questions:**

| Paper reference | page | Paper Reference | Question  | ORC comment  |
|-----------------|------|-----------------|---|--|
| 24              |      | 73 (b)          | Retain or change the definition under s5(2)   | ORC supports   |
| 24              |      | 73 (h)          | Recognise Te Mana o te Wai  | ORC supports   |
| 24              |      | 73 (e)          | Recognise the need to ensure sufficient development capacity                                | This could be difficult balancing against many of the issues ORC often holds concerns around with large scale subdivisions. This would need to be carefully framed.  |
| 27              |      | 81 (a)          | Option for reform of provision for the Treaty of Waitangi and Maori interests               | This would be helpful when trying to address matters that may affect iwi values  |
| 27              |      | 81 (d)          | Clarify meaning of iwi authorities and hapu   | ORC would find this helpful, especially with the ending of the statutory acknowledgment process in Otago.  |
| 27              |      | 81 (e)          | Provide funding mechanism to support Maori participation                                    | ORC experience is that iwi representation is often under resourced, this could be very helpful   |
| 27              |      | 81 (f)          | Audit council performance in meeting Treaty requirements                                    | There is a need to understand what this audit would involve in terms of resourcing required to satisfy a regular audit and what measures will be audited against?  |
| 29              |      | 87 (a)          | Creation of a strategic integrated planning statute above the RMA and other legislation     | ORC questions how this would work and would it not just duplicate and complicate process?  |
| 32              |      | 94 (b)          | Add reference to climate change mitigation to Part 2 of RMA                                 | ORC supports   |
| 34              |      | 100 (a)         | Make greater use of more directive instruments to effect fast change                        | ORC supports due to, in part to delays and uncertainty in current framework. Environmental standards and regulations are also more expedient than policy statements for issue where fast and certain action is required. |
| 34              |      | 100 (e)         | Further develop national planning standards to support implementation of national direction | ORC is supportive of more direction but would need to consider how this might affect its regulatory functions, such as resourcing for consents and compliance functions  |
| 37              |      | 107 (j)         | Greater status of iwi management plans in s5 of RMA   | ORC would support this, it is consistent with other options to increase Maori participation in process.  |

| Paper reference | page | Paper Reference | Question   | ORC comment  |
|-----------------|------|-----------------|--|--|
| 40              |      | 114 (a)         | Simplify activity categories   | ORC's experience is the current classifications work well and are largely understood. There is no pressing need or value for changing these.   |
| 40              |      | 114 (b)         | Reduce complexity of minor consent processes reducing instances where full AEEs are required                         | ORC is uncertain how this would be achieved without causing another process of uncertainty. If it is largely to address district planning issues it risks unnecessarily affecting regional planning processes also.  |
| 40              |      | 114 (c)         | Establishing a separate permitting process/dispute resolution pathway for residential activities with minor effects. | This may work but it would need to sit outside the RMA. However, it is questionable whether this supports an integrated management approach and may risk unintended cumulative effects over time.  |
| 40              |      | 114(e)(iii)     |  | Further clarity is needed on how this would work in practice. Without a fixed date for arguments to be heard and a decision given, there is the potential for consultation to be less focused and extent the timeframe of the process, at the expense of the applicant.  |
| 40              |      | 114(e)(iv)      |  | ORC would support requiring plans to specify activities that must be notified as it provides all users with certainty. This could be implemented through the national planning standards.  |
| 40              |      | 114(e)(v)       |  | ORC would welcome further clarification to define who is an affected party and when special circumstances apply for notification.  |
| 41              |      | Question 27     | Are changes required for other matters such as the review and variation of consents and conditions?                  | ORC supports that changes are required. The ability to set review conditions is used where there is the potential for a change in risk over the term of a consent. However, adding a review clause is often seen as a reason for a long term duration and in practice ORC finds this review process is difficult to exercise and its effectiveness is poor and costly. |
| 43              |      | 124 (d)         | Modify duration of consents  | . The process also needs to reverse the onus on setting a term. The starting term should be a minimum default unless an applicant can  |

| Paper page reference | Paper Reference | Question  | ORC comment  |
|----------------------|-----------------|---|--|
|                      |                 |   | <p>satisfy why longer is appropriate (work up from zero years, not down from 35). This is particularly important where the argument of 'investment' is used to argue maximum terms, even where there are concerns of potential risk over that term.</p>  |
| 43                   | 124 (f)         | <p>Greater authority/restrictions to consent authorities to vary or cancel consents</p> | <p>ORC supports greater powers are needed to vary or cancel consents. In cases where it is warranted, ORC's experience is the process is too difficult and takes too long.</p> <p>Also, outside of s133A which is narrow in scope, there are not mechanisms for consent authorities to correct errors in a consent after it is granted. This can lead to greater disruption and expense to both the applicant and council to correct through having to cancel and issue a new consent.</p> |

### 10.5. ORC Submission on the Urban Development Bill

|                      |   |
|----------------------|---|
| <b>Prepared for:</b> | Council   |
| <b>Report No.</b>    | P&S1814   |
| <b>Activity:</b>     | Environmental: Land<br>Environmental: Water                 |
| <b>Author:</b>       | Kyle Balderston, Team Leader Urban Growth and Development   |
| <b>Endorsed by:</b>  | Gwyneth Elsum, General Manager Strategy, Policy and Science |
| <b>Date:</b>         | 17 January 2020   |

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#### PURPOSE

- [1] This report discusses the Urban Development Bill, a government omnibus bill that establishes a range of functions, powers, rights and duties of the Crown entity Kāinga Ora – Homes and Communities (Kāinga Ora) to enable it to undertake its urban development functions. The report also seeks delegation, from Council to the Chief Executive, to approve the final submission, taking into account the comments and direction of Council on the draft submission.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Approves** the Chief Executive, on or before 5pm on Friday 14 February 2020 to:
  - a. Lodge a staff submission on the proposed Urban Development Bill; or
  - b. approve the attached draft submission, subject to changes made today, to be lodged under delegation from the Otago Regional Council.

#### EXECUTIVE SUMMARY

- [2] This government, like the previous one, has identified urban issues, specifically the urban development system - including planning, infrastructure and development - as a key issue affecting New Zealand's living standards and quality of life.
- [3] The Urban Growth Agenda (UGA) is the current governments' overarching policy framework that encompasses a diverse range of actions, interventions and strategies that will be undertaken by Government to improve urban outcomes and address the negative issues associated with poor urban development, including unaffordable housing, rising urban land values, increasing homelessness, pressure on the public housing system, rising emissions from transport, lack of transport choices and flattening productivity. One of the UGA actions is the establishment of Kāinga Ora – Homes and Communities.

- [4] The Urban Development Bill is the second piece of legislation related to Kāinga Ora and is designed to enable Kāinga Ora to “transform urban areas and create sustainable, inclusive and thriving communities”. Kāinga Ora has two key roles:
- a. being a public housing landlord; and
  - b. partnering with the development community, Māori, local and central government and others, on urban development projects of all sizes.
- [5] This Bill draws on a range of government discussion papers and reports, including those of the Productivity Commission, MfE, MBIE and others. This Bill focusses on providing Kāinga Ora with a range of powers specific to the latter purpose, namely facilitation of its urban (re)development authority powers. These powers cover a broad range of functions and powers generally devolved to local government, but also a few that are currently not available or relatively untested. They include compulsory land acquisition, veto powers over District and Regional plans, and resource consents, resource and building consenting powers including those of a requiring authority, powers to strike rates, development contributions, fees and charges, reserves reconfiguration, and infrastructure development and change.
- [6] Due to the potential significant impact - which could be either positive or negative - on current and future communities of Otago, existing planning frameworks and expected outcomes and intentions, staff recommend ORC lodge a submission to the Select Committee. Submissions close on 14 February 2020, and staff propose that feedback from this meeting be incorporated, with the final submission to be approved, under delegation, by the Chief Executive.
- [7] Staff have also liaised with relevant staff from Otago TAs, advising them of the Bill and to seek feedback or comment and share findings, noting any person or entity is able and encouraged to make their own submission to the Select Committee.

## **BACKGROUND**

- [8] In May 2017, ORC submitted on the Urban Development Authority Discussion Document.
- [9] The key points from the 2017 submission (using the terminology of the new Bill) are summarised below:
- a. Integrated management of natural and physical resources should remain an integral part of any Urban Development Authority function;
  - b. Local and regional democratic representation remains important, and where regional matters are considered, that regional representatives continue to have a role in decision making;
  - c. Concern at limited ability for regional councils to be involved beyond the initial project inception (now ‘specified development projects’ (SDP) approval) process;
  - d. Requesting clear direction is provided in any legislation on

- i. How adverse effects will be managed, particularly beyond the SDP boundary;
  - ii. Potential precedent effects for how other non-SDP developments will be dealt with under the 'normal' RMA process;
  - iii. How costs and risks will be transferred post-project to minimise risk to the wider community; and
  - iv. How public subsidy of private development costs (including by suspension of due process) will be demonstrated to the subsidising community.
- e. Concerns about ad-hoc tinkering of fundamental aspects of the planning system particularly with respect to the timing relative to possible fundamental reforms of the RMA system; and
  - f. that environmental bottom lines in an Regional Policy Statement (RPS) or Regional Plan are maintained, especially for matters of national significance. In order to achieve this, regional councils should be part of the initial project scoping.

[10] The draft submission (attached as **Appendix 1**) is consistent with, and builds on, the 2017 ORC submission on the Urban Development Authority discussion document.

## DISCUSSION

[11] The proposed Urban Development Bill provides Kāinga Ora with:

- a. the ability to enable, lead or facilitate 'urban development projects' (UDPs) which include 'specified development projects' (SDPs);
- b. access to land acquisition powers when undertaking urban development projects (including SDPs); and
- c. access to a broad tool-kit of special development powers when undertaking SDPs.

[12] First Reading of the Urban Development Bill was on 10 December 2019, and it has now been referred to the Environment Select Committee, who are due to report back to the House on 10 June 2020. Submissions to the Select Committee are due no later than 14 February 2020.

[13] The Bill is designed to *"provide the tools, certainty and coordination needed to enable complex, transformational development that will improve the social and economic performance of New Zealand's urban areas.*

[14] The Bill has noted that it is not designed to *"address wider issues in the urban development and planning system, for example those issues covered by the comprehensive review of the resource management system"*. This was a concern raised by ORC in 2017, with the potential for the purpose of this Bill to run into conflict with any substantive changes to the resource management system. Given that the Resource Management Act is now in the process of review, staff believe not aligning these two

pieces of legislation misses an opportunity to streamline and reinforce the relevant primary legislation.

- [15] In addition to the SDP proposals, Kāinga Ora will be able to undertake any urban development project (UDP). UDPs are defined as:
- a. the development of housing;
  - b. the development and renewal of urban environments, whether or not this includes housing development;
  - c. the development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services, or works;
- but not
- d. a project that is only to develop or redevelop public housing on land owned by Kāinga Ora (this type of project would be consented using current standard processes).
- [16] With the ability to undertake UDP's come some wide-ranging powers, including the ability to compulsorily acquire land in relation to any UDP. This power, combined with the ability to access a range of significant statutory powers in relation to established SDP's, for example the ability to overrule district plan provisions, to fast track urban development, gives the Kāinga Ora significant influence. Staff have concerns that the powers available to Kāinga Ora are too wide ranging given the very limited checks and balances, and in particular the low level of regional and local input could lead to undesirable outcomes, even where intentions are positive.
- [17] Not all powers will be necessary to deliver every project. The process for establishing the SDP requires that the particular powers to be used by Kāinga Ora be outlined in the development plan. The development plan is open to submission by the public and considered by an Independent Hearings Panel (IHP). However, while the Minister must consider the recommendations of the IHP, there are limited rights of appeal particularly if the IHPs recommendations are accepted by the Minister.
- [18] The SDP establishment process can be broken into 3 key stages. A diagrammatical version of the process is attached at **Appendix 2**.
- a. **Initial project assessment:** can be an existing or new project, including being directed by the Minister. This step includes comment from key stakeholders including local authorities. Minister establishes an Order in Council (OIC) on the back of project report and feedback. Once OIC given, transitional powers apply relating to requirements to consult Kāinga Ora on matters affecting the project area.
  - b. **Preparation of Draft Development Plan:** this includes the determination of full powers and new rules required (if any), including infrastructure requirements. Key stakeholder consultation and information supply continues. A draft development plan is created.
  - c. **Refinement and approval of development plan:** public submissions on draft development plan heard via IHP who make recommendations on SDP to Minister.

Only once SDP approved do the full planning powers apply, and only those listed in the development plan.

- [19] In respect of ensuring consistency with national direction, the Bill proposes that no SDP may be inconsistent with any national direction (such as the NZ Coastal Policy Statement, National Policy Statements, National Environmental Standards or National Planning Standards). There are specific provisions for national level heritage protections and conservation land, but any other planning provision is open to change including Regional Policy Statements, Regional Plans and District Plans. Regional Coastal Plans do have a specific requirement in that any recommended changes to them must first be approved by the Minister of Conservation (i.e. not the relevant Regional Council).
- [20] However, the primary purpose of the Bill is to fast track *urban developments*. For the most part it is not the 'natural environment' protection aspects of existing planning provisions that are likely to be altered or overridden, but the provisions that draw on the maintenance of (urban) amenity values, and generally relate to controlling 'peoples impacts on people', which for the most part reside in the residential (or business) zone provisions of District Plans – i.e. density, height, setbacks, activity tables and the like, as well as the associated enabling infrastructure requirements needed to facilitate increased development potential (including potentially works well beyond the SPD project area).
- [21] The powers conferred on Kāinga Ora are similar to, but also in some cases significantly in excess of, those available to either local government or any single central government agency. The intention is for Kāinga Ora to be a 'one stop shop' to plan, partner and deliver UDPs in an integrated, streamlined manner. The purpose of the Bill is to have Kāinga Ora be able to identify, partner or directly deliver SDPs, using powers outlined in the Bill. Kāinga Ora may also subsume (or be delegated) many existing powers or rights of local authorities, and private or public land owners within approved SDPs. Kāinga Ora can also delegate certain powers and may transfer acquired land to third parties to undertake the enabled developments.
- [22] For the most part, the intent of the Bill would allow Kāinga Ora to address a range of the negative issues such as those previously outlined in paragraph 5, which currently or potentially experienced in urban areas across New Zealand, particularly in faster growing urban areas, and including parts of Otago. However, the means and methods by which these are proposed to be addressed is largely unprecedented in the New Zealand context in recent times, particularly with their scope and potential implication.
- [23] While the ends may be desirable (more affordable housing, more efficient development processes and eventually, higher quality urban environments), the means could result in unexpected or undesirable outcomes. Simply put, Kāinga Ora will have near absolute power to determine outcomes, decide what project to undertake and use extraordinary powers to ensure these projects are delivered within SDPs. In doing so, the existing 'normal' democratic and institutional frameworks will be largely swept aside. Accordingly, the level of oversight and checks and balances need to be similarly robust relative to these powers, and in particular, should extend beyond the initial SPD approval process into the implementation, delivery and post-completion phases, particularly where delivery is by third parties.

- [24] Balancing these concerns, it would be expected that the powers would, by a matter of practical consideration, be limited in application to 'big' and 'complex' urban development proposals with significant public good aspects. It would be expected that such projects would be identifiable or pre-identified by TAs, and generally supported by them, at least in principle. However, there is no legislative limit or requirement that this be so as the type of 'projects' are not prescribed, only the 'process'. That is, it is possible that central government will determine what is a public good in local situations in the national interest, not local democratic processes.
- [25] Failure to limit the scope and direction of urban development proposals means a wide range of projects could be captured or pursued. Staffs position is that, given this wide-ranging scope, either some delineation of projects scale, type or purpose should be included in the Bill; or the projects must be undertaken at least with TA awareness, if not involvement or support.
- [26] In addition, the proposal and approval mechanisms are tightly linked. Kāinga Ora proposes to the approving Minister and is able to determine the project objectives for itself (there is no statutory test or criteria for the project), consultation is heavily front loaded (limiting re-litigation) and appeal rights are limited (to points of law) and property rights reduced (including powers of compulsory acquisition with no offer back, roads and reserves reconfiguration and infrastructure changes). This is all intentional, to facilitate the 'fast tracking' of developments by reducing potential for relitigating and overcoming practical barriers will increase certainty for the project delivery. The cost is the loss of democratic oversight and due process at the local level, and potentially the transfer of infrastructure growth costs beyond the project area, and beyond the establishment phase, ongoing operational costs will move onto the community once completed.
- [27] The Bill, as proposed does not address many of the issues ORC submitted on in 2017. In particular, while the resource consenting role of regional councils is not subsumed, Kāinga Ora can 'veto' regional and district plan changes, resource consents and bylaws from applying to the SDP area if they are made operative in the projects transitional period, can alter regional plans and district plans, require the project objectives to be weighted higher than any other matter, can control and connect to any infrastructure, and can collect rates and charge fees and Development Contributions.
- [28] The consenting role for regional councils under regional plans remains, largely because of the highly technical nature of most of these functions. However, the Bill would provide for Kāinga Ora to make changes to regional plans, and even where plans are not altered, the projects' objectives are elevated to a higher priority in the consenting process than any other RMA s104-107 matter, including relevant regional plan provisions, and Part 2 of the RMA is also altered by Clause 5(1)(b)(iii) which recognises that amenity values may *change*.
- [29] These powers are balanced by limitations that any decisions cannot be less stringent than national level policy or standards which must be maintained (such as the NPSFM, and with particular protections for (nationally recognised) heritage and conservation features, nationally significant infrastructure (which is exempt from the general

infrastructure powers), and specific protections for Maori interests and urban development aspirations.

- [30] In terms of infrastructure, Kāinga Ora has significant powers to connect, alter and construct infrastructure (excepting nationally significant infrastructure), and require cooperation and information from providers. Kāinga Ora may also recover its costs (related to the works with SDPs) by imposing fees, rates and Development Contributions. The Bill does not however have clarity around the process when infrastructure upgrades to accommodate growth are required beyond the SDP area, including how these costs might be recovered, or who might pay for these. This has the potential to impact ratepayers if there is no revenue stream and is an area that staff consider worthy of submitting on.
- [31] The opportunity to influence the scale and nature of the SDP by local authorities remains largely limited to the earliest project assessment proposal stages, albeit these are constrained as territorial authorities are limited to framing their feedback in a positive manner (useful from the point of view about identifying changes needed to make positive alterations to the project), the minimum timeframes are very short (impacting on the practical ability to seek governance input), and local authorities are not required to consult anyone even if required by other legislation (e.g. where the project possibly breaches significance criteria of the LGA 2002). This highlights the need for strong and ongoing relationships with Kāinga Ora, enabling discussions to occur at the earliest possible stage. However, the legislation does not require this, and there may be proposals that Kāinga Ora or joint ministers may favour over the desires of local authorities (this being an underlying justification of the Bill). Improvements to the initial consultation process are suggested in the draft submission
- [32] Existing land owners are not listed as key stakeholders in the project assessment phase, possibly to minimise speculative value increases or hold out behaviour (see also powers to acquire land ahead of project announcements). The draft submission suggests adding existing landowners within the project area to the key stakeholders list.
- [33] Second stage consultation involving the public occurs once the initial project assessment phase is completed, and an Order in Council is granted to establish the SDP and draft development plan, and the special powers Kāinga Ora proposes to access (if any). Once the OiC is in place a number of transition powers are established including requirements to consult Kāinga Ora on any plan changes or resource consents impacting the SDP area, and Kāinga Ora has an effective veto power on these processes.
- [34] To hear public submissions on the draft development plan, an Independent Hearing Panel is established and the process allows any person to submit on the draft development plan including local authorities (this would be expected to be consistent with initial stage one feedback, with scope for additional detail). The IHP makes recommendations on the development plan to the Minister, who can request reconsideration, and local authority objections can be overridden if the Minister determines the development is in the national interest. Once the Minister confirms the development plan, Kāinga Ora has access to the special SDP powers, and the development plan is the planning framework for the SDP area. Appeal rights are largely limited to points of law to the High Court.

- [35] Kāinga Ora's proposed SDP powers are largely that of a Territorial Authority (a City or District Council). For Regional Councils plans, where they have rules or methods relating to urban development, particularly those pertaining to urban containment (such as urban growth boundaries or similar), viewshafts, landscape protections and the like are those most likely to be overridden. In Otago, as the 2019 RPS does not contain policies that are this specific (the urban development policies are relatively generic), and ONL issues in areas like Queenstown are widely accepted as justified, it is unlikely that specific changes to the RPS will be required. Regional Plan Rules may be triggered by certain developments, ORC would remain the consent authority (unless delegated to Kāinga Ora) with the SDP project objectives being elevated relative to s104-107 matters. Changes to District Plans (including infrastructure planning) are likely, depending on the as yet undetermined projects that are eventually undertaken.
- [36] As a regional council, the implications of the Bill as proposed on ORC will be less than territorial authorities, but may still be significant, particularly with respect to functions relating to:
- a. Provision of information (i.e. relating to natural hazards, regionally significant issues, and regionally significant features to be protected or avoided as part of SDP projects and assessments)
  - b. As an infrastructure service provider (i.e. ORC as a provider/funder of public transport, flood protection works, owner of Ports (regionally significant infrastructure), may be impacted where SDP urban development project impacts on existing Orbus services or demands)
  - c. As a planning authority (e.g. changes to RPS and regional plans, including showing SDPs on planning maps, and having regard to any decisions of Kāinga Ora with respect to any plan changes that may affect the SDP)
  - d. As a consenting authority (e.g. maintain consenting function (unless delegated to Kāinga Ora), but decisions must have regard to any SDP objectives that have more weight, including input to local authority level consents undertaken by Kāinga Ora)
  - e. As a land owner (e.g. indirectly via Ports of Otago)
  - f. As a responsible democratically elected public body with a direct interest in Otago and its future.

## **ATTACHMENTS**

Nil



Our Reference: A1315881

29 January 2020

Committee Secretariat  
Environment Committee  
Parliament Buildings  
**Wellington 6160**

Dear Committee Secretariat

**Otago Regional Council submission on the Urban Development Bill**

Otago Regional Council welcomes the chance to comment on the Urban Development Bill and is in general support of the intent of the Bill. However, a number of aspects of the Specified Development Project powers are of concern, mainly in relation to establishment criteria and consultation, and the submission focuses on making suggestions to improve the Bill to reduce these concerns.

Otago Regional Council will not appear before the committee to speak in support of the submission. Contact details are included at the end of this submission.

The Otago region contains several distinct urban settlements across diverse environments and varied landscapes. Some of Otago's urban areas are growing extremely rapidly (e.g. Queenstown), some are experiencing a recent growth spurt (e.g. Dunedin) and others may remain relatively static or even decline. The popularity of the Otago region for visitors seeking to experience the region's outstanding environment and experiences also creates opportunities and challenges.

Growth, or the lack of it, in combination with hazards, infrastructural issues, funding challenges, landscape and environmental constraints mean that managing demographic stasis or change can be as much of a challenge as dealing with rapid development. However, there are also many opportunities to harness the energy and change that comes from doing growth well to result in improvements to urban outcomes and functioning and an increase in community wellbeing.

ORC supports approaches that practically address the issues of increasing housing unaffordability, improved urban efficiency and infrastructure, including transport funding and efficiency. However, this support is tempered by a need to take the host communities, including their duly-elected democratic institutional frameworks, on a positive journey, as once the project is completed, the project and its occupants must integrate into the existing urban area, and be maintained over the longer term.

In this Bill a range of extraordinary powers are proposed, which may be justified given the otherwise insurmountable issues facing larger or complex urban developments. However, extraordinary powers should only be used in extraordinary situations, and there are limited criteria for determining when the usual rights and responsibilities, including rights of appeal, would be subsumed.

The following specific submission points therefore seek to improve the functioning of the Bill to achieve its objective, namely to deliver quality urban environments where the benefits and costs are shared appropriately.

**Additional responsibilities to advocate for quality urban development, provide assistance and best practice:**

A number of powers in the Bill relate to overriding existing planning provisions where these are viewed as an impediment to SPDs or urban development generally.

- a. **Submit that** Kāinga Ora should also be responsible, as the Government's main housing and urban development agency, for advocating for planning that facilitates quality urban development in plan change, plan review and consenting practices. If Kāinga Ora is able to identify key projects or urban needs and the provisions that may unnecessarily prevent them in regional and district plans, it would be preferable that these provisions be altered before they become impediments to developments undertaken by *any* party. This change to the Bill would set an expectation that Kāinga Ora would submit on regional and district plans and plan changes to improve them generally and for all, rather than relying on ad hoc major developments undertaken with special powers and at significant expense. Doing this would also reduce the need for intervention through SDP-based developments, as the planning system would better enable the few large and many small developments that collectively build cities and urban places to occur in a more natural way.
- b. Similarly, meeting the requirements of the NPS-UDC (and proposed NPS-UD) have been identified as being a considerable conceptual, technical and capability challenge even for the most well-resourced high growth councils. Kāinga Ora should be the repository for central government's capability in this space, including in Spatial Planning to both facilitate its own developments but also be a centre of excellence in providing assistance and best practice, and submissions to all councils including High and Medium growth urban areas or the new Major Urban Centres, noting that all local authorities (including arguably Kāinga Ora when undertaking SDPs) have some responsibilities under these NPS.

**Lack of criteria:**

The powers proposed to be concentrated in one body are extraordinary and intended to smooth the way for transformational urban developments. However, the criteria for determining the projects and then applying these powers are very broad (urban development generally), with a 'national interest' test determined by Ministers, which provides a possible override to any of the limited oversights that do exist.

- a. **Submit** that some criteria should be imposed to limit the application of the more significant SDP powers to 'big' and 'complex' developments that have been unable to, or are unlikely to, be able to be consented or practicably (with respect to the road and reserve reconfiguration powers) achieved using the standard track RMA process. A staged or ramp up approach may be appropriate with progressively greater powers available to progressively larger or more complex, or more urgently required projects. This suggestion also requires that there will need to be criteria to determine the thresholds at which these powers be implemented.
- b. **Submit** that such tests are necessary to ensure that the extraordinary powers are only used in extraordinary circumstances, and that due process be overridden only when absolutely necessary. This, alongside the potential for both perceived or real conflicts of interest and considerable third-party profiteering, requires robust criteria to ensure the process remains robust, transparent and maintains public confidence.

**Compulsory Acquisition Powers:**

Should not be used for SDP purposes in advance of public project announcements. This effectively amounts to insider trading, using prior knowledge and the compulsive powers of the state to deprive current owners of windfall gains they would have otherwise made, for the sole purpose of minimising the state's expenditure. This is an ulterior purpose, and not a legitimate justification or proper use of this extraordinary power. The general principle of 'no better or worse off' would be suspended simply to enable the purchaser to 'get a bargain' – however this would be at the expense of the unwilling seller against whom the state's compulsive power had been applied without any (revealed) purpose.

- a. **Submit that** compulsory acquisition should only be available as a tool once an SDP has been announced publicly, otherwise the usual PWA approach should apply (noting that the PWA requires 'a public work purpose'), which prior to a SDP's establishment would not exist, other than in a very general sense. Using compulsion powers in advance would also suggest some certainty of need and therefore some clarity the project exists. For this to be the case, the SDP must be effectively predetermined. This further suggests that the SDP establishment process, including public submissions, would be unlikely or unable to alter from the predetermined plan used to justify the compulsory purchase in the first place and could be perceived the public process is simply for appearances. The reasons for suspension of the usual offer back once SDPs are established, is accepted particularly where reconfiguration and repurposing of land is part of an SDP.
- b. **Submit that** public land acquired in advance of a project, including by general PWA (not related to the SDP) or other approaches, could be protected from any relevant offer back clauses (willingly sold land being excluded from this requirement) by the general protections accorded to land acquired by various means already in the Bill, but only once a SPD is established. Land acquired for more general UDP purposes (no SDP exists) should remain subject to the general provisions of the PWA enabling it to be dealt with under that process, if the public work purpose for it was acquired for does not occur.



#### **Approval of Ministerial Directed SDPs:**

It is good practice that policy and implementation arms of governance are separated. In the case of Ministerial Directed SDPs, the proposer is also the ultimate approver/decision maker. This will make it difficult for the Minister responsible to be able, or be seen to be able, to objectively consider such applications; even if this were not the case, the perception of impartiality would remain.

- a. **Submit** that in the case of Ministerial Directed SDPs, that an alternative body or person be responsible for the ultimate approval and decision-making processes, to separate the proposing Minister from being the decision maker on their own proposal.
- b. Alternatively remove the ability for Ministers to 'direct' proposals, as it is unlikely and unnecessary that any Minister would have access to more information or be able to identify opportunities more appropriately than Kāinga Ora or its agents, who would no doubt be inundated with potential proposals from local authorities and developers alike.
- c. It is highly likely that many landowners, developers, local authorities and communities will have projects that they wish to advance (or could be advanced) with use of Kainga Ora's SDP powers. Having a clear process for how and to whom to propose them, and how they will be assessed, remains a weakness in the Bill as proposed. However, this would again justify and require the inclusion of criteria or threshold tests necessary for becoming an SDP to ensure the potential for real or perceived conflicts of interest and arbitrary decision making is minimised.

#### **Funding of necessary works beyond the project area:**

The Bill is clear regarding the ability of Kāinga Ora to collect fees and charges, development contributions and rates relevant to the works required and reasonable costs incurred *within* the project area. It is also clear on Kāinga Ora's ability to change, connect and reconfigure infrastructure assets (including those owned by others) within or adjacent to the project area.

What is not clear in the Bill is if Kāinga Ora will contribute to the costs of the growth its actions necessitate *beyond* the project area, for example pipes, roads, public transport or social infrastructure facilities beyond the development area that require upgrading to accommodate new development. The examples imply that the general rates/existing policy will continue to apply outside the project.

However, major city-shaping projects are not islands, and the impacts (both positive and negative) will extend beyond the project area boundaries. With respect to infrastructure capacity impacts, this situation will be exacerbated in the case of growth that has not been anticipated (by definition almost any SDP would fall into this category, as otherwise the powers outlined would not be required), and therefore the development contributions or rates or even necessity for projects might not have been established to be funded or reflected in existing policies.

Even where a council had forecast the overall quantum of growth, and undertaken reasonable changes to infrastructure and facilities in anticipation of growth in other locations within its district or city, a major new Kāinga Ora development may provide for that demand to be met



elsewhere, and/or at a different rate than had been anticipated. This could result in considerable investment being wasted, or unbudgeted expenditure being required, with no way outlined in the Bill for this to be discussed, recovered or fairly allocated.

- a. **Submit** that SDPs should contribute to the costs they impose on infrastructure providers including beyond the project area boundaries like any other development would in accordance with existing development contribution, connections fees, growth charges or rates policies.
- b. **Submit** that in addition to the general user pays policy above, that where SDP facilitated growth has not been anticipated or forecast (either by negligence or by surprise) that Kāinga Ora assist the relevant provider to update their relevant Asset Management Planning and recalculate the appropriate growth related costs and charges, so that they may be recovered accordingly.
- c. **Submit** that the Bill clarifies Kāinga Ora developments (UPD and SDP) are not excepted from paying development contributions (cf. the Crown), as this would conflict with the general principle that the user should pay.

#### **Establishment Report Consultation with Local Authorities:**

Clauses 43-45 describe how Territorial Authorities are 'invited' to support an SDP. Only positively-framed endorsement is accepted, and must be provided within 10 working days (or more if Kāinga Ora allows it), and the TA is specifically not required (or able in a practical sense, given the time frame) to consult with anyone, even if it would otherwise be required to do so under the LGA 2002. This latter clause would presumably be because the significance criteria of that Act would or could be triggered by the scale of an SDP and the resulting impacts on a Council's financial forecasts which it is required to do in normal circumstances. An invitation for feedback is misnamed if the response is predetermined by legislation (positive) and limited time is given to consider the implications. This highlights the importance of dialogue and consultation to occur well in advance. However, given other provisions in the Act (for example compulsory acquisition prior to project announcement) and its express purpose of fixing issues caused by poor decision making by local authorities, there is a danger that these relationships may not exist, or be further frayed by the actions of Kāinga Ora.

**Submit** that the Bill require

- a. Kāinga Ora to seek the views of all relevant local authorities (i.e. relevant territorial *and* regional councils) well in advance of project announcements. Specific in-confidence protections may be appropriate to maintain commercial sensitivity or similar, for example by including a clause adding to the exceptions for withholding information under the relevant sections of LGOIMA and/or OIA, but only if required (for example an existing project should not be excepted, but new proposals may require commercial confidence to be maintained).
- b. Reasonable time be given for local authorities to consider and respond, including time for consideration via normal (or extraordinary) governance cycles. The reasons for this are outlined for stakeholders (other than councils), in Clause 35(6), and there is no reason why this should not extend to local authorities; 10 working days is the current minimum



in the Bill and ORC would anticipate that Kāinga Ora would never seek feedback on an SDP within this unreasonable timeframe. However, 20 working days is a more reasonable statutory minimum (and consistent with other RMA processes), with Kāinga Ora able to increase this time frame if required.

- c. The initial feedback from local authorities should be required to provide an indication to Kāinga Ora as to whether the significance criteria of the Local Government Act 2002 is in fact triggered by the SDP rather than overridden. Where this is the case, consideration should be given to amending the arrangements of the public submission process to reflect the reasons outlined in the LGA2002 for implementing and responding to the significance criteria.

Yours sincerely

<TBD>

Hon. Marian Hobbs

**Chairperson**

Sarah Gardner

**Chief Executive**

<TBD>

For correspondence please contact:

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[Kyle.Balderston@orc.govt.nz](mailto:Kyle.Balderston@orc.govt.nz) 027 667 0066



Specified Development Projects (SDP) will support Kāinga Ora to transform our towns and cities by providing a new way to do complex urban development. The SDP process is designed so that planning, infrastructure, land use and funding arrangements are sorted upfront, so delivery can get underway quicker. This is balanced with protections for Māori interests, and environmental, cultural, and heritage needs.

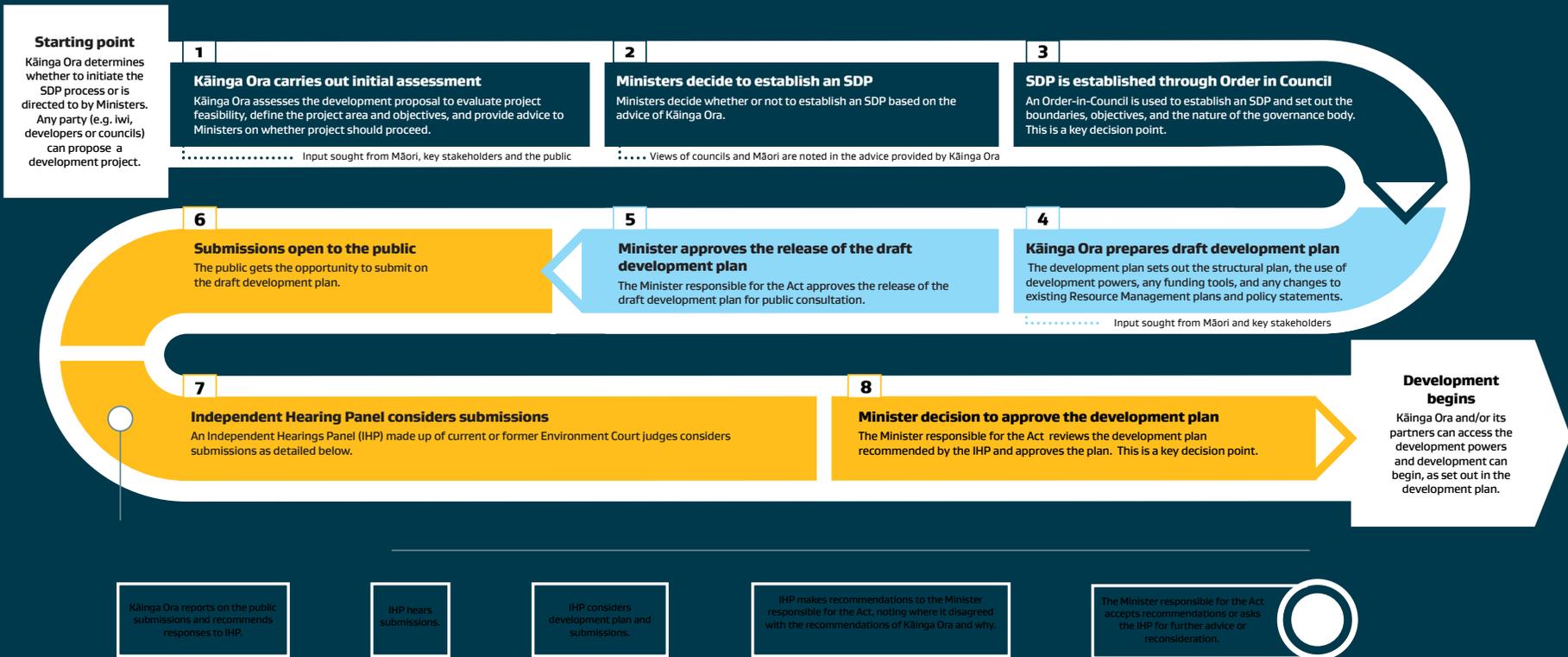
through due diligence and by seeking input from key stakeholders and the public.

project will be delivered.

so it is clear how the

consultation, review by an Independent Hearing Panel, and Ministerial approval.

through



**11.1. Items Signed Under Council Seal**

**Prepared for:** Council

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**Report No.** GOV1888

**Activity:** Governance Report

**Author:** Liz Spector, Committee Secretary

**Endorsed by:** Amanda Vercoe, Executive Advisor

**Date:** 16 January 2020

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**PURPOSE**

[1] To inform the Council of delegations which have been exercised requiring application of the Council Seal during the period 13 November 2019 through 15 January 2020.

**RECOMMENDATION**

*That the Council:*

- 1) **Notes** this report.

**DOCUMENTS SIGNED UNDER COUNCIL SEAL**

| DATE OF SEAL APPLICATION | DESCRIPTION OF DOCUMENT   |
|--------------------------|---|
| 13/11/2019               | Settlement Deed between Northlake Investments Ltd and Christopher Scott Meehan and Michaela Ward Meehan, Winton Group Holdings Ltd, Otago Regional Council and Sarah Maureen Gardner.           |
| 13/11/2019               | Deed of Lease, Unit BF3, First Floor, Alta House, 1088 – 1092 Frankton Road, Terrace Junction, Frankton, Queenstown.  |
| 18/11/2019               | Certificate under S.417, S4170033, BSTGT limited, C/- Lane Neave, 2 Memorial St, Queenstown, Use and Maintenance 3738B, Mining Privileges, WR1032Ar.  |
| 11/12/2019               | Certificate under S.417 of the RMA, BSTGT Limited, C/- Lane Neave, 2 Memorial St, Queenstown, Deemed Permit 95696 (renewal of 3783B, in substitution of WR1032) water race use and maintenance. |

**ATTACHMENTS**

Nil

## 11.2. Updated Regional Policy Statement Communications and Engagement Plan

|                      |   |
|----------------------|---|
| <b>Prepared for:</b> | Council   |
| <b>Report No.</b>    | P&S1816   |
| <b>Activity:</b>     | {activity}  |
| <b>Author:</b>       | Lucy Summers, Senior Communications and Engagement Advisor        |
| <b>Endorsed by:</b>  | Sally Giddens, General Manager People, Culture and Communications |
| <b>Date:</b>         | 23 January 2020   |

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### PURPOSE

- [1] To note the updated RPS Communications and Engagement Plan and to acknowledge that we will work with an external expert when designing the online consultation.

### EXECUTIVE SUMMARY

- [2] In preparation for a new Regional Policy Statement it is vital to have input from the community on the issues they think are important for Otago. Expert advice will be sought by staff when designing the online consultation.

### RECOMMENDATION

*That the Council:*

- 1) **Notes** the updated RPS Communications and Engagement Plan.

### BACKGROUND

- [3] The RPS Communications and Engagement Plan was discussed at the Strategy and Planning Committee on 22 January. Amendments were agreed and Council asked for the updated version to be presented at the next meeting on 29 January.
- [4] Crs Calvert and Wilson asked that staff seek expert advice when designing the online consultation.

### ISSUE

- [5] N/A

### DISCUSSION

- [6] N/A

### OPTIONS

- [7] N/A

## **CONSIDERATIONS**

### **Policy Considerations**

[8] N/A

### **Financial Considerations**

[9] N/A

### **Significance and Engagement**

[10] N/A

### **Legislative Considerations**

[11] N/A

### **Risk Considerations**

[12] N/A

## **NEXT STEPS**

[13] Undertake consultation and engagement as outlined in the plan, including seeking expert advice for the online consultation.

## **ATTACHMENTS**

Nil

# COMMUNICATIONS AND ENGAGEMENT PLAN

## Regional Policy Statement

*Created on:* 17 December 2019

*Updated on:* 23 January 2020

### Background

Minister for the Environment David Parker has set Otago Regional Council (ORC) a clear timeframe for addressing our planning framework, which has been deemed as not fit-for-purpose and needing an overhaul. We also need to implement the National Planning Standards by 2022.

ORC is to notify a new Regional Policy Statement (RPS) by November 2020, to be operative by 1 April 2022.

The key principles of the new RPS are:

- Clear direction on outcomes sought
- Vertically and horizontally integrated
- Consistent approach
- Regime that addresses increasingly complex issues and is flexible to changes in the statutory environment
- Focusses on key issues
- Plain language and ease of use for all
- Policies direct resource management outcomes
- All the answers are to be in the Plan

### Objective

- To inform key stakeholders and the wider community about our work programme to achieve this timeframe for the new RPS
- To ensure our iwi partners, key stakeholders and the community understand the significance of this document in that it sets our overall planning framework.

### Audience

The Schedule 1 process for plan making under the RMA requires consultation with the Minister for the Environment, other relevant ministers of the Crown, local authorities in the region and tangata whenua through iwi authorities. ORC may then determine anyone else to be consulted.

Across the RPS Review Programme engagement with the following stakeholders will occur at various times.

- Iwi partner (Kai Tahu)

- Minister Parker and Ministry for the Environment
- Central Government
- Statutory stakeholders, including Fish & Game and Department of Conservation
- Territorial authorities
- Primary industry groups
- Energy companies
- Developers
- ORC staff and councillors
- NGOs/community groups
- The wider Otago community

The policy team will manage the consultation with iwi partners and key stakeholders, and the communications and engagement team will manage the broader community consultation (please refer to the Tactics and Public Consultation Approach sections and Appendix 1 for more detail).

### **Purpose**

- To provide our iwi partner, key stakeholders and the community with the opportunity to have input on the scope and content of the new RPS, through both formal engagement required by the Resource Management Act and through other options, such as face-to-face meetings and feedback online.
- To undertake good engagement early in the process to reduce the number of submissions made at notification stage, and therefore streamline the process.
- To write a new RPS that is in line with new national direction, National Planning Standards and proposed national policy statements for Highly Productive Land, Urban Development, Freshwater Management and Indigenous Biodiversity.

### **Key messages**

- The outcomes of an investigation initiated by Minister for the Environment David Parker were received by ORC on 18 November 2019, and the key finding was that the Otago region does not have a fit-for-purpose planning framework in place.
- There were three recommendations for creating this planning framework:
  1. That ORC develops a fit-for-purpose freshwater planning framework to assess all water consent applications, including those to replace deemed permits before they expire.
  2. Develop a work programme to achieve the following:
    - For ORC to notify a new Regional Policy Statement (RPS) by November 2020, to be operative by 1 April 2022.
    - For ORC to notify a new Land and Water Regional Plan (LWRP) by 31 December 2023, to be operative by 31 December 2025.
  3. For ORC to prepare a plan change by 31 March 2020 that provides an interim framework to manage freshwater until new discharge and allocation limits are set in line with the National Policy Statement for Freshwater Management.

### **What is an RPS?**

- The RPS sets the direction for future management of Otago's natural and physical resources. It identifies the Significant Resource Management Issues for the region and provides the foundation for the development of regional plans and district plans (similar to a blueprint).

- It sets out what we want for Otago, what's stopping us achieving this, and how we will solve those problems.
- The RPS doesn't contain rules; it establishes the framework for Otago's regional and district plans in which resource management policies, objectives and rules will sit.
- It includes how resources will be managed, including:
  - Air
  - Coastal
  - Land and freshwater (will include waste)
  - Topics
    - Ecosystems and biodiversity
    - Energy and infrastructure
    - Hazards and risks
    - Historical and cultural values
    - Heritage
    - Natural character
    - Natural features and landscapes
    - Urban form and development

#### **Why does ORC need a new RPS?**

- We have been instructed by Minister Parker to notify a new RPS by November 2020, to be operative by 1 April 2022.
- New national planning standards have been implemented since we wrote our current, partially-operative RPS.
- ORC needs an RPS that reflects the new national direction and is in line with the proposed National Policy Statement for Highly Productive Land, the proposed National Policy Statement for Urban Development, the proposed National Policy Statement for Freshwater Management and the proposed National Policy Statement for Indigenous Biodiversity.

#### **How does the RPS affect you?**

- District and regional councils need to give effect to the RPS when making district or regional plans or making decisions about resource consents.
- The RPS sets direction for what people and communities can and cannot do when using natural resources, subdividing or developing land, or undertaking a land use activity.
- The protection and management of natural and physical resources provides for environmental wellbeing in Otago. This then provides for social, economic and cultural wellbeing; community health and safety; and for future generations.
- The existing partially operative (2019) RPS is still undergoing an appeal process. This process will continue to run course separately to the programme for the RPS Review 2020.

## **Tactics**

On online consultation with the community and stakeholders will be undertaken for two weeks in February 2020 to seek feedback from the public on what they consider to be the matters of value and concern for the natural or physical resources significant or specific to Otago. This consultation will build on the work of Council in the RPS workshop held on 22 January 2020, and the monitoring and investigations undertaken by staff.

A targeted approach to consultation with the public will be set up in February and March 2020. It will be a staged approach (as set out below) and will include an online survey, advertising, newsletters, social media, news stories as outline below, as well as face-to-face meetings, for

example facilitated discussion roadshows, which will bring together a diverse group of people to discuss the Significant Resource Management issues. This will result in the issues and any policy tensions created being explored and considered. The feedback sought will specifically focus on providing a policy direction for the RPS for staff and council to consider.

Discussions with key stakeholders (managed by the policy team) began in December 2019 and will be ongoing (please refer to Appendix 1 and 2).

To avoid consultation fatigue for the community, combining the RPS and Annual Plan consultation was investigated. Consultation on the Annual Plan is proposed for 26 March – 24 April 2020, however given the condensed timeframe to complete the RPS review, and to ensure consultation with the community is meaningful, it was decided this approach would delay the RPS process too much. This is why a separate consultation approach will be undertaken.

As mentioned above, the policy team will manage consultation with our iwi partners, those who we are statutorily required to consult with and key stakeholders, and the communications team will manage community consultation.

## Public Consultation Approach

Stage One [February 2020]: Identify and define Otago’s features

| Channel  |
|--|
| YourSay <ul style="list-style-type: none"> <li>- Online consultation to identify and define Otago’s features (based on 22 January workshop with councillors)</li> </ul>  |
| Social media <ul style="list-style-type: none"> <li>- Boosted Facebook campaign to encourage people to take part in the online consultation.</li> </ul>  |
| Media Release <ul style="list-style-type: none"> <li>- Media release to promote the consultation and encourage people to take part in the online consultation</li> </ul>   |
| Advertising <ul style="list-style-type: none"> <li>- Advertising in all regional newspapers and ODT to encourage people to take part in the online consultation and a cut-out slip with same Qs to return to ORC.</li> </ul> |
| On-Stream newsletter (Feb edition) <ul style="list-style-type: none"> <li>- Link to online consultation and encourage people to take part in the online consultation</li> </ul>  |

Stage Two [March 2020]: Input into policy direction for identified features

| Channel  |
|--|
| Facilitated discussion roadshow in locations around Otago <ul style="list-style-type: none"> <li>- To be run throughout March 2020.</li> <li>- Key stakeholders and general public to be invited.</li> </ul> |

|   |
|---|
| Direct emails/meetings <ul style="list-style-type: none"> <li>- Direct contact with key stakeholders as required under the Resource Management Act (see Appendix 1).</li> </ul> |
| Waterlines newsletter (Autumn edition) <ul style="list-style-type: none"> <li>- Article with update about RPS</li> </ul>  |

Stage Three: [Ongoing from April to November]: Keep community informed of the process and the outcomes of stage one and two

| Channel  |
|--|
| ORC website <ul style="list-style-type: none"> <li>- Information will be kept up to date, with links to web pages with online promotion</li> <li>- Information about making a submission will be added after the proposed RPS is notified.</li> <li>- Diagram showing RPS process and when the public can have input</li> <li>- Ongoing media releases and news stories about RPS progress.</li> </ul> |
| On-Stream <ul style="list-style-type: none"> <li>- Regular updates throughout 2020 on RPS.</li> </ul>  |
| Internal comms (staff, exec, councillors) <ul style="list-style-type: none"> <li>- Information shared internally and with councillors</li> </ul>   |

Stage Four [November 2020]: Notification

| Channel  |
|--|
| Social media <ul style="list-style-type: none"> <li>- Boosted Facebook campaign to summarise what the RPS is and encourage people to make submissions</li> </ul> |
| Media Release <ul style="list-style-type: none"> <li>- Media release to say the RPS is notified and to encourage submissions</li> </ul>                          |
| Advertising <ul style="list-style-type: none"> <li>- Advertising to encourage people to make submissions</li> <li>-</li> </ul>                                   |
| On-Stream newsletter (Nov edition) <ul style="list-style-type: none"> <li>- Link to news story and encourage to make submissions</li> </ul>                      |
| Waterlines newsletter (Spring edition) <ul style="list-style-type: none"> <li>- Article with update about RPS and how to make a submission</li> </ul>            |

**What will we be asking iwi partners/stakeholders/the community during the consultation?**

We're not starting from a blank slate because of the work and consultation that went into the current RPS. Significant Resource Management Issues will be workshopped with Council and will be summarised for people to comment on and set the foundation for the new RPS.

Consultation questions are still being formulated, however they will be high-level and are likely to centre on:

- What's missing from the issue list?
- Is the RPS focussing on the right things?
- Please let us know your thoughts

### Timeline/activity calendar

|                             |   |
|-----------------------------|---|
| December 2019 – July 2020   | Ongoing conversations with key stakeholders to inform RPS review and drafting.  |
| January 2020                | Councillor workshop – Significant Resource Management Issues  |
| February / March 2020       | Online community consultation and facilitated discussion roadshows – feedback on Significant Resource Management Issues   |
| July 2020                   | Councillor workshop – draft RPS   |
| July 2020                   | Clause 3 First Schedule Consultation: <ul style="list-style-type: none"> <li>• Ministry for the Environment, Ministry for Conservation, Ministry for MPI, Ministry for Economic Development,</li> <li>• CODC, CDC, QLDC, DCC, WDC</li> <li>• Tangata whenua through Iwi authorities: Nga Runanga: Te Runanga o Otakou, Kati Huirapa ki Puketeraki, Te Runanga o Moeraki and Hokonui Runanga), Te Runanga o Ngai Tahu</li> </ul> |
| August 2020                 | Clause 4A First Schedule Consultation: Tangata whenua through Iwi authorities: Nga Runanga: Te Runanga o Otakou, Kati Huirapa ki Puketeraki, Te Runanga o Moeraki and Hokonui Runanga), Te Runanga o Ngai Tahu  |
| October 2020                | Council approval to notify RPS  |
| November 2020               | RPS notified and submissions invited  |
| Approx. early February 2021 | Submissions close   |
| Approx. mid March 2021      | Further submissions close   |
| Approx. mid April 2021      | Hearing   |
| Approx. mid June 2021       | Decision  |
|                             | Appeals   |
|                             | RPS is made operative   |

### Risks

- Consultation fatigue
- Frustration that ORC is consulting on the RPS again, when the current version is not fully operative
- The community potentially feeling overwhelmed and confused at the number of consultations we will be doing in the early part of 2020, and also the speed we are progressing work
- Greater involvement from the public than anticipated resulting in possible delays which poses a risk to meeting the notification of November 2020 deadline.

## **Budget**

TBC

## **Measurement/review**

- Clicks on the ORC website and the Good Water in Otago site
- Thumbs up or down at the bottom of Good Water in Otago site pages
- Uptake of the media release by newspapers/radio
- Shares and comments on Facebook posts
- Clicks on On-Stream articles
- Number of people taking part in the online consultation (YourSay)
- Attendance and participation at facilitated discussion roadshow events
- Stakeholder log to be managed by the policy team (Appendix 2)
- Feedback from Councillors and staff at meetings and events, such as at the Wanaka A&P Show (feedback recorded and sent to comms advisor)

## **APPENDIX 1: Stakeholder list**

This list is mainly based on parties to appeals on the now partially-operative Otago RPS 2019, but does include those with broader interest in the RPS Review 2020. Please note that this is a fluid list which may change throughout the programme.

### Treaty Partners:

Takata whenua:

- Hokonui Runanga
- Kati Huirapa Runaka ki Puketeraki
- Te Runanga O Moeraki
- Te Runanga O Ngai Tahu
- Te Runanga O Otakou
- Tumuaki for Waitaha Tai Whenua O Waitaki Trust Board

### Key Stakeholders

Councils:

- Dunedin City Council
- Queenstown Lakes District Council
- Clutha District Council
- Central Otago District Council
- Waitaki District Council

Central Govt:

- Minister of Conservation
- Minister of Energy and Resources
- Minister for the Environment
- Minister for Primary Industries
- Minister of Fisheries
- Minister of Transport
- Other Ministers who may be affected by the RPS.

### Interested parties:

Crown entities and research institutes:

- Radio New Zealand Ltd
- Heritage New Zealand
- Agresearch Limited

Fish and Game

- Central South Island Fish and Game Council
- Otago Fish and Game Council

NGOs/community groups:

- Environmental Defence Society
- Royal Forest and Bird Protection Society
- Wise Response Incorporated

Industry

- Rayonier New Zealand
- Federated Farmers of New Zealand
- Horticulture New Zealand
- Alliance Group Ltd
- Ballance Agrinutrients
- Otago Water Resource Users Group
- Oceana Gold New Zealand
- Queenstown Airport Corporation
- Irrigator groups across Otago
- Port Otago Ltd
- Construction companies, eg Fulton Hogan and Carter Holt

Energy

- Pioneer Energy
- Transpower New Zealand
- Aurora Energy limited
- Trustpower Ltd
- Contact Energy

**APPENDIX 2: Stakeholder engagement log**

**ORC Stakeholder Engagement**

| <b>Stakeholder</b> | <b>Method of contact</b> | <b>Who</b>    |
|--------------------|--------------------------|---------------|
| Port of Otago      | Meeting 18 December 2019 | Kevin Winders |
|                    |                          |               |
|                    |                          |               |
|                    |                          |               |
|                    |                          |               |
|                    |                          |               |
|                    |                          |               |
|                    |                          |               |

**11.3. Report from Communications Working Party meeting 17.01.2020**

**Prepared for:** Council

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**Report No.** GOV1889

**Activity:** Governance Report

**Author:** Liz Spector, Committee Secretary

**Endorsed by:** Cr Marian Hobbs, Chairperson

**Date:** 23 January 2020

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**PURPOSE**

[1] Cr Laws will report to the Councillors on discussions held at the 17 January 2020 Communications Working Party.

*That the Council:*

1) ***Receives this report.***

**ATTACHMENTS**

Nil

### 13.1. Recommendations of the 22 Jan 2020 Strategy and Planning Committee

#### 8.1 Manuherehia River Resource Assessment Report

##### RESOLUTION

That the Council

- 1) **Notes** the Report

Moved: Cr Hobbs

Seconded: Cr Robertson

CARRIED

##### RESOLUTION

That the Council:

- 1) **Notes** significant diversions or risks revealed in the current report and seeks options for potential remedial actions from the Chief Executive, e.g. Thomsons Creek (e. coli), where appropriate.

Moved: Cr Laws

Seconded: Cr Calvert

CARRIED

#### 8.2 Regional Policy Statement Review – Programme for 2020

##### RESOLUTION

That the Council:

- 1) **Receives** this report.
- 2) **Notes** the attached work programme for 2020.
- 3) **Notes** the attached Communications and Engagement Plan
- 4) **Directs** staff to bring a revised Communications and Engagement plan the next council meeting for approval.

Moved: Cr Laws

Seconded: Cr Kelliher

CARRIED

*The following resolution is made in reliance on sections 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest(s) protected by Section 7 of that Act.*

On the grounds that matters will be prejudiced by the presence of members of the public during discussions on the following items, it is **resolved**:

**That** the following items are considered with the public excluded:

| <b>General subject of each matter to be considered</b>            | <b>Reason for passing this resolution in relation to each matter</b>  | <b>Ground(s) under section 48(1) for the passing of this resolution</b>  |
|---|---|--|
| <i>Plan Change 6AA – Adoption of Commissioner Recommendations</i> | Sec 48(2)(a)(i) - Paragraph (d) of subsection (1) applies to any proceedings before a local authority where (i) a right of appeal lies to any court or tribunal against the final decision of the local authority in those proceedings. | Sec 48(1)(d); 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 one or more of the following grounds:(d) that the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies. |
| <i>Lake Wakatipu Public Water Ferry Service Business Case</i>     | 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); 7(2)(i)  |

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.