

Council Extraordinary, Agenda 20 September 2024



Meeting will be held at ORC Chambers, Philip Laing House, Lvl 2, 144 Rattray Street, Dunedin, and live streamed to the [ORC YouTube Channel](#)

Members:

- Cr Gretchen Robertson, Chairperson
- Cr Lloyd McCall, Deputy Chairperson
- Cr Alexa Forbes
- Cr Gary Kelliher
- Cr Michael Laws
- Cr Tim Mepham
- Cr Kevin Malcolm
- Cr Andrew Noone
- Cr Bryan Scott
- Cr Alan Somerville
- Cr Elliot Weir
- Cr Kate Wilson

Senior Officer: Richard Saunders, Chief Executive
Meeting Support: Kylie Darragh, Governance Support Officer

20 September 2024 02:00 PM

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1. WELCOME	
2. APOLOGIES	
3. CONFIRMATION OF AGENDA The agenda to be confirmed as published.	
4. DECLARATION OF INTERESTS 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. ORC Councillors Declarations of Interests are published on the website.	
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The purpose of this report is to outline the support that Otago Regional Council (ORC) could seek from Government to resolve any issues relating to Plan Change 6AA (PC6AA) and Plan Change 7 (PC7) that would result from a decision to delay notification of the Land and Water Regional Plan (LWRP).

6. CLOSURE

5.1. Update on Meeting with Ministers Simmonds and McClay on ORC's proposed Land and Water Regional Plan

Prepared for:	Council
Report No.	GOV2435
Activity:	Governance Report
Author:	Richard Saunders, Chief Executive
Endorsed by:	Richard Saunders, Chief Executive
Date:	20 September 2024

PURPOSE

- [1] To share an update on the meeting that took place with Minister for the Environment, Hon Penny Simmonds, and Minister of Agriculture, Hon Todd McClay.

EXECUTIVE SUMMARY

- [2] As directed by Council at its extraordinary meeting on 5 September 2024, a meeting was sought with Ministers to discuss the Otago Regional Council proposed Land and Water Regional Plan.
- [3] A meeting with Minister Simmonds and Minister McClay took place on Thursday 12 September 2024, in Wellington. The meeting was attended by ORC's Chair, Deputy Chair, Ōtākau Rūnaka Upoko and Mana to Mana Co-Chair, Chief Executive and Policy and Planning Manager.
- [4] As circulated via email to Councillors on Friday 13 September, Ministers did not take up the offer for ORC to present the key themes from the response to their request for more information. Instead they relayed the following key messages:
- The Government still believe strongly that we should pause our plan process
 - They have told Council's they can progress with plans if they choose to but there is a strong preference that this does not happen
 - They are still developing ideas for the new NPS-FM. These could not be shared as they need to go to Cabinet but they are working to a timetable of delivering by the middle of next year. Ministers indicated they would work with officials to try and provide us more information on this process.
 - There was some discussion about the ability through the freshwater planning process to implement new Government direction.
 - They would like to reduce the cost burden for Council's associated with plan making recognising the investment from ORC on the plan to date.
 - There was an offer from Ministers to work with ORC if there are specific issues in Otago that need to be resolved should the plan not be notified. No details were discussed about what these things may be.

RECOMMENDATION

That the Council:

- a) **Notes the update from the meeting with Ministers.**

BACKGROUND

[5] Nil.

DISCUSSION

[6] Nil.

OPTIONS

[7] Nil.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[8] Nil.

Financial Considerations

[9] Nil.

Significance and Engagement Considerations

[10] Nil.

Legislative and Risk Considerations

[11] Nil.

Climate Change Considerations

[12] Nil.

Communications Considerations

[13] Nil.

NEXT STEPS

[14] Ministry officials are aware of the extraordinary meeting taking place. Staff will update them following the meeting.

ATTACHMENTS

Nil

5.2. Investigating Options for Government Support on LWRP Matters

Prepared for:	Council
Report No.	GOV2434
Activity:	Governance Report
Author:	Richard Saunders, Chief Executive
Date:	18 September 2024

PURPOSE

- [1] The purpose of this report is to outline the support that Otago Regional Council (ORC) could seek from Government to resolve any issues relating to Plan Change 6AA (PC6AA) and Plan Change 7 (PC7) that would result from a decision to delay notification of the Land and Water Regional Plan (LWRP).

EXECUTIVE SUMMARY

- [2] Council has requested that staff prepare a draft LWRP for notification by the 31 October 2024.
- [3] ORC has recently met with Ministers who have reiterated their strong preference that ORC does not notify a new LWRP ahead of an update of the National Policy Statement for Freshwater (NPS-FM).
- [4] In addition to offering to share more details on the process to develop the new NPS-FM, Ministers offered to work with ORC to discuss options that may resolve some of the previously identified issues that arise should there be a pause to the LWRP process.

RECOMMENDATION

That the Council:

- a) **Notes** the report.
- b) **Requests** that staff engage with officials to discuss the NPS-FM review process and identify actions that seek to address the issues associated with Plan Change 6AA and Plan Change 7 should a new LWRP not be notified and report back to Council ahead of the decision on notification of the plan.
- c) **Notes** that the above engagement will address both legislative and financial opportunities.

BACKGROUND

- [5] Council has requested that staff prepare a draft LWRP for a notification decision no later than 31 October 2024.
- [6] ORC has received consistent messaging from Government that the LWRP work programme should be paused pending work to replace the current National Policy NPS-FM.

- [7] As part of a recent response to the Minister for the Environment, ORC outlined risks associated with PC6AA and PC7 should there be a decision to pause the LWRP work programme. These risks relate to the time bound nature of the provisions these plan changes have established in our Regional Plan: Water.
- [8] On Thursday the 12th of September a meeting was held with the Minister for the Environment and Minister for Agriculture, attended by the Chair and Deputy Chair. In addition to providing more information on the process to review the NPS-FM Ministers confirmed that they were open to supporting ORC to identify and implement a solution or solutions that would address the issues arising from PC6AA and PC7.

DISCUSSION

- [9] Staff have not had time to test potential options with legal advisors or Government officials. There are however two high level opportunities that could be explored further should Council wish to do this.
- [10] Issues associated with PC6AA and PC7 are due to the time bound nature of these provisions. Options for addressing the risks associated with these range from implementing specific legislation to providing financial support for ORC to complete further bespoke plan changes within a limited timeframe.
- [11] The pathway for a legislative change is not clear in the absence of conversations with Government officials. Staff could explore with Government officials, options for legislative changes such as short term extensions, to mitigate the identified risks while a new planning regime is established.
- [12] Further bespoke plan changes could be undertaken at a significant cost to ORC and our partners, stakeholders and the community who would have a interest in this process. The recent report to the Minister estimated the costs of additional plan changes at \$2.3 to \$2.4m each over two years. Opportunity exists to seek financial support for these processes should they be required.
- [13] In addition to the issues associated with the provisions established by PC6AA and PC7 there is a risk that ORC would need to undertake large parts of the plan development process again should the new NPS-FM result in a need to make significant changes to the draft LWRP. An opportunity exists to seek financial support for this process as it is recognised by all parties that ORC has completed the current plan development process at significant cost to the community, as a result of previous Government direction.

OPTIONS

- [14] There are two options available to Council.
- [15] **Option one** is to direct staff to engage with officials to identify options for Government assistance to resolve the issues relating to PC6AA and PC7 should the LWRP programme be paused.

- [16] The advantages of this option is that ORC is responding to Government's offer to assist. It also enables Council to have all of the available information to hand when making a decision to notify the plan or not.
- [17] There are no disadvantages identified with this option but it is noted that staff resource will have to be found to complete this work alongside the remaining work to ready the LWRP for a notification decision.
- [18] **Option 2** is not to direct staff to engage with officials.
- [19] There are no advantages identified with this option.
- [20] The disadvantages associated with this option are that ORC are not taking up Governments offer to explore opportunities to mitigate the risks associated with PC6AA and PC7. Furthermore this information would not be available to inform Council's decision on notification of the LWRP.
- [21] Staff recommend **Option one** to Council.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [22] Text

Financial Considerations

- [23] There are no financial implications associated with the decisions sought in this report.

Significance and Engagement Considerations

- [24] The decisions in this report are not considered significant when considered against He Mahi Rau Rika.

Legislative and Risk Considerations

- [25] Risks to our Government relationships arise should ORC not consider the option of support from Ministers and assess whether there are actions that could be taken to appropriate mitigate the risks associated with PC6A and PC7.

Climate Change Considerations

- [26] There are no climate change considerations associated with this report.

Communications Considerations

- [27] There are no communications considerations associated with this report.

NEXT STEPS

- [28] Staff will implement the direction set by Council as a result of this report.

ATTACHMENTS

Nil