

Council Meeting Agenda - 23 February 2022

Meeting will be held in the Council Chamber at Level 2, Philip Laing House
144 Rattray Street, Dunedin - Councillors
ORC YouTube Livestream - Members of the Public



Members:

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

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Dianne Railton, Governance Support Officer

23 February 2022 01:00 PM

Agenda Topic	Page
1. APOLOGIES	
No apologies were received prior to publication of the agenda.	
2. PUBLIC FORUM	
Requests to speak should be made to the Governance Support team on 0800 474 082 or to governance@orc.govt.nz at least 24 hours prior to the meeting; however, this requirement may be waived by the Chairperson at the time of the meeting.	
Kris Nicolau will speak at Public Forum: Topic - Port Otago	
3. CONFIRMATION OF AGENDA	
Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
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	That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987), namely:	
	<ul style="list-style-type: none"> - Minutes of the 9 December 2021 public-excluded Council Meeting - Minutes of the 9 February 2022 public-excluded Council Meeting - Clutha/Mata Au River - Depositing of Material on bed of river 	
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Minutes of an ordinary meeting of Council
held in the Council Chamber on
Thursday 9 December 2021 at 11:00am

Membership

Cr Andrew Noone *(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 Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 11:02 am. Staff present included Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gwyneth Elsum (GM Strategy, Policy and Science), Gavin Palmer (GM Operations), Richard Saunders (GM Regulatory and Communications), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support), and Anita Dawe (Manager Policy and Planning), Garry Maloney (Manager Transport), Kyle Balderston (Team Leader Urban Growth and Development), Mike Roesler (Manager Corporate Planning) and Sean Geary (Management Accountant). Also present was Natalie Richards (Versus Research) for the Community Survey Report (via electronic link).

1. APOLOGIES

There were no apologies. Cr Forbes advised she would leave the meeting at 2:00pm. Cr Deaker attended the meeting via electronic link.

2. PUBLIC FORUM

There were two public forum speakers:

- 1) Alan Saville, President of Dunedin Tramways Union
Mr Saville spoke on behalf of the Dunedin Tramways Union, to express their disappointment about the non-paying of living wage to the bus drivers of Otago.
- 2) Mr Alasdair Morrison, Chairman, Waikouaiti Coast Community Board
Mr Morrison spoke to the contents of the paper 7.3 2021-24 National Land Transport Programme Outcome, with particular emphasis on the Community Board's request for improvements to bus service Route 1, and the outcome of public consultation with bus users over the past few weeks.

3. CONFIRMATION OF AGENDA

Resolution: Cr Noone Moved, Cr Laws Seconded

Chair Noone requested that the Council meeting move into public excluded at 1:00pm for item 3.2 Clutha/Mata Au River - Depositing of Material on bed of river, to allow Cr Forbes to be present before leaving the meeting at 2:00pm. The meeting would then move back into public for the remainder of the public agenda.

MOTION CARRIED

4. CONFLICT OF INTEREST

No conflicts of interest were advised.

5. CONFIRMATION OF MINUTES

Resolution: Cr Noone Moved, Cr Laws Seconded

That the minutes of the (public portion of the) Council meeting held on 24 November 2021 be received and confirmed as a true and accurate record.

MOTION CARRIED

6. ACTIONS (STATUS OF COUNCIL RESOLUTIONS)

The status report on the resolutions of the Council Meeting was reviewed.

7. MATTERS FOR CONSIDERATION

7.1. Review of Flood Protection Management Bylaw 2012

The report was provided to commence the review process of the Otago Regional Council (ORC) Flood Protection Management Bylaw 2012 ("Bylaw"). Gavin Palmer (GM Operations), Michelle Mifflin (Manager Engineering) and Alison Weaver (Commercial and Regulatory Lead Engineering) were present to speak to the report and respond to questions.

Resolution CM21-204: Cr Laws Moved, Cr Kelliher Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the recommendation that a Bylaw is the most appropriate way of ensuring the integrity and satisfactory performance of the Council's flood protection works.
- 3) **Approves** the recommendation to commence a review of the Flood Protection Management Bylaw 2012.

MOTION CARRIED

7.2. Ministry Review of Wakatipu Basin School Bus Services and Dunedin Changes

The report updated Council on changes to commercial school bus services in Dunedin and on a proposal from the Ministry of Education to review the school bus services it provides in Queenstown. Gavin Palmer (GM Operations) and Garry Maloney (Manager Transport) were present to speak to the report and respond to questions. Cr Noone advised that he had distributed to Councillors, a letter received from Mayor Jim Boulton on school bus service. Following discussion Cr Forbes moved:

Resolution CM21-205: Cr Forbes Moved, Cr Robertson Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Authorises** the Chief Executive to approve minor changes to the Dunedin bus network in time for the start of the 2022 school year, to address school connectivity issues that have/may arise, given the cessation of commercial services at the end of 2021.
- 3) **Requests** staff provide and update to the first Implementation Committee of 2022 on the efficacy of the minor changes and any capacity issues that occur from the reduction in bus services provided in Dunedin.

MOTION CARRIED

Crs Hope and Kelliher voted against the motion and asked that their votes be recorded.

7.3. 2021-24 National Land Transport Programme Outcome

The report was provided to advise Council on the success of its 2021-24 National Land Transport Programme bid and seek a direction in regard to Long-term Plan (LTP) activity. Gavin Palmer (GM Operations) and Garry Maloney (Manager Transport) were present to speak to the report and respond to questions.

Resolution CM21-206: Cr Scott Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

Resolution CM21-207: Cr Scott Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** Waka Kotahi NZ Transport Agency has not approved co-investment in the 2021–2024 National Land Transport Programme for improvements to Dunedin bus route 1.

MOTION CARRIED

Resolution CM21-208: Cr Scott Moved, Cr Forbes Seconded

That the Council:

- 1) *Approves an improvement to Dunedin bus route 1 within the constraints of the ORC's local share funding as budgeted in the 2021-31 Long-Term Plan.*

A division was called:

Vote

For:	Cr Calvert, Cr Deaker, Cr Forbes, Cr Noone, Cr Robertson and Cr Scott
Against:	Cr Hope, Cr Laws, Cr Kelliher, Cr Malcolm and Cr Wilson
Abstained:	Nil

MOTION CARRIED (6 votes for, 5 votes against)

Resolution CM21-209: Cr Scott Moved, Cr Forbes Seconded

That the Council:

- 1) *Approves the form of the service improvement for Dunedin bus timetable route 1 to be based on the feedback of the Waikouaiti Coast Community Board.*

MOTION CARRIED

Resolution CM21-210: Cr Scott Moved, Cr Forbes Seconded

That the Council:

- 1) *Approves postponing the Year 2 Long-term Plan proposed Dunedin bus service improvement (new service from Green Island to the City via South Dunedin) to Year 3.*

MOTION CARRIED

The meeting adjourned at 12:40pm for a break, followed by the public excluded paper 3.2 Clutha/Mata Au River - Depositing of Material on bed of river, as resolved in the confirmation of agenda under LGOIMA Section 48(1)(a), Section 7(2)(a).

The public meeting reconvened at 2:20pm.

7.4. Community Survey Report

The report presented the results of the Otago Regional Council (ORC) Perceptions Survey for 2021. Richard Saunders (GM Regulatory and Communications), Eleanor Ross (Principal Advisor - Internal Communications) and Natalie Richards (Versus Research - via electronic link), were present to speak to the report and respond to questions.

Resolution CM21-211: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Requests** that staff develop an action plan in response to the survey and report back to the Governance, Communications and Engagement Committee on 10 March 2022.

MOTION CARRIED

7.5. FMU Liaison Councillor Nominations

The report was provided to confirm the Councillor liaisons for each Freshwater Management Unit (FMU) and rohe, to support the community through the development of the Land and Water Regional Plan (LWRP).

Resolution CM21-212: Cr Wilson Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the following Councillor liaisons for each Freshwater Management Unit and rohe:
 - a. Upper Lakes – Cr Kelliher
 - b. Dunstan – Cr Forbes
 - c. Lower Clutha – Cr Hope
 - d. Taieri – Cr Robertson
 - e. Dunedin and Coast – Cr Scott
 - f. North Otago – Cr Malcolm
 - g. Catlins – Cr Wilson
 - h. Roxburgh – Cr Laws
 - i. Clutha Mata-au (main stem) – Cr Deaker

MOTION CARRIED

7.6. Three Waters Update

The report updated Council on the current state of Government's Three Waters Reform Programme, with a particular emphasis on potential implications for regional councils. Gwyneth Elsum (GM Strategy, Policy and Science) and Kyle Balderston (Team Leader Urban Growth and Development) were present to speak to the report and respond to questions. Kyle Balderston provided an update, advising that Taumata Arowai is up and running and the Water Services Act has now passed. He said it is a massive change for TAs, and the loss of their staff and control will have implications.

Resolution CM21-213: Cr Wilson Moved, Cr Robertson Seconded

That the Council:

- 1) **Notes** this report which incorporates the Aukaha cultural values statement.

MOTION CARRIED

7.7. ORC Council Job Descriptions for Chair and Deputy Chair

The report was provided for Council to consider updated job descriptions for the Chair and Deputy Chair, following a meeting of the working party set up to review the existing drafts.

Resolution CM21-214: Cr Laws Moved, Cr Noone Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the attached job descriptions for the Chair and Deputy Chair of the Otago Regional Council.

MOTION CARRIED

The meeting adjourned at for a break at 3:25am and reconvened at 3:41pm.

7.8. Annual Plan 2022-2023: Proposed adjustments to the Long-term Plan

The report was provided to assist Council to advance the Annual Plan 2022-23 (AP) process. It follows up on the resolutions of the 24 November 2021 Finance Committee meeting directing staff to work within a constraint of 18% average total rates increase for the proposed year 2 financial estimates. Nick Donnelly (GM Corporate Services) and Mike Roesler (Manager Corporate Planning) were present to speak to the report and respond to questions. Mr Roesler provided an overview of the changes made, and following discussion Cr Scott moved:

Resolution CM21-215: Cr Scott Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** the changes staff have made to draft Annual Plan 2022-23 financial estimates which have reduced the average total rates increase to 19%.
- 2) **Notes** that staff will complete a draft Annual Plan for consideration at the 23 February 2022 Finance Committee meeting based on reducing the average total rates increase to no more than 18% which is in line with year 2 of the LTP.

MOTION CARRIED

7.9. Communication Material: Long-term Plan 2021-31

The report was provided to inform and enable an opportunity to comment about draft communication material to support Councillors when engaging with the community regarding the Long-term Plan. Nick Donnelly (GM Corporate Services) and Mike Roesler (Manager Corporate Planning) was present to speak to the report and respond to questions.

Cr Robertson left to the meeting at 4:15pm.

Resolution CM21-216: Cr Malcolm Moved, Cr Noone Seconded

That the Council:

- 1) **Notes** the draft communication material attached to this report.

MOTION CARRIED

7.10. Annual Plan 2022-23 Rating Considerations

The paper was provided to report back to Council on the two rating and funding related resolutions made during deliberations for the LTP 2021-31. Mr Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions. Chair Noone advised that the report was considered at the November 2021 Finance Committee meeting, where it was laid on the table to be brought back for consideration at a future meeting, due to limited time.

Resolution CM21-217: Cr Malcolm Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Endorses** the proposed approach to the two rating matters raised during deliberations for the Long-Term Plan 2021-31 being:
 - a. To not undertake rating reviews of any flood and drainage schemes for the Annual Plan 2022-23.
 - b. To not amend the current water quality improvement funding policy for the Annual Plan 2022-23.

- 3) **Notes** that both of the above rating matters will continue to be worked on as part of a wider review of rating leading into the Long-Term Plan 2024-34.
- 4) **Resolves** to set up a working party of Finance staff, Engineering staff, the Finance Co-Chairs and Molyneux Councillor Wilson, to report back to the first Finance Committee of 2022 on ways to pilot a review of the Taieri drainage and flood schemes rates.

MOTION CARRIED

7.11. Regional Shared Services

The report was provided to seek Council's endorsement of Council becoming a shareholder in a proposed regional sector shared services organisation and seek approval to prepare documentation to undertake consultation on that proposal. Nick Donnelly (GM Corporate Services) was present to speak to the report and respond to questions. Mr Donnelly gave an overview of framework of the new Council Controlled Organisation (CCO), and ORC being involved as a shareholder or standing alone, and said that it is a high-level, in principle decision.

Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Endorses** in principle the establishment of a regional sector shared services organisation.
- 3) **Endorses** in principle Council becoming a shareholder in a regional sector shared services organisation once that entity is established.
- 4) **Approves** the preparation of consultation documentation as required under the Local Government Act 2002 to enable consultation to be undertaken on Council becoming a shareholder in a new regional sector shared services organisation.
- 5) **Authorises** the Chief Executive to provide a letter to Regional Services Holdings Limited, indicating Council's intent to become a shareholder in the proposed new regional sector share services organisation.

Following lengthy discussion, the motion was withdrawn with agreement of the mover and seconder the motion.

Resolution CM21-218: Cr Hope Moved, Cr Kelliher Seconded

That the Council:

- 1) **Request** the report lie on the table until the 23 February 2022 Council meeting.

MOTION CARRIED

8. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

8.1. Recommendations of the Public Portion of the Finance Committee

Resolution CM21-219: Cr Calvert Moved, Cr Malcolm Seconded

That the Council adopts the resolutions of the 24 November 2021 Finance Committee (public).

MOTION CARRIED

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

Resolution: Cr Scott Moved, Cr Hope Seconded

That the Chairperson's report be received.

MOTION CARRIED

9.2. Chief Executive's Report

Resolution: Cr Noone Moved, Cr Laws Seconded

That the Chief Executive's report be received.

MOTION CARRIED

10. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Laws Seconded:

That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

- *Clutha/Mata Au River – Depositing of Material on bed of river*

MOTION CARRIED

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>1.1 Minutes of the 24 November 2021 public excluded Council Meeting</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a).	
<i>3.1 Port Otago Resolution in Lieu of Annual Shareholders Meeting</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.2 Clutha/Mata Au River – Depositing of Material on bed of river</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the

		following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
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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 are shown above after each item.

11. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 5:16pm.

Chairperson

Date

DRAFT MINUTES



Minutes of an extraordinary meeting
of Council held electronically on
Tuesday 9 February 2022 at 1:00pm

Membership

Cr Andrew Noone *(Chairperson)*
Cr Michael Laws *(Deputy Chairperson)*
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
Cr Carmen Hope
Cr Gary Kelliher
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Chair Noone welcomed Councillors, members of the public and staff to the meeting at 1:00 pm. Staff present included Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gwyneth Elsum (GM Strategy, Policy and Science), Gavin Palmer (GM Operations), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support), and Simon Wilson (Manager Regulatory Data and Compliance).

Chair Noone acknowledged the passing of Louise Rossen, who was a previous ORC Chairperson, and spoke of her contribution to the region and her considerable long period of public service.

Cr Wilson also acknowledged the passing of Neville Marquet who acted for the Regional Council for decades, and for his work and contribution to ORC and the region.

1. APOLOGIES

There were no apologies.

2. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. MATTERS FOR COUNCIL CONSIDERATION

4.1. Operating Procedures for Governance within the Red Traffic Light Setting of the COVID-19 Protection Framework

The report provided advice on operational settings under the COVID-19 Protection Framework (CPF) Red traffic light setting, and for Council (elected members) to decide on attendance preferences for Council, Committee and workshop/briefing meetings. Amanda Vercoe (General Manager Governance, Culture and Customer) was present to speak to the report and respond to questions.

Following discussion, Mrs Gardner advised a plan is in place under the Red Traffic Light setting allowing staff the option of working from home. She said the policy also permitted no more than 50% of staff on site at any one time. She also advised that staff are avoiding movements between sites. Mrs Gardner said these plans addressed business continuity to ensure essential services can be maintained. She advised there may be some staff who would not be able to be present in the Council Chamber for various reasons, and who would join meetings from home. Mrs Gardner said that as the PCBU of the site, she would be concerned if Councillors decide to meet face to face as this could potentially increase risks to staff, placing liability on her.

Chair Noone said there needs to be flexibility going forward so we can adapt as a Governance team as COVID unfolds. He said it was also about the ensuring staff and other people interacting with the governance team are safe as well, and Councillors also had individual responsibilities in this regard.

Resolution CM22-101: Cr Calvert Moved, Cr Hope Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Notes** that the Chief Executive is the primary Officer of the PCBU (Persons conducting a business or undertaking), and as such has a responsibility to assess risk of COVID-19 exposure at the workplace and put in place appropriate controls to eliminate or minimise the risk as far as reasonably practicable.

MOTION CARRIED

Resolution CM22-102: Cr Calvert Moved, Cr Hope Seconded

That the Council:

- 1) **Agrees** to the modified Option 2: where any Councillors or members with vaccine pass requirements may attend the Council, Committee or workshop / briefing meetings, and the remaining could attend online. Staff attendance would be limited to the same maximum of 50 percent in person. Vaccination passes may be required for those in the Chamber, subject to the outcome of the ORC Vaccination Policy, once finalised (on 8 February 2022). Masks would be required those attending in person for the duration of the meeting, including speaking, to provide additional protection for meeting attendees and ORC support staff. Meetings would not be open to members of the public, who could instead attend via livestream (as per ORC's orange settings).

A division was called:

Vote

For:	Cr Calvert, Cr Hope, Cr Laws, Cr Kelliher, Cr Noone and Cr Wilson
Against:	Cr Deaker, Cr Forbes, Cr Malcolm, Cr Robertson and Cr Scott
Abstained:	Nil

MOTION CARRIED: (6 votes for, and 5 votes against)

5. RESOLUTION TO EXCLUDE THE PUBLIC**Resolution: Cr Noone Moved, Cr Laws Seconded:**

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

- Clutha/Mata Au River Dumping Inquiry – Section 7(2)(a)

Chair Noone also moved that all staff leave the meeting and that Mr Len Anderson, QC, be permitted to remain at this meeting, after the public has been excluded, as he would be providing legal advice to Council.

MOTION CARRIED

That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

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
1.1 Clutha-Mata Au River Dumping Inquiry	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a) Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of

		information for which good reason for withholding would exist.
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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 are shown above.

The Council Meeting was reconvened following consideration of the public-excluded items at 3:11pm to consider an additional resolution related to previously considered Item 4.1 *Operating Procedures for Governance within the Red Traffic Light Setting of COVID-19 Protection Framework*.

Resolution CM22-103: Cr Noone Moved, Cr Forbes Seconded

That the Council:

- 1) **Agrees** not to continue with meetings outside of Dunedin as per the resolution of the Governance, Communications and Engagement Committee resolution on 10 November 2021 while in the Red Traffic Light setting.

6. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 3:12pm.

Chairperson

Date

COUNCIL - OPEN ACTIONS REGISTER at 23 FEBRUARY 2022

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
25/11/2020	GOV1949 Amendments to Delegations Manual	COMPLETED	Bring an annual review of the Delegations Manual to Council at its second meeting of 2022.	General Manager Corporate Services and CFO, Legal Counsel	9/07/2021 Nick Donnelly - Legal Counsel is maintaining the delegations manual and this will be provided to Council for review in February 2022 as requested. 13/02/2022 Nick Donnelly - The Delegations Manual is being provided to the Council meeting on 23 Feb 2022.	28/02/2022
9/12/2020	GOV1956 Chief Executive Key Performance Indicators Update	COMPLETED	Seek external assistance, possibly through LGNZ, for the CEO review/KPI setting process.	Chairperson	17/08/2021 Amanda Vercoe - External consultant has been identified, and review process will commence shortly. Councillors will be advised of the process by the Chair via email 17 August 2021 21/10/2021 Dianne Railton - The CE Performance Review and draft KPIs will be reported to Council (public excluded) on 27 October 2021. 9/2/2022 Chair Noone - Council approved CEO Perf Rvw and KPIs on 27/10/2021.	30/06/2021
23/06/2021	OPS2103 Facilitation of Landholder Access to Poisoned Rabbit Bait	COMPLETED	Report back to Council on outcome of the carrot bait trial no later than 31 December 2021. Res CM21-136	General Manager Operations, Manager Environmental Implementation	19/01/2022 Gavin Palmer - Reported to 8 December 2021 Meeting of Implementation Committee	9/12/2021
23/06/2021	OPS2103 Facilitation of Landholder Access to Poisoned Rabbit Bait	COMPLETED	Report the outcome of consultation with pest control contractors no later than 31 December 2021. Res CM21-136	General Manager Operations, Manager Environmental Implementation	19/01/2022 Gavin Palmer - Reported to 8 December 2021 Meeting of Implementation Committee	9/12/2021
25/08/2021	SPS2146 Manuherekia FMU Plan Provisions	COMPLETED	That the Technical Advisory Group (TAG) be requested to provide regular reports to the Strategy and Planning Committee on progress towards finalising the required science for the Manuherekia catchment. Res CM21-141	General Manager Strategy, Policy and Science	29/10/2021 Gwyneth Elsum - Report provided to 13 October 2021 Strategy & Planning Committee. Based on proposed work program, TAG expects to provide regular reports to Committee for the remainder of 2021 and the first quarter of 2022.	30/06/2022

Council Meeting Agenda - 23 February 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
29/09/2021	Chairperson's Report	Completed	Staff to bring back a paper back to Council on ORC's current arrangements for South Dunedin, and a potential MoU with DCC. Res CM21-168	General Manager Operations	1/11/2021 Dianne Railton - Dr Palmer presented a paper to the 27 October 2021 Council meeting. 18/11/2021 Dianne Railton - South Dunedin Future Programme Update Report will be presented at the 24.11.21 Council Meeting	27/10/2021
9/12/2021	GOV2164 Annual Plan 2022-23 Rating Considerations	COMPLETED	Convene a working party comprised of Finance and Engineering staff, Cr Malcolm and Cr Wilson to report back to the 23 Feb 2022 Finance Committee meeting on ways to pilot a review of the Taieri drainage and flood scheme rates. CM21-217	General Manager Corporate Services and CFO, General Manager Operations	13/02/2022 Nick Donnelly - The working group met on 2 Feb 2022 and an update is being provided to the Finance Committee on 23 February 2022.	23/02/2022
9/12/2021	CS2156 Regional Shared Services	COMPLETED	Re-present this report to the 23 February 2022 Council Meeting. CM21-218	General Manager Corporate Services and CFO	13/02/2022 Nick Donnelly - This report was re-presented on the 23 February 2022 Council agenda.	30/11/2021
9/12/2021	GOV2161 FMU Liaison Councillor Nominations	COMPLETED	Update the Council Committee Terms of Reference to reflect change to FMU /rohe Councillor liaisons. CM21-212	General Manager Governance, Culture and Customer, Governance Support Officer	14/02/2022 Liz Spector - the Terms of Reference have been updated and published to the website.	30/11/2021
9/12/2021	GOV2159 Annual Plan 2022-2023: Proposed adjustments to the Long-term Plan	COMPLETED	Present a draft Annual Plan for consideration at the 23 February 2022 Finance Committee meeting based on a reduction of an average total rates increase to no more than 18% (which is in line with Y2 of the LTP). CM21-215	General Manager Corporate Services and CFO, Manager Corporate Planning	13/02/2022 Nick Donnelly - An update is being provided to the Finance Committee on 23 February 2022.	23/02/2022

Council Meeting Agenda - 23 February 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
26/08/2020	GOV1937 Electoral System for 2022 and 2025 Local Body Elections	In Progress	Work with Electoral Officer to include a poll asking for voter preference for STV/FPP alongside voting papers for the 2022 local elections.	General Manager Governance, Culture and Customer, Governance Support Officer	1/09/2020 Liz Spector - Contacted Electoral Officer Anthony Morton of Electionz for information. He will update our file, noting the request to conduct the poll with the 2022 election. He indicated additional cost of approx \$75,000, not including additional comms that will be necessary. 14/09/2020 Liz Spector - Public Notice in ODT on 12/9/20 to meet legislative requirements and to advise ORC intends to conduct a poll on voting systems alongside the 2022 local body elections. 2/02/2022 Liz Spector - This work is underway and has been contracted with Electionz.com to run the poll alongside the October 2022 Local Body Elections.	1/01/2022
30/09/2020	OPS1018 National Wilding Pine Funding Round 2020-24	In Progress	Seek discussions through the Chair with appropriate Ministers and Territorial Authorities about certain wilding trees being able to be controlled or encouraged to be controlled in areas where they may become a source issue in the future.	General Manager Operations, Manager Environmental Implementation	19/10/2020 Liz Spector - To start. 17/01/2022 Gavin Palmer - Reported to 8/12/2021 meeting of Implementation Committee. The Committee resolved to extend the arrangement for the Winter 2022 control season.	
23/06/2021	REG2108 Consent Fees Policy	Assigned	Staff review the Financial Support for Resource Consent Processing Fees policy at the end of the 2021/2022 year, and report back to Council on any recommended changes. Res CM21-126	General Manager Regulatory and Communications		30/06/2022
23/06/2021	GOV2116 Zero Carbon 2030 Alliance Memorandum of Understanding	Assigned	Staff will update Council on discussions and activities related to the Zero Carbon 2030 Alliance. Res CM21-127	General Manager Governance, Culture and Customer, Senior Advisor - Mayoral Forum	2/11/2021 Dianne Railton - No activity to report currently.	9/12/2021

Council Meeting Agenda - 23 February 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
29/09/2021	Chairperson's Report	Assigned	Undertake a review of the Manuherehia Governance decision making process. Res CM21-167	Chairperson	9/2/2022 Chair Noone - Delayed until TAG complete science work.	9/12/2021
29/09/2021	Chairperson's Report	In Progress	Staff organise a Bicultural Competency workshop. Res CM21-166	General Manager Governance, Culture and Customer	20/10/2021 Amanda Vercoe - Staff are working with Aukaha to set up a learning opportunity for early 2022. Further information will be provided as the detail is developed. 9/02/2022 Amanda Vercoe - Update from Aukaha early Feb, suggesting May/June timing for this opportunity.	30/04/2022
24/11/2021	HAZ2109 South Dunedin Future Programme Update Report	Assigned	Write to DCC reiterating that we are happy to work together on a joint governance group on the South Dunedin Future Programme. Res CM21-193	Chairperson	9/2/2022 Chair Noone - Yet to be actioned.	24/02/2022
24/11/2021	HAZ2109 South Dunedin Future Programme Update Report	Assigned	Provide an update to Council on the South Dunedin Future Programme mid-year 2022. Res CM21-193	General Manager Operations		30/06/2022
24/11/2021	GOV2158 Code of Conduct Complaint: Investigation Report	Assigned	The CE to get a report that considers the points raised by Mr Len Anderson QC, and recommends a change of Code with options including a possible mediation cause, as appropriate, to report back to the Council meeting in February 2022. CM21-199	Chief Executive	14/02/2022 Amanda Vercoe - Progress update report provided to Council 23/02/22.	23/02/2022

Council Meeting Agenda - 23 February 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
9/12/2021	OPS2106 Ministry Review of Wakatipu Basin School Bus Services and Dunedin Changes	Assigned	Provide an update to the 9 March 2022 Implementation Committee on the efficacy of any minor changes [made to the Dunedin bus network addressing school connectivity issues due to cessation of commercial services at end of 2021] and any capacity issues arising from the reduction in bus services provided. CM21-205	General Manager Operations, Implementation Lead - Transport	19/01/2022 Gavin Palmer - To start once the school year begins in February 2022.	9/03/2022
9/12/2021	OPS2110 2021-24 National Land Transport Programme Outcome	Assigned	Postpone expenditures for planned new bus service from Green Island to the City via South Dunedin from Year 2 to Year 3 of the LTP2021-31. CM21-210	General Manager Operations, Principal Advisor - Transport Planning	19/01/2022 Gavin Palmer - The draft 2022/23 Annual Plan will be adjusted accordingly	30/11/2021
9/12/2021	COMS2106 Community Survey Report	Assigned	Staff to develop an action plan in response to the Community Survey and report back to the Governance, Comms, and Engagement Committee on 10 March 2022. CM21-211	General Manager Regulatory and Communications		10/03/2022
9/12/2021	ENG2102 Review of Flood Protection Management Bylaw 2012	In Progress	Commence a review of the Flood Protection Management Bylaw 2012. GM21-204	General Manager Operations, Manager Engineering	10/01/2022 Michelle Mifflin - The contract has been awarded to the Consultant supporting this review. The contract was awarded to Beca on the 17th December 2021. Contract start up meeting with Beca and ORC is occurring on the 12th January 2022.	30/11/2021

Council Meeting Agenda - 23 February 2022 - ACTIONS (Status of Council Resolutions)

Meeting Date	Item	Status	Action Required	Assignees	Action Taken	Date Due
9/12/2021	OPS2110 2021-24 National Land Transport Programme Outcome	In Progress	Commence work to define service improvement within constraints of ORC's local share funding as budgeted in the 2021-31 LTP and work with the operator of Route 1 to agree and implement the change. CM21-208	General Manager Operations, Principal Advisor - Transport Planning	19/01/2022 Gavin Palmer - Underway. Staff continuing to consult with Community Board.	30/11/2021

7.1. Making Plan Change 5A (Lindis: Integrated Water Management) to the Regional Plan: Water for Otago operative

Prepared for:	Council
Report No.	SPS2202
Activity:	Governance Report
Author:	Tom De Pelsemaeker, Team Leader Freshwater and Land
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	23 February 2022

PURPOSE

- [1] To approve Plan Change 5A (Lindis: Integrated Water Management) (PC5A) to the Regional Plan: Water for Otago (Water Plan) and to set a date for making the plan change operative by incorporating the amended provisions into the operative Water Plan.

EXECUTIVE SUMMARY

- [2] On Friday 30 November 2021 the High Court released its decision on Fish and Game Otago's appeal of the Environment Court's decision on PC 5A, which seeks to set a minimum flow and allocation limits for the Lindis River catchment. In its decision the High Court dismissed Fish and Game's appeal against the Environment Court's decision.
- [3] The period within which a party can bring an appeal against the High Court Decision to the Court of Appeal expired on 18 January 2022. No appeals on the decision were received by the Court of Appeal.
- [4] The Otago Regional Council (Council or ORC) can now approve the plan change in accordance with clause 17 of Schedule 1 to the Resource Management Act 1991 (RMA) by affixing Council's seal to the plan and incorporating the provisions into the operative Water Plan.
- [5] It is proposed to make the plan change operative from Saturday 5 March 2022, and to publicly notify this date on Saturday 26 February 2022.

RECOMMENDATION

That the Council:

- 1) *Notes this report.*
- 2) **Approves** *minor changes made to Proposed Plan Change 5A in accordance with clause 16(2) of Schedule 1 of the RMA.*
- 3) *Approves Plan Change 5A, and incorporates these provisions into the Operative Water Plan in accordance with clause 17(2) of Schedule 1 to the RMA.*
- 4) *Affixes Council's seal to Plan Change 5A to the Water Plan in accordance with clause 17(3) of Schedule 1 of the RMA.*

- 5) **Resolves** to make Plan Change 5A operative from Saturday 5 March 2022, and publicly notify this date on Saturday 26 February 2022, in accordance with clause 20 of Schedule 1 of the RMA.

BACKGROUND

- [6] PC5A contains a water quantity framework for the operative Water Plan for the Lindis Catchment and Bendigo-Tarras Basin by:
- Setting a primary allocation limit and supplementary allocation blocks for the Lindis Catchment and the connected Lindis Alluvial Ribbon Aquifer in Schedules 2A and 2B of the Water Plan;
 - Setting summer and winter minimum flows for primary allocation and supplementary allocation blocks for the Lindis Catchment and the connected Lindis Alluvial Ribbon Aquifer in Schedules 2A and 2B of the Water Plan;
 - Setting maximum allocation limits for the Ardgour Valley, Bendigo, and Lower Tarras Aquifers in Schedule 4A of the Water Plan;
 - Setting restrictions for groundwater takes from the Bendigo and Lower Tarras Aquifers in Schedule 4B.2 of the Water Plan;
 - Mapping the minimum flow catchment boundary and location of the minimum flow monitoring site in the B-series of the Water Plan Maps; and
 - Mapping the boundaries of the Ardgour Valley, Bendigo, Lower Tarras and Lindis Alluvial Ribbon Aquifers in the C-series of the Water Plan Maps.
- [7] Council notified Proposed Plan Change 5A (Lindis: Integrated water management) in August 2015 and its decision released in 13 August 2016.

Environment Court appeals and mediation resulted in LGC and ORC agreeing to primary allocation limits and summer minimum flows, subject to conditions including closure of major race intakes, gallery intakes, and replacement consents among other things.

- [8] Between October 2019 and September 2020, the Environment Court released a total of 12 decisions (including interim decisions and final decisions) on PC5A and the applications for resource consents.¹ In its decisions the Court approved the resource

¹ Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 121 (7 August 2020), Lindis Catchment Group Incorporated v Otago Regional Council [2019] NZEnvC 179 (8 November 2019); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 166 (29 September 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 130 (19 August 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 134 (21 August 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 104 (14 July 2020); Lindis Catchment Group Inc v Otago Regional Council [2020] NZEnvC 100 (7 July 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 160 (23 September 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 85 (19 June 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 112 (24 July 2020); Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 127 (14 August 2020) and Lindis Catchment Group Incorporated v Otago Regional Council [2019] NZEnvC 174 (1 November 2019).

consent applications and directed that a primary allocation limit of 1,612 l/s and minimum flow of 550 l/s be set for the Lindis River.²

- [9] While the Environment Court decisions approving the granting of the LCG resource consents to replace deemed permits in the Lindis catchment remained uncontested, the Court's decision on PC5A was appealed to the High Court by the Otago Fish and Game Council on points of law.
- [10] On 30 November 2021 the High Court released its decision with respect to the appeal of Fish and Game Otago against the Environment Court's decision on PC 5A. In its decision the High Court dismissed the appeal against the Environment Court's decision.
- [11] No appeals were received by the Court of Appeal, with the period for lodging appeals expiring on 18 January 2022.

DISCUSSION

Approval of PC5A

- [12] ORC can now approve PC5A as amended by the Environment Court, in accordance with clause 17 of Schedule 1 to the RMA. This is given effect by affixing the Council's seal to the Plan.
- [13] A full copy of the amended PC5A is included as Attachment 1.

Public notification of the date on which PC5A becomes operative

- [14] Clause 20 of Schedule 1 of the RMA requires the Council to set a date from which the plan change becomes operative and publicly notify the operative plan at least five working days before this date.
- [15] It is proposed to make PC5A operative from Saturday 5 March 2022 and to publicly notify this date on Saturday 26 February 2022.
- [16] In addition to placing a public notice, a copy of the plan change is required to be provided, free of charge, to the Minister for the Environment, all territorial authorities, and the takata whenua for the area, through Iwi authorities.

Minor and consequential changes

- [17] Clause 16(2) of Schedule 1 of the RMA provides for the amendment of a proposed plan, without formality, where such an alteration is of minor effect. A table outlining the minor and consequential changes is included at the end of the operative plan change document in Attachment 1.

² Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 166 (29 September 2020), Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 100 (7 July 2020) and Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 85 (19 June 2020).

- [18] Key minor and consequential changes are:
- a. Amending the Chronicle of key events on page iii of the Water Plan;
 - b. Amending section 1.4 on page 1-7 of the Water Plan to include a paragraph on Plan Change 5A;
 - c. Inserting a new ISBN number for Water Plan;
 - d. Changing the date on the title page of the Water Plan; and
 - e. Amending the footer on pages of the Water Plan that have changed.
 - f. Consequential amendments to Policy 6.4.5 and Rule 12.1.4.4. Amendments
 - g. Minor amendments to formatting of new Policy 6.4.1B, new Rule 12.0.1.5 and existing Schedules 2A and 2B to reflect the style of the Water Plan.

OPTIONS

- [19] Approval under clause 17 of the First Schedule of the RMA is a procedural and mandatory step and it must be done as soon as practicable and without unreasonable delay. There is no discretion for the Council not to approve the plan change.
- [20] Failure to meet the statutory obligation to approve the plan change would result in PC5A remaining in its current proposed state, while having legal effect. This means that the proposed provisions would need to be considered against the PC5A provisions, and the operative Regional Plan: Water provisions.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [21] The plan change gives effect to Methods 15.9.1.1 to 15.9.1.4 of the Regional Plan: Water for Otago which commit ORC to gather information and undertake research as necessary and use this information to establish minimum flows for catchments not in Schedule 2, to be added to this schedule by way of a plan change.

Financial Considerations

- [22] There are no financial considerations as a result of this paper. The cost of updating the plan change will be met by existing budgets.

He Mahi Rau Rika ORC Significance, Engagement and Māori Participation Policy

- [23] Council's approval of PC7 will trigger He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.
- [24] Schedule 1 of the RMA requires that ORC upon approving the plan change:
- a. Publicly notifies the date on which PC5A becomes operative;
 - b. Provides a copy of the operative PC5A to the Water Plan to the Minister for the Environment, constituent territorial authorities and adjacent regional councils, and the takata whenua of the area, through iwi authorities, pursuant to clause 20(4) of Schedule 1 of the RMA; and
 - c. Provides a copy of the operative PC5A to the Water Plan to all public libraries in the region, pursuant to clause 20(5) of Schedule 1 to the RMA.
- [25] Public notification of PC7 in accordance with Clause 20 of Schedule 1 of the RMA will satisfy the consultative requirements of the He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

[26] The legal requirements relating to the approval of PC5A and public notification of the date on which the plan change is to become operative, are set out in clauses 17 and 20 of Schedule 1 to the RMA.

[27] Key legal requirements include:

- a. Affixing the seal of the local authority to the proposed plan change; and
- b. Publicly notifying the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.

Climate Change Considerations

[28] There are no specific climate change considerations as a result of this paper.

Communications Considerations

[29] Key messaging around the implications of PC5A becoming operative will be released via our website and as a press-release.

ATTACHMENTS

1. Operative Plan Change 5 A Lindis Integrated water management [7.1.1 - 32 pages]

Attachment 1

Plan Change 5A (Lindis: Integrated water management)

Regional Plan: Water for Otago

Operative



**5 March 2022
ISBN: 978-0-908324-75-0**

Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago i
5 March 2022

This is a true and correct copy of Plan Change 5A to the Regional Plan: Water for Otago.

Plan Change 5A to the Regional Plan: Water is deemed to be operative on Saturday, 5 March 2022

The Common Seal of the Otago Regional Council was hereto affixed in the presence of:

Cr Andrew Noone
Chairperson

Cr Gretchen Robertson
Co-Chairperson, Strategy and Planning
Committee

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4. Rule 12.0.1.5 (New Rule inserted on Page 12-2 of the Plan*) 6

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* Regional Plan: Water for Otago operative as at 1 June 2021.

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Water Quantity



W A T E R Q U A N T I T Y

6.1 to 6.3 [Unchanged]

6.4 Policies applying to the management of the taking of water

6.4.0 to 6.4.1A [Unchanged]

6.4.1B To maintain the life-supporting capacity and enhance the natural character of the mainstem of the Lindis River by ceasing to grant (or renew) any water permits for the take and use of water from the Lindis River by the Tarras Race (NZTM 2000 E:1323951, N:5030895), the Ardgour Race (NZTM 2000 E:1324150, N:5032696), the Point Race (NZTM 2000 E:1322752, N:5028693) and the Begg-Stacpoole Race (NZTM 2000 E:1315078, N:5023649).

6.4.2 to 6.4.4 [Unchanged]

6.4.5 The minimum flows established by Policies 6.4.3, 6.4.4, 6.4.6, 6.4.9 and 6.4.10 will apply to resource consents for the taking of water, as follows:

- (a) In the case of new takes applied for after 28 February 1998, upon granting of the consent; and**
- (b) In the case of any resource consent to take water from within the Taieri above Paerau and between Sutton and Outram, Welcome Creek, Shag, Kakanui, Water of Leith, Lake Hayes, Waitahuna, Trotters, Waianakarua, Pomahaka, Waiwera and Lake Tuakitoto catchment areas as defined in Schedule 2A, subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act; and**
- (c) In the case of any existing resource consent to take water from the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and the Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, as defined in Schedule 2A, upon collective review of consent conditions within those catchments under Sections 128 to 132 of the Resource Management Act; and**
- (d) In the case of any existing resource consent to take water from the Lindis catchment area, as defined in Schedule 2A:**
 - (i) For any resource consent granted under applications RM17.301.07 and RM17.301.09A, in accordance with the conditions of these resource consents; and**
 - (ii) For any other resource consents, at the earlier of the dates specified:**
 - (1) Upon a review of consent conditions under Sections 128 to 132 of the Resource Management Act undertaken following a 5-year transition period from the commencement of any consent granted under applications RM17.301.07 and RM17.301.09A; or**

2 *Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago*
5 March 2022

WATER QUANTITY

(2) In accordance with the conditions of a new resource consent.

- (e) In the case of any existing resource consent to take water within a catchment area not specified in Schedule 2A, upon the establishment of a minimum flow set for the water body by a plan change, subject to the review of consent conditions under Sections 128 to 132 of the Resource Management Act.**

Explanation

This policy provides for the application of minimum flows to consents as follows:

1. New takes are subject to minimum flow provisions when the consent is granted.
2. For resource consents to take from rivers within catchments specified in Schedule 2A, except for the Lindis, Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and Sutton, the minimum flow provisions apply, subject to the review of consent conditions under Sections 128 to 132 of the RMA.
3. For the Luggate, Manuherikia (upstream of Ophir) and the Taieri between Paerau and Sutton, the minimum flows will not apply until after a collective review of the consents in the catchments. This will occur before 2021 if there is agreement by the holders of mining privileges (deemed permits) to adhere to the minimum flows, or on the expiry of the mining privileges on 2 October 2021. Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.
4. For the Lindis, minimum flows will apply in accordance with the minimum flow conditions on any resource consents granted under applications RM17.301.07 and RM17.301.09A. For any other resource consents the minimum flow will at the earlier of the following dates specified:
 - (1) Upon a review of consent conditions under Sections 128 to 132 of the Resource Management Act undertaken following a 5-year transition period from the commencement of any consent granted under applications RM17.301.07 and RM17.301.09A; or
 - (2) In accordance with the conditions of a new resource consent.
5. For resource consents to take from rivers within catchments not specified in Schedule 2A, the minimum flow provisions will apply from the operative date of a plan change setting the minimum flow for the river, subject to the review of consent conditions under Sections 128 to 132 of the RMA.

Reviews under Section 128 of the Resource Management Act will be undertaken simultaneously on all reviewable takes within each catchment, in the interests of equity.

W A T E R Q U A N T I T Y

In the case of mining privileges in respect of water (deemed permits, see Appendix 2) the Resource Management Act provides for their continuation without restriction, unless compensation is made, until they expire in 2021.

However, arrangements for the conversion of such permits to resource consents may be developed before that time. Alternatively, arrangements for voluntary adherence by deemed permit holders to the minimum flows may occur. Under voluntary arrangements, or conversion of deemed permits to resource consents, or in 2021, these resource consents or deemed permits will become subject to the minimum flows established by this Plan.

The process of consent review must be completed by 2 October 2021, allowing coordination with the review of any deemed permits that may be operating in an area.

Principal reasons for adopting

This policy is adopted to enable the minimum flow provisions of the Plan to be applied as soon as practicable to existing resource consents to take water.

In the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas between Paerau and Sutton, there is a very high proportion of mining privileges. Therefore the application of minimum flows to resource consents may be timed to coincide with their application to deemed permits (either through voluntary methods or in 2021). Where environmental benefit will result from applying minimum flows to any resource consents (other than deemed permits) in these catchments, the review of those resource consent conditions may also occur earlier.

In unscheduled catchments the minimum flows, once established and set by a plan change, will be applied to the reviewable consents in those catchments.

This will ensure that restricting water takes will result in actual environmental benefits.

Rules: 12.1.4.2 to 12.1.5.1

Other methods: 15.9.1.3, 15.9.1.4

6.4.6 to 6.7.8 ***[Unchanged]***

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5 March 2022

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Rules: Water Take, Use and Management



R U L E S : W A T E R T A K E , U S E A N D M A N A G E M E N T

12.0. Applications for taking water

12.0.1 Prohibited activity: No resource consent will be granted

12.0.1.1 to 12.0.1.4 [*Unchanged*]

12.0.1.5 The taking and use of water from the Lindis River by the Tarras Race (NZTM 2000 E:1323951 , N:5030895), the Ardgour Race (NZTM 2000 E:1324150, N:5032696), the Point Race (NZTM 2000 E:1322752 N:5028693) and the Begg-Stacpoole Race (NZTM 2000 E:1315078 N:5023649) are prohibited activities, except as expressly allowed:

- (a) By deemed permits WR1753CR.V2 and WR7787/96CR.V2 until they expire on 1 October 2021
- (b) For up to five (5) years from the commencement of any consent which may be granted under applications RM17.301.07 and RM17.301.09A (which are the subject of ENV-2018-CHC-155).

12.1.1 to 12.1.3 [*Unchanged*]

12.1.4 Restricted discretionary activities: Resource consent required

12.1.4.1 to 12.1.4.3 [*Unchanged*]

12.1.4.4 Taking and use of surface water as primary allocation applied for prior to 28 February 1998 in the following Schedule 2A catchments, shown on the B-series maps:

Lindis Catchment,
Luggate Catchment,
Manuherikia Catchment Upstream of Ophir,
Taieri Catchment Paerau to Waipiata,
Taieri Catchment Waipiata to Tiroiti, and
Taieri Catchment Tiroiti to Sutton:

- (i) This rule applies to the taking of surface water, as primary allocation, in the above catchment areas, if the taking was the subject of a resource consent or other authority:
 - (a) Granted before 28 February 1998; or
 - (b) Granted after 28 February 1998, but was applied for prior to 28 February 1998; or
 - (c) Granted to replace a resource consent or authority of the kind referred to in paragraph (a) or (b).
- (ii) Unless covered by Rule 12.1.1A.1, the taking and use of surface water to which this rule applies is a **restricted discretionary** activity. The matters to which the Otago Regional Council has restricted the exercise of its discretion are set out in Rule 12.1.4.8.

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5 March 2022

R U L E S : W A T E R T A K E , U S E A N D M A N A G E M E N T

- (iii) The minimum flows set out in Schedule 2A of this Plan for the above catchments shall affect the exercise of every resource consent or other authority, of the kind referred to in paragraph (i) of this rule, in the Lindis catchment area, Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, upon review of consent conditions.
- (iv) The conditions of all such consents will be reviewed by the Otago Regional Council under Sections 128 to 132 of the Act to enable the minimum flows set by Schedule 2A to be met, the volume and rate of take to be measured in accordance with Policy 6.4.16 and the taking to be subject to Rule 12.1.4.9.
- (v) The minimum flows set in Schedule 2A for the Luggate catchment area, Manuherikia catchment area (upstream of Ophir) and Taieri catchment areas Paerau to Waipiata, Waipiata to Tiroiti and Tiroiti to Sutton, shall not apply to any consents referred to in clause (i), paragraphs (a) to (c) of this rule until the review of consent conditions set out in clause (iv) of this rule occurs.
- (vi) The minimum flows set in Schedule 2A for the Lindis catchment area, shall apply as follows.
 - (a) For takes authorised by resource consents granted under applications RM17.301.07 and RM17.301.09A, in accordance with the conditions of these resource consents; and
 - (b) For any other resource consents, at the earlier of the dates specified:
 - (1) Upon a review of consent conditions under Sections 128 to 132 of the Resource Management Act undertaken following a 5-year transition period from the commencement of any consent granted under applications RM17.301.07 and RM17.301.09A; or
 - (2) In accordance with the conditions of a new resource consent.

12.1.4.4A *[Repealed – 1 March 2012]*

12.1.4.5 to 12.1.4.9 *[Unchanged]*

12.1.5 to 12.1.6 *[Unchanged]*

12.2 to 12.11 *[Unchanged]*

Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago 7
5 March 2022

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Schedules



SCHEDULE 2: SPECIFIED RESTRICTIONS ON THE EXERCISE OF PERMITS TO TAKE WATER

2A Schedule of specific minimum flows for primary allocation takes in accordance with Policy 6.4.3, and primary allocation limits in accordance with Policies 6.4.2(a) and 6.4.1A

The following schedule:

1. Identifies the minimum flows that apply to the taking of surface water, which includes groundwater managed as surface water in terms of Policy 6.4.1A within primary allocation from the catchments shown in the B-series maps, Welcome Creek and aquifers shown in the C-series maps. The B-series maps identify the location of catchment area boundaries and numbered monitoring sites referred to in the schedule for setting and measuring the minimum flows.
2. Specifies the primary allocation limit in accordance with Policy 6.4.2(a). That limit is exceeded in catchments where the consented takes as at 28 February 1998 (or 19 February 2005 in the Welcome Creek catchment, or 7 July 2000 in the Waianakarua catchment) set a higher limit in accordance with Policy 6.4.2(b). The catchments in which the limit set by Policy 6.4.2(a) is exceeded by Policy 6.4.2(b) (as at 20 December 2008) are the Shag, Kakanui, Taieri, Lake Hayes, Luggate and Manuherikia.

Catchment (See the B-series maps)	Minimum Flow Monitoring Site (with MS number) See the B-series maps	Minimum flow (litres per second – instantaneous flow)	Primary Allocation Limits in accord with Policy 6.4.2(a) (litres per second – instantaneous flow)
...			
Total Allocation Lindis River	Lindis at Ardgour Road (MS 17)	550 (1 October to 31 May) 1,600 (1 June to 30 September)	1,612
Upstream of the Lindis Peak flow monitoring site.	Lindis at Ardgour Road (MS 17)	550 (1 October to 31 May) 1,600 (1 June to 30 September)	132
Tributaries downstream of the Lindis Peak flow monitoring site (grid reference E:1323545 N:5039400).	Lindis at Ardgour Road (MS 17)	550 (1 October to 31 May) 1,600 (1 June to 30 September)	265*
Mainstem between the Lindis Peak flow monitoring site, and the Ardgour Road flow monitoring site.	Lindis at Ardgour Road (MS 17)	550 (1 October to 31 May) 1,600 (1 June to 30 September)	1,104*
Mainstem downstream of the Ardgour Road flow monitoring site.	Lindis at Ardgour Road (MS 17)	550 (1 October to 31 May) 1,600 (1 June to 30 September)	138

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SCHEDULE 2: SPECIFIED RESTRICTIONS ON THE
EXERCISE OF PERMITS TO TAKE WATER

- * These figures include 28 l/s, which can be taken from either a tributary or mainstem downstream of Lindis Peak flow recorder, but not from both at the same time. This results in total allocation being 1,612 l/s for the Lindis catchment.

...

SCHEDULE 2: SPECIFIED RESTRICTIONS ON THE EXERCISE OF PERMITS TO TAKE WATER

2B Schedule of supplementary allocation blocks and specific minimum flows in accordance with Policy 6.4.9(c)

Catchment (See the B-series maps) & Supplementary Block Number	Minimum Flow (litres per second – instantaneous flow) at the monitoring site(s) (See the B-series maps)	Supplementary Allocation Block (litres per second – instantaneous flow)
...		
Lindis catchment (first supplementary allocation block)	1 May to 30 November: 2200 Ardgour Road (MS 17)	500
	1 December to 30 April: 1600 Ardgour Road (MS 17)	500
Lindis catchment (second supplementary allocation block)	1 May to 30 November: 2700 Ardgour Road (MS 17)	500
	1 December to 30 April: 2100 Ardgour Road (MS 17)	500

...

2C Schedule of aquifers where groundwater takes are to be considered as primary allocation, and subject to minimum flows of specified catchments in accordance with Policy 6.4.1A

Aquifer Name	Map Reference	Catchment to which primary or supplementary allocation limits apply, and minimum flows may apply*
Kakanui-Kauru Alluvium Aquifer	C17 & C18	Kakanui catchment*
Shag Alluvium Aquifer	C19	Shag catchment*
Lindis Alluvial Ribbon Aquifer	C5 & C6	Lindis catchment**
Cardrona Alluvial Ribbon Aquifer	C2 & C3	Cardrona catchment upstream of the Mount Barker recorder site**
Lowburn Alluvial Ribbon Aquifer	C7	Lowburn Stream**
Pomahaka Alluvial Ribbon Aquifer	C22 & C23	Pomahaka catchment*

* as given in Schedules 2A and 2B.

** as provided for by Policies 6.4.2, 6.4.3 and 6.4.9.

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SCHEDULE 4: SPECIFIED RESTRICTIONS ON THE EXERCISE OF PERMITS TO TAKE GROUNDWATER

4. Schedule of the allocation and restriction regime for groundwater

This schedule sets out restrictions that apply to the taking of groundwater from certain aquifers in Otago.

Schedule 4A identifies maximum allocation limits for the taking of groundwater from aquifers identified in the C-series maps, in accordance with Policy 6.4.10A2 of this Plan. Schedule 4B.1 identifies water levels at which the taking of groundwater will be restricted in accordance with Policy 6.4.10A1 of this Plan. Schedule 4C identifies matters to be considered when making additions to these schedules through a plan change.

4A Maximum allocation limits for groundwater takes from aquifers

Aquifer Name	Map Reference	Maximum Allocation Limit (million cubic metres per year)
Ardgour Valley Aquifer	C6	0.19
Bendigo Aquifer	C6	29
Cromwell Terrace Aquifer	C7	4
Lower Tarras Aquifer	C5 & C6	18.8
North Otago Volcanic Aquifer	C15, C16, C17 & C18	7

4B [Unchanged]

SCHEDULE 4: SPECIFIED RESTRICTIONS ON THE
EXERCISE OF PERMITS TO TAKE GROUNDWATER

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MINOR AND CONSEQUENTIAL CHANGES

Table of minor and consequential changes

Plan Provision	Detail of proposed change			
Page numbers	Update page numbers.			
Footers	Change footer to read “Regional Plan: Water for Otago (Updated to 5 March 2022)”.			
Title page	Change the date to read “Updated to 5 March 2022 “.			
ISBN number	Obtain new ISBN numbers for the Regional Plan: Water for Otago.			
Chronicle of key events	Add the following to the end of table:			
	Key event	Date notified	Date decisions released	Date operative
	Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water	8 August 2015	13 August 2016	5 March 2022
Section 1.4	Add the following paragraph: “Proposed Plan Change 5A (Lindis: Integrated water management) sets minimum flows and allocation limits for the Lindis River and sets maximum allocation limits for the Ardgour Valley, Bendigo and Lower Tarras aquifers. It was notified on 8 August 2015, and a total of 81 submissions and 6 further submissions were received. Following the hearing, decisions on submissions received were released on 13 August 2016. Plan Change 5A was made operative on 5 March 2022, following the hearing of appeals.”			
Section 6.4	Update the table labelled “Index to policies in 6.4” on pages 6-10 to 6.11 to include reference to new Policy 6.4.1B.			
Section 6.4, Section 12.0.1 and Schedule 2A	Minor editorial changes to new Policy 6.4.1B, new Rule 12.0.1.5 and Schedule 2A (from the version of the provisions stated in the Environment Court Decisions <i>Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 166 (29 September 2020)</i> and <i>Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 100 (7 July 2020)</i> , including: <ul style="list-style-type: none"> • Use of colons when referring to NZTM coordinates, and • Capitalisation, punctuation and other style changes. 			
Section 6.4 and Section 12.1.4	Amend Policy 6.4.5, its Explanation and Principal reasons for adopting, and to Rule 12.1.4.4 to recognise that: <ul style="list-style-type: none"> • Under applications RM17.301.07 and RM17.301.09A new resource consents have been granted for the majority of the water permits (including deemed permits) that existed at the time Plan Change 5A was notified • These new resource consents require compliance with the minimum flow 5 years after commencement. 			

Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago 15
5 March 2022

MINOR AND CONSEQUENTIAL CHANGES

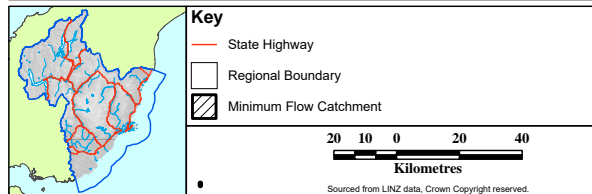
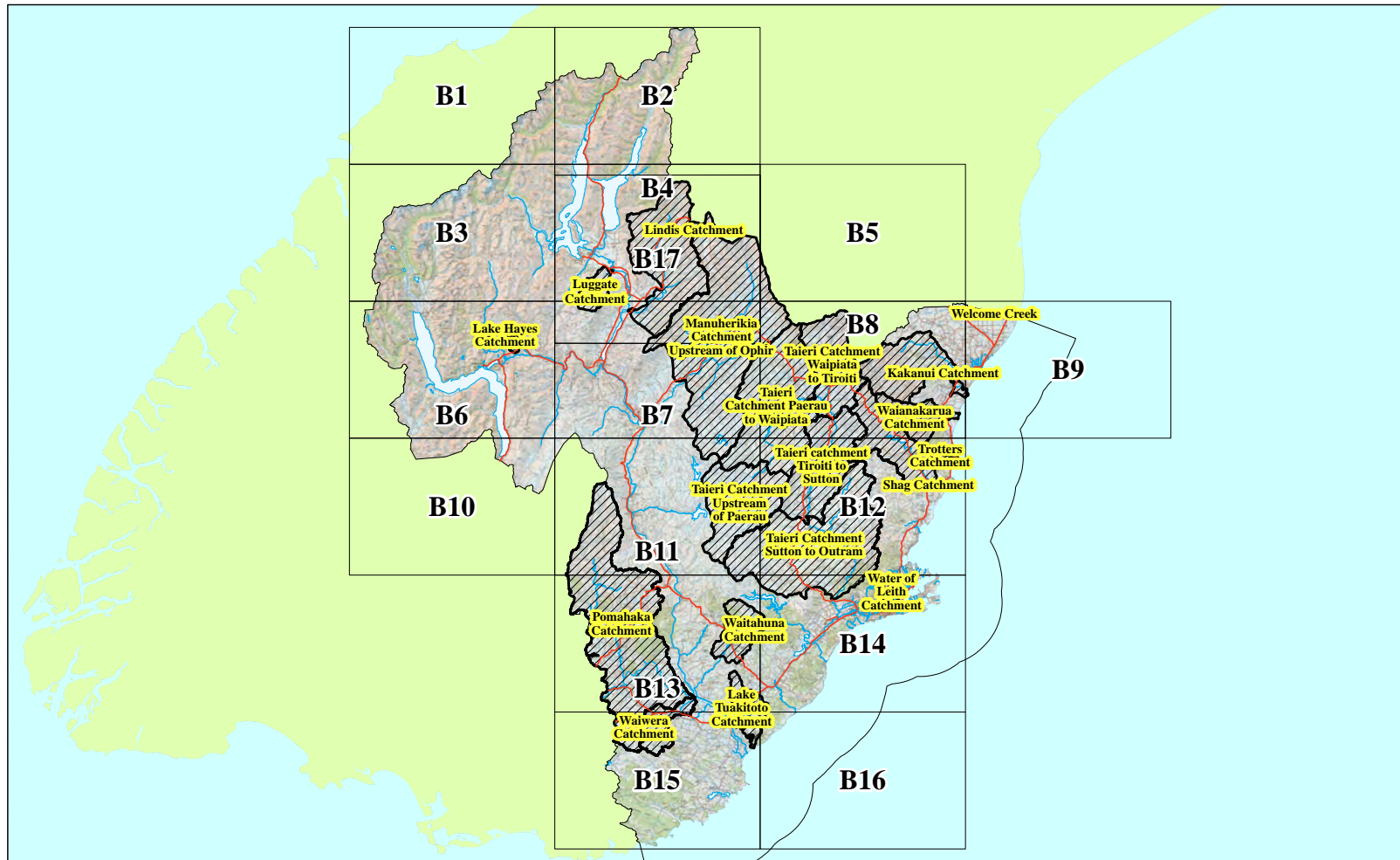
Plan Provision	Detail of proposed change
	<ul style="list-style-type: none"> There are some water permits remaining for which no replacements permits were not sought under applications RM17.301.07 and RM17.301.09A.
Schedule 2A	<p>Amend the table in Schedule 2A as follows:</p> <ul style="list-style-type: none"> List the catchments in alphabetical order. Include the names of the flow monitoring sites as shown on the B-series of the Water Plan Maps. Add the words “Minimum Flow” to the table header where it refers to the monitoring site. <p>Retain introductory paragraphs 1 and 2 as shown in Schedule 2A of the Regional Plan: Water for Otago operative as at 1 June 2021 to reflect that the primary allocation limit in Policy 6.4.2(a) is not exceeded by Policy 6.4.2(b).</p> <p>Amend the layout of the table shown in the Environment Court Decision <i>Lindis Catchment Group Incorporated v Otago Regional Council [2020] NZEnvC 100 (7 July 2020)</i> to provide consistency with the layout of the table in the Schedule 2A of the operative Water Plan.</p>
Schedule 2B	<p>Amend Schedule 2B as follows to provide greater consistency:</p> <ul style="list-style-type: none"> List the catchments in alphabetical order. Include the names of the flow monitoring sites as shown on the B-series of the Water Plan Maps.
Water Plan Maps	<p>Amend “Map B Index – Minimum Flow Catchment Boundaries and Monitoring Sites” to include the new Maps B4 and B7. Map B17 also added through Plan Change 5A, following direction of Environment Court.</p>
	<p>Amend “Map C Index – Aquifers, ...” to include the new Maps C5 and C6</p> <p>Update references in title to all Map C series, including reference to Schedule 4.</p>

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5 March 2022

Regional Plan: Water for Otago

Maps

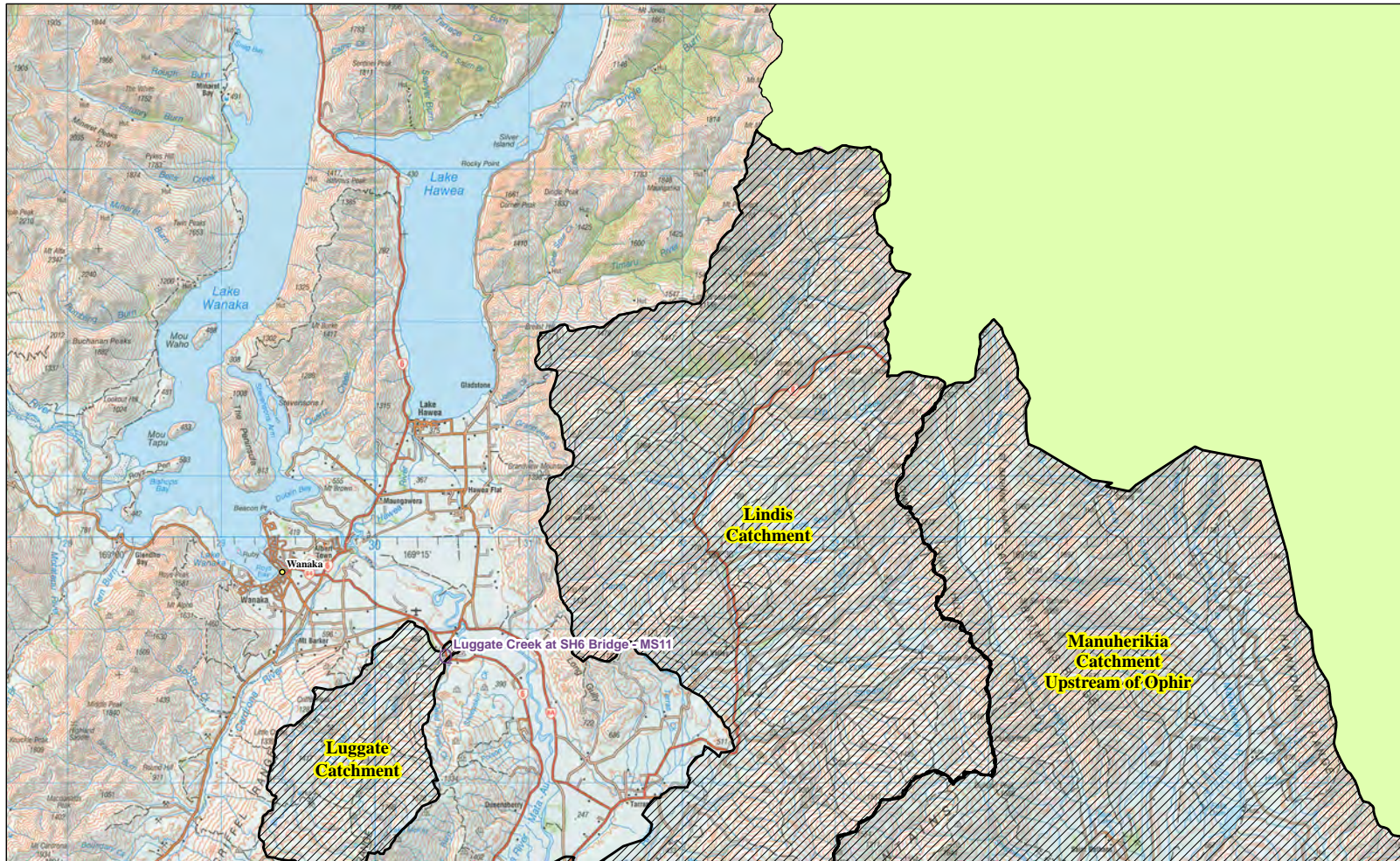
Plan Change 5A (Lindis: Integrated water management) to the Regional Plan: Water for Otago 17
5 March 2022



Map B - Index Minimum Flow Catchments and Monitoring Sites

Basemap: Land Information New Zealand Topo50 Maps
Plan Change 5A (Lindis: Integrated water management)
5 March 2022



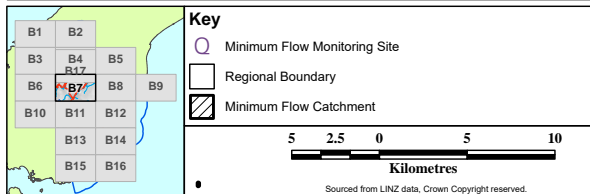
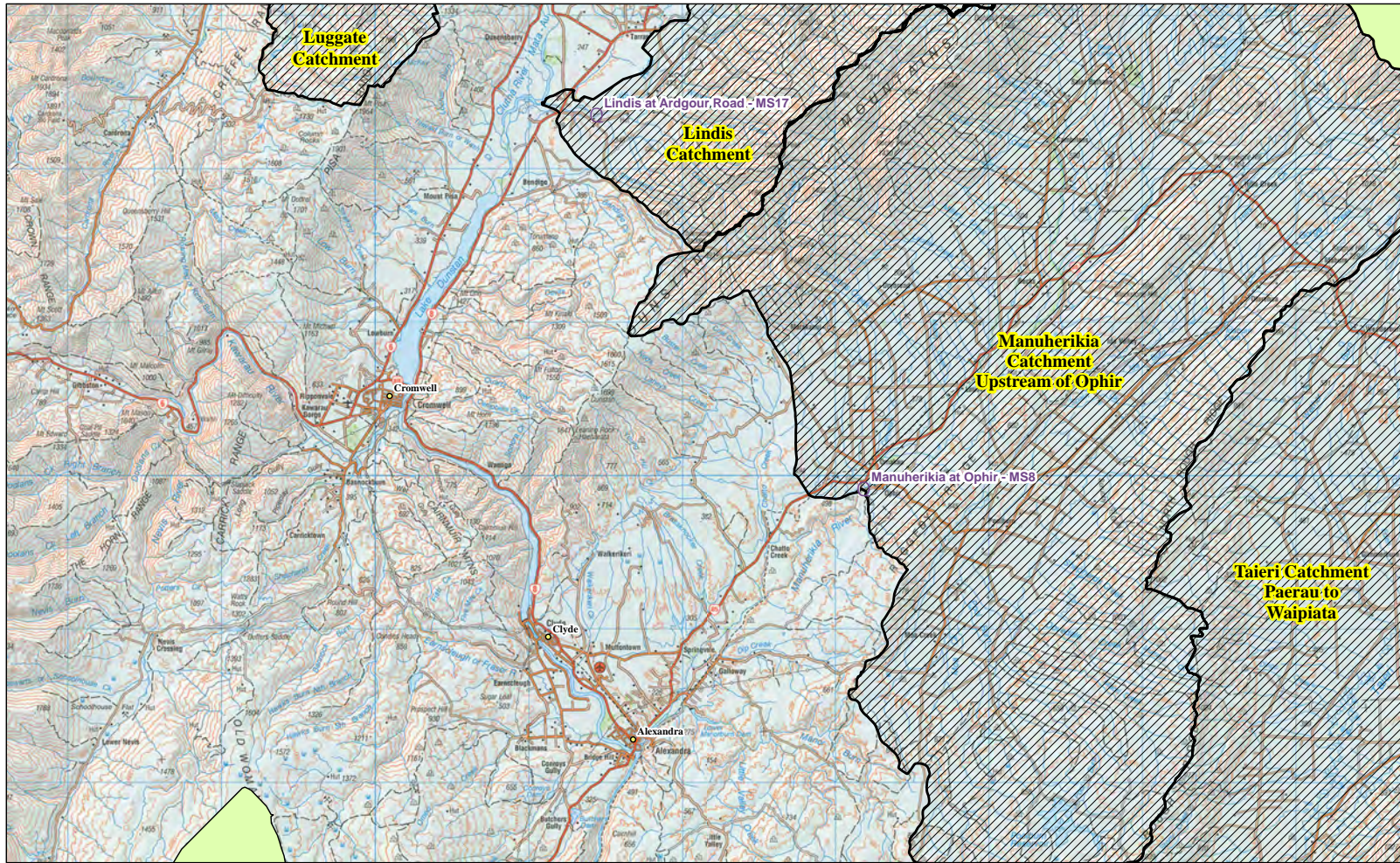


B1	B2	Key Minimum Flow Monitoring Site Regional Boundary Minimum Flow Catchment
B3	B4	
B6	B7	 5 2.5 0 5 10 Kilometres <small>Sourced from LINZ data, Crown Copyright reserved.</small>
B10	B11	
B13	B14	
B15	B16	

Minimum Flow Catchments and Monitoring Sites Map B4

Basemap: Land Information New Zealand Topo50 Maps
 Plan Change 5A (Lindis: Integrated water management)
 5 March 2022

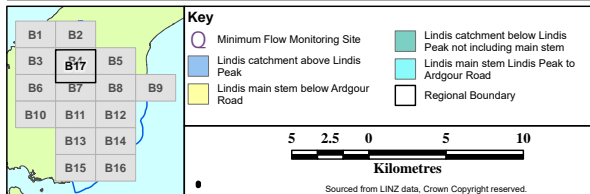
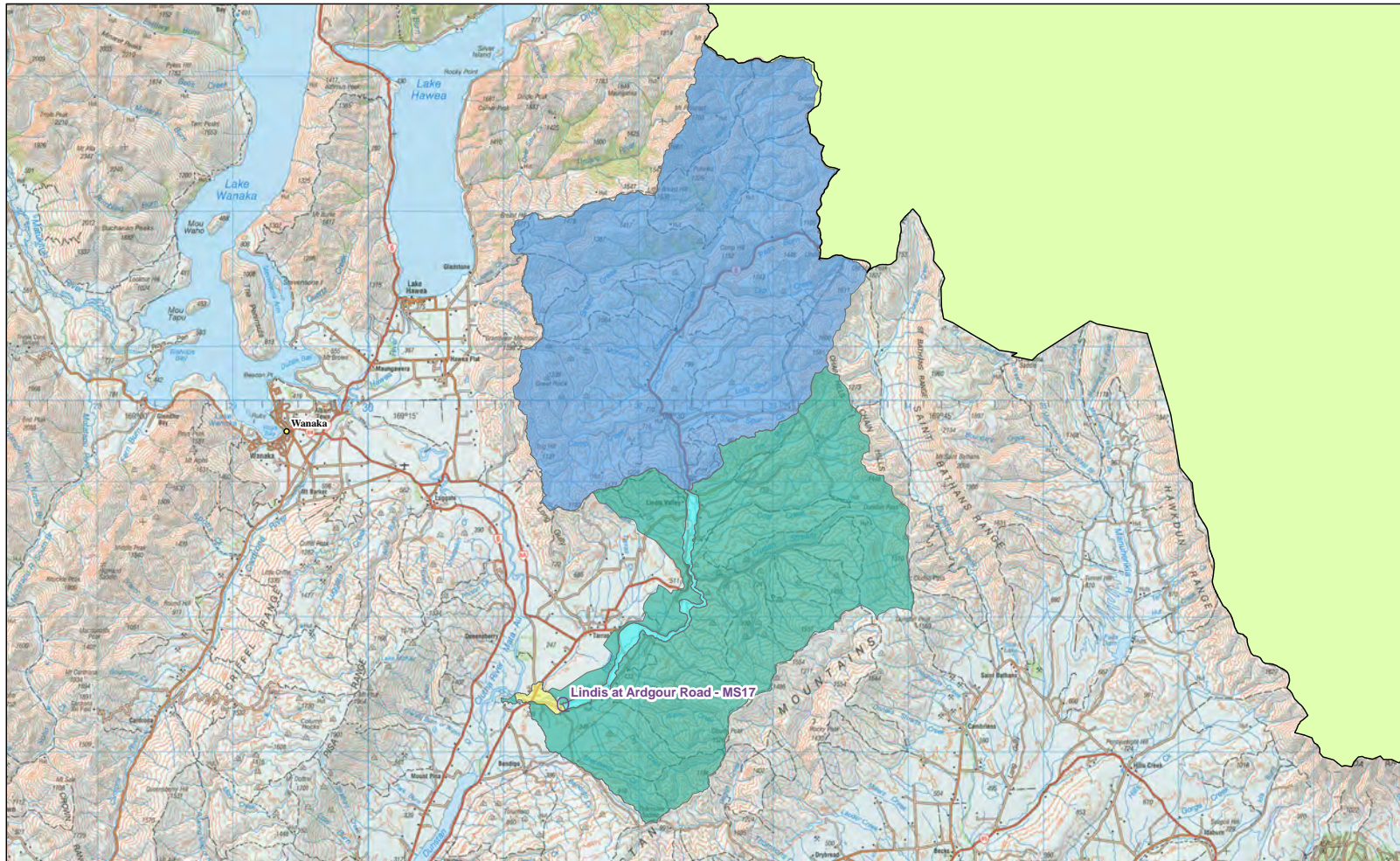




Minimum Flow Catchments and Monitoring Sites Map B7

Basemap: Land Information New Zealand Topo50 Maps
Plan Change 5A (Lindis: Integrated water management)
5 March 2022

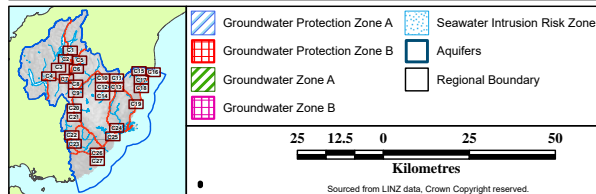
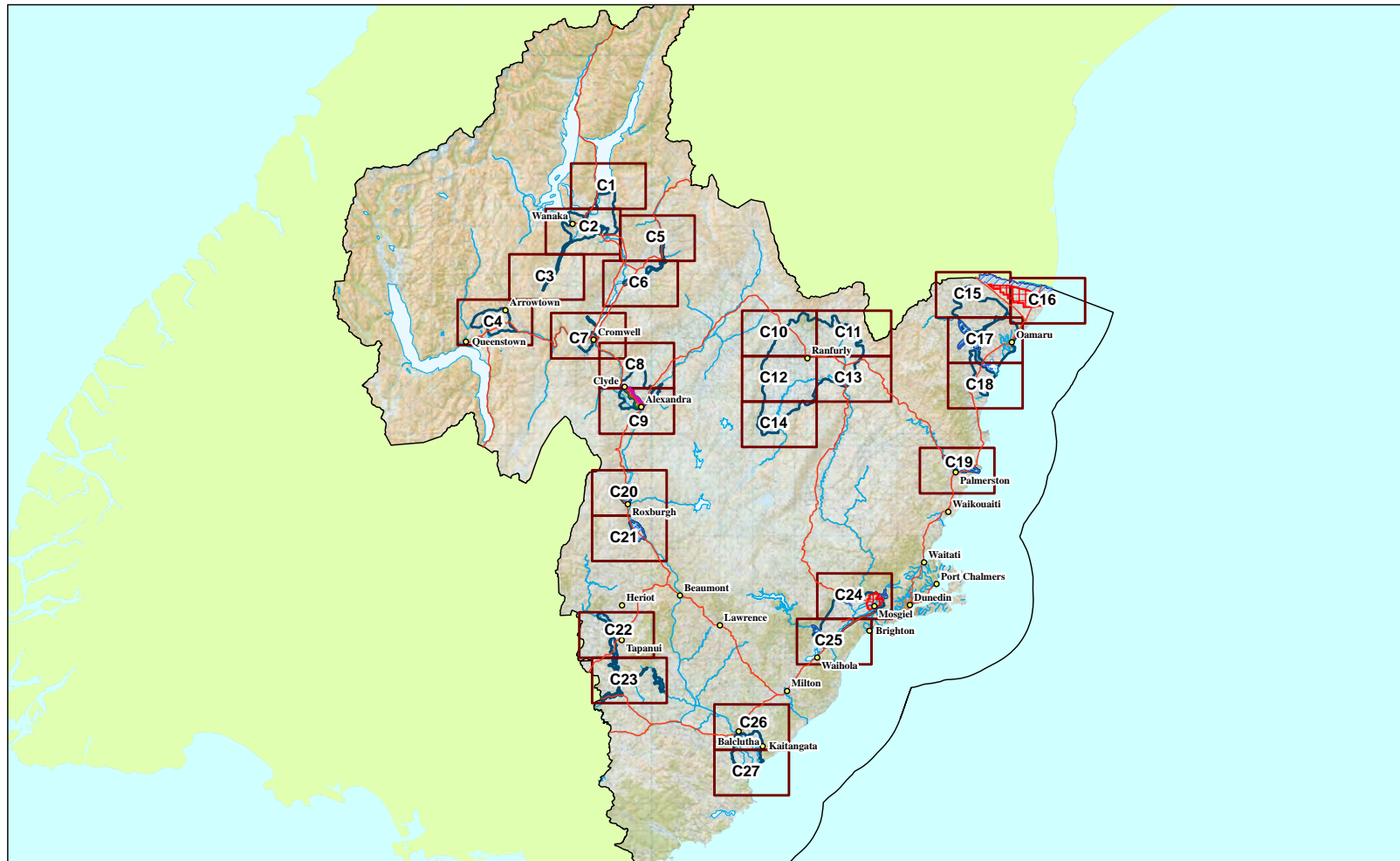




Lindis Catchment Primary Allocation Zones Map B17 - Refer to: Schedule 2A

Basemap: Land Information New Zealand Topo50 Maps
Plan Change 5A (Lindis: Integrated water management)
5 March 2022

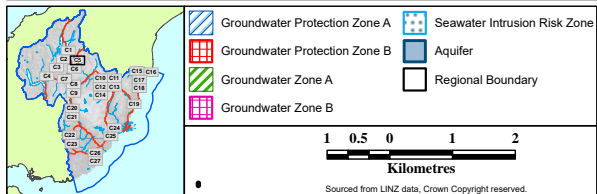
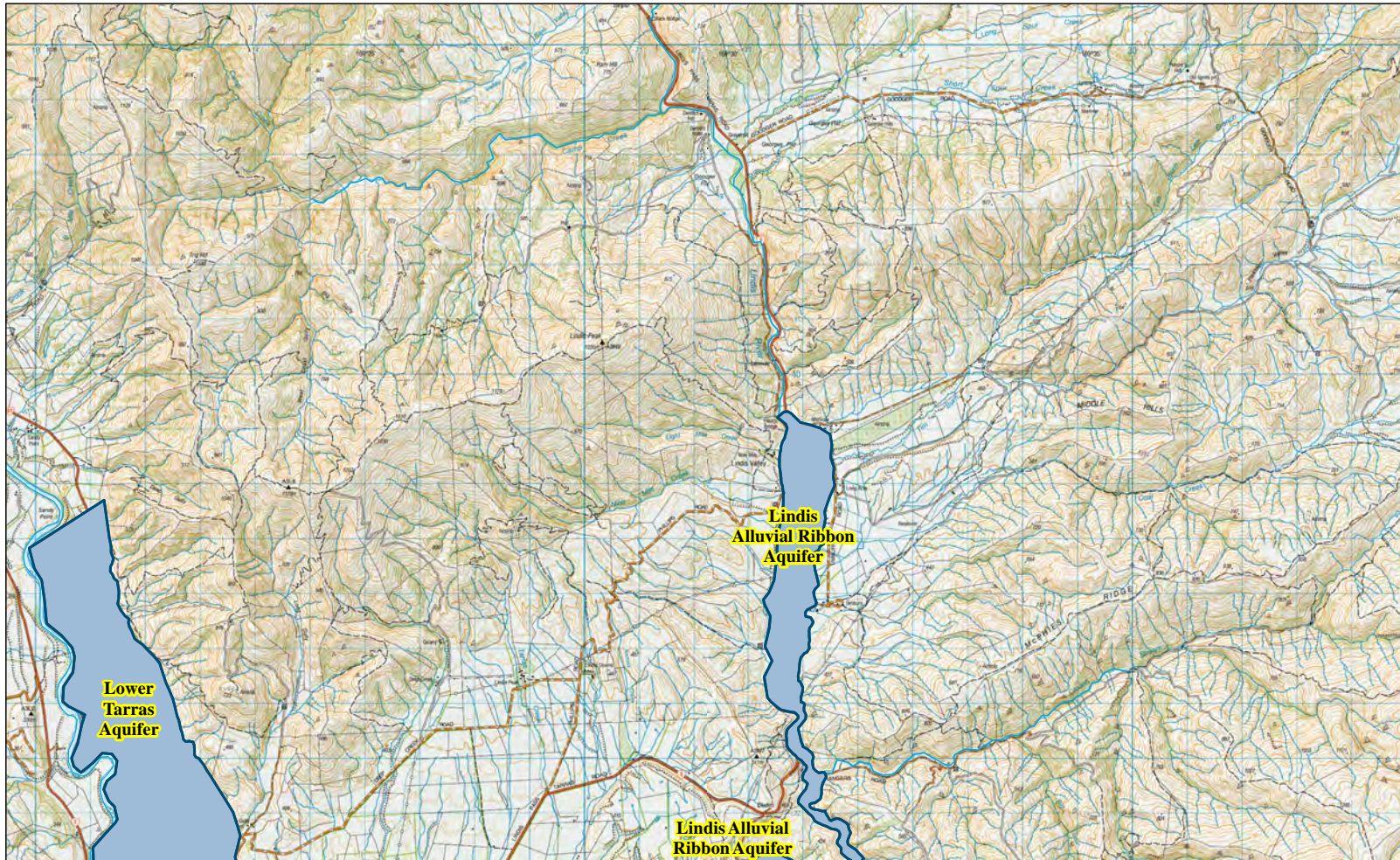




Map C - Index
Aquifers, Groundwater Zones, Groundwater Protection Zones, and Seawater Intrusion Risk Zones
 Refer to:
 - Schedules 2C, 3A and 4
 - Rules in 12.2, 12.A and 14.2
 - Policies 6.4.1A, 6.4.10A, 6.4.10A1, 8.6.5, 9.4.1 and 9.4.18-20

Basemap: Land Information New Zealand Topo50 Maps
 Plan Change 5A (Lindis: Integrated water management)
 5 March 2022





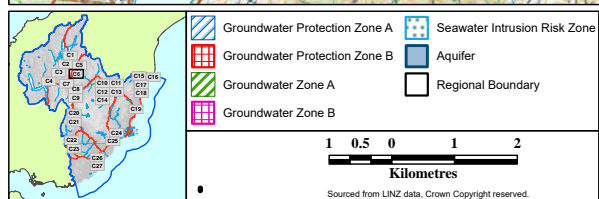
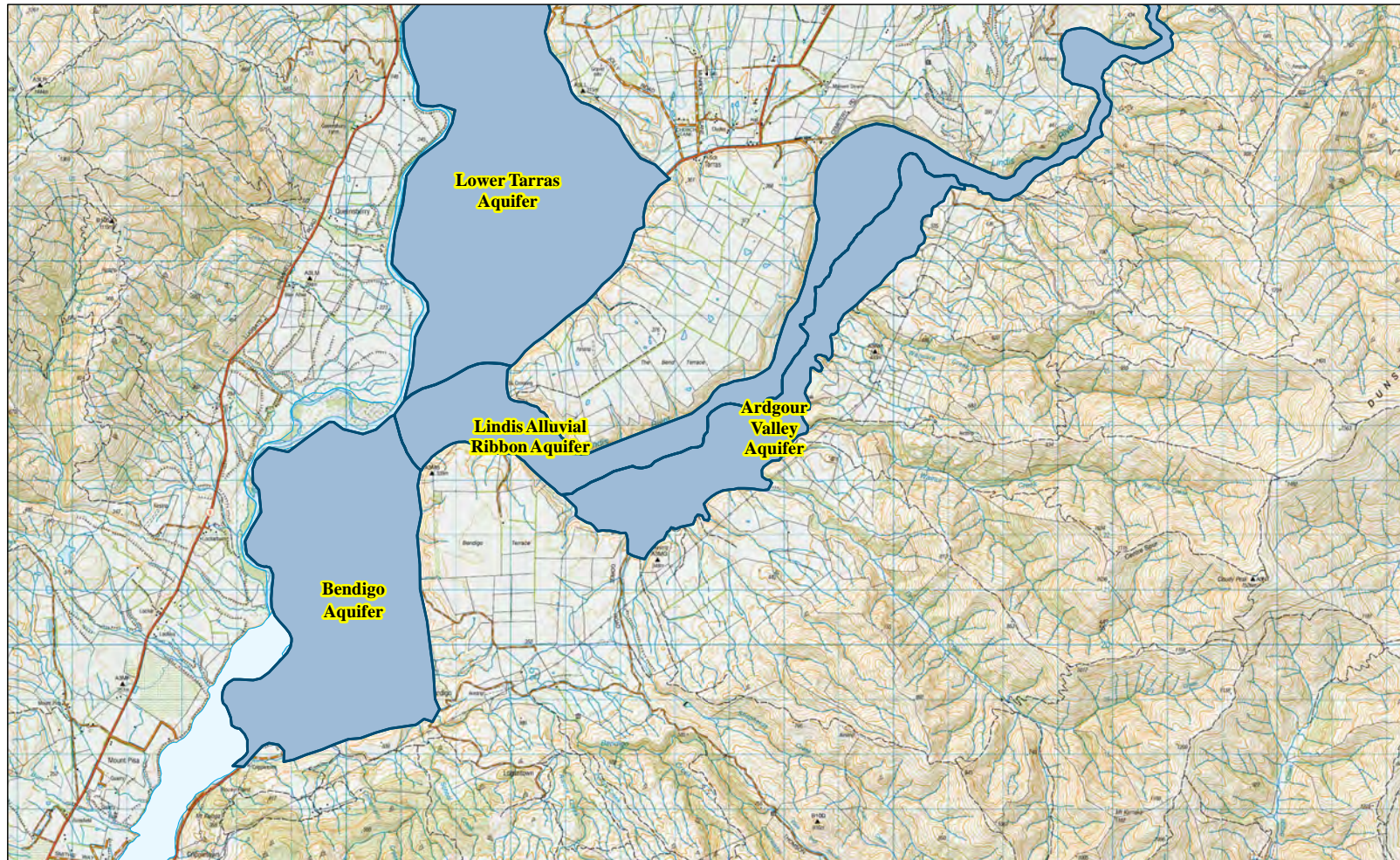
Map C5
Aquifers, Groundwater Zones, Groundwater Protection Zones, and Seawater Intrusion Risk Zones

Refer to:

- Schedules 2C, 3A and 4
- Rules in 12.2, 12.A and 14.2
- Policies 6.4.1A, 6.4.10A, 6.4.10A1, 8.6.5, 9.4.1 and 9.4.18 – 20

Basemap: Land Information New Zealand Topo50 Maps
Plan Change 5A (Lindis: Integrated water management)
5 March 2022





Map C6
Aquifers, Groundwater Zones, Groundwater Protection Zones, and Seawater Intrusion Risk Zones

Refer to:

- Schedules 2C, 3A and 4
- Rules in 12.2, 12.A and 14.2
- Policies 6.4.1A, 6.4.10A, 6.4.10A1, 8.6.5, 9.4.1 and 9.4.18 – 20

Basemap: Land Information New Zealand Topo50 Maps
 Plan Change 5A (Lindis: Integrated water management)
 5 March 2022



7.2. Making the Water Permits Plan Change (WPPC - Plan Change 7) to the Regional Plan: Water for Otago operative

Prepared for:	Council
Report No.	SPS2201
Activity:	Governance Report
Author:	Tom De Pelsemaeker, Team Leader Freshwater and Land
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	23 February 2022

PURPOSE

- [1] To approve Plan Change 7 (PC7) - Water Permits Plan Change to the Regional Plan: Water for Otago (Water Plan) and to set a date for making the plan change operative by incorporating the amended provisions into the operative Water Plan.

EXECUTIVE SUMMARY

- [2] On 22 October 2021 the Environment Court released its interim decision on PC7, with the final decision released on 17 November 2021.
- [3] The appeal period for the Environment Court's interim decision on PC7 closed on 15 November 2021, while the appeal period with respect to the final decision ended on 8 December 2021. No appeals against either the Court's interim or final decision on PC7 were received by the High Court.
- [4] The Otago Regional Council (ORC or Council) can now approve the plan change in accordance with clause 17 of Schedule 1 to the Resource Management Act 1991 (RMA) by affixing Council's seal to the plan and incorporating the provisions into the operative Water Plan.
- [5] It is proposed to make the plan change operative from Saturday 5 March 2022, and to publicly notify this date on Saturday 26 February 2022.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
 - 2) **Approves** minor changes made to Proposed Plan Change 7 in accordance with clause 16(2) of Schedule 1 of the RMA.
 - 3) **Approves** Plan Change 7, and incorporates these provisions into the Operative Water Plan in accordance with clause 17(2) of Schedule 1 to the RMA; and
 - 4) **Affixes** Council's seal to Plan Change 7 to the Water Plan in accordance with clause 17(3) of Schedule 1 of the RMA; and
-

- 5) **Resolves** to make Plan Change 7 operative from Saturday 5 March 2022, and publicly notify this date on Saturday 26 February 2022, in accordance with clause 20 of Schedule 1 of the RMA.

BACKGROUND

- [6] Plan Change 7 was developed as a result of the Ministers investigation in 2019. It was publicly notified by the ORC on 18 March 2020 and then called in as a proposal of national significance by the Minister for the Environment. The Environmental Protection Agency (EPA) re-notified the plan change by issuing a Notice of Direction and submissions closed on 17 August 2020.
- [7] The matter was heard between March and June 2021, with the Environment Court sitting for just over 10 weeks.
- [8] On 22 October 2021 the Environment Court released its interim decision on PC7. The interim decision of the Court was final, save an amendment proposed by the Court to the plan change's single Objective.¹ In the interim decision the Court invited parties to provide comment on the wording of the Objective.
- [9] On 17 November 2021 the Environment Court released its final decision on PC7 which addressed the Objective (the only remaining outstanding matter relating to the PC7 appeal), while also making some smaller amendments of editorial nature to the other provisions of the plan change as approved in the interim decision.²
- [10] An appeal period of 15 working days from the date of receipt of decision was available to parties. No appeals to the High Court were received.

DISCUSSION

Approval of PC7

- [11] In accordance with clause 17 of Schedule 1 to the RMA, ORC can now approve PC7 as amended by the Environment Court. This is given effect by affixing the Council's seal to the Plan.
- [12] A full copy of PC7, incorporating the amendments made by the Environment Court, is included as Attachment 1.

Public notification of the date on which PC7 becomes operative

- [13] Clause 20 of Schedule 1 of the RMA requires the Council to set a date from which the plan change becomes operative and publicly notify the operative plan at least five working days before this date.
- [14] It is proposed to make PC7 operative from Saturday 5 March 2022 and to publicly notify this date on Saturday 26 February 2022.
- [15] In addition to placing a public notice, a copy of the plan change is required to be provided, free of charge, to the Minister for the Environment, all territorial authorities, and the tangata whenua for the area, through iwi authorities.

¹ Otago Regional Council [2021] NZEnvC 164 (22 October 2021)

² Otago Regional Council [2021] NZEnvC 179 (17 November 2021)

Minor and consequential changes

- [16] Clause 16(2) of Schedule 1 of the RMA provides for the amendment of a proposed plan, without formality, where such an alteration is of minor effect. The table of minor and consequential changes is attached as a table in Attachment 2.
- [17] These changes are:
 - a. Amending the Chronicle of key events on page iii of the Water Plan;
 - b. Amending section 1.4 on page 1-7 of the Water Plan to include a paragraph on Plan Change 7;
 - c. Inserting a new ISBN number for Water Plan;
 - d. Changing the date on the title page of the Water Plan; and
 - e. Amending the footer on pages of the Water Plan that have changed.
 - f. Minor amendments to formatting to reflect the style of the Water Plan.

OPTIONS

- [18] Section 149W of the RMA provides that the Council ‘must’ approve the plan change under clause 17 after it is amended under clause 16.
- [19] Approval under clause 17 of the First Schedule of the RMA is a procedural and mandatory step and it must be done as soon as practicable and without unreasonable delay. There is no discretion for the Council not to approve the plan change.
- [20] Failure to meet the statutory obligation to approve the plan change would result in PC7 remaining in its current proposed state, while having legal effect. This means that the proposed provisions would need to be considered against the PC7 provisions, and the operative Regional Plan: Water provisions. Council does not have the ability to withdraw the plan change.
- [21] Further potential implications of Council failing to meet this statutory obligation are as follows:
 - a. Judicial review of the decision of Council not to approve the plan change;
 - b. A ministerial investigation into ORC’s failure to adopt the plan change under s24(c) of the RMA; or
 - c. The Minister for the Environment exercising his powers under s25 of the RMA.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [22] The plan change is part of a transition towards a new freshwater management framework to be set in the new LWRP, which is intended to be operative by 31 December 2025.
- [23] The plan change gives effect to Minister Parker’s recommendations and was considered by the Environment Court to be consistent with the NPSFM 2020.

Financial Considerations

- [24] There are no financial considerations as a result of this paper. The cost of making the changes to the Regional Plan: Water will be met by existing budgets.

He Mahi Rau Rika ORC Significance, Engagement and Māori Participation Policy

- [25] Council's approval of PC7 will trigger He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.
- [26] Schedule 1 of the RMA requires that upon approving the plan change, ORC undertakes the following:
- a. Publicly notifies the date on which PC7 becomes operative;
 - b. Provides a copy of the operative PC7 to the Water Plan to the Minister for the Environment, constituent territorial authorities and adjacent regional councils, and the takata whenua of the area, through iwi authorities, pursuant to clause 20(4) of Schedule 1 of the RMA; and
 - c. Provides a copy of the operative PC7 to the Water Plan to all public libraries in the region, pursuant to clause 20(5) of Schedule 1 to the RMA.
- [27] Public notification of PC7 in accordance with Clause 20 of Schedule 1 of the RMA will satisfy the consultative requirements of the He mahi rau rika: ORC Significance, Engagement and Māori Participation Policy.

Legislative and Risk Considerations

- [28] The legal requirements relating to the approval of PC7 and public notification of the date on which the plan change is to become operative, are set out in clauses 17 and 20 of Schedule 1 to the RMA.
- [29] Key legal requirements include:
- a. Affixing the seal of the local authority to the proposed plan change.
 - b. Publicly notifying the date on which the policy statement or plan becomes operative at least 5 working days before the date on which it becomes operative.

Climate Change Considerations

- [30] There are no climate change considerations as a result of this paper.

Communications Considerations

- [31] Key messaging around the implications of PC7 becoming operative will be released via our website, social media and as a press-release.

ATTACHMENTS

1. Operative Plan Change 7 [7.2.1 - 23 pages]

Attachment 1

Proposed Plan Change 7 (Water Permits)

Regional Plan: Water for Otago

Operative



5 March 2022

ISBN: 978-0-908324-73-6

Plan Change 7 (Water Permits) to the Regional Plan: Water for Otago
5 March 2022

This is a true and correct copy of Plan Change 7 to the Regional Plan: Water for Otago.

Plan Change 7 to the Regional Plan: Water is deemed to be operative on Saturday, 5 March 2022

The Common Seal of the Otago Regional Council was hereto affixed in the presence of:

Cr Andrew Noone
Chairperson

Cr Gretchen Robertson
Co-Chairperson, Strategy and Planning Committee

Plan Change 7 (Water Permits) to the Regional Plan: Water for Otago
5 March 2022

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4. Policy 10A.2.2	4
5. Policy 10A.2.3	4
6. Policy 10A.2.4	5
7. Rule 10A.3.1.1	6
8. Rule 10A.3.1A.1	8
9. Rule 10A.3.1B.1	10
10. Rule 10A.3.2.1	11
11. 103.A Definitions	12
12. Schedule 10A.4	14
13. Minor and consequential changes	19

* Regional Plan: Water for Otago operative as at 1 June 2021.

Insert the following text as two new paragraphs at the end of the section entitled 'How to Use the Regional Plan: Water'

- [1]** Applications for water permits to replace Deemed Permits or to replace water permits that expire before 31 December 2025 will be assessed in accordance with the objective, policies and rules set out in Chapter 10A of this Regional Plan: Water.
- [2]** Applications for water permits that are not replacing either a Deemed Permit or an existing water permit that expires before 31 December 2025, will be assessed in accordance with the provisions in Chapters 5, 6, 12 and 20, except that the duration of any water permit will be determined in accordance with the policies in Chapter 10A.

Insert the following new Chapter in the Water Plan immediately following Chapter 10

10A

Objective, Policies & Rules for Replacement Water Take & Use Permits



Plan Change 7 (Water Permits) to the Regional Plan: Water for Otago
5 March 2022

3

10A.1 Objective

10A.1.1 Facilitate an efficient and effective transition from the operative freshwater planning framework toward a new integrated regional planning framework, by managing:

- (a) The take and use of freshwater; and
- (b) The replacement of Deemed Permits, and
- (c) The replacement of water permits for takes and uses of freshwater where those water permits expire prior to 31 December 2025.

10A.2 Policies

Replacement consents

10A.2.1 Irrespective of any other policies in this Plan, avoid granting resource consents that replace Deemed Permits, or water permits for takes and uses of surface water (including groundwater considered as surface water under Policy 6.4.1A (a), (b) and (c) of this Plan) where those water permits expire prior to 31 December 2025, except where:

- (a) The Deemed Permit or water permit that is being replaced is a valid permit; and
- (b) There is no increase in the area under irrigation, except where any additional area to be irrigated is only for orchard or viticulture land uses and all mainline irrigation pipes servicing that additional area were installed before 18 March 2020; and
- (c) Any existing residual flow, minimum flow or take cessation condition is applied to the new permit; and
- (d) For takes other than community water supplies there is no increase in:
 - (i) The historical instantaneous rate of abstraction; and
 - (ii) Any historical volume of water taken.

Duration

10A.2.2 Irrespective of any other policies in this Plan concerning consent duration, only grant resource consents for takes and uses of freshwater, where this activity was not previously authorised by a Deemed Permit or by a water permit expiring prior to 31 December 2025, for a duration of no more than six years.

10A.2.3 Irrespective of any other policies in this Plan concerning consent duration, avoid granting resource consents that replace Deemed Permits, or resource consents that replace water permits to take and use surface water (including groundwater considered as surface water under Policy 6.4.1A (a), (b) and (c) of this Plan) where those water permits expire prior to 31 December 2025, for a duration of more than six years, except

- (a) **where the take and use of water replaces a Deemed Permit associated with hydro-electricity generation infrastructure listed in Schedule 10A.5.1 and the applicant takes practicable steps to remedy or mitigate any adverse effects on the environment arising from the activity.**

Deemed Permits

- 10A.2.4 Where the flow at the point of take of a Downstream Permit with a Higher Right of Priority is insufficient to supply that permit, the holder of an Upstream Replacement Water Permit may be required to cease taking water.**

10A.3 Rules

Note 1: If the application is for a resource consent for the taking and use of water and the activity was not previously authorised by an existing Deemed Permit or by a water permit expiring before 31 December 2025, refer to the rules in Chapter 12 of this Plan.

Note 2: Where, under Rule 10A.3.1.1, any of entry conditions (iii), (iv) and (vi) do not apply to an activity for which resource consent is sought, that condition is deemed to be met.

Note 3: The matters of control in Rule 10.3.1.1 and matters of discretion in Rule 10A.3.1A.1 refer to 'existing water permit conditions'. The phrase 'existing water permit conditions' is to be interpreted as applying to both Deemed Permits and existing water permits referred to in the entry conditions to the rules.

10A.3.1 Controlled activity: Resource consent required

10A.3.1.1 Despite any other rule or rules in this Plan:

- (a) Any activity that is currently authorised under a Deemed Permit; or
- (b) The take and use of surface water (including groundwater considered as surface water under Policy 6.4.1A (a), (b) and (c) of this Plan) that is currently authorised by an existing water permit where that water permit expires prior to 31 December 2025;

is a **controlled** activity provided the following conditions are met:

- (i) The consent duration sought is no more than six years; and
- (ii) The Deemed Permit or water permit that is being replaced is a valid permit; and
- (iii) The application demonstrates that the total land area under irrigation does not exceed the maximum area irrigated in the period 1 September 2017 to 18 March 2020, if the abstracted water is used for irrigation except where:
 - (a) Any additional area to be irrigated is only for orchard or viticulture land uses and all mainline irrigation pipes servicing that additional area were installed before 18 March 2020; and
- (iv) Except where (vii) applies, the rate of take shall be no more than the rate of take limit recorded during the water years (1 July to 30 June) for which water meter data is available up until 30 June 2020, as calculated in accordance with the methodology in Schedule 10A.4; and
- (v) Any existing residual flow, minimum flow, or take cessation condition (whichever is applicable) on the

expiring Deemed Permit or water permit is included in the application for resource consent; and

- (vi) Except where (vii) applies, the volume of water taken shall be no more than the daily volume limit, and monthly volume limit, and annual volume limit (whichever one or more are applicable) recorded during the water years (1 July to 30 June) for which water meter data is available up until 30 June 2020, as calculated in accordance with the methodology in Schedule 10A.4; and
- (vii) For takes authorised by a Deemed Permit or water permit where metering is not required by condition of resource consent or by the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010, the rate of take and the volume of water sought is no more than the existing consented instantaneous rate of take and volumes; and
- (viii) Where the application is to replace an Upstream Deemed Permit that was subject to a Downstream Permit with a Higher Right of Priority, the applicant proposes a condition:
 - (a) To cease taking water when:
 - (1) There is insufficient flow at the point of take of the Downstream Permit with a Higher Right of Priority; and
 - (2) Notice has been given by the holder of the Downstream Permit with a Higher Right of Priority; and
 - (b) Requiring the provision of a Contact Management Plan to the Consent Authority.

The Council reserves control over the following matters:

- (a) In accordance with historical use and existing water permit conditions, the volume and rate of water taken, dammed, discharged or diverted; and
- (aa) Where (iii)(a) applies, the maximum size of the additional area to be irrigated, and use of good management practices on the additional area; and
- (b) Any existing consent conditions concerning operating procedures administered through a water allocation committee that exists for the catchment; and
- (c) Any other conditions on the expiring permit to be replaced, where those matters are not otherwise addressed by the entry conditions of this rule or matters of control; and
- (d) A condition may be imposed requiring the holder of an Upstream Replacement Water Permit:
 - (i) to cease taking water when:

- (1) There is insufficient flow at the point of take authorised by a Downstream Permit with a Higher Right of Priority; and
- (2) Notice has been given by the holder of the Downstream Permit with a Higher Right of Priority; and
- (ii) Requiring the provision of a Contact Management Plan to the Consent Authority; and
- (e) Review conditions; and
- (f) Compliance monitoring; and
- (g) The point and method of measurement and the method for transmitting recorded data to Council.

Pursuant to sections 95A and 95B of the RMA, an application for resource consent under this rule will be processed and considered without public or limited notification.

10A.3.1A Restricted discretionary activity: Resource consent required

10A.3.1A.1 Despite any other rule or rules in this Plan:

- (a) Any activity that is currently authorised under a Deemed Permit; or
- (b) The take and use of surface water (including groundwater considered as surface water under Policy 6.4.1A (a), (b) and (c) of this Plan) that is currently authorised by an existing water permit where that water permit expires prior to 31 December 2025;

is a **restricted discretionary** activity providing the following conditions are met:

- (i) The activity meets conditions (i), (ii), (iii), (v), and (viii) of Rule 10A.3.1.1 but does not meet conditions (iv) and (vi); and
- (ii) Where the activity does not meet (iv) and (vi) of Rule 10A.3.1.1 a water meter for the take has been installed, or an exemption under the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010 from water metering has been granted.

The Council will restrict its discretion to the following matters:

- (a)
 - (i) Whether the water meter data in combination with other relevant methods and data accurately represents historical use; and
 - (ii) Whether the volume and rate taken, dammed, discharged or diverted is in accordance with the

historical rate of take and volume and within existing water permit conditions; and

- (1) For community water supplies, within existing water permit volume and rate limits, the extent to which there is a need to provide for population growth within the term of the consent; and
 - (2) Where 10A.3.1.1 (iii)(a) applies, the maximum size of the additional area to be irrigated and use of good management practices on the additional area; and
- (b) Any existing consent conditions concerning operating procedures administered through a water allocation committee that exists for the catchment; and
- (c) Any other conditions on the expiring permit to be replaced, where those matters are not otherwise addressed by the entry conditions of this rule or matters of discretion; and
- (d) A condition may be imposed requiring the holder of an Upstream Replacement Water Permit:
- (i) To cease taking water when:
 - (1) There is insufficient flow at the point of take authorised by a Downstream Permit with a Higher Right of Priority; and
 - (2) Notice has been given by the holder of the Downstream Permit with a Higher Right of Priority; and
 - (ii) Requiring the provision of a Contact Management Plan to the Consent Authority; and
- (e) Review conditions; and
- (f) Compliance monitoring; and
- (g) The point and method of measurement and the method for transmitting recorded data to Council.

Pursuant to sections 95A and 95B of the RMA, an application for resource consent under this rule will be processed and considered without public or limited notification.

10A.3.1B Restricted discretionary activity (hydro-electricity generation activities): Resource consent required

10A.3.1B.1 Despite any other rule or rules in this Plan, any activity that is currently authorised under a Deemed Permit where the take and use of water is for hydro-electricity generation infrastructure listed in Schedule 10A.5.1, is a restricted discretionary activity providing the following conditions are met:

- (i) The consent duration sought expires no later than 2035; and
- (ii) The Deemed Permit that is being replaced is a valid permit; and
- (iii) For takes authorised by a Deemed Permit where metering is not required by a condition of resource consent or by the Resource Management (Measurement and Reporting of Water Takes) Regulations 2010, the rate of take and the volume of water sought is no more than the existing consented instantaneous rate of take and volumes; and
- (iv) Any existing residual flow, minimum flow, or take cessation condition (whichever is applicable) on the expiring Deemed Permit is included in the application for resource consent.

The Council will restrict its discretion to the following matters:

- (a)
 - (i) Whether the water meter data in combination with other relevant methods and data accurately represents historical use; and
 - (ii) Whether the volume and rate of take is in accordance with the historical volume and rate of take, and within the conditions of the expiring Deemed Permit; and
- (b) Any other conditions on the expiring Deemed Permit to be replaced where those matters are not otherwise addressed by the entry conditions of this rule or matters of discretion; and
- (c) Review conditions; and
- (d) Compliance monitoring; and
- (e) The point and method of measurement and the method for transmitting recorded data to the Council; and
- (f) The methods available to remedy or mitigate any adverse effects on the environment arising from the activity.

10A.3.2 Non-complying activity: Resource consent required

10A.3.2.1 Despite any other rule or rules in this Plan:

- (a) Any activity that is the replacement of an activity authorised under a Deemed Permit; or
- (b) The take and use of surface water (including groundwater considered as surface water under Policy 6.4.1A (a), (b) and (c) of this Plan) that is the replacement of a take and use authorised by an existing water permit where that water permit expires prior to 31 December 2025;

that does not meet any one or more of the conditions of

- (i) Rule 10A.3.1.1 (excluding conditions (iv) and (vi));
- (ii) Rule 10A.3.1A.1;
- (iii) Rule 10A.3.1B.1

is a *non - complying* activity.

10A.3A Definitions

Valid permit

In the context of Chapter 10A, means a resource consent or Deemed Permit that

- (1) has not expired; or
- (2) has expired but where the consent holder can still exercise the permit under s124 of the RMA; or
- (3) has not been surrendered under s138 of the RMA; or
- (4) has not been cancelled under s126 of the RMA; or
- (5) has not lapsed under s125 of the RMA.

Mainline irrigation pipes

The primary permanently installed pipelines delivering water to the irrigated area including the connections to the headworks at the pumping location.

Take cessation condition

A condition that limits or restricts the taking of water under specified circumstances, including:

- (a) during certain times or periods across the year;
- (b) when other water permits within the catchment or from the same water body are being exercised;
- (c) when water is being abstracted under the same water permit at an alternative point of take;
- (d) when recharge, water yield or inflows into the catchment or water body from which water is being taken is below a specified flow or water level.

Deemed Permit

Has the same meaning as s413 of the RMA and includes any deemed condition conferring a right of priority.

Downstream Permit with a Higher Right of Priority

A Deemed Permit that had not been replaced by a resource consent commencing before 2 October 2021, that was subject to a right entitling the permit holder to require the holder of an Upstream Deemed Permit to cease taking water.

Upstream Deemed Permit

A Deemed Permit that has not been replaced by a resource consent commencing before 2 October 2021, that was subject to a right of priority entitling a Downstream Permit with a

Higher Right of Priority to require the holder of an Upstream Deemed Permit to cease taking water.

Upstream Replacement Water Permit

A resource consent granted under the RMA to replace an Upstream Deemed Permit.

Contact Management Plan

A plan that records up-to-date contact details for the consent holder to be served written notice (which may be an email address) and an acknowledgement that the contact details can be provided to a permit holder with a higher right of priority by the Otago Regional Council.

Insufficient flow

Where the flow is below the level at which the holder of a Downstream Permit with a Higher Right of Priority is able to abstract water at their authorised rate of take.

Notice

A communication in writing sent to the contact details recorded in the Contact Management Plan and copied to the Consent Authority that contains the following detail:

- (a) the name and consent number of the Consent Holder giving notice;
- (b) the name and consent number of the Consent Holder required to cease taking water;
- (c) date and time of notice issue;
- (d) an instruction to cease taking water; and
- (e) a start date and time and end date and time for the cessation; the cessation period must not be longer than 72 hours from when the cessation commences.

10A.4 Schedule: Methodology for calculating assessed actual usage for surface-water and connected groundwater takes

The methodologies in Schedules 10A.4.1 to 10A.4.4 outline the different steps that need to be taken to calculate the assessed actual usage for surface-water and connected groundwater takes.

Each of these steps apply to any activity authorised by a water permit for the take and use water, except for steps 4(a) to (g) in Schedule 10A.4.1 and steps 4(a) to (h) in Schedule 10A.4.2, which do not apply to applications for:

- The take and use of water for community water supplies; or
- The take and use of water where the only purpose is for hydro-electricity generation.

Note 1: Where ‘consent’ or ‘permit’ is used in Schedule 10A.4 this means the Deemed Permits and existing water permits in the entry conditions to Rule 10A.3.1.1.

10A.4.1 Methodology for calculating ‘Rate of Take Limit’

The ‘Rate of Take Limit’ (litres per second – l/s) shall be determined by calculating the maximum rate of take taken in all water years (1 July to 30 June) up until 30 June 2020 for which water meter data is available, using the following methodology.

Methodology

- (1) Water meters record rate of take over different time intervals.
 - a. Where a water meter records a volume of water taken over a fixed time interval which is less than or equal to an hour, the rate of take will be determined by first calculating the hourly volume and then converting this to a l/s rate. For example, 40 m³ taken over one hour will equate to a rate of take of 11.11 l/s.
 - b. Where a water meter records the volume of water taken over an interval of time greater than an hour, the hourly rate of take will be calculated and used as the base data set.
- (2) Any measurement that is at or below 0 l/s will be removed.
- (3) Any measurement that exceeds the Authorised (Consented) Rate of Take is adjusted down to the Authorised Rate of Take.
- (4) If any measurement (including those from step 3) deviates from the general pattern of taking, it shall be adjusted down to the maximum of the typical data record across the full data record. The methodology for undertaking this step is set out below:
 - (a) Order the rate of take data by size (descending order).
 - (b) Determine D, where D is the number of complete water years covered by the record being considered.

- (c) Calculate N (where N is the number of measurements) = $18+(3 \times D)$.
- (d) Find the highest value.
- (e) Calculate the number of other data values which are within the margin of error of that value.
- (f) Repeat steps (d) and (e) until the first value which has N data values within the margin of error (+ and -) of that value is found.
- (g) This number is the maximum typical rate of take.

The margin of error to be applied to any calculation in steps (4)(e) and (4)(f) will be either $\pm 5\%$ for piped takes or $\pm 10\%$ for water taken by any other method, including by any open channel or a partially full pipe.

Steps 4 (a) to (g) above do not apply to applications for community water supplies or where the only purpose is for hydroelectricity generation.

- (5) 'Rate of Take Limit' (litres per second – l/s) will be determined as the maximum value after steps (1) to (4) have been completed.

10A.4.2 Methodology for calculating Daily Volume Limit (m³)

The 'Daily Volume Limit' shall be determined by calculating the maximum daily volume taken in all water years (1 July to 30 June) up until 30 June 2020 for which water meter data is available, using the following methodology.

Methodology

- (1) Where a consent or permit being replaced does not include a 'Daily Volume Limit', the Authorised Daily Volume will be calculated based on the following formula:

$$\text{Authorised Daily Volume m}^3 = ((\text{Consented Rate of Take l/s}) \times 86,400) / 1,000$$

Where a consent or permit does not specify a rate of take in l/s the Consented Rate of take will be determined by dividing the volume specified on the permit over the shortest duration by the timeframe over which that volume can be taken.

- (2) Any measurement that is at, or below, 0 m³ will be removed.
- (3) On any day where the Actual Daily Volume exceeds the Authorised Daily Volume, the Actual Daily Volume is adjusted down to the Authorised Daily Volume.
- (4) If any measurement (including those from step 3) deviates from the general pattern of taking, it shall be adjusted down to the maximum of the typical data record across the full data record. The methodology is set out below:
 - (a) Order the daily volume data by size (descending order).

- (b) Determine D, where D is the number of complete water years covered by the record being considered.
- (c) Calculate N (where N is the number of measurements) = $1+(2xD)$.
- (d) Find the highest value.
- (e) Calculate the number of other data values which are within the margin of error of that value.
- (f) Repeat steps (d) and (e) until the first data value which has N data values within the margin of error (+ and -) of that point is found.
- (g) This number is the maximum typical daily volume.
- (h) Adjust any daily volumes above the maximum typical daily volume, down to the maximum typical daily volume.

The margin of error to be applied to any calculation in steps (4)(e) and (4)(f) will be either $\pm 5\%$ for piped takes or $\pm 10\%$ for water taken by any other method, including by any open channel or a partially full pipe.

Steps 4(a) to 4(h) above do not apply to applications for community water supplies or where the only purpose is for hydroelectricity generation.

- (5) The 'Daily Volume Limit' will be determined as the maximum value after steps (1) to (4) above have been completed.

10A.4.3 Methodology for calculating Monthly Volume Limit (m³)

The 'Monthly Volume Limit' shall be determined by calculating the maximum monthly volume taken in all water years (1 July to 30 June) up until 30 June 2020 for which water meter data is available, using the following methodology

Methodology

- (1) Where a consent or permit being replaced does not include a 'Monthly Volume Limit' the Authorised Monthly Volume will be calculated based on the following formula:

Authorised Monthly Volume m³ = Authorised Daily Volume (as determined under Step (1) in the methodology in Schedule 10A.4.2) x 30.4

- (2) Actual Monthly Volumes will be calculated based on the sum of the daily volumes taken in each calendar month. For the purposes of this calculation daily volumes will be determined using the-steps (2) – (4) in the methodology set out in 10A.4.2 for calculating the Daily Volume Limit.
- (3) In any month where the Actual Monthly Volume taken exceeds the Authorised Monthly Volume, the Actual Monthly Volume is adjusted down to the Authorised Monthly Volume.

- (4) The 'Monthly Volume Limit' will be determined as the maximum value after steps (1) to (3) above have been completed.

10A.4.4 Methodology for calculating Annual Volume Limit (m³)

The 'Annual Volume Limit' shall be determined by calculating the maximum annual volume taken in all water years (1 July to 30 June) up until 30 June 2020 for which water meter data is available, using the following methodology.

Methodology

- (1) Where a consent or permit being replaced does not include an 'Annual Volume Limit' the Authorised Annual Volume will be calculated based on one of the following formulae. The formula used will be whichever one produces the lower calculated Authorised Annual Volume;

Authorised Annual Volume m³ = Authorised Daily Volume (as determined under Step (1) in the methodology in Schedule 10A.4.2) x 365.25;

Authorised Annual Volume m³ = (Consented Monthly Volume) x (Months where water can be taken)

Where the consent or permit being replaced specifies the months during which water can be taken, a count of those months will be used. Where the consent or permit being replaced does not specify the months during which water can be used the number used will be 12.

- (2) Actual Annual Volumes will be calculated based on the sum of the daily volumes taken in each water year. For the purposes of this calculation daily volumes will be determined using the steps (2) – (4) in the methodology set out in 10A.4.2 for calculating the Daily Volume Limit.
- (3) In any year where the Actual Annual Volume taken exceeds the Authorised Annual Volume, the Actual Annual Volume is adjusted down to the Authorised Annual Volume.
- (4) The 'Annual Volume Limit' will be determined as the maximum value after steps (1) to (3) above have been completed.

Schedule 10A.5.1 Hydro-electricity generation infrastructure

Beaumont Race	<i>Beaumont</i> NZTM 2000 E:1340136 N:4930132 <i>Little Beaumont River</i> NZTM 2000 E:1339935 N:4929937
Shepherds Race	NZTM 2000 E:1362725 N:4911571
Crystals Race	<i>Crystals</i> NZTM 2000 E:1367994 N:4913862 <i>Little Crystals</i> NZTM 2000 E:1367902 N:4913442
Black Rock Race	NZTM 2000 E:1358613 N:4926962

Table of minor and consequential changes

Plan Provision	Detail of proposed change			
Page numbers	Update page numbers.			
Footers	Change footer to read “Regional Plan: Water for Otago (Updated to 5 March 2022)”.			
Title page	Change the date to read “Updated to 5 March 2022 “.			
ISBN number	Obtain new ISBN numbers for Regional Plan: Water for Otago.			
Chronicle of key events	Add the following to the end of table:			
	Key event	Date notified	Date decisions released	Date operative
	Plan Change 7 (Water Permits) to the Regional Plan: Water	18 March 2020	17 November 2021	5 March 2022
Section 1.4	<p>Add the following paragraph: “Proposed Plan Change 7 (Water Permits) provides an interim regulatory framework for the assessment of applications to replace Deemed Permits expiring in 2021 and other water permits expiring prior to 31 December 2025, the date by which the new land and water Regional Plan is expected to be operative. It also has a new policy on duration that applies to all other permits to take and use water.</p> <p>Proposed Plan Change 7 was notified on 18 March 2020, after which the plan change was “called in” by the Minister for the Environment. The Environmental Protection Agency (EPA) re-notified the plan change by issuing a Notice of Direction and submissions closed on 17 August 2020. A total of 289 submissions and 16 further submissions were received. Environment Court, decisions were released on 22 October 2021 and 17 November 2021. Plan Change 7 was made operative on 5 March 2022.”</p>			
Chapter 10A	<p>Minor corrections and editorial changes to the provisions of Chapter 10A (from the version of the provisions stated in Environment Court Decisions <i>Otago Regional Council [2021] NZEnvC 164 (22 October 2021)</i> and <i>Otago Regional Council [2021] NZEnvC 179 (17 November 2021)</i>), including:</p> <ul style="list-style-type: none"> • Use of colons when referring to NZTM coordinates, and • Capitalisation, punctuation, indentation and other style changes to improve consistency with other Chapters in the Regional Plan: Water for Otago. 			

7.3. Consultation on the Resource Management Reform

Prepared for:	Council
Report No.	SPS2205
Activity:	Governance Report
Author:	Sylvie Leduc, Senior Strategic Analyst, Anne Duncan, Manager Strategy, Anita Dawe, Manager Policy and Planning
Endorsed by:	Gwyneth Elsum, General Manager Strategy, Policy and Science
Date:	23 February 2022

PURPOSE

- [1] To approve ORC's feedback on the Ministry for the Environment's (MfE) discussion document on the future resource management system, released in November 2021.

EXECUTIVE SUMMARY

- [2] MfE released a discussion document on the future resource management system and have asked for feedback on this material before 28 February 2022. Feedback will inform the draft Natural and Built Environments Act and Strategic Planning Act, for which bills will be introduced into Parliament later in 2022.
- [3] The discussion document covers a wide range of topics, including:
- The scope and development process of the future National Planning Framework; and of future Natural and Built Environments Plans.
 - The scope and strength of future Regional Spatial Strategies.
 - The system's oversight structure.
 - Future provisions for consenting, compliance, enforcement and monitoring.
 - Māori participation in the system.
 - The structure of joint committees, role of local authorities and the relationships between joint committees and local authorities.
- [4] ORC has prepared feedback on the discussion document, based on the input and assessment of an ORC staff working group, and discussions at the Strategy & Planning Committee workshop of 9 February 2022. (Appendix 1)
- [5] ORC will have further opportunity for feedback, when the full NBA Bill is introduced to Parliament, along with the Strategic Planning Act Bill, later in 2022.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the submission on *Our Future Resource Management System*, subject to any changes as articulated in the Council meeting, to be lodged with the Ministry for the Environment, by 28 February 2022.

ATTACHMENTS

1. Otago Regional Council ORC submission on Our Future Resource Management System
(1) [7.3.1 - 7 pages]



Our reference:

17 February 2022

Ministry for the Environment
Wellington

RM.reform@mfe.govt.nz

Dear Sir/Madam

Otago Regional Council (ORC) submission on *Our Future Resource Management System*

Overview

Resource management (RM) reform is a critical agenda that ORC recognises as being essential to improve the system that protects and provides for the wellbeing of current and future generations. ORC supports all the main aspects of the reform (refer previous submissions) and recognises the potential for improved integration of management at a regional level through a regional spatial strategy (RSS) as part of development of the Strategic Planning Act (SPA). While ORC supports the agenda, there are several aspects of how the agenda is progressing that we consider are important to raise and be considered, that emphasise concerns that we have.

Firstly, ORC is disappointed that the Climate Change Adaptation Act (CAA) has apparently been delayed in total favour of progressing the Natural and Built Environments Act (NBA) and Strategic Planning Act (SPA). ORC is of the view that climate change adaptation is a significant issue which needs to be addressed urgently. Having a robust management framework and tools in place for local government to meet some of its climate change challenges is a matter of great importance and urgency and should not wait until RM reform is complete. ORC considers that the RM reform should be considered alongside the CAA and not separate to, and ahead of it. Without that strategic legislative co-ordination, there are risks to the new legislation of fragmentation, and disconnect.

In addition, although ORC supports the development of regional spatial strategies, there are other areas where development of national directions is critical. National direction on natural hazard risk management is an example of a key area that ORC considers is important and we support ongoing urgent action on this alongside RM reform. Community resilience will ultimately depend on progress and improvement in this programme of work.

Cumulative impacts are another challenging and important area identified by ORC, which needs to be effectively addressed in the NBA and which has not yet emerged as an area of active discussion.

ORC is also concerned that there are significant interactions of this reform agenda with other reforms (Future of Local Government, Three Waters and other existing statutory processes), with a lack of clarity about how integration will be achieved. Related to this is a concern about transition



arrangements. ORC is concerned that detail on transition is light – transition will take time and need to consider timing versus outcomes locked into existing plans that should not be compromised. ORC would welcome discussions on this aspect of the reform.

Finally, it is important to note that the combined reform programme across government, is substantial and requires a lot of commitment and investment which will test local government capacity to respond. That capacity will be improved with information and transparent and timely participation in implementation and transition planning. While we welcome the opportunity to respond to this and other future discussion papers, the opportunity to actively participate in transition and implementation conversations is also identified as important moving forward by ORC.

What follows is specific feedback on consultation topics identified in the Ministry's discussion paper.

The scope and development process of the National Planning Framework

ORC considers the role of the National Planning Framework (NPF) to be critically important in ensuring a more streamlined and straightforward implementation of the new system. It needs to be robust and provide clarity on conflicting resource uses to ensure that consenting pathways are as accessible and transparent, and therefore as timely and cost effective, as possible. Without this, the consenting process will become burdened with the same issues as are currently experienced. Ideally this framework should also provide substantial direction on how environmental outcomes identified in the Natural and Built Environments Act (NBA) can be balanced where and when there may be conflicts.

ORC also submits that, contrary to the Environment Committee recommendation, regions should be able to set environmental limits, even when not explicitly provided for in the NPF – as long as these environmental limits meet the objectives as set out in the NBA.

In summary ORC's views on the NPF are that:

- It needs to be internally consistent and provide direction/guidance on how to resolve conflicts among nationally significant issues (or all the resource management matters it addresses). Regional NBA combined plans can provide guidance on other conflicts when these have not been addressed in the NPF.
- Although efficiency is a worthy goal, it should not come at the total expense of robust and high-quality decision making. Regardless of the NPF's development and adoption process, it is important that there is transparency in the decision-making around it: from the decision to include a matter in the NPF, through to consultation on provisions and at all key stages of the process in between.

The scope and strength of Regional Spatial Strategies and Combined NBA Plans.

Regional Spatial Strategies

ORC continues to strongly support the concept of regional spatial strategies.



We believe that planning at a regional scale will not detract from the ability to address local issues. They can be more detailed where needed, for example in some local areas where pressures and conflicts are most acute. In effect, more detailed local spatial strategies could be incorporated within the framework of a regional spatial strategy.

Regional spatial strategies also have an important role to play as a method to improve the coordination between environmental management, development, and infrastructure planning. Ideally, they should have a strong influence on planning decisions and infrastructure investment and become a platform for coordinating long term infrastructure investment and planning. However, they need to do this without affecting the ability of infrastructure providers to adapt to new circumstances and ensure that their investment makes good commercial sense. In that sense, ORC supports the consistency and transparency that would result from:

- The regional spatial strategies identifying principles for infrastructure decisions, and a system for coordination across infrastructure providers and planners, facilitating coordination more effectively through the RSS implementation plan.
- Developing the RSS as a planning foundation for investment with maps of nationally significant features, significant ecological areas, landscapes and recreational space, which can flow through to notified NBE plans without further evaluation being necessary.

Combined NBA Plans

The ORC continues to support combined NBA plans at a regional level to better integrate resource management at a regional scale. ORC is of the view that providing explicitly for sub-regional plans, led by sub-committees has limited merit and could risk the integrity and coherence of planning, adding unnecessary complexity, time, and frustration.

As illustrated by the national planning framework, combined NBA plans could contain location-specific provisions which would make the need for sub-plans redundant. In addition, the appointment of sub-committees would add a layer of complexity to the decision-making framework; and may compromise the internal consistency and integration of the plan's provisions – having a unique decision-maker on a combined NBA plan is in our view essential to preserve the plan's integrity.

While some may feel there is a risk of losing local inputs into decision making, through a regional planning approach, ORC considers that combined NBA plans and regional spatial strategies can appropriately consider local circumstances. This can be achieved by effective community engagement undertaken at the right scale and which is meaningful, robust and well designed. However further discussion and ultimately guidance on what constitutes appropriate community consultation from the point of view of the NBA would be of great assistance to local authorities. In particular, will consultation be seeking agreement, or is it about openly sharing ideas.

ORC also supports a planning process where appeal rights are more limited than is currently the case. Appeals at the Environment Court in ORC's experience have been found to be very lengthy and costly. They also lead to critical decisions being made with the participation of only a few interested parties. In our view, limiting appeals will make the system more efficient, and more equitable.



The RM System's oversight structure

ORC considers that stronger monitoring and oversight will significantly improve the effectiveness of the resource management system; and we support the overall intent of the proposal.

However, the focus on environmental limits and outcomes will undoubtedly require councils (mostly regional councils) to continue to heavily invest in environmental monitoring. While this has benefits there is a risk that this could become unnecessarily burdensome, with little added value. It will be important that indicators and monitoring techniques chosen are cost effective and fit-for-purpose.

ORC considers that monitoring and oversight ("looking back") does not necessarily make for an agile system, that responds to changing circumstances (this requires "foresight"). In that context MfE could support a better understanding of what is ahead by regularly releasing environment scans that could assist joint committees and local councils to identify new threats and drivers, as well as opportunities in their regions/district or city. Moreover, ORC notes that being able to review or revoke consents will be key in enabling local government to respond to changing circumstances. This management functionality needs to be balanced with users' need for certainty.

If environmental indicators and monitoring requirements are a requirement of national directions and support environmental reporting at a central level and the "national" benefits of sustainable management, it may be reasonable for central government to consider cost sharing of the monitoring system that contributes to a "nation-wide SOE network".

Future provisions for consenting, compliance, enforcement and monitoring.

ORC considers that having clearer plans is likely the most effective way to improve the efficiency and consistency of consenting processes. However, staff have made several more detailed comments regarding this area which the Ministry may find informative.

- We note that the consultation document does not deal with important matters that drive consenting and its efficiency that ORC is concerned with, and ORC seeks further information and discussion on these matters, For example,
 - how contribution to positive outcomes; and adverse effects, will be weighed as part of consenting decisions.
 - proposed notification requirements.
 - how the cumulative effects of a single activity that requires multiple consents will be managed, for example, whether subdivision and development should be applied for, and processed, within a single application.
- ORC also notes that the meaning of activity status is proposed to be changed and suggest that the terminology should also change to avoid confusion. We consider that the Ministry signals a greater role will be played by permitted activity rules; while at the same time it proposes a more onerous permitted activity status where the resource user must notify council of its activity and likely report on performance standards.



- ORC disagrees with the activity status being dependent on the degree of uncertainty around an activity's adverse effects. The nature and severity of these adverse effects are as important, if not more important, in determining whether an activity is permitted, prohibited, or if it requires a consent.
- The proposal that activities for which affected parties have given their approval be permitted. This may prevent councils being able to manage cumulative environmental effects effectively. Moreover, it assumes that affected parties have access to good quality and comprehensive information on the proposed activity and its effects. In addition, these are likely to still involve interactions with Councils and may result in a quasi-consent process being required.
- The proposal to deem as permitted activities for which a management plan has been prepared by a qualified person. Depending on the controls that will be put in place, it could potentially impact on councils' ability to set adequate controls on activities. The farm plan model is still being developed and has not been tested yet.
- ORC generally supports the proposed changes relating to council's CME function, including increasing financial penalties, prohibiting the use of insurance for prosecution and infringement fines, and providing for cost recovery for compliance and enforcement on permitted activities.
- We note that, to allow for permitted activities to be monitored, resource users will have to declare their activities to councils, which will need a database to record that information, and all other data relating to this activity (e.g., monitoring data if required). Gathering this information within suitable systems will probably be a significant and costly new undertaking for councils.

Māori participation

ORC strongly supports the participation of mana whenua in decision making and the development of a system which accommodates te ao Māori and cultural processes. We note that funding and capacity within iwi/hapū and whanau may affect iwi's ability to engage effectively. Given that this is likely to be a common problem in the national context, ORC would welcome discussions of resourcing options to support the capacity building in the context of the NBA.

Joint committees and local authorities

The consultation document does not provide a clear model for ORC to respond to, and what it proposes lacks detail. ORC would welcome further discussion and clarity on a range of questions and issues as follows:

- Is it envisaged that committees should be representative of local authorities, and not of local communities?
- Joint committee funding seems to implicitly rely on local authorities, making the joint committee subservient to local authorities, while its role is to make decisions that take a region-wide perspective, independently from the politics in each district/city.



- Who does MfE envisage will fund joint committees?
- The role of a joint committees and local authorities is closely linked to the role of councils, which is being reconsidered as part of the local government review. It is unclear how long joint committees will be established for, and whether the direction taken by MfE is in line with the future reform.
- What mix of decision-making is being sought in terms of “democracy” versus a “technical” natural resource management approach?
- What happens in situations where the plans agreed by joint committees are deficient or include decisions contrary to advice the Committee receives from advisors or the secretariat?
- What happens when the views of the joint committee cannot reach consensus?
- How will the implementation of joint committees be integrated with the Future of Local Government reform process?

Nevertheless, ORC Councillors discussed the overall joint committee approach and identified a clear and preferred operating model as follows.

The Joint Committee should:

- have responsibility for plan making on behalf of local authorities. It is a vehicle for local authorities in a region to collaborate on their combined NBA plan. They make decisions on the plan and its content and ensure that the plan development process satisfies all legal requirements.
- be funded by local authorities.
- be appointed by local authorities and Iwi/hapu – the selection of candidates should be based on skills/expertise as well as affinity with the region. An option suggested was that a selection panel of Councillors from the region’s local authorities could undertake the selection, to then be voted on by elected members.
- be collaborative with consensus decision making.
- be supported by a secretariat seconded from existing local authority staff.

Councillors acknowledged the challenges of collaboration and achieving consensus decision making but felt that in the long term it would result in better decisions with a lower risk of perverse outcomes.

It will be important that the Joint Committees are established in a way that ensures they are agile, and able to respond across the full range of issues they are likely to be asked to consider. ORC considers the expertise required to sit on JC’s will be wide ranging, and it may be necessary to have a structure that allows for a fully independent Chair who has a background in resource management, and in particular resource management law. This will ensure the integrity of decisions made by Joint Committees are not undermined and will provide consistency in application of the law.

An additional consideration in relation to Joint Committees is how they are staffed. ORC has recently had direct experience of engaging secretariat services for a called in Plan Change and appreciates the not insignificant costs associated with these functions. ORC anticipates that the Joint Committees will



have available to them, at least one secretariat. The consultation document is currently silent on who funds these functions, and there is a risk that the burden will fall disproportionately on larger Councils.

The last matter that ORC wishes to raise relates to how current reform sits together. The Local Government reform will be undertaken after the resource management reform, and has the potential to disrupt, or conflict with, the outcomes of the resource management reform. Any implementation of the resource management reform needs to take this into account and ensure that any changes required to ensure consistency with local government reform are able to be undertaken without significant disruption.

Yours sincerely

Sarah Gardner
Chief Executive Officer

7.4. ECO Fund Review

Prepared for: Council
Report No. OPS2204
Activity: Environmental Implementation – ECO Fund Review
Author: Anna Ferguson, Principal Advisor Environmental Implementation
Endorsed by: Gavin Palmer, General Manager Operations
Date: 23 February 2022

PURPOSE

- [1] This paper seeks endorsement of the recommendations arising from the review of the ECO Fund.

EXECUTIVE SUMMARY

- [2] The ECO Fund aims to support work that protects and enhances Otago’s environment and enable community driven environmental activities. The ECO Fund was established by the Otago Regional Council (ORC) in July 2018 with the first round being open in September 2018. It replaced the Environmental Enhancement Fund which started in June 2016.
- [3] The ECO Fund is reviewed annually and a scope for the 2021 review was endorsed by Council in August 2021¹. This included reviewing:
- a. Alignment with the Long-term Plan 2021-31
 - b. Alignment with additional environmental incentives
 - c. The number and timing of rounds
 - d. Feedback from applicants
 - e. The assessment criteria
- [4] Overall findings were that there are opportunities for better alignment with both the Long-term Plan and new environmental incentives starting this year, the current number and timing of rounds tends to suit the community, but adds to the administrative burden for staff, and the assessment criteria could be improved to provide better clarity and accountability.
- [5] Recommendations arising from the review are included in the recommendations below and further detail is provided in the report following.

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

¹ Minutes of ordinary Council Meeting 25 August 2021

- 2) **Approves** an invitation be extended to a mana whenua representative to join the ECO Fund assessment panel.
- 3) **Approves** the inclusion of the following incentive budget in the ECO Fund process, noting these budgets will be 'ring-fenced' to ensure any additional or specific criteria are met:
 - a. Sustained rabbit management incentives with the ECO Fund – note additional criteria at Appendix 1 (up to \$100,000) – approved LTP biosecurity funding
 - b. Planting for water quality incentives with the ECO Fund (up to \$30,000) – approved LTP freshwater funding
 - c. Planting after wilding conifer removal (up to \$50,000) - approved LTP biosecurity funding
- 4) **Approves** the change from two ECO Fund rounds being held each year to one round being held in March / April.
- 5) **Approves** the revised assessment criteria outlined in Table 4.
- 6) **Approves** the funding of multi-year projects up to 3 years to be fully funded from the round in which they are assessed (if successful) and subsequent year funding be provided on receipt of project reports that demonstrate appropriate progress. Multi-year projects would be capped at \$50,000 in total (the current cap for the ECO Fund).
- 7) **Approves** changing the time in which successful applicants can take up their grant from 6 months to 3 months following notification of their grant being approved unless otherwise agreed.
- 8) **Approves** the updating of the Terms of Reference for the 'decision' panel, as suggested in Attachment 3, to reflect the recommendations of this review
- 9) **Notes** that the ECO Fund templates and processes will be amended to reflect the recommendations approved.

BACKGROUND

- [6] The ECO Fund aims to support work that protects and enhances Otago's environment and enable community driven environmental activities. The ECO Fund was established by the ORC in July 2018 with the first round being open in September 2018.
- [7] The ECO Fund replaced the Environmental Enhancement Fund (EEF) which started in June 2016. The EEF granted just over \$375,000 to 17 projects from a total of 22 applicants. The EEF did not require successful applicants to sign a funding agreement but did request a report be sent to the ORC on completion. Nine reports have been found on file.
- [8] The ECO Fund has funded 75 projects (from 179 applications) totalling just over \$747,000 (out of \$2.92 million requested) over 7 rounds. Each round has averaged 25 applications being submitted and has been oversubscribed by 300% on average.
- [9] The ECO Fund is \$290,000 per financial year. As approved at the August 2021 Council meeting, the ECO Fund did not hold a round in October 2021 and the funds (\$145,000) were transferred to the intended March 2022 round.

DISCUSSION

- [10] In August 2021 Council approved the following scope of works for the 2021 review of the ECO Fund (note: order changed from that presented in Council paper 25 August 2021):

- a. Ensure alignment with ORC work programmes as detailed in the 2021-31 Long Term Plan
- b. Assess the potential to strategically align the ECO Fund with the additional environmental incentive programmes starting this financial year
- c. Review the number and timing of rounds to encourage best uptake by the community and to ensure the Fund is efficiently operated
- d. Seek feedback from recent applicants to the ECO Fund and obtain feedback from recent Council members of the ECO Fund Decision Panel
- e. Review the assessment criteria of the Fund to ensure it is fit for purpose and reflects ORC’s objectives and priorities

[11] Recommendations based on the above reviews and feedback are included in the five sections below. If approved these will be used to refine the ECO Fund application process to make it as clear and straightforward as possible.

Alignment with 2021-31 Long-term Plan (LTP)

[12] Table 1 below outlines relevant activities and level of service commitments from the 2021-31 LTP. The last column is a recommendation for how the ECO Fund can align with the level of service (or noting where if it is already aligned).

Table 1: Alignment with Long-term Plan Activities

Activity	Level of Service	Performance measure	Recommendation
Governance and Community Engagement	Build Mana Whenua participation in Council decision making through a treaty-based partnership approach in our engagement.	Work done in partnership with iwi; increase the number of outputs and groups working together on projects	Include a mana whenua representative on the assessment panel for projects.
	Provide relevant, timely and accessible communications and engagement activities which enable the community to understand and participate in ORC’s programmes and decision making.	Customers express high levels of satisfaction with customer service provision	Maintain advertising and promotion of ECO Fund. Email anyone who has lodged an expression of interest with ECO Fund details when ready.
Regional Planning	Develop and maintain an environmental planning framework that aligns with national directions and enables sustainable management of natural and physical resources.	Lead the development, implementation and review of Integrated Catchment Plans (ICP), in collaboration with iwi and community	For future rounds, use the priority actions or areas from Catchment Action Plans in assessment criteria.
Land and Water	Support Catchment Groups in Otago to deliver their environmental outcomes and objectives.	‘Otago Catchment Communities’ is supported to meet deliverables and targets of funding agreement	Consider inclusion of assessment criteria that rates projects that are part of catchment group objectives as higher.
	Promote and enable best practice land management for soil conservation, water quality preservation, the efficient use of water and to	Landowner/community led projects promoting best practice land management for soil conservation, water	Ensure projects are using best practice management where applicable. Refer to assessment criteria.

	enhance Otago’s biodiversity and ecosystems.	quality and the efficient use of water are identified and supported	Catchment advisors support project development with groups (all who request assistance) and advise on best practice management where appropriate.
	Collaborate with iwi, communities and landowners to develop and deliver a programme of actions to improve water quality and indigenous biodiversity in selected degraded waterbodies.	At least three site specific action plans for selected degraded waterbodies are developed, prioritised, and implemented	These site-specific actions plans have not yet been determined. However, the targeted nature of this activity is not suitable for being implemented through a contestable process such as the ECO Fund
Biodiversity and Biosecurity	Collaborate with iwi, DoC and other key organisations to develop, coordinate and deliver a programme of actions to enhance indigenous biodiversity.	Actions listed in the Biodiversity Action Plan (BAP) are prioritised and progressed	Specific action relevant to ECO Fund is: Support community groups working to enhance biodiversity by providing advice, connections and funding. This is already a focus area.
	Provide support and funding to selected initiatives and organisations across the region which deliver biosecurity, biodiversity and environmental outcomes that align with our strategic objectives.	Complete a report on the initiatives and organisations supported and the key deliverables achieved	This is already a focus area for the ECO Fund.

Alignment with new incentive programmes

- [13] Incentive programmes provided for in the 2021-21 LTP and beginning in the 2021/22 financial year are:
 - a. Enabling better community management of rabbit (sustained control)
 - b. Planting for water quality
 - c. Reforestation planting after wilding pines

- [14] Aligning incentive programs and running in one process provides the opportunity for a more integrated approach to environmental management and reduces the administration for running each incentive scheme. It can also provide more flexibility for the community being able to access different ‘buckets’ of funding, some which may be more suited to their needs.

- [15] A summary of these incentives is in the Table 2 with recommendations for the ECO Fund in the last column.

Table 2: Alignment with ORC incentive programmes

Incentive	Amount	Description	Recommendation
Sustained rabbit management	\$100,00	Support for groups of landowners to better manage rabbit populations over the	This should be administered through the ECO Fund, but funds are ringfenced. Additional eligibility criteria

		long term. Refer to Attachment 1 for more information about rabbit management funding.	will be required to access this funding.
Planting for water quality	\$30,000	Planting native vegetation to improve water quality in rural areas.	This should be administered through the ECO Fund ensuring projects involving riparian or wetland planting. No additional criteria will be required.
Planting after wilding pines	\$50,000	This is funding for native planting after wilding pine removal	It is recommended that this programme be administered through the ECO Fund, but ringfenced to meet the criteria.

Number and timing of rounds

- [16] The current ECO Fund includes two application rounds each year, in March and October. Feedback from previous surveys and the recent survey (see below) indicate that two rounds is preferred by the community as it allows more flexibility with project planning.
- [17] Those who responded to the most recent survey indicated a preference for two rounds, but also indicated that certainty in knowing when funding is available is more important.
- [18] The current process of two rounds per year is very resource heavy in terms of administration. This has resulted in little or no time available for proper evaluation of the impact the ECO Fund is having on the environment or community. One round per year would reduce the administrative burden and enable more time for reporting and evaluation to occur.
- [19] One round will also enable a more significant ‘bucket’ of funds to be allocated, allowing for more flexibility in how many large- and small-scale projects are approved.
- [20] It is **recommended** that one round of ECO Fund be administered each year.

Feedback from recent applicants

- [21] A survey was sent to all past applicants of the EEF and the ECO Fund – 150 surveys sent, with 16 being undeliverable. A copy of the survey questions is included at Attachment 4.
- [22] We received 23 survey responses (17% response) with 75% of responders having been successful, or partially successful, in receiving funding in the past.
- [23] A summary of feedback key points:
 - a. 95% of responders found the application process easy
 - b. There was a slight preference for having two rounds per year (8 responders), but also several comments that once a year would suit them and that the certainty around timing is more important. Also, several responders expressed their disappointment at the October 2021 round being cancelled.
 - c. 95% of responders indicated that they agree multiple year funding should be available with annual instalments subject to satisfactory progress reports, as opposed to multiple year applicants having to re-apply with no guarantee they will be funded

- d. There were a lot of positive comments regarding the simplicity of the process, helpful staff, having funding available for administrative purposes and great support for the community and environment.
- e. Other suggestions for improvement included: a bigger funding pool, confirmation of applications received, feedback on decisions, clear guidance on the criteria or priorities, easier financial reporting, using, sharing and evaluating the report data, help with the application process.

[24] It is **recommended** that if successful, multi-year projects be fully funded from the current round and subsequent year funding be provided on receipt of project reports that demonstrate meaningful progress.

Review of Assessment Criteria

[25] The current assessment criteria are included in Table 3 below. A recommendation for revised criteria is also listed.

Table 3: Current Assessment Criteria

Current Assessment Criteria	Scoring	Suggestion
Does the project occur in Otago	Yes / no	This should be an eligibility criterion.
Does the project involve/engage the community?	Yes / no	Given the following question, there is no need for this criterion unless it is considered an eligibility criterion.
To what extent does the project involve the community?	Score out of 20	Keep this intent but reduce to score to out of 4 and apply a weighting if required. Also provide scoring guidance that avoids “below average, average etc” as there is not definition of what “average” is.
Does the project do one or more of the following <ul style="list-style-type: none"> - Protect the environment - Enhance the environment - Promote the environment 	Tick box	As above this question is redundant given the following criteria.
How much impact will the project have on protection?	Score out of 5	These criteria only assess one potential component of a project. Project criteria should be applicable to all projects regardless of the activity.
How much impact will the project have on enhancement?	Score out of 5	Keep the intent of this but revise and combine with other impact criteria.
How much impact will the project have on promotion?	Score out of 5	Also provide scoring guidance that avoids “below average, average etc” as there is not definition of what “average” is.
Does the project align with ORC work programmes? <ul style="list-style-type: none"> - Water quality - Water quantity - Biodiversity - Biosecurity - Climate change 	Tick box Note: Projects that align with ORC's current priority areas water, climate change, urban development and	Combine this question with the scoring component below. ORC's current priority areas will need to be defined if we include this note.

- Air quality	biodiversity will be	
- Urban development	given preferred	
- Coastal / marine environments	selection	
How much impact will the project have on the above work programme(s)?	Score out of 10	Keep the intent of this but revise and combine with other impact criteria. Use a score out of 4 and weighting if required.

- [26] The criteria being recommended assess the proposals are listed and described in Table 4 below. Note that the eligibility criteria, that is a pass or fail, is included in the Terms and Conditions following the table.
- [27] Considerations in developing criteria to assess ECO Fund projects were that criteria should:
- Be sufficient to guide decision making
 - Be able to be applied to all proposals
 - Be able to be assessed with some level of certainty
 - Not overlap
 - Be kept to a minimum

Table 4: Recommended Assessment Criteria

	Suggested Criteria	Description	Scoring guide
Strategic	Achieves ECO Fund objectives	The objectives of the ECO Fund which are to: <ul style="list-style-type: none"> - Protect and enhance Otago’s environment - Enable community-driven environmental activities How much is the project likely to contribute to achieving these objectives?	4 = Yes, will contribute significantly to both objectives 3 = Yes, will contribute in some way to both objectives, or significantly to one 2 = Yes, will contribute one objective 1 = may contribute indirectly 0 = no, will not contribute at all
	Aligns with ORC activities and priorities	Projects can address these objectives through on-ground works or education and capacity building activities. The Annual Plan 2020-21 lists the following significant activity areas (relevant to the ECO Fund): <ul style="list-style-type: none"> - Freshwater quality - Biosecurity - Biodiversity No specific priorities for these themes are identified in the Annual Plan. Other relevant documents which can guide this criterion include: <ul style="list-style-type: none"> - Biodiversity Action Plan - Biosecurity Strategy - Targeted sites under the Good Water Programme 	4 = clear alignment with two or more current strategic actions 3 = Clear alignment with one current strategic action 2 = some alignment (not directly) with at least one strategy 1 = aligns with general policy 0 = no obvious alignment with strategy or policy

(TBC).			
Project merits	Project objectives are realistic, and actions are likely to achieve the objectives	<p>Setting a clear project objective helps track the success of the project. Objectives should be realistic and able to be achieved within the timeframe of the project.</p> <p>The project should also outline what actions will be undertaken to achieve the objective. There should be a clear linkage between the action and the intended outcome.</p> <p>Projects that are implementing existing catchment group plans could be considered as higher scoring.</p>	<p>4 = Objectives are realistic and highly likely to be achieved within the timeframe. Obvious links between actions and objectives</p> <p>3 = Objectives are realistic and likely to be achieved within the timeframe. Some linkage between the actions and objectives</p> <p>2 = Objectives could be achievable, but project planning does not clearly demonstrate how proposed actions will lead to objectives</p> <p>1 = Objectives are limited, and actions are not linked to the project objectives and unlikely to be achieved within the timeframe</p> <p>0 = Objectives are unrealistic, irrelevant or unachievable.</p>
	Project is technically sound	<p>The likelihood of a successful project is increased when the applicants are well informed or experts in the area.</p> <p>Projects should demonstrate that the planned approach is technically feasible and reflects best management practice.</p> <p>This could be through the expertise of the project applicants or through information they have sought and intend on implementing</p>	<p>4 = Proponent has sought appropriate advice and/ or have the relevant expertise. Best practice is clearly being proposed.</p> <p>3 = Proponent has sought some advice and/ or has some relevant experience. Best practice is being proposed.</p> <p>2 = Proponent has sought some advice and/ or has some relevant experience. Best practice is not being proposed or is not clear.</p> <p>1 = Proponent has not demonstrated advice was sought or what relevant experience is being utilised. Best practice is not being proposed or is not clear.</p> <p>0 = best practice is not being implemented and proposed techniques are questionable.</p>
Project outcomes	Impact of the project	<p>The impact a project can have can be assessed by:</p> <ul style="list-style-type: none"> - Scale, how far reaching will the project outcomes be - Longevity, how enduring will the project outcomes be - Intervention level, is the project addressing the cause or symptom of a problem 	<p>4 = Significant environmental benefits at a regional scale for long-term</p> <p>3 = Moderate environmental benefits at district scale, for medium-term</p> <p>2 = benefits are site scale but long-term</p> <p>1 = benefits are site scale and short-term</p> <p>0 = no clear benefits to the environment</p>

	<p>Level of community engagement</p>	<p>A key objective for the ECO Fund is community involvement. This criterion assesses how much community involvement is being proposed and how far reaching that involvement may be.</p> <p>If the recommendation in section 1 regarding mana whenua engagement is supported, this criterion will also include level of mana whenua engagement</p>	<p>4 = project is led by a community group and engages with other members of the community 3 = project is led and implemented by a community group with some community engagement 2 = not led by community but involves community in the implementation 1 = no community groups involved but outcomes will benefit or be utilised by the community 0 = no community involvement or benefit</p>
<p>Financial</p>	<p>Value for money</p>	<p>Considering any level of investment contributed by the applicant, that is, their level of investment is a good measure for value for money.</p> <p>Applicant investment can include in-kind contributions such as labour or volunteer hours (\$20 per hour minimum), monetary input from the group itself or project partners.</p> <p>However, contributions from other grants are not considered applicant's investment and should not be used to leverage funding.</p>	<p>4 = project is more than 1:1 cost sharing between fund requested and fund contributed 3 = project is 1:1 (or within 5%) cost sharing 2 = project is 1:2 applicant vs ECO Fund requested 1 = project has some applicant contribution but not clear or costed 0 = project relies solely on ECO Fund and/or other grants</p>
<p>Applicant history</p>	<p>New applicants</p>	<p>It is good to encourage new applicants to access funding.</p> <p>However, previous applicants are also typically involved in good works and maintaining momentum can be good.</p> <p>Some previous successful applicants may not have completed all previous commitments, e.g. reporting.</p>	<p>2 = new applicant or previously unsuccessful applicant to the ECO Fund (with eligible project) 1 = previous successful applicants with all requirements completed on time 0 = previous successful applicant with outstanding reports or other commitments</p>

[28] **Terms and Conditions** - Existing terms and conditions for the ECO Fund are shown in Attachment 2. Some recommended changes to these are highlighted in track changes. These changes are mostly to clarify or remove redundant points.

[29] One more significant change recommended is that ORC consider funding projects over multiple years, up to three years total (also see Feedback from applicants). At present the terms and conditions allow for multi-year projects to be submitted but here is no guarantee that subsequent years will be funded. This does not provide the certainty

many groups require when investing their own resources into a project over the several years.

- [30] Another suggested change is that successful applicants have three months in which to 'take up' the grant, instead of the current six months. This will allow for funds to be moved within the financial year and still provide sufficient time for applicants to sort out their project start. This timeframe can be extended if agreed to by Council.
- [31] It is **recommended** that the funding of multi-year projects up to 3 years be fully funded from the round in which they are assessed (if successful) and subsequent year funding be provided on receipt of project reports that demonstrate appropriate progress. Multi-year projects would be capped at \$50,000 in total (the current cap for the ECO Fund).
- [32] It is **recommended** that change expiry of funds granted from 6 to 3 months after Council approval unless otherwise agreed.

ECO Fund Assessment Panel

- [33] The Terms of Reference for the ORC Decision Panel are also required to be reviewed in line with this review.
- [34] These Terms of Reference have been updated (see Attachment 3) to reflect changes as to who is administering the ECO Fund within ORC. It was previously the Communications and Engagement Team but is now the Environmental Implementation Team.
- [35] The name of the Panel has also been changed to "Assessment Panel" which reflects the role of this panel more appropriately. The final decision rests with Council.
- [36] Other key changes reflect recommendations made in this review and are highlighted in yellow. These will be updated depending on the approval of recommendations made in this report.
- [37] It is **recommended** that the Terms of Reference be updated as suggested (or subject to change) to reflect the ECO Fund review recommendations.

OPTIONS

- [38] Council can approve the recommendations (summarised in paragraph 4).
- [39] Council can amend any or all of the recommendations (summarised in paragraph 4).
- [40] Council can reject any or all of the recommendations (summarised in paragraph 4).

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [41] This paper does not trigger Strategic Framework or Policy Considerations

Financial Considerations

- [42] The total ECO Fund budget for March 2022 is \$290,000.
- [43] If the recommended additional incentives are added to this process, but ringfenced as appropriate to meet any specific criteria, then the total amount available in March 2022 will be \$470,000.

- [44] No unbudgeted costs are being added. That is, there are no financial implications beyond that already budgeted.

Significance and Engagement

- [45] This paper does not trigger ORC's policy on Significance and Engagement.

Legislative and Risk Considerations

- [46] This paper does not trigger any legislative and risk considerations.

Climate Change Considerations

- [47] This paper does not trigger any climate change considerations.

Communications Considerations

- [48] The outcomes from this review will be communicated as part of the advertising and communications for the ECO Fund March 2022 round. This includes clear guidance around assessment criteria, reporting expectations and any changes to eligibility or multiple year funding.

NEXT STEPS

- [49] Update all templates and process in line with any approved recommendations in this paper.
- [50] Open the March 2022 ECO Fund round including help with applications, assessment, approval, feedback, financial processing, and reporting.

ATTACHMENTS

1. Rabbit Management Criteria [7.4.1 - 1 page]
2. Suggested Terms and Conditions [7.4.2 - 2 pages]
3. Terms of Reference for Assessment Panel [7.4.3 - 3 pages]
4. ECO Fund survey 2021 [7.4.4 - 3 pages]

Attachment 1

Criteria for Rabbit Control Section of ECO Fund

Funding is available for:

- Groups of landowners (~~3-5~~ or more adjacent landholdings)
- Non-profit community organisations (community association, incorporated society)
- Group collaboration support
- Rabbit ~~control~~management plans
- Capacity building
- ~~Long-term control~~

Funding is not available for:

- Individuals or work on individual properties (unless operating collaboratively with neighbours or as a community)
- Territorial authorities or government agencies

Available for activities such as:

- Consultant feesSupport to develop collaborative, long-term, -rabbit management plans
- Costs associated with establishing community owned rabbit management entities (e.g.e.g., Charitable Trust or Incorporated Society) to collect landowner contributions for the purposes of coordinated control.
- Funding for projects that encourage the building of community capacity on best practice rabbit management techniques, e.g. community workshops, technical training, expert guests
- Funding for activities that will build productive relationships and partnerships across the people and groups that manage rabbits, including between community, government agencies, school groups, absentee landholders, Landcare groups and mana whenua groups,
- Funding for initiatives that demonstrate a commitment to community engagement principles for the purpose of building community-led action on rabbits
- Grants to support control costs for newly created community owned management entities (year 1 establishment), e.g. Long-term control methods such as collective fencing across multiple properties (minimum will depend on local context)
- Funding for community-based rabbit density monitoring
- Funding for community led innovations supporting co-ordinated (multiple property) rabbit management initiatives

Criteria is indicative only and will be subject to further refinement based on need.

Attachment 2

Suggested Terms and Conditions

General

- Except for multi-year projects, projects must be completed within 12 months of receiving funding.
- All applications for each round are assessed and ranked against the ECO Fund assessment criteria (link to criteria to be provided).
- All funding is GST exclusive. All financial information provided in an application must be exclusive of GST.
- The ECO fund supports both one-off projects and those running over multiple years **for up to 3 years. Funding for projects running over multiple years may only be awarded for a 12-month period. Funding for future years of ongoing projects will require additional applications to the ECO Fund. For multiple year funding, funds will be released annually conditional upon appropriate project reports which demonstrate meaningful progress being submitted.**
- Successful applicants must agree to Otago Regional Council promoting their project.
- If work funded is not completed within the specified time frame or funds are not spent as agreed, Otago Regional Council reserves the right to demand the return of funds.
- The ECO Fund does not provide funding for:
 - commercial or private gain
 - government organisations
 - projects created to comply with Resource Consent conditions
 - responses to any actual or potential enforcement action (excluding projects under the sustained rabbit control programme)
 - the purpose of seed capital
 - individuals
 - maintenance for existing projects
 - retrospective costs

Applications

- Applicants can only submit one application per funding round.
- Projects must have a defined start and finish date.
- Applicants must disclose any other funding they have applied for or received for their project.
- If funding is requested for salary costs, only 50% will be funded. Applicants need to demonstrate that requested salary funding is not more than 50% of total cost, and detail where the additional funding will come from.

Assessment

- All applications are assessed and ranked against the ECO Fund assessment criteria.
- **If the ECO Fund is over-subscribed in any funding round, not all projects will be funded.**
- If the ECO Fund is over-subscribed in any funding round priority will be given to projects in threatened and vulnerable habitats and ecosystems.

- If an applicant is unsuccessful in one round of the ECO Fund, they may apply again in a subsequent funding round.
- Decisions made by Otago Regional Council are final and are made at our sole discretion.
- Where applicants seek funding exceeding \$50,000, Otago Regional Council will only fund a proportion of the total project (to be determined on a case-by-case basis).

Decision and Grant

- Successful applicants must accept the grant by signing an acceptance letter and a ~~subsequent~~ funding agreement.
- Recipients must pay all costs associated with the project. ECO Fund grants will be transferred to recipients' nominated bank accounts.
- Nominated bank accounts cannot be private accounts; it must be an account in the Applicant's name.
- ~~Successful applicants must agree to report on the project outcomes to ORC within a specified timeframe, and account for how funds were spent. Successful applicants must agree to submit progress reports, where applicable, and a final report on the project outcomes to ORC within a specified timeframe, and account for how funds were spent.~~
- Successful applicants agree to report on their project at a council meeting, if requested.
- Funds granted expire 3 months after Council approval. If the applicant fails to comply with the Otago Regional Council's terms and conditions within 3 months (unless otherwise agreed), the funding lapses.
- Grants are approved subject to the Otago Regional Council being satisfied that the information given by recipients is true and correct. Otago Regional Council reserves the right to refuse grant funding, and/or request return of grant funding where it determines that it has been ~~misled~~, that the applicant or recipient has omitted relevant information, or if the recipient enters into receivership, liquidation or ceases to exist (e.g. removed from register).

Attachment 3

Updated Terms of Reference for the Assessment Panel

TERMS OF REFERENCE

ECO Fund ~~Decision-Assessment~~ Panel

Purpose and function of the assessment panel

- Assess all ECO Fund applications and give ~~eligible applications~~ a score according to the assessment checklist
- Provide recommendations to full council on which applications should receive funding (recommendations made by the panel are not final and must be agreed upon by the full council)
- Maintain a relationship with Environmental Implementation team
- Provide feedback on this process when the ECO Fund is reviewed ~~in July 2019~~ annually

The ~~decision-assessment~~ panel will comprise four members of council, with a permanent chair (~~Cr Michael Deaker~~) and three other councillors who will rotate each funding round so all councillors are given the opportunity to be on the assessment panel. ~~Cr Hope will serve as~~ a deputy chair ~~to Cr Deaker and~~ will take over the chair's duties if ~~he they are~~ unable to fulfil them for any reason.

A mana whenua representative will be invited to the assessment panel.

A quorum will be considered 3 members.

Environmental Implementation staff will manage the administration of the applications. An initial ~~check score~~ of applications against the criteria and terms & conditions will be undertaken by a small group of staff with relevant technical expertise. Staff will work with the chair to coordinate a meeting for the ECO Fund ~~decision-assessment~~ panel and will also attend the meeting, ~~along with the director (Sian Sutton).~~

How the ~~assessment~~ ~~decision~~ panel operates

The ECO Fund ~~decision-assessment~~ panel will meet after each funding round has concluded but prior to the following council meeting.

The purpose of the meeting is to assess the eligibility and merits of the projects submitted for funding including multi-year projects. Scoring can be done either before (each score is tallied and averaged) or during the meeting (a combine agreed score).

Scores from the staff technical group will be available to the assessment panel to help inform their scoring.

The length of meetings will depend on the amount of applications received. ~~Two-Four~~ hours should be put aside and the date, time and location of meetings will be managed through ~~Cr~~

~~Deaker~~the chair in collaboration with the ~~Stakeholder Engagement~~Communications and Engagement~~Environmental Implementation~~ team.

~~As the ECO Fund amount of \$250,000 per year is split into two funding rounds there is \$125,000 available in each round. The amount of funds available each round will be advertised.~~ Panel members should seek to make their assessments according to this number.

Reporting

The ECO Fund ~~Assessment~~Decision Panel will report to council at the ~~Communications Committee~~Implementation Committee.

Timeframe

The ECO Fund will be reviewed ~~in July 2019, which is one year after its launch in July 2018~~yearly/annually. This review will determine whether the ~~assessment~~ decision panel as agreed in this document will still stand or amendments are made.

Please remember the following principles as you assess proposals to the ECO Fund:

~~Definition of the fund as advertised: "Otago Regional Council's (ORC) ECO Fund supports community-driven projects that support or enhance~~protect, enhance and promote Otago's environment"

~~The objectives of the ECO Fund are to:~~

~~- Protect and enhance Otago's environment~~

~~- Enable community-driven environmental activities~~

- The proposals must remain confidential. They may have commercial sensitivity and are the intellectual property of the organisation making the proposal
- The work of the assessment panel will be subject to both the Privacy Act 1993, and the Local Government Official Information and Meetings Act 1987. Proposers can request information about the process and about any information pertaining to them. Individual panel members' names will not be made available and will be blanked out of any papers provided in response to an LGOIMA request. However, members should be aware that comments on score sheets and in meeting minutes are discoverable
- Full and proper consideration against ECO Fund criteria be given to each and every proposal
- A record of rankings and comments will be kept, and collective discussions and assessments regarding the ranking of each proposal will be recorded
- Should an application be unsuccessful but re-considered in a subsequent funding round, rankings will be amended according to any further information provided.
- Declare any conflicts of interest i.e. any involvement or relationship which may reduce your objectivity about any proposal. If you are not sure, declare and your concern can be considered.

- Do not accept hearsay as a basis for decision making. Your judgement is to be based on what you find in the written proposal, not on any other information
- Personal knowledge should also be excluded from the panel's deliberations. It is expected that selection will be based only on what's in the proposal.
- It is important for you to bear in mind that you are making recommendations for expenditure of public funds, and you should consider best value
- It is important that the panel arrive at a consensus or common understanding on each assessed item, by the end of the selection meeting. You can, however, agree to disagree and this bringing together of disparate views will be recorded.

Conflicts of Interest

Assessment panel members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any council discussion or vote on any matter in which they have pecuniary interest, other than interest in common with the general public. This rule also applies where the member's spouse contracts with the authority or has a pecuniary interest. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the chair immediately. Member may also contact the Office of the Auditor General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of the LAMIA could potentially invalidate the decision made, or the action taken, by the council. Failure to observe these requirements could also leave the elected member open to prosecution. In the event of a conviction, elected members can be ousted from office.

- Declaration of conflict
 - Members and observers are responsible for declaring any real or potential conflict of interest to the Chairperson, as soon as the conflict arises.
- Management of conflict of interest
 - Conflicts of interest will be enforced by chair or if a conflict of interest arises involving the chair, deputy chair will step in. In the case of a conflict of arising the affected councillor will be asked to step aside from conversation within the assessment panel.

Attachment 4

ECO Fund Survey Questions

INTRODUCTION

The ECO Fund is a contestable fund to support the community to enhance or protect Otago's environment. It has been in place since 2018 with seven rounds of funding taking place.

The Otago Regional Council regularly reviews the ECO Fund to ensure it is as clear and straightforward as possible and reflects Orc's objectives and priorities.

As a past applicant, we are keen to get your view on the ECO Fund. If you are interested in providing input about the ECO Fund please complete the short survey below.

Thank you!

SURVEY

1. Which round(s) of the ECO Fund have you applied to? If you have applied more than once, please select all that apply.
 - September 2018
 - January 2019
 - May 2019
 - October 2019
 - March 2020
 - October 2020
 - March 2021
2. Was your application successful?
 - Yes
 - Yes, partially
 - No
3. If you have applied more than once, how many times have you been successful?
 - None
 - Once
 - Twice
 - Three times
 - More than three times
4. What district was your project or proposed project based in?
 - Queenstown and Upper Lakes
 - Central Otago
 - Clutha
 - Waitaki
 - Dunedin
 - Otago Region-wide
5. How did you hear about the ECO Fund? Please select all that apply

- Word of mouth
- Newspaper
- Social media
- ORC website
- ORC Staff
- ORC Councillor
- Other – please describe

6. Did you find the application process easy?

- Yes
- No

Please explain what you liked or did not like about the process:

[free text box]

7. The ECO Fund was open in March and October in 2020 and only once in March 2021. Do you have any comments about the timing of the ECO Fund rounds?

[free text box]

8. The ECO Fund currently does not allocate funding for more than 1 year (multiple year projects require the applicant to reapply for funding each year).

Do you think multiple year funding should be available with annual instalments subject to satisfactory progress reports?

- Yes
- No

[Comment box]

9. How do you think ORC can improve the ECO Fund? (e.g. timing, application process, communication, reporting, amount, etc)

[free text box]

10. What do you like about the ECO Fund?

[free text box]

11. Any other comments?

[Free text box]

END

Thank you very much for your time and feedback. We will use all responses to help inform our review. The next ECO Fund round will reflect any changes made as a result of the review. The next round is intended for March / April 2022.

If you would like to know more about the ECO Fund or apply for funding please go to <https://www.orc.govt.nz/our-council-our-region/eco-fund> and fill out an Expression of Interest form.

Thank you very much !

7.5. Code of Conduct Review: Update

Prepared for:	Council
Report No.	GOV2208
Activity:	Governance Report
Author:	Amanda Vercoe, GM Governance, Culture and Customer
Endorsed by:	Sarah Gardner, Chief Executive
Date:	23 February 2022

PURPOSE

- [1] To provide a progress update on reviewing the Otago Regional Council's Code of Conduct, including work being undertaken by other agencies, and seek guidance from Council on preferred next steps.

EXECUTIVE SUMMARY

- [2] On 24 November 2021, Council requested a report be prepared to review and recommend changes to ORC's Code of Conduct.
- [3] This followed legal advice from Mr Len Andersen QC to full Council in public on 24 November 2021, which highlighted points for consideration in the current code.
- [4] Staff have since spoken to the Local Government Commission, and Local Government New Zealand to check for work taking place centrally. Both agencies have work underway which may recommend changes to the Code, should Council wish to wait for central guidance.
- [5] Staff have also spoken with Bruce Robertson, Director, R Bruce Robertson Limited, who would have capacity to undertake a Code of Conduct review in the next couple of months, should Council wish to proceed with an independent review.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Option 1: Directs** the Chief Executive to proceed with engaging Bruce Robertson to undertake a review of the ORC Code of Conduct, and report back to Council by 30 June 2022; **or**
- 3) **Option 2: Directs** the Chief Executive to engage with Local Government New Zealand and provide ORC's feedback on the Code of Conduct template, and then consider the updated templated Code of Conduct at the start of the next triennium; **or**
- 4) **Option 3: Decides** to maintain the status quo.
- 5) **Notes** that the Local Government Commission has prepared a report reviewing local government Codes of Conduct (attached) and submitted it to the Minister for Local Government for consideration.

BACKGROUND

- [6] Council adopted its current Code of Conduct on 13 November 2019, following local body elections in October 2019. The Code was based on the 2019 updated Local Government New Zealand template and was adopted unchanged.
- [7] The Code of Conduct is a key document setting out the roles and responsibilities of elected members and the Chief Executive, and relationships between elected members and staff and members of the public. It also provides for a process to manage complaints. It is required under Section 15, Part 1, Schedule 7 of the Local Government Act 2002. Once adopted, the Code of Conduct can be amended or replaced with not less than 75 percent support from the members present. It does not need to be re-adopted at the start of each triennium.
- [8] At its meeting on 24 November 2021, Council passed the following resolution:
- “Requests the CE to get a report that considers the points raised by Mr Len Anderson QC, and recommends a change of Code with options including a possible mediation clause, as appropriate, to report back to the Council meeting in February 2022”.*
- [9] The Chief Executive advised that there was work underway within central government agencies, that staff would follow up and report back on, to help with Council’s consideration of the issue. This report provides an update on that work and seeks guidance on next steps.

DISCUSSION

Local Government Commission

- [10] The Local Government Commission in 2021 looked at the role of codes of conduct in local government, and undertook engagement with the sector and stakeholders. It identified a range of sector and legislative measures that could work together to support improvements to both conduct and codes. The Commission presented a report to the Minister of Local Government in September 2021 (attached).
- [11] The recommendations in the report focus on the following key areas:
- a. The creation of an education framework.
 - b. A working group established to create a standardised code.
 - c. Legislative change regarding complaints processes, re-adoption of codes at the beginning of the triennium, and how to manage repeated misconduct.
- [12] Staff understand the Minister is still considering the report, and there is not a timeframe for a response. With the Future for Local Government reform process underway the Minister could choose to align any review with the reform outcomes, which means recommended change in the short term may be unlikely.

Local Government New Zealand

- [13] LGNZ reviews its local government Code of Conduct template for Council consideration at the start of new trienniums. The last review was in 2019 (which is the templated Code of Conduct that the ORC adopted), and LGNZ advised ORC staff recently that it will be commencing its review in advance of the 2022 elections in the next couple of months.

- [14] LGNZ is open to ORC providing thoughts on the Code. Depending on Council views, ORC could provide the legal advice from Mr Len Andersen QC to help inform LGNZ's considerations and engage on specific points such as mediation being included.
- [15] The updated template would be ready for consideration by the new Council at the start of the 2022-2025 triennium. There would be no required budget for participating in the LGNZ review through providing feedback. One advantage in this approach is that ORC would not get out of step with the Code that is most broadly adopted across New Zealand.

Independent Review

- [16] Staff have also approached Mr Bruce Robertson from R Bruce Robertson Ltd to discuss undertaking a review of the ORC Code of Conduct. Mr Robertson is active in undertaking Code of Conduct reviews around the sector in New Zealand and has been increasingly working with councils to find alternative solutions to the complaints process. He is comfortable reflecting all aspects of Codes of Conduct and testing their effectiveness. Mr Robertson has also worked closely with governance teams on these issues and is the independent member of Audit and Risk Committees within the sector.
- [17] Mr Robertson has indicated that he would be available to undertake a review over the next couple months. This would be unbudgeted expenditure.

OPTIONS

- [18] **Option 1: Independent Review**
Advantages
- Timely
 - ORC councillors could be involved in the process
 - New Code would likely be in place before the start of the next triennium
- Disadvantages*
- Unbudgeted expenditure
 - Potential investigators would need to learn ORC's Code if engaged to investigate a complaint, as may not be as familiar as the LGNZ templated versions
- [19] **Option 2: Contribute to Local Government New Zealand review of sector Code of Conduct template, and consider the updated template at the start of the 2022-2025 triennium.**
Advantages
- Limited cost (staff time)
 - ORC could try and influence the updated template
 - ORC's Code would be in step with the sector
- Disadvantages*
- Updated template would not be available for consideration until after elections
 - ORC's feedback may not be reflected in the template, meaning Council would potentially still have to seek a consultant to provide advice
- [20] **Option 3: Status Quo - Keep the current Code and consider adopting an updated one at the start of the next triennium**
Advantages
- No cost

- Having been through a complaints process, the Chair, investigators and staff are now more familiar with the current Code

Disadvantages

- Some of the considerations highlighted by Councillors at the meeting on 24 November 2022, including the ability to look at mediation, may get lost
- The current code is silent on some aspects of the process (for example dealing with the complaint outcome, when it is found not to be a breach), and these would not be addressed

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [21] The ORC Code of Conduct is a key document setting out the roles and responsibilities of elected members and the Chief Executive, and relationships between elected members and staff.

Financial Considerations

- [22] Option 1 would involve unbudgeted expenditure. A quote hasn't yet been sought.

Legislative and Risk Considerations

- [23] A Code of Conduct is required under the Local Government Act.

Climate Change Considerations

- [24] Not applicable.

Communications Considerations

- [25] Not applicable.

NEXT STEPS

- [26] Implement Council's decision on next steps for the Code of Conduct.

ATTACHMENTS

1. LG C-report-to- Mo L G- Local-government-codes-of-conduct- Sept-2021 [7.5.1 - 27 pages]



Local Government
Commission

Mana Kāwanatanga ā Rohe

Local Government Codes of Conduct

*Ngā tikanga whanonga Kāwanatanga ā-
Rohe*

Report to the Minister of Local
Government

*Pūrongo ki te Minita Kāwanatanga ā-
Rohe*

September 2021

Mahuru 2021

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Executive Summary / He Whakarāpopototanga

1. The visibility of elected member conduct issues within local government and the difficulties in dealing with them has increased. The Commission has looked at the role of codes of conduct in local government, undertaking comprehensive engagement with the sector and stakeholders. It has heard from every council and many of the country's community boards through various avenues. This report discusses the main issues with codes and recommends ways to address them. The Commission considers there may be a timely connection between its recommendations and the work of the Future for Local Government review panel.
2. It is clear that codes of conduct sit firmly within a wider context as part of a suite of governance tools that need to be considered holistically. Through this engagement the Commission has identified a range of sector and legislative measures that could work together to support improvements to both conduct and codes.
3. Codes can only be effective in determining and addressing poor conduct if they are balanced with the opportunity to understand what constitutes good governance behaviour. Within the wider suite of governance tools then, there is a need to bolster the kind of governance skills that allow mayors and chairs to build and lead teams, and members to work effectively with each other and with council staff. The Commission recommends exploring a sector specific education framework for members and council staff, starting at the pre-candidacy stage and continuing through on-going professional development.
4. There is wide variation in how councils approach the more complex areas of codes like materiality, the complaints process, penalties, compliance, staff interactions, and social media. This frequently results in inconsistent processes and little effect on conduct. The Commission recommends these aspects of the code be standardised to be referenced in legislation in such a way that retains the scope for individual councils to agree their own shared values and principles within their code. The latter is key to embedding members' understanding of their commitments under the code.
5. Practices around informing newly elected members of the code and re-adopting codes each triennium also varies widely, despite general agreement that awareness of conduct expectations early in the triennium is fundamental to good governance. Similar considerations arose for community boards which currently are not required to adopt a code. This has informed the Commission's recommendation for legislative requirements to include codes in the statutory briefing at inaugural council meetings and in member inductions. The Commission also recommends councils be required to re-adopt their code early in the triennium, and that community boards be required to adopt their parent body's code.

6. The sector expressed the most frustration around the inability to deal effectively with grievous or repeated breaches. Many called for an ability to remove or suspend members in this situation. Unsurprisingly, there are strong feelings both for and against this notion, not least because of the risks it poses to democratic principles. Nonetheless it is a topic that generated significant discussion during this engagement. The Commission believes it warrants further exploration, enabling the complexities and risks of such a mechanism to be openly discussed and considered.
7. Given the level of engagement this work has achieved, the Commission is confident that the recommendations in this report reflect the key issues with codes of conduct in the sector. It is important to note that the individual recommendations are unlikely to work in isolation. Ultimately, the recommended legislative requirements must work in tandem with the recommended actions to support good governance behaviour.

Purpose / Te aronga

8. The Commission is an independent statutory body with three core functions:
 - Promoting good local government in New Zealand through promoting good practice in local government and providing information about local government • Reorganisation of local authorities
 - Representation reviews.
9. As part of its focus on good governance in local government, the Commission is interested in addressing governance issues across the sector. Recently, media coverage of conduct issues within the sector has greatly increased. Comment from the sector and in the media has highlighted the difficulties the sector faces in dealing with these issues. The situation is exacerbated by a growing tendency for code of conduct complaints to be used for political gain. Ultimately, this undermines public confidence in local government and hampers councils' ability to work effectively. This has led the Commission to identify the purpose, use and effectiveness of codes of conduct as an area of concern for the sector.
10. This report outlines the Commission's engagement with the sector on the role of codes of conduct. It then makes recommendations for improving codes of conduct and other tools that support good governance practice in local government. The Commission notes the Review into the Future for Local Government (FFLG) is currently underway and is likely to result in changes to legislation. The Commission's intention is that this report may help inform those changes.

Background/ He whakamārama

Local Government codes of conduct / Ngā tikanga whanonga Kāwanatanga āRohe

11. Local government codes of conduct are one of a suite of governance tools aimed at encouraging good governance behaviour. As such, codes are intended to help councils put into practice the governance principles in the Local Government Act 2002 (the LGA), which require them to ensure that:
 - the role of democratic governance, and the expected conduct of members, is clear and understood by members and the community;
 - governance structures and processes are effective, open, and transparent;
 - they operate as a good employer; and
 - the relationship between members and management is effective and understood.¹
12. Codes of conduct were first required of councils when the LGA was enacted in 2002.² The LGA sets out what councils must cover in their codes including how members are expected to behave with each other, council staff and the public; disclosure of information; and specific legislation applicable to them in their governance roles. The latter includes the Local Authorities (Members' Interests) Act 1968 (LAMIA).
13. The LGA does not specify any penalties for local government members³ if they breach their council's code of conduct. In fact, the LGA states that "to avoid doubt, a breach of the code of conduct does not constitute an offence under this Act". LAMIA is often referred to in codes and it does provide for penalties in regard to members' participation when they have a pecuniary interest.⁴
14. The LGA is silent on the process for dealing with a complaint against a code of conduct.
15. The LGA requires local boards to adopt the parent body's code of conduct but does not require community boards to do so.
16. The Commission first sought information from councils on their codes in mid-2020. At that time, 24 of 78 councils reported receiving a total of 45 complaints against their

¹ Section 39, Local Government Act 2002

² Clause 15, Schedule 7, Local Government Act 2002

³ For ease of reference hereon, *member* has the same meaning as in the LGA (Section 5) and refers to a member of a governing body of a local authority, local board, or community board ⁴ Section 7 Local Authorities (Members' Interests) Act 1968

code since the 2019 election. Subsequent conversations with the sector suggest that the nature of conduct issues varies widely.

Initial investigation / Tūhuratanga tuatahi

17. To better understand and respond to the conduct issues the sector is experiencing, the Commission began looking into council codes of conduct in 2020. It reviewed media reporting⁴, engaged with Local Government New Zealand (LGNZ) and Taituarā (Local Government Professionals Aotearoa)⁶, and looked at what had been reported on before, including a 2006 report on codes by the Office of the Auditor-General (OAG)⁵. The Commission identified conclusions in the OAG report (2006), many of which have since been incorporated into good practice guidelines. However, they have not been strengthened any further and therefore still appear relevant, in particular:
 - Consider whether the LGA should be amended to require community boards to adopt a code of conduct
 - Consider whether the LGA should be amended to specify codes of conduct as one of the matters that must be covered in the briefing to members at inaugural meetings or as part of induction
 - Councils should re-adopt their codes at the start of each triennium to ensure buy-in and give the opportunity for rules and principles to be reconsidered and debated
 - Use of independent external people rather than members for investigating complaints
18. The OAG also touched on the lack of majority view regarding the value of developing enforcement processes and remedies or penalties for breaching the code, for incorporating into legislation. The Commission felt that this warranted further exploration.
19. The Commission also asked councils directly for information about their code content, adoption practices, and complaints since the 2019 election.
20. From this work it seems that while practices varied across councils, issues with conduct and complaints remain consistent. In December 2020, the Commission provided an interim report to the Minister of Local Government summarising its work

⁴ The Commission particularly noted the reporting on Massey University's research into anti-conflict and antimedia clauses in codes of conduct and notes that such clauses are concerning, however as of 2021 most councils have removed these from their codes. See *Local authority codes of conduct: anti-conflict and antimedia?* Strong, C. 2016

https://www.academia.edu/33725075/Local_authority_codes_of_conduct_anti_conflict_and_anti_media ⁶ Formerly known as the NZ Society of Local Government Managers (SOLGM).

⁵ *Good practice guide: Local Authority codes of conduct*. Office of the Auditor-General. June 2006. <https://oag.parliament.nz/2006/conduct/docs/conduct.pdf>

so far⁶. The report noted that the Commission intended further engagement with the sector to better understand code of conduct issues before it could consider making recommendations to the Minister of Local Government.

Further sector engagement / Te whai wāhi tonu ki te rāngai

21. Over the first half of 2021, the Commission undertook five streams of further engagement:
 - a. A request for information from chief executives on use of the LGNZ code of conduct template and any edits made, and the use of codes by any community boards.
 - b. An online qualitative survey of council chief executives and members (mayors and chairs, councillors and community/local board members). This generated 216 responses, from 54 different local authorities (including regional, district, city and unitary councils) and 24 community and local boards⁹. The overall response rate was 12.8% of members and chief executives.
 - c. An initial round of face to face discussions with mayors and chairs, and chief executives at five regional mayoral forums (Otago/Southland, Waikato, Bay of Plenty and Wellington) and the LGNZ regional sector meeting (with representatives from the five unitary authorities).
 - d. Discussions with other key sector stakeholders: The Office of the Auditor General, the Ombudsman, LGNZ and Taituarā.
 - e. A second round of face to face discussions with mayors and chairs, and chief executives at five regional mayoral forums (West Coast, Hawkes Bay, Northland, Manawatū-Whanganui and Taranaki); with members of Auckland Council's governing body; and with Auckland local board chairs.
22. The key points the Commission consulted on were:
 - Should codes of conduct be included in legislation as one of the matters to be covered in the briefing to members at inaugural meetings or as part of induction?
 - Is there value in codes being readopted at the start of each triennium?
 - Is there value in developing penalties for breaching the code for inclusion in legislation?
 - Is there a role for the Commission in the code of conduct system?
23. While the above points were a foundation for discussion, the Commission let the conversations flow naturally to get a sense of all key issues with the code of conduct

⁶ *Codes of Conduct Interim report to the Minister for Local Government*, Local Government Commission, December 2020

system. Similarly, the online survey asked whether there was anything else the respondent thought could improve codes of conduct.

24. Two sector bodies had limited or no participation in the face to face engagement, although all of them had the opportunity to respond to the surveys and requests for

⁹ 41 respondents chose not to identify their governing body, so coverage may be even broader.

further information. Of the two, the Commission discussed its codes of conduct work at the 2021 Community Board Conference but did not speak individually with the sector's 110 community boards for reasons of time and resource. Due to timing, the Commission also did not speak directly with the Canterbury Mayoral Forum although their survey responses inform this report. Should this report result in changes to legislation or actions by the sector, both parties will have further opportunities to participate.

25. The Commission has shared a draft of this report with sector stakeholders including the Office of the Auditor General, the Ombudsman, Taituarā, LGNZ, and the Department of Internal Affairs.

Engagement with Māori / Te Whai Wāhi ki te Māori

26. In preparing its recommendations to the Minister, the Commission acknowledges the Crown's responsibilities under the Treaty Article 1 Kawanatanga (Governance by the Crown), which requires policy advice informed by Māori perspectives.
27. Any work undertaken as a result of the recommendations in this report must include early and ongoing engagement with Māori in line with the Māori Crown Relations: Te Arawhiti engagement framework.

Discussion / He Kōrerorero

28. From the Commission's engagement with the sector, it seems that issues relating to codes of conduct fall into two broad categories. One relates to the wider context of supporting good governance behaviour, and one is specific to codes of conduct.

The wider context of good governance behaviour / Te horopaki whānui o ngā whanonga mana whakahaere pai

29. It became clear during discussions with the sector that codes of conduct sit firmly within a wider context, as one part of a suite of governance tools that need to be considered holistically. It also became clear that there can be a lack of confidence amongst the leadership of councils to moderate behaviour before it escalates to a code of conduct process.

30. It is fair and reasonable that any process to determine and penalise poor conduct should be balanced by providing members with the opportunity to develop a sound understanding of the behaviours expected of them. When other tools for supporting good governance behaviour are inconsistent, there is a tendency for codes of conduct to become the sole tool for managing governance behaviour. Investigations and penalties under the code do little to address the cause of that behaviour.

Furthermore, code of conduct issues can be highly visible and reflect poorly on the sector.

31. This report identifies a need for greater focus on governance skills for members and a stronger emphasis on the leadership role of mayors and chairs in supporting good conduct before behaviour deteriorates. It is likely that strengthening these broader governance tools will better support natural justice and help reduce conduct issues.

Governance skills and education / Ngā pūkenga me te mātauranga mana whakahaere

32. To govern responsibly, members need a sound understanding of their governance role and how it differs from other roles they may have held, whether in business, cultural or community groups. There is a statutory requirement for local authorities to exercise their powers for the benefit of their district or region⁷ and to comply with specific requirements when making decisions.⁸ Members are subject to further statutory requirements in the LGA and other laws such as the Local Government Official Information and Meetings Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968, the Crimes Act 1961, the Secret Commissions Act 1910, and the Financial Markets Conduct Act 2013.
33. Members must be briefed on these requirements at the inaugural meeting of a council.⁹ However, a briefing does not necessarily embed an understanding of how these statutory requirements apply in practice. Such an understanding is essential to good governance.
34. The sector expressed a strong desire for encouraging good governance skills. During engagement, there was a general consensus that a code of conduct is necessary to address repeated or extreme instances of poor behaviour. However, the sector emphasised that more should be done by way of early intervention to address poor behaviours and prevent them escalating to divisive, expensive and lengthy code of conduct processes. Codes of conduct themselves could be useful tools in supporting good governance skills as is discussed later in this report, at paragraphs 47-51. At the wider governance level, early and ongoing education for members both newly elected and re-elected, is seen as key.

⁷ LGA 2002, Section 12

⁸ LGA 2002, Section 77

⁹ LGA 2002, Schedule 7, clause 21 (5(c))

35. The Commission suggests governance education and professional development can be a key tool for removing barriers to democratic participation. It should support robust democratic debate that also enables members to both express and respect a wide range of views. Importantly, governance education would also support members to engage effectively with their electors and council staff.
36. Given that there is some resistance to current training offerings, the Commission has considered the sector's views on whether governance education should be either required or incentivised. Discussions with the sector suggest that mandating governance education could be perceived as an undemocratic barrier and unnecessarily prescriptive. However, any optional governance education should be consistent across the sector if it is to support a consistent, nationwide standard of governance behaviour.
37. Governance education could be helpful for potential candidates who may be deterred by a lack of prior governance knowledge. The only legal requirement for candidates is that they are a New Zealand citizen listed on the electoral roll.¹⁰ The Commission observes that around the country there is considerable inconsistency in the information available to help candidates understand the governance role. Making optional, accessible, consistent, basic governance education available at this stage could ensure candidates have an adequate awareness of the legal and governance requirements of the position they are seeking.
38. Governance education for council candidates would reflect the fact that, when acting as a council, members are exercising public powers and must understand how to do so in accordance with the law. It could also help strengthen the governance capability of newly elected councils. A potential model for this may be the JP training process, whereby all provisional JPs are required to complete an additional step of training before they can practice.¹¹
39. More consistent, accessible governance education could also be useful for newly elected members. Sector feedback suggests some members may not understand the most effective ways to bring issues to the council table, or they may enter their new role with no formal framework for making sound governance decisions. Members also have a responsibility to their electors to work effectively, as a group and individuals, with other members regardless of political differences. Auckland Council's governance capability programme may offer a useful model for member education.
40. For experienced members, ongoing governance education would offer targeted professional development for members as they take on more senior or complex governance roles. It should serve to both refresh and deepen the existing governance

¹⁰ Section 25, Local Electoral Act 2001

¹¹ *Becoming a JP*. Royal Federation of NZ Justices' Associations.
<https://justiceofthepeace.org.nz/Page/Landing/Becoming-a-JP>

knowledge of local government decision makers, who face increasingly complex and challenging decisions for their communities.

41. A possible model for this is the process for RMA Commissioners, which provides for initial training, followed by ongoing training every three to five years. The aim of the training is to improve the knowledge of decision-makers tasked with making difficult decisions that have significant impacts on their communities.¹²
42. A separate stream of governance education for staff who support members in their governance role would ensure both parties have a shared understanding of the governance function and the nature of their roles within it. There are a range of staff at different levels of council that support members at the various stages of their governance development. As a result, governance education for staff would need to reflect this variety. Auckland Council's governance capability programme may offer a useful model for staff education.
43. The Commission is aware that LGNZ is considering a new governance training offering with a certification mark for members. This would serve to professionalise governance practice as a tangible, transferrable skill. The Commission suggests it is worth expanding on this concept to include all stakeholders in developing an improved governance education framework specific to local government, which includes staff. The aim should be to develop accessible programmes that support sector-wide consistency and good governance practice. For improved effectiveness and independence, consideration should be given to ensuring the programmes are delivered by an educator.
44. Conversations with the sector also traversed the leadership role of mayors and chairs, and committee chairs in fostering effective working relationships among their elected teams. Many mayors and chairs spoke about the value of early, informal intervention when councillors appeared frustrated or disruptive. Not all mayors and chairs have practiced or confident leadership skills to draw on however, a situation that can be exacerbated by the pressures of settling into a new role.
45. Many in the sector also agreed that while not all breaches occurred around the council table, disruptive behaviour in meetings can derail democratic debate. Poor behaviour in meetings is specifically addressed by standing orders, essentially a set of rules that require members to maintain certain standards of behaviour while also allowing for dissent and democratic debate. Rather than being a code of conduct issue, meeting behaviour should be managed by a confident, skilled chair and supporting staff with a sound understanding of standing orders.

¹² *'Making Good Decisions' The Training Assessment and Certification Programme for RMA Decision Makers.* Marian Hobbs, 2004. <https://www.beehive.govt.nz/speech/%E2%80%98making-good-decisions%E2%80%99-training-assessment-and-certification-programme-rma-decision-makers>

46. Despite this, there is limited local government-specific leadership education that is consistently available to the sector. Most mayors and chairs report receiving only informal training on entering their role, in the form of learning on the job and through advice from other mayors and chairs and experienced chief executives. Similarly, as noted earlier there is a lack of ongoing education for members as they move into more senior roles such as committee chairs.
47. The Commission suggests that education in leadership skills and meeting management for mayors and chairs is a crucial gap to fill if councils are to achieve and maintain good governance practice. The ideal solution would be leadership modules incorporated into a programme of governance education developed in collaboration with the sector and provided by an educator.
48. Finally, an integral part of the discussions on encouraging good governance behaviour has been the question of resourcing. Most councils say they do not have sufficient resource in the form of expertise or budget to deliver ongoing education. The Commission notes that there are approximately 1600¹³¹⁴ local authority members in New Zealand. This is comparable to a number of government departments and provides a useful yardstick for estimating the resource required. Ultimately, the Commission suggests that committing resource to governance education will help reduce costs of the type recently committed to independent commissioners and observers for councils with entrenched governance and/or leadership issues. The question of resourcing education therefore needs further consideration by the sector and other stakeholders, including central government.
49. As an incentive for candidates and members to take up governance education, the concept of a publicly available training register held by councils may improve transparency of members' professional development and support public accountability. This would need to take account of privacy and LGOIMA requirements.
50. In summary the Commission suggests that, given the benefits of governance education at all stages of a member's development an optional, robust, sector specific education programme with high uptake is an important area of focus for the future performance of the sector.

Governance structures and support / Ngā anga me ngā tautoko mana whakahaere

51. The Commission has also heard that poor behaviour can often stem from members' frustration with the systems their council has for working together to make decisions. As councils themselves decide their decision-making structures, members should have an informed basis on which to make this decision. LGNZ has draft guidance available

¹³ Includes mayors, councillors, local board and community board members. *Local Authority Election Statistics*

¹⁴ . Department of Internal Affairs. <https://www.dia.govt.nz/Services-Local-Elections-Local-AuthorityElection-Statistics-2019>

on decision-making structures.¹⁵ It would be useful if this was incorporated into the governance education for members discussed above.

52. The sector commented that there is often also a lack of support available to members in undertaking their governance role. This can become overwhelming and lead to difficult behaviour throughout the decision-making process. The Commission is aware that councils often provide group briefings for members to assist understanding of complex issues. It may be beneficial to explore options for a more individualised level of support in understanding the intricacies of issues before making decisions. As a possible model for the sector, it would be helpful to understand whether any councils have provided such support to members, how successful it was, and how it was resourced. If this was to be explored further, it would be wise to consider the associated risks related to expectations of openness and transparency, accurate record keeping, and LGOIMA requirements.

Issues specific to codes of conduct / Ngā take hāngai ki ngā tikanga whanonga

53. More specifically in relation to codes of conduct, the Commission found that at the time of the initial survey (July 2020), 55 councils had adopted their codes since the 2019 election. Twenty-four councils had received complaints since October 2019; of which 15 had just one complaint.
54. However, discussions with the sector reveal that in many cases, a code of conduct complaint is not raised for behaviour that may in fact constitute a breach. The reasons for this include that the code is perceived to be ineffective; it is a costly resource-intensive, disruptive and time-consuming process for little meaningful outcome. There is also a strong desire to avoid the media attention and reputational damage which is often out of proportion to the issue at hand. This overshadows public awareness of councils' positive role in the community.
55. As well as the wider governance context discussed earlier in this report, the sector has highlighted several key areas of codes of conduct to address.

Legislative requirements to address the code early in the triennium / Ngā herenga ā-ture hei urupare wawe i ngā tikanga whanonga o te wā toru tau

56. In general, the sector supports legislative requirements to readopt the code at the beginning of the triennium. The sector also supports including the code in the general explanation to members required under the LGA to take place at the inaugural meeting.¹⁶ Almost 86% of survey respondents said legislation should be explicit about telling members about the council's code of conduct either at the inaugural council

¹⁵ *Guide for designing decision-making structures*. LGNZ. <https://www.lgnz.co.nz/our-work/our-policypriorities/governance/>

¹⁶ LGA 2002, Schedule 7, clause 5(c)

meetings or during the member induction if the council provides one. Just over 80% said legislation should require councils to readopt their code of conduct at the start of each triennium. They felt this would serve to benchmark, remind, and raise awareness of the behaviour expected of members at the very beginning of the triennium.

57. For those who did not support such legislative requirements, many felt that covering codes of conduct early in a term was basic good governance and should happen regardless. Some commented that briefings on a pre-existing code and/or a vote to readopt it would not necessarily address the issue of members' understanding of their commitments under the code. The latter point is important to the overarching goal of supporting good governance behaviour. For a change in legislation to have the desired effect on governance practice, it must be accompanied by appropriate education at the beginning of the triennium in the conduct expected of members.
58. Some councils report using the code as a prompt for governance training at the beginning of a triennium. Workshops to agree the shared values, behaviours and principles can be a powerful way to instil member understanding and establish a positive culture from the outset. The Commission suggests all councils would benefit from undertaking such an exercise during induction and using the outcomes to populate the relevant section of their code before re-adopting it. Currently practice around member inductions varies widely across the sector, with some councils offering comprehensive induction and some offering none. Accordingly, skills in running effective inductions should form part of the governance education offered to staff responsible for organising them.
59. The Commission also canvassed whether the declaration made by incoming members should include a reference to their council's code of conduct. Discussion on this question highlighted the symbolic value of physically signing up to a code of conduct. There was also a suggestion that providing for members to formally disagree with the code's content via a "no" vote at adoption sets a basis for future non-compliance (currently only 75% of council is required to vote for re-adoption). It is thought that including the code in the declaration would offset this. As noted earlier however, acknowledging a code of conduct whether via a briefing or a declaration does not necessarily embed understanding. Moreover, members have a democratic right to disagree with a majority decision while also being required to abide by that decision, and the Commission considers it important to preserve this.
60. Of the mechanisms discussed above, the Commission supports the sector's desire for legislative requirements to include codes of conduct in the statutory briefing at inaugural council meetings, and in member inductions. The legislation should also require councils to re-adopt their code near the beginning of a triennium but only after a suitable process for agreeing shared values and principles has been completed.

The timing of re-adoption of the code could efficiently be aligned to the requirement to provide a governance statement within six months of a triennial general election.¹⁷

Inconsistent processes / Ngā tukanga hārakiraki

61. Much of the sector's disenchantment with codes relates to inconsistency in both processes and penalties. There have been concerted efforts in the sector, particularly in LGNZ's development of a fulsome code of conduct template, to address this. However, there is no statutory requirement for standardisation of the content of codes of conduct. The effect is that while some codes specify processes for making, triaging and investigating complaints as recommended by LGNZ, many provide for these only in general terms, or as something to be established on a case by case basis. This can mean an unwieldy and time-consuming up-front exercise before the complaint itself can be addressed. Such ad hoc processes are less likely to reflect good practice and can open the way for political influence.
62. The Commission acknowledges the rationale that individual councils should be able to decide how they will manage their own behaviour. This is aligned with the tenet that codes of conduct should be based on shared values and principles that have been agreed by each councillor. Certainly, as is provided for by the LGNZ code of conduct template, codes should be flexible enough to incorporate such elements that are specific to individual councils.
63. Establishing processes aligned to good practice though, is a significant undertaking for individual councils particularly when there are gaps in staff and members' governance knowledge as discussed earlier. It seems inefficient to repeat this exercise throughout the sector at the individual council level, with variable outcomes.
64. Instead, the Commission suggests removing the need for councils to decide on the processes for making, triaging and investigating code of conduct complaints. These processes should be standardised across the sector and incorporated into legislation, ideally as a set of regulations. Setting out standardised processes would remove the inconsistency and potential for political influence that currently frustrate much of the sector. The shared values and principles, and some other parts of the code should remain for each council to agree as discussed at paragraph 53.

Independent investigations / Ngā tūhuratanga motuhake

65. During engagement, the sector repeatedly expressed a desire for independent investigations into code of conduct complaints. Key reasons for this were the issues of neutrality and employee wellbeing that arise when members are required to investigate and penalise their peers (and sometimes political opponents), or when a chief executive is required to investigate a complaint against their employer.

¹⁷ LGA 2002, section 40

66. The Commission has considered two models for bringing an element of independence to codes of conduct processes, one based on independent investigators from outside the sector and one drawing on members external to a council but from within the same region. Each has different levels of cost and independence.
67. Some codes provide for independent investigations. There is also a guideline process for this in the LGNZ code template. Conversely many codes rely on internal investigations by staff and/or a code of conduct panel of members. Some of these councils expressed reluctance to allocate budget for independent investigators, citing the expense of previous experiences where lawyers have become involved. It is also possible that councils with smaller districts may struggle to find appropriately qualified, neutral parties to act in an independent role.
68. However, the Commission suggests that where council leaders cannot resolve conduct issues early and informally, an independent investigation process is helpful to ensure the principles of natural justice are upheld, to prevent undue pressure on the chief executive, and to avoid political bias.
69. There are a number of models for conduct investigations, particularly those set out for school Boards of Trustees in the Education and Training Act 2020,¹⁸ and in the Auckland Council code of conduct. They include, variously, the process for making a complaint, steps for triage, referral to mediation or investigation, and deciding appropriate penalties or recommending penalties if a council decision is required to implement a penalty, such as demotion. They also provide for a report back to the governing body, usually for information only, and guidance around releasing the outcome to the public. Aspects of both models provide useful options for a strengthened, standardised code of conduct investigation process involving independent parties and appropriate levels of transparency.
70. Aspects of the New South Wales Local Government model code of conduct¹⁹ and the Victoria local government councillor conduct framework²⁰ may also be worth considering. Both of the latter processes were prescribed by regulation in 2020 and, while the Australian government structure differs from New Zealand in key ways, the rationale for a more prescriptive approach to codes may be worth considering for the New Zealand context.
71. While this option provides a high level of independence, it is potentially the most expensive. It is relevant here that the resource consumed by conduct complaints is a concern for councils. One chief executive of a provincial council recently tracked over

¹⁸ See Part 3, Subpart 9

¹⁹ New South Wales Office of Local Government.

<https://www.olg.nsw.gov.au/councils/governance/modelcode-of-conduct/>

²⁰ Local Government Victoria. <https://www.localgovernment.vic.gov.au/council-governance/councillorconduct-framework-and-councillor-conduct-panels>

160 staff hours committed to the conduct of one member over one triennium. Also concerning is the cost to councils when lawyers are involved in conduct issues, often amounting to tens of thousands of dollars. With that in mind, a cost-effective funding approach for councils could include requiring councils to set aside a specific budget each triennium to cover any complaints dealt with by an independent person or panel, on an as-needed basis.

Regionalised hubs / Ngā peka ā-rohe

72. Importantly, the models noted above depend on an established pool of independent mediators, conduct commissioners or referees. Although this was a strong preference of most councils, it may not be feasible for many. For this reason, the Commission is interested in the option of a regionalised complaints mechanism that draws on a pool of appropriately trained members from councils on a regional basis. Again, the new Boards of Trustees model provides a useful starting point for how a regionalised hub might work.
73. The Commission suggests that regionalisation potentially offers a resource that may not otherwise be available to individual councils, while minimising costs. It also minimises the risk of political bias although to a lesser extent than the independent investigation option discussed above. If this option is implemented, transparency is paramount to address any negative public perception associated with the sector moderating itself. It would also provide much needed consistency for the sector in addressing serious conduct issues.

Public interest vs natural justice / Ngā hiahia o te iwi ki te tika māori

74. There is a widely held view in the sector about the need to uphold the principles of natural justice and privacy equivalently with the accountability of members. In particular this relates to information about whether complaints have been made and the outcome of those complaints.
75. Publicity around code of conduct issues is problematic for the sector from a number of angles. Media interest can make code of conduct complaints a publicity opportunity for members who have campaigned on an anti-council rhetoric. It can also facilitate weaponisation of the code against individual members by other individuals or groups, whereby complaints about minor breaches are leveraged to deliberately disadvantage a member for political benefit. Although most councils do their best to avoid public comment on active conduct investigations, the same is not always true of individual councillors. The Commission suggests that this is an area where codes should set out more explicit confidentiality requirements that fulfil the principles of natural justice for all parties to a complaint, as part of a standardised complaints process.
76. Given that the public does have an interest in the accountability of members however, it is important that the result of an investigation is made public except where there is good reason not to. Although some have argued that members are held accountable

every three years at election, the Commission suggests the public has a right to greater transparency from their elected representatives.

77. To this end, codes should specifically provide for the proactive release of investigation outcomes to the public in a timely manner and consistent fashion, in line with the requirements of LGOIMA. The Commission suggests this requires assistance and guidance from the Privacy Commissioner and the Ombudsman to inform guidelines that are robust and well-canvassed across sector stakeholders.

Penalties and democratic principles / Ngā hāmene me ngā mātāpono manapori

78. Some frustration emerged in discussions about penalties for breaches of the code. In the experience of many councils, penalties for proven breaches are inconsistent, difficult to enforce, and do not support behaviour change.
79. There is a desire to strike a balance between penalties that address poor governance behaviour and preserving democratic participation, particularly if penalties are legislated or made binding. In this regard, there is a sense that penalties need to balance the general principle of freedom of expression guaranteed under New Zealand law. For clarity, it would be useful for a standardised code to include a brief outline of how freedom of expression as guaranteed by the New Zealand Bill of Rights Act 1990 applies in Aotearoa,²¹ including the limits placed on this by other statutes such as the incitement provisions of the Human Rights Act 1993.
80. There is general consensus, and the Commission agrees, that any penalty should be relative to the specific breach in both nature and scale. At the minor end of the scale, the sector has suggested verbal or written warnings and/or a requirement for verbal or written apologies. Most thought that more serious breaches warrant temporary or permanent demotion, e.g. loss of position as Chair or Deputy Chair of council committee, or suspension from committees with an associated reduction in pay. This seems a reasonable and relative scale of penalties. The Commission suggests that it should be developed further in consultation with stakeholders and applied consistently across the sector in a standardised code to add a much-needed element of certainty to the outcomes of code of conduct processes. To ensure good practice, the scale of penalties should be periodically reviewed.
81. The question of financial penalties in the form of fines or cost recovery was also raised during engagement. There are several issues with this type of penalty. Members' pay varies hugely across the sector. Fines or orders to pay investigation costs may be a deterrent but could also be unduly harsh given the limits on some members' ability to pay. Financial penalties may also act as leverage in the undesirable situation of members targeting each other for political rather than conduct reasons. Financial penalties can also be difficult to enforce, creating additional work for a council and

²¹ Section 14, New Zealand Bill of Rights Act 1990

doing little to improve governance behaviour. The Commission does not consider financial penalties to be a workable option.

82. Bearing in mind the intent to promote good governance practice and the principles of natural justice, the Commission considers any penalties should also include a mechanism to improve future behaviour. This aligns with the sector's suggestions that members in breach be required to undertake personal or professional development related to the behaviour change required, e.g. governance skills, social media training, or an anger management course. A restorative justice process guided by a trained facilitator is also an appropriate option. Whatever the method, the desired outcome is that all parties emerge from the process with their mana intact.
83. It is perhaps a measure of the frustration around conduct that many in the sector suggested the most grievous or repeated breaches should be met with suspension or removal of a member from office.
84. While the LGA does provide for removal or suspension of a member, the criteria are very specific and not related to governance misconduct.²² Further, many feel this conflicts with the principle that members are elected democratically and therefore should only be removed by the same mechanism. Instead it is hoped that improving governance behaviour by addressing governance skills and conduct issues early will significantly improve behaviour and reduce the number and seriousness of breaches.
85. The Commission acknowledges one possible avenue is exploring the appropriateness of legislative change to include repeated misconduct as grounds for removal or suspension of a member, if their ongoing conduct is such that they are no longer able to democratically represent their electors. Such a step carries significant risk and must be approached with great caution. Members are answerable to their community and it is crucial that any process to remove a member preserves this line of accountability as far as possible.
86. The Commission suggests that this avenue be investigated further. Given the complexity and risk of such a mechanism, the investigation would need to consider specific criteria for what constitutes an inability to democratically represent electors, who would have the power to remove a member, and by what process. A core aim of the investigation must be to identify the inherent risks to democratic principles and governance and how to safeguard against them. To support robustness and transparency the investigation should be done in consultation with the sector and stakeholders.

Role of the Local Government Commission / Te Mahi a te Mana Kāwanatanga ā-Rohe

87. When asked about independent investigations, many of the sector's comments identified the Commission as potentially replacing the chief executive's role in a code

²² Schedule 7, Part 1 LGA

of conduct process. However, given that the Commission has a statutory role in promoting good governance practice across the sector, in general it should remain arms-length from individual conduct complaints and investigations.

88. That said, the Commission is an independent body with both a statutory role in promoting good governance in the sector, and an understanding of how codes apply in the daily life of councils. This means it is well placed to undertake a number of supporting functions for council codes of conduct. If a standardised code of conduct investigation process is legislated, whether by amendment or regulation, the Commission could appropriately identify and administer a list of suitable mediators and investigators to act as independent parties in code of conduct issues. The Commission's statutory status make it the appropriate body to administer such a list if independent processes are formalised. The Commission's role could include connecting individuals from the list with specific complaints to manage availability and ensure councils' needs are met in a timely way.
89. The Commission may also have a role in the provision of an independent quality assurance for codes. One of the most frequently requested roles for the Commission was advice regarding codes and breaches. In terms of the consistency of codes and providing a level of confidence for councils, a requirement for an independent assessment of codes that deviate from a standardised model would be useful. It is important to note that the Commission may hold this role but even if it assesses a code, any individual complaint and investigation process remains subject to investigations by the Ombudsman and the Auditor General.
90. While it may be inappropriate for the Commission to have a role in conduct investigations at the level of an individual complaint, its independence and mandate to promote good governance gives it a unique position in the sector. If after further exploration, the sector supports a stepped process leading to the possible removal of a member by the Minister as discussed above, it may be appropriate for the Commission to act as the independent body in that process.

Enforcement / Te uruhi

91. Penalties under codes of conduct are usually non-binding. If a member found in breach refuses to action a penalty, such as an apology, there is little a council can do. It is not uncommon for councillors to be elected on an anti-council rhetoric which can be bolstered by media coverage of code of conduct complaints. In that situation, complaints can become a "badge of honour" for some and poor behaviour is reinforced. It can be an expensive process (especially for smaller councils) to investigate and resolve a complaint when penalties rarely support the desired behaviour change. al damage is also an issue for some councils particularly when individual members repeatedly breach the code, and this becomes the focus of any media coverage relating to the council.

92. The difficulty of enforcing penalties prompted the survey question about whether legislation should include penalties for breaches of the code. The Commission also canvassed this in face to face discussions. 68% of survey respondents supported legislated penalties to help ensure greater adherence to the code, and to provide a deterrent. Of the 32% who did not support legislated penalties, many felt penalties should be determined at the local level, or that it would further open the code up to weaponisation. Others felt it may disincentivise potential candidates or make members afraid to speak up.
93. The Commission suggests the sector's reasons for wanting penalties included in legislation illustrate a strong desire to strengthen the code. Certainly the Commission agrees that standardised penalties are necessary but suggests these should be incorporated into a standardised code of conduct template rather than legislation. This would allow for periodic review of standardised penalties, and flexibility in recommending a penalty appropriate to the misconduct and the behaviour change required. It should therefore be for sector stakeholders to work collaboratively to develop and periodically review a standardised scale of penalties available to councils.
94. In terms of legislative change, it would be of greater benefit to set out a standardised complaints and investigation process in legislation as discussed earlier in this report. When the requirement for codes was first set in legislation, it was considered that specifying penalties could be problematic in terms of members' accountability to the electorate and members deciding penalties for other members²³. However the LGA includes a statutory provision for members to comply with the code²⁴. It would be consistent with this requirement for the legislation to also require members to comply with penalties under the code. This may help address the difficulties councils currently have with compliance.

Materiality / Ngā tikanga tātari

95. During engagement, the Commission repeatedly heard that a lack of distinction between minor and serious breaches creates the potential for codes to be weaponised. The potential for complaints about minor breaches to be leveraged for political benefit is exacerbated by the fact that *materiality* is a key aspect of determining the scale of a breach, yet it is not clearly defined anywhere. This opens the way for abuse and weaponisation of codes against individual members.
96. The risk of weaponization is of particular concern because codes of conduct do not usually include the ability to appeal a decision on a complaint. The only avenues for review are a complaint to the Ombudsman or a judicial review, which are usually confined to matters of procedure. The risks of weaponization becomes even more pronounced if penalties are binding. However, another key concern for the sector is

²³ *Good practice guide: Local Authority codes of conduct*. Office of the Auditor-General. June 2006.
<https://oag.parliament.nz/2006/conduct/docs/conduct.pdf>

²⁴ Clause 15, Schedule 7, Local Government Act 2002

the reputational damage and drain on resources that lengthy code of conduct processes entail. Adding an appeal process to codes of conduct risks exacerbating this by creating ongoing opportunities for re-litigation of the same issue.

97. Instead of an appeal mechanism, the Commission suggests a more specific definition of materiality together with independent investigations and standardised penalties should significantly reduce the potential for weaponisation of the code. Such a definition should be developed in consultation with sector stakeholders, should address materiality in the context of local government codes of conduct and include not just examples but key features of material breaches.
98. The ability to complain to the Ombudsman or seek a judicial review of a code of conduct decision on procedural grounds remains available to all parties to a complaint.

Content gaps / Ngā āputa ihirangi

99. Our initial survey of council chief executives sought information on use of the LGNZ code of conduct template. Sixty six of 78 local authorities use part or all of the LGNZ template. Most (50) have made some edits and described these in the survey. These findings together with more in depth face to face discussions, have highlighted areas of the code that need updating or expanding.

Health, safety and wellbeing / Hauora, haumarū me te oranga

100. The sector is concerned about increasingly poor behaviour towards council staff and increasing pressure on them by members. Indeed, the member-staff relationship is a high-risk area for councils given their obligations to be a good employer. Specific statutory requirements for local authorities to be good employers are set out in the LGA. Local authorities are also subject to the requirements of the Employment Relations Act 2000 and the Health and Safety at Work Act 2015, both in the employment of a chief executive and in the chief executive's employment of staff.
101. The power imbalance and the requirement for staff to remain politically neutral in their roles means they are often unable to defend themselves, or to respond to public commentary members make about them. The forums also repeatedly highlighted the difficult position of a chief executive who must ensure the wellbeing of their staff as a good employer while maintaining an effective relationship with the governors.
102. Again, the Commission notes the sector has made considerable efforts to guide the behaviour of members towards staff. LGNZ's template code provides a good starting point for councils and highlights the legal risks to council of poor behaviour by members towards staff. In particular the template code provides for the chief executive to establish protocols for member-staff interactions. The Commission considers there is a need to bolster good practice guidelines in this area including specific features of appropriate and inappropriate behaviour, for inclusion in a

standardised code. This is also an important element of governance education for both staff and members.

Social media use / Te whakamahi pae pāhopori

103. A significant area of concern is the lack of adequate guidance for members' behaviour on social media. Freedom of expression is an important pillar of democratic debate. It is also important to highlight that members are subject to the Harmful Digital Communications Act 2015, and to statutory restrictions on what information they can share under legislation, such as LGOIMA and the Privacy Act 2020. Further, members are public figures and as such, need to recognise that the public will not necessarily distinguish between their governance and personal communications.
104. While the LGNZ template provides sound guidance on social media use, the Commission suggests there is a need to establish more detailed good practice guidelines for members specific to social media. These should make it clear that members' behaviour online is governed by the code to the same extent as it is in offline interactions. Guidelines should also provide specific examples of ways members can make the distinction between their governance and personal capacities clear for their audience. Again, this guidance should form part of governance education for members and staff and ideally, be incorporated in a standardised code or in each council's media policy appended to the code.

Greater clarity around pecuniary and non-pecuniary interests / He māramatanga kehokeho ake o ngā take moni, moni-kore rānei

105. There are two main issues with conduct around interests. The first issue is that of member understanding. Most codes cover pecuniary interests and the associated legal requirements in some detail. However, there is typically much less clarity around real or perceived non-pecuniary interests. This may be because more general interests are a nuanced and often subjective area. And while it is for the member themselves to identify and declare their own interests, it can be difficult for less experienced members to understand where a non-pecuniary interest comes into play. The Commission suggests that codes need greater explanatory detail and examples of non-pecuniary interests.
106. Secondly, even when members are perceived or known to have a financial interest, councils cannot compel them to withdraw from participating. This is because under LAMIA only the member themselves can identify their interests. While it is an offence for members to participate in decisions where they have a financial interest, the same does not apply for non-pecuniary interests. As the OAG has pointed out, this can mean members put the council's decision-making at risk of judicial review by assuming they can safely participate even when they have a non-pecuniary (or less often, a

pecuniary) interest.²⁵ The concept of interests is another important element of governance education.

107. While LAMIA rules out the possibility of compelling members to withdraw due to an interest, the Commission suggests more can be done to support members regarding their interests and to improve transparency. A possible mechanism is to allow for a specific process where a conduct complaint relates to an alleged conflict of interest. The process could require members to seek advice from a politically neutral governance specialist identified by staff, which is then shared with the member and the council. While this does not compel a member to withdraw, it offers a level of confidence and transparency around their decision to participate or withdraw. Auckland Council's code provides for this and may be a useful starting point for incorporating into a standardised code.

Community Boards / Ngā Poari ā-Hapori

108. Although the LGA does not require community boards to adopt a code, 34 councils with community boards have had, or intend to have, those community boards adopt their code of conduct. Community boards operate in the space between councils and the community, with some having delegated powers alongside their essential purpose of representing quite specific communities within a district.
109. Although their activities can be less formal than council or committees, they are nonetheless made up of members. The Commission's experience in this area suggests that community board members and their actions would benefit from an understanding of good governance practice and the transparency that a code supports. Accordingly, there is merit in setting a legislative requirement for community boards to adopt their governing body's code of conduct. To support good governance practice it follows that community board members should also have access to the same governance education for new members discussed earlier in this report.

Conclusion and recommendations / Kupu whakakapi me ngā tūtohunga

110. The sector wants to strengthen the presence and effect of codes, but for legislative requirements to support good governance behaviour they must be accompanied by other measures that support good practice.

²⁵ *Local government: Results of the 2016/17 audits.* Office of the Auditor General.
<https://oag.parliament.nz/2018/local-govt/part6.htm>

111. Earlier, this report acknowledged the work of the FFLG review panel. The Commission appreciates that the Minister may wish to link the following recommendations with the work programme for the FFLG review.
112. The individual changes discussed in this report are unlikely to work in isolation. The tools for supporting good governance behaviour act as a suite and must be considered holistically.
113. Accordingly, and noting that this may align with the Future for Local Government panel's work, the Commission recommends that the Minister of Local Government:
 - i. tasks the Local Government Commission to establish and lead a working group to identify a sector specific education framework, giving consideration to:
 - a. membership that includes diverse representation from the sector and stakeholders, either as members or independent observers, including the OAG, the Ombudsman, Taituarā, LGNZ and its Te Maruata committee
 - b. undertaking a needs analysis of the education and professional development of diverse election candidates, first term members, experienced members, mayors and chairs, and the staff who support them
 - c. developing an education programme that covers pre-candidacy, candidacy, induction and ongoing professional development for members, mayors and chairs
 - d. developing an education programme for staff who support members through the various stages of their governance development
 - e. accessible and cost-effective education delivery methods
 - f. options for resourcing the development and delivery of governance education
 - ii. tasks the Local Government Commission to form a working group of sector stakeholders to produce a standardised code to be referenced in legislation which includes sections as follows:
 - a. explicit confidentiality requirements for all parties to a complaint as part of a standardised complaints process
 - b. a process for the proactive release of investigation outcomes to the public informed by focussed discussions with the Privacy Commissioner and the Ombudsman
 - c. an explanation of how freedom of expression as guaranteed by the New Zealand Bill of Rights Act 1990 applies in Aotearoa, including the limits placed on this by other statutes such as the incitement provisions of the Human Rights Act 1993

- d. a reasonable and relative scale of penalties to be applied consistently across the sector, including mechanisms to improve future behaviour such as personal or professional development, the option of a restorative justice process including a periodic review of such penalties and mechanisms
 - e. a detailed definition of materiality in the context of local government codes of conduct, including both examples and key features of material breaches
 - f. further develop good practice guidelines for members' interactions with staff, including specific features of appropriate and inappropriate behaviour
 - g. more detailed good practice guidelines for members specific to social media
 - h. a specific process where a conduct complaint relates to an alleged conflict of interest requiring members to seek advice from a politically neutral governance specialist identified by staff, which is then shared with the member and the council
- iii. includes in legislation a requirement for codes of conduct to form part of the statutory briefing at inaugural council meetings, and member inductions where provided
 - iv. includes in legislation a requirement for councils to re-adopt the code near the beginning of a triennium but only after a suitable exercise for agreeing shared values and principles has been completed, and considers aligning the timing of this with the requirement set out in the Local Government Act 2002 for a governance statement, and tasks the Local Government Commission with providing an assurance assessment of individual councils' codes
 - v. includes in legislation, either by amendment or regulation, standardised processes for making, triaging and investigating code of conduct complaints, including
 - a. explicit confidentiality requirement for all parties to a complaint
 - b. appropriate levels of transparency on conclusion of an investigation, informed by stakeholder engagement
 - c. whether the investigation process included in legislation should involve independent parties or a regionalised pool of members
 - vi. if the investigation process included in legislation involves independent parties:
 - a. requires councils to set aside a specific budget each triennium to cover any complaints dealt with by an independent person or panel on an as-needed basis

- b. mandates the Local Government Commission to identify and administer a list of suitable mediators and investigators to act as independent parties in code of conduct issues
- vii. tasks the Local Government Commission to explore with the sector the appropriateness of legislative change to include repeated misconduct as grounds for removal or suspension of a member where the member is no longer able to democratically represent their electors, noting that such an investigation would consider:
 - a. specific criteria for what constitutes the inability of a member to democratically represent their electors
 - b. the risks to democratic principles and good governance inherent in the removal of a member and how to mitigate them
 - c. who would have the power to remove a member
 - d. possible processes for the removal of a member
- viii. includes in legislation a requirement that members comply with penalties for breaches of their council's code of conduct
- ix. includes in legislation a requirement for community boards to adopt their parent body's code of conduct

7.6. ORC Whare Rūnaka/Head Office Update

Prepared for:	Council
Report No.	CS2212
Activity:	Governance Report
Author:	Nick Donnelly, General Manager Corporate Services and
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	23 February 2022

PURPOSE

- [1] To provide an update on the ORC Whare Rūnaka / Dunedin Head Office Accommodation project.

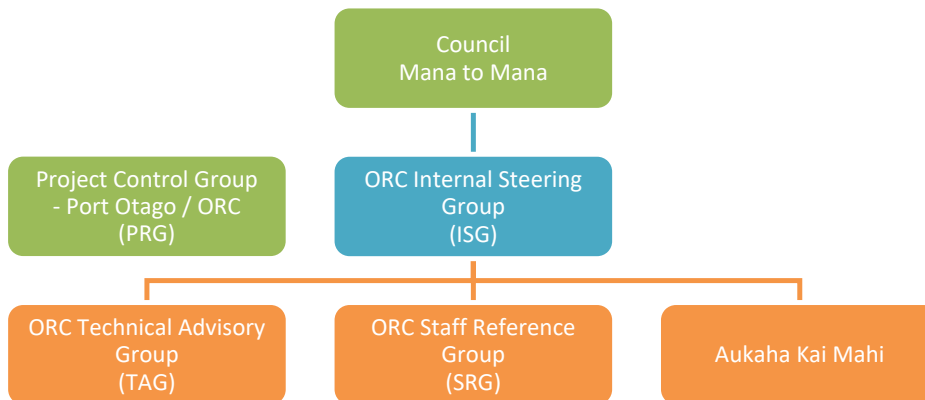
RECOMMENDATION

That the Council:

- 1) **Notes this report.**

BACKGROUND

- [2] Council received an update at the 27 October 2021 Council meeting. At that meeting the proposed project structure was outlined and Council appointed Councillors Noone and Malcolm to join ORC's Internal Steering Group.
- [3] Port Otago Ltd (POL) has purchased the former Warehouse Building in Maclaggan Street, with the intention of repurposing it as the new Head Office for the ORC. ORC and the Port entered into a Heads of Agreement in June 2021 for Council to lease the premises once the refurbishment is completed.
- [4] Implementation of this project is being undertaken by Port Otago who will coordinate and manage the design and construction resources required to refurbish the building to meet ORC requirements. Port Otago has established a Project Control Group that includes the CE and members of the Port Executive; the ORC CE, CFO, and internal project manager; and the external project manager working for the Port. There are no Port Board members on the Project Control Group.
- [5] With the Port managing the overall refurbishment and building project, a key role of the ORC is to provide input into the scoping and design phase to ensure the building will be able to meet requirements that are specific to Council. We want to ensure that staff are part of the process and are engaged with the end result. The project is also an opportunity to work with our Kāi Tahu partners to reflect the cultural values and narrative of the location to mana whenua. Councillor involvement is through Council reporting processes and appointed representatives on the internal Steering Group.
- [6] To support the above, a project structure has been set up as below:



[7] GHD Woodhead have been appointed to lead the design work.

DISCUSSION

[8] Since the last update to Council on 27 October 2021 the following meetings have been held:

- 29 October – TAG and SRG initial meetings post appointment of representatives to outline their roles and confirm time commitment in the short term
- 3 November – GHD site visits to existing ORC sites to understand current facilities
- 4 November – PCG monthly meeting
- 4 November – GHD scoping meetings with TAG, SRG, Aukaha and all staff drop in sessions
- 5 November – GHD scoping meeting with Councillors (Councillors Noone, Forbes, Wilson and Scott participated)
- 22/23 November – TAG/SRG meetings
- 2 December – PCG monthly meeting
- 7 December – ISG meeting – initial meeting, set ToR, GHD reported back on scoping meetings and progress
- 13/15 December – TAG/SRG meetings
- 15 December – ISG project outcomes workshop
- 17 December – PCG monthly meeting (brought forward, no meeting to be held in January)
- 3 February – PCG monthly meeting

[9] The focus of work over this period has been on stakeholder engagement and clarifying the return brief.

[10] In parallel to the staff engagement Port Otago has been working on the construction aspects of the project and they will update Council on progress when they provide their half year update on 23 February 2022.

CONSIDERATIONS

Strategic Framework and Policy Considerations

[11] Whare Rūnaka / Dunedin Head Office Accommodation project is included in the Long-Term Plan 2021-31.

Financial Considerations

- [12] Whare Rūnaka / Dunedin Head Office Accommodation project is included in the Long-Term Plan 2021-31.

Significance and Engagement

- [13] Not applicable.

Legislative and Risk Considerations

- [14] Not applicable.

Climate Change Considerations

- [15] Sustainability is a key criteria of the Whare Rūnaka / Dunedin Head Office Accommodation project, and has been included in the design brief.

Communications Considerations

- [16] Not applicable.

NEXT STEPS

- [17] Meetings of the various project groups are ongoing and reporting to Council will continue on a regular basis.

ATTACHMENTS

Nil

7.7. Annual Review of Delegations Manual

Prepared for: Council
Report No. CS2211
Activity: Governance Report
Author: Peter Kelliher, Legal Counsel
Endorsed by: Nick Donnelly, General Manager Corporate
Date: 23 February 2022

PURPOSE

- [1] To seek Council approval of proposed amendments to the Otago Regional Council's Delegation's Manual which have been identified, after a staff review, as requiring updating.

EXECUTIVE SUMMARY

- [2] The proposed amendments to the Delegations Manual reflect changes that have been identified by staff as requiring amendment to (1) remedy gaps/errors in the existing manual, (2) reflect changes in job roles/responsibilities, (3) reflect new roles/responsibilities, (4) reflect a transfer of functions and (5) improve internal procedures.

RECOMMENDATION

That the Council:

- 1) **Receives** this report.
- 2) **Approves** the delegation changes as provided for in this report.
- 3) **Approves** the Chief Executive to update the Council's Delegations Manual accordingly.

BACKGROUND

- [3] On 24 June 2020, Council approved the Otago Regional Council's delegation manual. The Manual is a combination of delegations by the Council and the Chief Executive.
- [4] At that meeting, Council requested a review of the Delegations Manual to be reported back to the second Council Meeting of 2022.
- [5] Since 24 June 2020, the manual has been updated three times through resolutions dated 9 December 2020, 24 March 2021 and 23 June 2021.
- [6] These prior amendments to the manual were made to reflect changes to legislation and to improve efficiency of processes.
- [7] A copy of the current Manual is attached.

DISCUSSION

- [8] Council staff have reviewed the Manual, and have made recommendations to:
- Remedy gaps/errors in the existing manual;
 - Reflect changes in job roles;
 - Reflect new roles/responsibilities;
 - Reflect a transfer of functions; and
 - Improve internal procedures/processes.

PROPOSED DELEGATIONS

- [9] Changes that are proposed to the existing delegations are highlighted in yellow below.

9. Contracting, agreements and Memorandum of Understanding

9.4 Authorisation to sign contracts and other agreements (other than Deeds)

By resolution of Council, the Chief Executive has the power to authorise expenditure up to \$500,000 where that expenditure is within the annual plan or other Council approval limited by the amount set in Annual Plan, Long Term Plan or other specific authorisation by Council. The Chief Executive may, in turn, sub-delegate this authority to staff, and limit, suspend or withdraw said delegation at their discretion

Financial Delegations Authority

Manager Biosecurity and Rural Liaison	25,000	
Manager Environmental Implementation		
Team Leader Biosecurity and Biodiversity	5,000	
Team Leader Environmental Implementation		
Delivery Lead – Catchments	500	
Delivery Lead – Biosecurity	500	
Principal Advisor – Environmental Implementation	10,000	
Project Delivery Specialist	10,000	
Project Delivery Specialist	10,000	
Team Leader Commercial and Regulatory	5,000	
Manager Consent Systems and Administration	25,000	
Manager Regulatory Data and Systems		
Team Leader Compliance Support	5,000	
Manager IT Chief Information Officer	\$50,000	

Senior GIS / IT Operations Officer	5,000	
Team Leader Fleet & Facilities	5,000	
Team Leader Records and Information	5,000	
General Manager Operations	100,000	Delegated amount increased to \$250,000 where payment is part of an approved contract.
Acting Director Emergency Management Otago Manager Emergency Management Otago	25,000	
Team Leader Community Engagement Communications and Marketing	5,000	
Manager Community Engagement Marketing and Brand	25,000	
Manager Communication Channels	25,000	
Manager People and Culture Safety	25,000	
People & Safety Assistant Coordinator	5,000	
Principal Compliance Specialist	5,000	
Team Leader Investigations & Enforcement	5,000	
Team Leader Compliance Monitoring (Central Otago)	5,000	

16.4 Infringement notices

Section	Function	Delegated to
343B/C	To decide to withdraw an infringement notice.	Manager Compliance
343C	Where an enforcement officer observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, authority to serve an infringement notice in respect of that offence.	Team Leader Compliance Monitoring Team Leader Investigations and Enforcement

16.6 Enforcement orders

Section	Function	Delegated to
317	Where an application for an enforcement order is made, serve notice on every person directly affected by the application.	Team Leader Investigations and Enforcement

318	Give and withdraw notice of wish to be heard on an application for an enforcement order.	Team Investigations Enforcement	Leader and
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16.7 Offences

Section	Function	Delegated to
338	If a decision has been made to prosecute, authority to file a charging document on decisions to prosecute for offences.	Manager Compliance GM Regulatory

24. Council bylaws

24.1 Navigation Safety Bylaw ~~2019~~ 2020

The Otago Regional Council Navigation Safety Bylaw ~~2019~~ 2020 establishes a range of responsibilities, obligations and rules for the purpose of ensuring maritime safety for the waters in the Otago region as defined in the bylaw.

Except as provided below, delegations for the Navigation Safety Bylaw ~~2019~~ 2020 are provided for in the Maritime Transport Act 1994 and the Bylaw itself.

24.2 Flood Protection Management Bylaw 2012

Clause	Function	Delegated to
Authority to carry out work		
5.1	To approve/refuse authority under the Bylaw, including granting authority on such conditions as are considered appropriate.	Manager Engineering or Team Leader Commercial and Regulatory, except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.

Compliance and Enforcement		
6.1	Revocation of an authority granted under the Bylaw	Manager Engineering or Team Leader Commercial and Regulatory

Resource Management Act Delegations

15.13 Transfer and surrender

Section	Function	Delegated to
136(2)(b)(ii)	Approve the transfer of a water permit in whole or in part to another person on another site or to another site in accordance with section 136.	Manager Consents or Manager Regulatory Data and Systems; or Team Leader Compliance Support
137(3)(b)	Approve the transfer of a discharge permit in whole or in part to another person or another site in accordance with section 137.	Manager Consents or Manager Regulatory Data and Systems; or Team Leader Compliance Support
138(2)	Refuse to accept the surrender of part of a resource consent	Manager Consents or Manager Regulatory Data and Systems; or Team Leader Compliance Support

22. Regulations

22.1 Measurement and Reporting of Water Takes

Regulation	Function	Delegated to
6(5)	Approving format of records	Manager Consents; or Manager Regulatory Data and Systems
7(4)	Determining whether the certifier is suitably qualified	Manager Consents; or Manager Compliance; or Manager Consent Systems and Administration or Manager Regulatory Data and Systems
7A (5)	Approval to grant a later deadline for providing water meter records	Manager Consents; or Manager Compliance; or Manager Regulatory Data and Systems
9	Approval to measure water taken each week (instead of each day).	Team Leader Consents; or Team Leader Compliance; or Manager Regulatory Data and Systems
10	Approval to use device or system installed near (instead of at) location from which water is taken.	Manager Consents; or Manager Compliance; or Manager Consent Systems and Administration

		Manager Regulatory Data and Systems
11	Authority to revoke approval granted under regulations 9 or 10.	Manager Consents; or Manager Compliance; or Manager Regulatory Data and Systems

25. Biosecurity Act 1993

Section	Function	Delegated to
13(1)(a)	Power to carry out monitoring and surveillance of pests, pest agents, and unwanted organisms for the purposes of Part 5 of this Act	Team Leader Biosecurity Delivery Lead - Biosecurity
13(1)(b)	Power to provide for the assessment and management or eradication of pests	Team Leader Biosecurity Delivery Lead - Biosecurity
78	Exempt a person from a requirement in a rule in a regional pest plan.	Manager Biosecurity and Rural Liaison Manager Environmental Implementation
98	Exempt a person from a requirement in a rule in a regional pathways management plan	Manager Biosecurity and Rural Liaison Manager Environmental Implementation
130	Power to declare a restricted place	Team Leader Biosecurity Delivery Lead - Biosecurity
135	Power to recover costs of administering the Biosecurity Act 1993 and performing the functions, powers and duties provided for in the Act in accordance with section 135 and regulations	Manager Biosecurity and Rural Liaison Manager Environmental Implementation in conjunction with GM Corporate as to the methods used
154	Power to issue/withdraw a Compliance Order	Manager Biosecurity and Rural Liaison Manager Environmental Implementation

26. The Building Act 2004

Section	Function	Delegated to
45	Receive additional information.	Senior Consents Officer or Consents Officer with Building Act responsibilities
Building Consents		

45(1)(c)	Require additional information as part of a building consent application.	Senior — Consents Officer or Consents Officer with Building Act responsibilities
45A	Deciding to grant a minor variation to a building consent	Principal — Consents Officer or Manager Consents
47(3)	Proceeding to determine a building consent application without an NZFSC memorandum	Senior — Consents Officer or Consents Officer with Building Act responsibilities
48(1)	Deciding on a building consent application or an application for a minor variation	Principal — Consents Officer or Manager Consents
48(2)	Deciding whether further information is required	Senior — Consents Officer or Consents Officer with Building Act responsibilities
49	Deciding to grant a building consent	Principal — Consents Officer or Manager Consents
49(2)	Declining to grant a building consent until any charges or levies payable are paid	Principal — Consents Officer or Manager Consents
50	Refusing the application for a building consent	Principal — Consents Officer or Manager Consents
51(3)	Deciding whether or not to grant a building consent in the absence of a PIM	Principal — Consents Officer or Manager Consents
52(b)	Allowing a lapse period beyond 12 months for a building consent	Manager Consents
Building Levies		
53(2)	Determining the estimated value of building work for the purposes of calculating levies	Senior — Consents Officer or Consents Officer with Building Act responsibilities
62(2)	Recovery of unpaid levies from a building consent applicant	Principal — Consents Officer or Manager Consents
Waivers and Modifications		
67(1) 67(2)	Decision to grant an application for a building consent subject to a waiver or modification and to impose any conditions	Principal — Consents Officer or Manager Consents
Construction of dams on land subject to natural hazards		

71(2)	Determining whether adequate provision has been made in respect of certain aspects relating to natural hazards	Senior — Consents Officer or Consents Officer with Building Act responsibilities
72	Determining whether the matters in s72 relating to natural hazards are satisfied	Senior — Consents Officer or Consents Officer with Building Act responsibilities
74(3)	Determining whether the matters in s74(3) apply	Senior — Consents Officer or Consents Officer with Building Act responsibilities
Inspections by Building Consent Authorities		
90	Inspect land on which building work is being or is proposed to be carried out; building work that has been or is being carried out on or off the building site and any building.	Chief — Executive or Officer warranted under the Building Act
Code Compliance Certificates		
93(1) 93(4) 94	Deciding whether to issue a code compliance certificate	Principal — Consents Officer or Manager Consents
93(2)	Agreeing on a period beyond two years for an application for a code compliance certificate	Principal — Consents Officer or Manager Consents
93(4)	Requiring further information in relation to an application for a code compliance certificate	Senior — Consents Officer or Consents Officer with Building Act responsibilities
Compliance schedule		
95A	Refusal to issue code compliance certificate	Principal — Consents Officer or Manager Consents
102(1)	Deciding whether to amend a compliance schedule in response to an application to do so	Principal — Consents Officer or Manager Consents
102(2)	Issue a Compliance Schedule under s102(1)	Principal — Consents Officer or Manager Consents
106(3)	Specifying the information that is required to be lodged with an application for an amendment to a compliance schedule	Senior — Consents Officer or Consents Officer with Building Act responsibilities
106(4)	Deciding whether to amend a compliance schedule in response to an application to do so	Principal — Consents Officer or Manager Consents

106(5)	If the compliance schedule is amended, give notice of the amendment to the owner	Senior Consents Officer or Consents Officer with Building Act responsibilities
106(6)	Give written notice and reasons why the amendment to the compliance schedule has been refused.	Senior Consents Officer or Consents Officer with Building Act responsibilities
107(2)	Deciding whether to amend a compliance schedule on the council's own initiative	Manager Consents
Annual Building Warrant of Fitness		
111(1)	Decision to inspect building work or specified systems where a compliance schedule has been issued	Manager Consents
111(2)	Charging of a fee for inspections under s111	Manager Consents
Alterations to existing buildings		
112	Decision to grant building consent for an alteration to an existing building	Principal Consents Officer or Manager Consents
113	Dealing with buildings with less than a 50-year life	Principal Consents Officer or Manager Consents
Change of use, extension of life and subdivision of land		
116(1) 116(3)	Decision to allow the extension of the life of a building	Principal Consents Officer or Manager Consents

30A. Transport - Other

Matter	Function	Delegated to
Bus advertising	Approve to approve/decline bus back advertising.	Combination of: 1. Manager Communications and Marketing; and 2. Either one of: - Manager Transport or Team Leader Transport

12.3 Power to waive or extend time limits or waive requirements

Section	Function	Delegated to
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37(1)(a)	Extend time periods associated with a resource consent process, if the applicant has agreed to the extension.	<p>Senior Consents Planner</p> <p>Team Leader Consents</p> <p>except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.</p>
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12.4 Commissioning reports

Section	Function	Delegated to
42A	Require an officer or commission a consultant or other person to prepare a report.	<p>Principal Consents Planner</p> <p>Team Leader Consents</p> <p>Team Leader RPS, Air and Coast</p> <p>Team Leader Freshwater and Land</p> <p>Team Leader Urban Growth and Development</p> <p>except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and Co-chairs of the Regulatory Committee.</p>

15.1 Application for resource consents

Section	Function	Delegated to
88(3)	Determine that an application is incomplete.	<p>Consents Officer</p> <p>Consents Planner</p>
88(3A)	If an application is determined to be incomplete, return the application to the applicant with written reasons for the determination.	<p>Consents Officer</p> <p>Consents Planner</p>

91C(2)	Following a period of suspended processing, decide whether to return the application to the applicant with a written explanation as to why it is being returned or continue to process the application.	Team Leader Consents Principal Consents Officer Principal Consents Planner
91C(3)	If a decision is made under section 91C(2) to return an application, return the application with a written explanation as to why it is being returned.	Team Leader Consents Principal Consents Officer Principal Consents Planner

15.2 Further Information requests

Section	Function	Delegated to
92(1)	Request further information relating to a resource consent application.	Senior Consents Officer Senior Consents Planner
92(2)	Commission a person to prepare a report on any matter relating to a resource consent application.	Team Leader Consents Principal Consents Officer Principal Consents Planner

15.3 Notification

Section	Function	Delegated to
91(1)	Defer the notification or hearing of an application for resource consent where it is considered other resource consents will also be required and it is appropriate that applications for one or more of those other resource consents be made before proceeding further.	Senior Consents Officer Senior Consents Planner
91D	Decide to suspend the processing of a non-notified application when a request is received from an applicant under section 91D.	Senior Consents Planner
95(1)	Decide whether to give public or limited notification of a resource consent application in accordance with sections 95A and 95B and notify the application as determined appropriate.	Team Leader Consents; or Principal Consents Officer Principal Consents Planner except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
95E 95F 95G 127(4)	Determine if a person is an affected person.	Team Leader Consents; or Principal Consents Officer Principal Consents Planner except where ORC is the applicant then this is

		delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
95D	For the purposes of deciding whether to publicly notify an application, determine whether the effects of the activity will be more than minor.	Team Leader Consents; or Principal Consents Officer Principal Consents Planner except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.

15.7 Decision-making on applications

Section	Function	Delegated to
104A 104B 104C 104D 104F 105 107 108 108AA 217	Determine applications and impose conditions for the following activities or types of application: <ul style="list-style-type: none"> Applications for a non-complying activity Determine applications and impose conditions for any activity where: <ul style="list-style-type: none"> the application was notified or limited notified but no hearing is required (subject to section 100) the recommended consent term is greater than 25 years. the recommended consent conditions are not consistent with the Council’s standard consent conditions. 	Manager Consents; Team Leader Consents; or Principal Consents Officer Principal Consents Planner The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine a consent application including where the ORC is the applicant for consent.
104A 104B 104C 104D 104F 105 107 108 108AA 217	Determine applications and impose conditions for any other activity, where the recommended conditions are consistent with the Council’s standard consent conditions and the recommended consent term is less or equal to 25 years.	Manager Consents; Team Leader Consents; or Principal Consents Officer Principal Consents Planner The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular consent application including where the ORC is the applicant for consent.

104A 104B 104C 104D 104F 105 107 108 108AA 217	Authority to decide non-notified resource consent applications to install or alter a bore.	Senior Consents Officer Senior Consents Planner. The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular a consent application including where the ORC is the applicant for consent.
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15.8 Duration of consent

Section	Function	Delegated to
124	Allow a resource consent holder to operate under an expired resource consent while the application for a new consent and any references (appeals) to the Environment Court are determined in accordance with section 124.	Team Leader Consents Principal Consents Officer Principal Consents Planner Senior Consents Planner

15.9 Cancellation and change of consents

Section	Function	Delegated to
127	Change or cancel consent condition on application by the consent holder	Principal Consents Officer Principal Consents Planner Manager Consents

15.10 Review of consent conditions by consent authority

Section	Function	Delegated to
128 129	Determine whether to review the conditions of a resource consent, serve notice on a consent holder of the intention to review the conditions, and propose new conditions.	Manager Consents Manager Compliance

15.11 Determining activities are permitted activities

Section	Function	Delegated to
87BB(1)(d)	Determine that an activity is a permitted activity in accordance with section 87BB(1)(a) to (c) and advise the person proposing to undertake the activity.	Team Leader Consents Principal Consents Officer Principal Consents Planner

15.12 Minor corrections

Section	Function	Delegated to
133A	Issue an amended consent that corrects minor mistakes or defects in the consent in accordance with section 133A.	Team Leader Consents Principal Consents Officer

		Planner Senior Consents Officer Senior Consents Planner
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15.14 Certificates of compliance or existing use

Section	Function	Delegated to
139(4)	Require further information to be provided in relation to a request for a certificate of compliance.	Consents Officer Consents Planner
139(5)	Issue a certificate of compliance.	Principal Consents Officer Planner Team Leader Consents Senior Consents Officer Senior Consents Planner
139A(3)	Require further information to be provided in relation to a request for an existing use certificate.	Consents Officer Consents Planner

15.18 Consents where the ORC is the applicant

Section	Function	Delegated to
	For all delegations covered in sections 16.1 to 16.16 of this Manual decision making will be delegated to an external, independent and appropriately qualified commissioner appointed by the Commissioner Appointment Sub Committee two of the three: GM Regulatory and the co-chairs of the Regulatory Committee of Council All analysis, processing, report writing and support for the Independent Commissioner will be provided by an independent consultant appointed by the Manager Consents from an approved panel of consultants.	Independent Commissioner Independent Consultant

CONSIDERATIONS

Strategic Framework and Policy Considerations

[10] This paper proposes a continuation of current Council policy of providing delegation to Council staff.

Financial Considerations

[11] There is no cost (excluding administrative costs) to updating the Delegations Manual.

Significance and Engagement

[12] No external consultation is required for the proposed amendments.

Legislative and Risk Considerations

[13] The Council is required to administer legislation under the Resource Management Act 1991, and other Acts, regulations and bylaws. In order to ensure that this requirement is performed efficiently and lawfully, Council officers need to have delegated authority from the Council to make decisions.

- [14] Having up-to-date delegations for Council functions reduces the risk of decisions that affect Council being made at the wrong levels or wrong areas of the organisation. It is therefore prudent to ensure Council's delegations remain current.

Climate Change Considerations

- [15] There are no climate change considerations regarding the proposed delegations.

Communications Considerations

- [16] If approved, a copy of the updated Manual will be uploaded to Council's website.

ATTACHMENTS

1. Delegations Manual as amended by resolution 23 June 2021 [7.7.1 - 104 pages]

OTAGO REGIONAL COUNCIL

DELEGATIONS MANUAL

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PART A: INTRODUCTION

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Part A: INTRODUCTION

Part A of the Delegations Manual contains introductory and background information for the reader.

Of particular note are the principles and general terms and conditions that apply to all Otago Regional Council delegations

1. Introduction

1.1 Purpose

This document is the Delegations Manual for the Otago Regional Council (**Delegations Manual**).

The primary purpose of the Delegations Manual is to set out the Otago Regional Council's (**Council or ORC**) delegations given to officers (and elected members in some instances) in relation to certain administrative and financial matters and also the delegations made in relation to the Council's statutory duties, responsibilities and powers.

To assist staff to understand the responsibilities of the Council and its committees, this Delegations Manual also includes specified duties, functions, and powers which cannot be delegated from the Council and the Council committees associated delegations.

1.2 Background

1.2.1 Definition of delegation

Delegation is the conveying of a duty of power to act to another person, including the authority that the person making the decision would themselves have had in carrying out that duty or exercising that power.

For the purposes of administrative efficiency and expediency when conducting its day-to-day business, the Council delegates certain statutory duties, responsibilities and powers to its committees, members, or staff. Likewise, the Chief Executive delegates certain duties and responsibilities to a subordinate level. These delegations are a necessary operational requirement to promote effective and expeditious decision-making. Delegations avoid administrative delays and inefficiencies that might otherwise occur if all matters have to be referred to the Council or Chief Executive every time a decision needs to be made.

1.2.2 The legal basis

In most cases, the Council has the primary power of delegation as it is the body that is specified as the delegate in the empowering legislation. In some specific instances the legislation empowers the Chief Executive directly who will have the power of delegation.

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The Council's authority to delegate to its standing committees, subcommittees, members or staff is principally derived from Clause 32 of Schedule 7 of the Local Government Act 2002 (LGA 2002) which reads:

(1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of the local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except

(a) the power to make a rate; or

(b) the power to make a bylaw; or

(c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or

(d) the power to adopt a long-term plan, annual plan, or annual report; or

(e) the power to appoint a chief executive; or

(f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long term plan or developed for the purpose of the local governance statement; or

(g) [repealed]

(h) the power to adopt a remuneration and employment policy.

(2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).

(3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the original delegation.

(4) A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authority or committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

(5) A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.

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(6) A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.

(7) To avoid doubt, no delegation relieves the local authority, member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.

(8) The delegation powers in this clause are in addition to any power of delegation a local authority has under any other enactment.

Other statutes also confer or limit the ability for the Council to delegate decision-making powers and duties. Of particular note are:

- Section 34 (Delegation of functions, etc, by local authorities) of the Resource Management Act 1991
- Section 105 (Delegation to authorised persons) of the Biosecurity Act 1993
- Sections 42 (Delegation of powers by local authority) and 43 (Delegation of powers by officers) of the Local Government Official Information and Meetings Act 1987

Except as provided for elsewhere in this Delegations Manual, the delegation of a power, function or duty is made under Clause 32 of Schedule 7 of the LGA

1.2.3 Principles, terms and conditions

The delegations are derived from the Council and the Chief Executive.

When deciding to delegate any duties, responsibilities, and powers, the Council or Chief Executive will have regard to the principles outlined in Table 1.

In the exercise of any delegation, the delegate (i.e. the person given the delegation) must comply with the general terms and conditions, which are also outlined in Table 1. In addition to the general terms and conditions, the delegate must also comply with any additional terms and conditions that might apply to specific delegations.

Table 1: Principles, terms and conditions

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Principles	
1.	Wherever possible, delegations to staff have been made on a wide basis to promote the most effective and efficient implementation and delivery of Council’s policies and objectives.
2.	Delegations have generally been made to the lowest level of competence, commensurate with the degree of responsibility, difficulty and risk involved in the undertaking of the task delegated.
3.	In deciding what is the lowest level of competence for each delegation, particular attention has been paid to the responsibilities and accountability for its correct and effective implementation and any reporting requirements.
4.	In exercising delegations which are outside Council’s day-to-day business, staff will report back on the exercise of that delegation to the next relevant Council or Council Committee meeting.
5.	Where Council is expressly prevented from delegating some or all of its powers by a particular statute, it may delegate the power to do anything precedent to the exercise by the Council of that particular power or authority.
Terms and conditions	
1.	No delegations shall limit the power of Council or other delegator to exercise a function, duty or power in substitution for a delegate.
2.	In the exercise of any delegation, the delegate will ensure they act in accordance with: <ul style="list-style-type: none"> a. any binding statutory authority (in relation to each delegation, relevant sections of the Act will be identified); and b. any relevant Council policy or procedural documents (including reporting and recording) requirements.
3.	In relation to delegations to officer level, every delegation will be to a stated officer and will be exercised in relation to the duties of their position as identified in their Position Description or when an officer has been appointed in an acting capacity.
4.	Decisions, other than on minor or routine matters, made under delegated authority will be reported to Council or a relevant Committee.
5.	For the avoidance of doubt, supervisors shall have the same delegated powers as subordinate staff, unless the exercise of such delegation requires, by law, a particular qualification or registration. The delegations in this Manual are expressed as the lowest level in the organisation which can exercise the function, duty or power.
6.	For the avoidance of doubt a hearings panel or commissioner sole as may from time to time be appointed shall have the authorities delegated to them through their appointment process.
7.	An officer who is delegated a responsibility, duty or power is also delegated any ancillary responsibilities, duties or powers necessary to give effect to that delegation.
8.	Where a delegation refers to repealed legislation, the reference is to be read as a reference to the legislation that, with or without modification, replaces or corresponds to the repealed legislation.

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9. A delegation once made cannot be further sub-delegated, unless the authority to sub-delegate is specified in the delegation.
10. Any power to appoint a person or approve an action or document includes the power to revoke any appointment or approval.
11. The Council may, at any time, revoke, suspend for a period, or amend the terms or conditions in relation to any delegation it has made. Where this occurs, it will be recorded by resolution of Council.
12. The Chief Executive may revoke or suspend for a period, or amend the terms and conditions, in any delegation to subordinates that they have made. Where this occurs, it will be recorded in writing to the relevant staff member and in relevant Council procedures.
13. The Chief Executive may revoke, or limit, or suspend for a period, or reduce the extent of delegations that Council has made to named officers such that some or all of the function, duty or power must be exercised by a supervisor of the person holding the delegation. This would be appropriate during the training or development of new staff, or where, in the view of the Chief Executive, particular types of decision may need greater scrutiny. Where this occurs, it will be recorded in writing to the relevant staff member and in relevant Council procedures.
14. Unless expressed otherwise, where a delegation is to more than one officer, that power of delegation is to each officer separately.

1.2.4 Sub-delegation

At times, it will be necessary for the performance of assigned duties for a staff member to have delegated authority additional to those specifically mentioned in the Delegations Manual. These situations may include staff acting temporarily in a role (such as acting Chief Executive or acting Manager) where they need to exercise the delegations of that higher role. Such sub-delegations will be recorded in writing in the form of a memo signed by the person granting the delegation, and a copy kept on the delegation file. A person exercising functions, powers or duties under a sub-delegation shall not have the authority to further delegate those functions, powers or duties.

1.2.5 Decision making and significance and engagement

The decision-making requirements under the LGA, including those in sections 76 and 79 must be complied with, including in making decisions on what responsibilities should be delegated to staff in accordance with this Delegations Manual and also in making decisions under delegated authority.

The degree to which compliance with the decision-making requirements in the Act is required is proportional to the significance of the particular decision and the resources available.

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In every case, the delegatee needs to determine the significance of the decision they are making or the power they are exercising, notwithstanding that they have the delegated authority to make the decision or take the action. The Council's Significance and Engagement Policy is relevant to this assessment.

Where the delegatee determines that the decision to be made or power to be exercised may be significant, they should consider whether to refer the decision or exercise of the power back to the delegator before final action is taken. In considering this issue, the delegatee needs to balance the delegated authority they have with the potential consequences. While a precautionary approach should be taken, delegates must not be averse to making decisions or taking action as required.

1.2.6 Authority

Unless stated otherwise in this Delegations Manual, delegations are made under Clause 32 of Schedule 7 of the LGA 2002.

1.2.7 Reviews and updates of the Delegations Manual

The Delegations Manual is a living document and it will be reviewed periodically and when legislative change requires amendments. The Delegations Manual has been developed to record current delegations made by the Council or Chief Executive.

Certain delegations that have been made to the Chief Executive have been made so that they can be further sub-delegated by the Chief Executive. Delegations under the Resource Management Act 1991 and the Local Government (Ratings) Act 2002 are legally not able to be further sub-delegated and may only be approved by a Council resolution.

The general terms and conditions of this Delegations Manual provides that a responsibility, duty or power delegated to an officer holding a named position is also delegated to any officer who performs or exercises the same or substantially similar role or function, whatever the name of his or her position. Any changes in position names must be approved by the Chief Executive and this Delegations Manual will be updated accordingly.

The Chief Executive may authorise changes and updates to any Chief Executive delegations or matters which he or she has sub-delegated, other than delegations under the Resource Management Act 1991 and the Local Government (Rating) Act 2002 as these two statutes prohibit sub-delegation.

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1.3 Structure

The Delegations Manual is structured in six parts.

Part A of the Delegations Manual presents **introductory and background information** for the Delegations Manual including the Council's principles for making delegations and establishing the Council's legal powers for making delegations.

Part B of the Delegations Manual records the **governance delegations** made by the Council to Committees of the Council.

Part C of the Delegations Manual contains general **administrative delegations** relating to human resource matters, the release of information, submissions and funding, the use of the Common Seal, obtaining professional advice and legal proceedings.

Part D of the Delegations Manual contains **contracting, financial, rating and property delegations**, including financial delegations relating to expenditure (including financial delegation limits), contingency expenditure and other authority and procedures relating to other financial and accounting matters and delegations in respect of rating and property matters.

Part E of the Delegations Manual contains **regulatory RMA delegations** relating to the Council's regulatory functions, duties and powers under the Resource Management Act 1991.

Part F of the Delegations Manual contains **regulatory non-RMA delegations** relating to the Council's regulatory functions, duties and powers under other legislation including the Biosecurity Act 1993, the Building Act 2004, the Maritime Transport Act 1994, the Civil Defence Emergency Management Act 2002, the Land Drainage Act 1908 and the Soil Conservation and Rivers Control Act 1941.

1.4 Council Resolution

On 24 June 2020, Council approved the delegations contained in this manual with the following amendments:

- a. *Change wording of Sec 268A delegations to read "...not inconsistent with previous Council Resolutions."*
- b. *Change delegation for High Court, Court of Appeals and Supreme Court appeals to: Chief Executive in consultation with the Chairperson.*

Accordingly:

- (1) section 268A delegation has been amended accordingly; and
- (2) despite any other provision in this manual, all delegations for High Court, Court of Appeals and Supreme Court appeals are to the Chief Executive in consultation with the Chairperson.

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PART B: COUNCIL AND COMMITTEES

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PART B: COUNCIL AND COMMITTEES

Part B of the Delegations Manual sets out those delegations that remain with the Council and the delegations given to the Council's Committees.

2. Council

In accordance with Clause 32 of Schedule 7 of the LGA, the Council is required by legislation to make decisions on the following matters:

- (a) The power to make a rate; or
- (b) The power to make a bylaw; or
- (c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
- (d) The power to appoint a chief executive; or
- (e) The power to adopt policies required to be adopted and consulted on under this Act in association with the long term plan or developed for the purpose of the local governance statement; or
- (f) The power to adopt a remuneration and employment policy.

Other legislation, including the Resource Management Act 1991, the Biosecurity Act 1993 and the Land Transport Management Act 2003, provide that certain matters cannot be delegated and that certain decisions must be made by the Council.

3. Council committees

3.1 Introduction

The Council has the following committees:

- Finance Committee;
- Strategy and Planning Committee;
- Regulatory Committee;
- Data and Information Committee;
- Implementation Committee;
- Governance, Communications and Engagement Committee;
- Chief Executive Performance Review Committee;

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- Otago Civil Defence Emergency Management Group;
- Audit and Risk Subcommittee; and
- Otago Regional Transport Committee;

The delegations in this section reflect the delegations provided in the Committee terms of reference 2019-2022.

3.2 Finance committee

The Finance Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by Council to:

- Award or approve contracts and tenders in excess of staff delegations and to a maximum of \$2million.
- Approve the Draft Annual Plan and Draft Long-Term Plan and associated policies, and to conduct all consultation and hearings with the public concerning them.
- Consider matters of financial impact other than as provided for in the Annual Plan.
- Endorse submissions in relation to the Local Government Act 2002.
- Carry out any other function or duty delegated to it by the Council.
- Appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.

3.3 Strategy and Planning Committee

The Strategy and Planning Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to:

- Make submissions and representations on matters within its statement of purpose on Otago councils' district plans and neighbouring councils' regional plans to ensure consistency.
- Where consistent with all relevant statutes, approve public consultation and call for submissions on this Council's draft, proposed, and indicative policies, plans and strategies. This delegation does not include formal notification of Council's proposed plans.
- Endorse submissions or appeals concerning district planning and consents within Otago; submissions on legislation and regulations (including submissions to Parliamentary Select Committees), and submissions on crown agency and parliamentary discussion documents.

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- Carry out any other function or duty delegated to it by the Council.
- Appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.

3.4 Regulatory Committee

The Regulatory Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to:

- Recommend to Council the approval of functional strategies, project concepts and implementation plans.
- Appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.
- Carry out any other function or duty delegated to it by the Council.

3.5 Data and Information Committee

The Data and Information Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to:

- To receive information, presentations and reports.

3.6 Implementation Committee

The Implementation Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to:

- Appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.
- Carry out any other function or duty delegated to it by the Council.

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3.7 Governance, Communications and Engagement Committee

The Governance, Communications and Engagement Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to:

- Appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.
- Carry out any other function or duty delegated to it by the Council.

3.8 Chief Executive Performance Review Committee

The Chief Executive Performance Review Committee Terms of Reference were adopted by Council on 26 August 2020. The Committee holds no delegations.

3.9 Otago Civil Defence Emergency Management Group (Joint Committee)

The Otago Civil Defence Emergency Management Group Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Otago Civil Defence Emergency Management Group shall have all the delegated authorities that may be given by each member Council, including authority to fulfil the powers, obligations and functions of the Group as specified in the Civil Defence Emergency Management Act 2002, authority to appoint subcommittees, and authority to sub-delegate any authority able by law to be delegated.

3.10 Audit and Risk Subcommittee

The Audit and Risk Subcommittee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Subcommittee is authorised by the Council to:

- Review matters within its terms of reference and make recommendations to Council or the Finance Committee on those matters.

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- Seek information it requires from the Chief Executive. The Chief Executive is required to cooperate with any requests unless excused by the Chair of the Otago Regional Council.
- Request access to outside legal or independent professional advice should it consider this necessary.

The Audit and Risk Subcommittee may not delegate any of its responsibilities, duties or powers.

3.11 Otago Regional Council Transport Committee

The Otago Regional Transport Committee Terms of Reference (including delegations) were adopted by Council on 26 August 2020.

The Committee is authorised by the Council to undertake the following:

Delegated Authority – Power to Act

- The Regional Transport Committee:
 - Has the ability to appoint a panel to hear RLTP, submissions, working parties, advisory groups and, where there is urgency or special circumstances, a sub-committee 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 sub-committee does not have power to act other than by a resolution of the committee with specific limitations;
 - Has the ability to make decisions in accordance with the Terms of Reference and the Land Transport Management Act 2003.
- Power to Act (for the information of Council):
 - The Regional Transport Committee has the power to monitor any transport activities of the regional council, territorial authorities and New Zealand Transport Agency in order to report on progress on the Regional Land Transport Plan;
 - prepare and recommend variations to the Regional Land Transport Plan that trigger the RTC’s significance policy;
 - consider and recommend transportation planning studies and associated outcomes;
 - provide recommendations to relevant government agencies on transport priorities for the region and the allocation of national or regional transport funds.

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PART C: ADMINISTRATIVE DELEGATIONS

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PART C: ADMINISTRATIVE DELEGATIONS

4. Human Resources delegations

4.1 Legislative delegation to the Chief Executive

Pursuant to section 42(2) of the Local Government Act 2002, the Chief Executive is responsible, on behalf of the Council, for ensuring the effective and efficient management of the Council, employing staff and negotiating the terms of employment of staff.

The Chief Executive has absolute control over all employment-related matters concerning staff.

Further specific delegations made by the Chief Executive in relation to human resources under section 42(2) are prescribed below (the Human Resources Delegations).

Explanatory Note: The Chief Executive may appoint in writing, in consultation with the Chairperson, any person to be acting Chief Executive during temporary periods of absence from duties together with such of the Chief Executive's powers as he or she considers appropriate.

4.2 Principles of Human Resources delegations

In support of, and in addition to, the principles, terms and conditions outlined in Section 1.2.3 of this Delegations Manual, the following principles, terms and conditions are applied to the delegation of employment or people management activities:

(a) Human Resources Delegations are standardised across management roles (i.e. if a delegation is granted to General Managers, then everyone in a General Manager role holds that delegation).

(b) Human Resources Delegations automatically apply to the person appointed to that role (i.e. no additional documentation is required beyond acceptance of the employment agreement for the role).

(c) Human Resources Delegations are granted to the lowest appropriate tier (with demonstrated competence to execute the delegation) to empower and enable our people managers; this authority may also be executed by all managers in a direct line above that position.

(d) No Human Resources Delegations may be used to self-approve – the one up rule applies.

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(e) Human Resources Delegations must be exercised in accordance with Staff Policies.

(f) The People and Safety Manager may sub-delegate their authority to a member(s) of the People and Safety team as appropriate.

4.3 Human Resources delegations

The Chief Executive retains the responsibility for all human resources matters. The Chief Executive retains the delegation for the following activities specified in Table 2 below.

Other delegations have been made by the Chief Executive to the General Managers, Managers and Team Leaders.

Explanatory Note: For the purpose of these human resources delegations: General Managers are defined as Tier 2 management roles with responsibility for a Group, reporting directly to the Chief executive. Managers are defined as Tier 3 management roles with responsibility for a department of Council. Team Leaders are defined as any management roles below Managers (with or without the Team Leader title) which hold formal staff management responsibilities as outlined in the position description.

Table 2: Human Resources delegations

Chief Executive	General Managers (T2)	Managers (T3)	Team Leaders (T4)
Recruitment Requisitions			
<ul style="list-style-type: none"> approve recruitment of additional Full Time Equivalent (FTE) permanent employee numbers (unbudgeted recruitment) approve recruitment where significant change has been made to a role 	<ul style="list-style-type: none"> approve like-for-like recruitment (permanent, fixed term and casual) 	<ul style="list-style-type: none"> make recommendations on recruitment (like for like and unbudgeted) to the appropriate approving manager engage the services of a recruitment agency with People and Safety agreement (provided Procurement Policy obligations have been met) 	<ul style="list-style-type: none"> make recommendations on recruitment (like for like) to the appropriate approving manager
Candidate Appointments			

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<ul style="list-style-type: none"> • approve candidate offers which fall outside market range (above 100% of the assessed salary grade for the position) • approve candidate offers for 2nd tier managers 	<ul style="list-style-type: none"> • approve candidate offers within market range (up to 100% of the assessed salary grade for the position) • sign offers of employment • approve non-standard terms and conditions with the Manager People and Safety's agreement • offer relocation expenses with the Manager People and Safety agreement 	<ul style="list-style-type: none"> • make recommendations on candidate appointment, including salary recommendation, to the appropriate approving manager 	<ul style="list-style-type: none"> • make recommendations on candidate appointment, including salary recommendation, to the appropriate approving manager
Employment Conditions			
<ul style="list-style-type: none"> • require and set dates for an annual shutdown period • sign (on behalf of ORC) Collective Employment Agreements and bargaining Terms of Settlement 	<ul style="list-style-type: none"> • determine actions to address conflict of interest situations • approve staff entering into secondary employment • deliver a Final warning with Manager People and Safety agreement • second staff to other organisations subject to consultation with CE 	<ul style="list-style-type: none"> • determine the course of action following an external complaint against a staff member subject to consultation with General Manager/Manager People and Safety • approve requests for flexible working arrangements (informal) • second staff to other teams within the Group • deliver a Verbal or First warning with People and Safety agreement 	<ul style="list-style-type: none"> • approve timesheets • approve one-off or occasional work from home • initiate a performance improvement process with Manager/People and Safety agreement

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	<ul style="list-style-type: none"> • approve staff to present a paper or publication referencing Otago Regional Council • approve requests for flexible working arrangements (formal, change to employment terms and conditions), and other standard employment agreement adjustments (i.e. changes to reporting line) 	<ul style="list-style-type: none"> • make verbal employment offer subject to approval of request to appoint 	
Termination			
<ul style="list-style-type: none"> • approve termination of an employment agreement • approve the outcome of change proposals and position disestablishments resulting in a triggering of redundancy clause in employment agreement • approve payments under section s123(1)(c)(i) of the Employment Relations Act (2000) 	<ul style="list-style-type: none"> • attend employment mediations on behalf of ORC alongside the Chief Executive and/or Manager People and Safety 		

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Leave			
<ul style="list-style-type: none"> • approve corporate-wide paid leave for staff unable to work due to an emergency or severe weather situation • approve the cash-out of annual leave • grant paid and unpaid compassionate leave • approve requests for leave without pay for greater than 5 days • approve study leave 	<ul style="list-style-type: none"> • approve requests for leave without pay for up to 5 days • approve use of special leave subject to consultation with CE • grant additional bereavement/tangi leave subject to consultation with CE • sign off parental leave • grant additional paid sick leave in situations of prolonged illness or injury (Discretionary Wellbeing Leave) 	<ul style="list-style-type: none"> • provide a request for exemption from jury service • approve use of partner/paternity leave • approve use of domestic violence leave (in consultation with the Manager People and Safety) • grant additional paid sick leave (fair and reasonable sick leave only), in accordance with the Fair and Reasonable Sick and Wellbeing Leave Policy 	<ul style="list-style-type: none"> • approve sick, annual, bereavement or jury service leave • approve utilisation of flexitime
Performance and Development			
	<ul style="list-style-type: none"> • approve attendance of overseas learning events • approve study applications • approve individual performance and development objectives and review outcomes 	<ul style="list-style-type: none"> • approve attendance at internal or external learning events with People and Safety agreement 	
Policies and Procedures			

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	<ul style="list-style-type: none"> • policy ownership for cross-organisational policies within sphere of responsibility • acting in the capacity as a member of the Policy Review Group, approve new policies, changes to existing and disestablishment of redundant/superseded policies • approval for divergence from existing policy 	<ul style="list-style-type: none"> • policy expert (or delegate) • acting in the capacity as a as member of the Policy Review Group, approve new policies, changes to existing and disestablishment of redundant/superseded policies • approve operational procedures and guidelines within sphere of responsibility 	<ul style="list-style-type: none"> • approve standard operating procedures (SOPs)
Health, Safety and Wellbeing			
<ul style="list-style-type: none"> • approve consumption of alcohol for work-related functions • duties as required of the primary Officer of the PCBU • final approval of the Health and Safety Organisational Risk Register • Determine the resolution on any matters escalated by the Health and Safety Committee 	<ul style="list-style-type: none"> • decide actions following harassment or bullying investigations unless delegated to a manager • duties as required as Officers of the PCBU in matters relevant to their work groups • approve Permit(s) to Work for work deemed 'high risk' (e.g. Asbestos removal, accessing a confined space) • determine any corrective actions 	<ul style="list-style-type: none"> • approve catering for meetings and functions • approve new and replacement garments and Personal Protective Equipment (PPE) for field work • approval of safety training requirements for employees • approval of ergonomic workstation assessments • approval of Return to Work (RTW) Plans for injured or ill employees 	<ul style="list-style-type: none"> • approve new and replacement garments and Personal Protective Equipment (PPE) for field work • approval of safety training requirements for employees • approval of ergonomic workstation assessments • Approval of Return to Work (RTW) Plans for injured or ill employees

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	<p>required on safety matters (e.g. as a result of an audit, incident investigation, matters raised at the Health & Safety Committee)</p> <ul style="list-style-type: none"> determine the resolution on any matters escalated by the Health and Safety Committee issuing a trespass notice 	<ul style="list-style-type: none"> final sign off/closing out of incident investigations determine any corrective actions required on safety matters (e.g. as a result of an audit, incident investigation, matters raised at the Health & Safety Committee) 	
Recognition, Reward & Remuneration			
<ul style="list-style-type: none"> approve overall salary increase following annual review (within governance-set budget) 	<ul style="list-style-type: none"> decide appointment and amount of higher duties payments approve out of cycle remuneration increases (up to 100% of the assessed grade for the position) 	<ul style="list-style-type: none"> approve overtime and accumulation of flexitime 	

5. Requests and the release of information, correspondence, and public records

5.1 Local Government Official Information and Meetings Act 1987

Local Government Official Information and Meetings Act 1987

Section	Description	Delegated to
s.8	Information concerning existence of certain information	General Managers

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		Any member of the Legal Team
s.10	Requests for official information	All staff
s.11	Assistance with requesting information	All staff
s.12	Transfer of requests	Any member of the Legal Team
s.13	Decisions on requests (including the decision to impose a charge for providing official information and consulting on release)	General Managers Any member of the Legal Team
s.14	Extension of time to provide official information	General Managers Any member of the Legal Team
s.15	Power to determine manner of presenting information	General Managers Any member of the Legal Team
s.16	Power to determine deletions of some information from documents	General Managers Any member of the Legal Team Consents Support Officers
s.17, 17A, 17B, 18	Refusal of requests for information	General Managers Any member of the Legal Team
s.21, 22, 23	Right of access to internal rules affecting decisions / personal information	General Managers Any member of the Legal Team
s.24	Precautions regarding access to personal information	All staff
s.25	Correction of personal information	All staff
s.26	Refusal to supply personal information	General Managers Any member of the Legal Team
s.29	To comply with the requirements of an Ombudsman	General Managers Any member of the Legal Team
s.33	Requirement to notify decision of Ombudsman	General Managers
s.39	Publication of summary of report	General Managers Any member of the Legal Team
s.46	Public notification of meetings	Executive Advisor Committee Secretary
s.46A, 46B, 49, 51, 51AA	Availability of agendas, reports and minutes	Executive Advisor Committee Secretary
s.51A	Public notification of resolution at emergency meeting	Executive Advisor Committee Secretary

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5.2. Privacy Act 2020

Privacy Act 2020

Section	Description	Delegated to
s.201	Power to appoint Privacy Officers	Chief Executive
s.47, 49, 50, 51, 52, 53	Decision to refuse access to personal information	General Managers Privacy Officers
S41, 43, 45, 46, 48, 55, 56, 60, 62, 63, 64, 65, 66	<ul style="list-style-type: none"> - To treat the requests with urgency; - To decide to transfer a request to another agency; - To decide whether the request can be granted (including the decision to impose a charge); - Where a request has been granted, whether any information should be withheld; - Decision to extend the time limits; - Deciding the way information is to be provided; - Providing the reasons for refusal. 	General Managers Privacy Officers
	All other powers and duties under the Privacy Act 2020. This delegation may be sub-delegated.	Chief Executive

5.3. Public Records Act 2005

The Council has certain obligations under the Public Records Act 2005, including in relation to the disposal of Council records.

Section	Description	Delegated to
17	To provide for the creation and maintenance of local authority records	Team Leader Records and Information
40	To comply with the requirements in relation to protected records	Team Leader Records and Information
45, 46	To classify the access status of the Council's local authority records	Team Leader Records and Information
47	To provide for the public inspection of open access records	Team Leader Records and Information

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5.4 Other

This Delegations Manual does not contain formal delegations in relation to the authorisation to sign correspondence (including email correspondence), media statements (including social media) and placement of public notices. Staff should refer to the relevant Staff Policies in relation to these matters.

6. Submissions

6.1. General

The authority to make a submission on any matters of general interest or concern to the Council (including proposed Government policies, discussion documents and legislation but **excluding** proposed plans and plan changes and resource consent applications under the RMA and any other policy or standard not delegated in this manual, where it is not possible within the available time to refer the matter to the Council or where there is no other delegation, is delegated to the Chief Executive or, in the Chief Executive's absence, the Acting Chief Executive.

NOTE: When this delegation is exercised, it must be reported to the next Council meeting.

7. Authorisation to use the Common Seal

The Council has the authority to impress on any document the Common Seal of the Council.

Where the Common Seal of the Council is affixed to any document it shall be attested by any two Councillors.

The Common Seal will be affixed to any document that is required to be executed under the Seal, including:

- Certain warrants to carry out statutory functions, including warrants made under the Biosecurity Act 1993, the Building Act 2004, and the Local Government Act 2002.
- When executing any Memorandum of Transfer pursuant to section 80 of the Local Government (Rating) Act 2002.
- Regional policy statements and regional plans prepared under the Resource Management Act 1991.
- Bylaws prepared under the Local Government Act 2002 or other relevant statutes.
- Any documents (e.g. covenants, caveats, s417 certificates or consent notices) which otherwise require the use of the Council's Common Seal.

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8. Professional advice and legal proceedings

8.1 Authorisation to obtain professional advice

The authority to obtain professional advice, including but not limited to legal, engineering, financial, accounting and resource management, advice on Council's behalf is delegated to:

- Chief Executive
- General Managers
- Managers
- Legal Counsel
- Team Leaders

Explanatory note: In accordance with the general terms and conditions this delegation may only be exercised in accordance with financial delegations.

Any advice must also be sought in accordance with any arrangements that the Council has regarding the provision of services (i.e. if there is a preferred or agreed service provider). The Legal Counsel should be advised of any external legal services engaged.

This delegation does not prohibit other staff members from liaising with professional advisors as part of the Council obtaining advice. Instead it is intended to operate to ensure that the engagement of the advisor has been approved by one of the above staff members.

8.2 Court proceedings

Unless provided for elsewhere in this Delegation Manual, the following delegations for Court Proceedings apply.

Reference	Function	Delegated to
General Clause 32, Schedule 7 of LGA	The authority to decide whether to commence or defend any action before a Court, tribunal, arbitral panel or other such body subject to, at the delegate's discretion, discussion with the Chairperson, discussion with Legal Counsel, discussion with officers involved, discussion with the Council's insurers and reports being made to the relevant Committee of the Council	Chief Executive

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General Clause 32, Schedule 7 of LGA	In the event the Chief Executive is unavailable or in exceptional circumstances where time does not permit consideration by the Chief Executive and where such action is necessary to protect or further Council's interests, the authority to commence or defend any action before a Court, tribunal, arbitral panel or other such body	GM Regulatory GM Corporate
General Clause 32, Schedule 7 of LGA	The authority to settle a dispute or issues at stake at mediation or other dispute resolution sessions in relation to any matter before any Court, tribunal, arbitral panel, or other such body subject to, at the delegate's discretion, discussion with Legal Counsel, discussion with officers involved, discussion with the Council's insurers and reports being made to the Council or appropriate Committee.	All Managers
General Clause 32, Schedule 7 of LGA	The authority to: Initiate to have Court costs awarded; and Initiate legal proceedings to collect Court costs awarded	All General Managers
General Clause 32, Schedule 7 of LGA	The authority to take appropriate action within Council policy to recover debts, including, but not limited to Court and, Tribunal proceedings and debt collection agencies	GM Corporate
General Clause 32, Schedule 7 of LGA	The authority to initiate, prosecute, withdraw and do all things necessary to conduct appeals as follows: 1) Environment Court to the High Court 2) District Court to the High Court 3) High Court to the Court of Appeal or Supreme Court 4) Court of Appeal to the Supreme Court.	Chief Executive
Judicial Review High Court Rule 30.3, Clause 32, Schedule 7 of LGA	Lodge, withdraw, oppose or join an application for Judicial Review with the High Court and any related applications or proceedings and be heard in relation to any application or proceedings subject to, at the delegate's discretion, discussion with the Chairperson, discussion with Legal Counsel, discussion with officers involved, discussion with the Council's insurers and reports being made to the relevant Committee of the Council	Chief Executive
Judicial Review High Court Rule 30.3, Clause 32, Schedule 7 of LGA	The authority to settle a dispute or issues at stake at mediation or other dispute resolution sessions in relation to judicial review proceedings subject to, at the delegate's discretion, discussion with Legal Counsel, discussion with officers involved, discussion with the Council's insurers and reports being made to the Council or appropriate Committee. This delegation includes the authority to	Chief Executive

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	approve Consent Memoranda, draft Consent Orders, side agreements or other documents required to settle a matter	
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Specific terms and conditions:

- *The authority to settle any matter against the Council must be exercised in accordance with any financial delegations.*
- *The Chief Executive may sub-delegate these delegations.*

Explanatory Note:

- *Further delegations in relation to Court proceedings on property matters are listed in the property delegations.*
- *Further delegations in respect of specific statutory proceedings are listed in the regulatory delegations (e.g. under the Resource Management Act 1991 and Biosecurity Act 1993).*

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PART D: CONTRACTING, FINANCIAL, RATING AND PROPERTY DELEGATIONS

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PART D: CONTRACTING, FINANCIAL, RATING AND PROPERTY DELEGATIONS

Part D of the Delegations Manual sets out delegations relating to contracting and agreements, financial matters (including rating) and property delegations.

9. Contracting, agreements and Memorandum of Understanding

9.1 Introduction

The Council enters into a range of different contracts and agreements as part of undertaking its day to day business. These range from non-binding memorandum of understanding (but which may have significant reputational impact), contracts and agreements of low financial value, to high financial value contracts and agreements.

This section of the Delegations Manual contains delegations in relation to these matters and should be read alongside the financial delegations.

9.2 Memorandum of Understanding

The authority to sign on Council's behalf any memorandum of understanding is delegated to all Managers.

This delegation may be sub-delegated.

9.3 Authorisation to sign Deeds

The Property Law Act 2007 requires Deeds to be signed by "two directors" in the case of a body corporate. "Directors" equates to Councillors (that is persons holding a governance as opposed to management role).

Attorneys may be appointed to execute a Deed on behalf of Council. The attorneys must be appointed by Deed, and that Deed of appointment must be executed by two "directors".

9.4 Authorisation to sign contracts and other agreements (other than Deeds)

By resolution of Council, the Chief Executive has the power to authorise expenditure up to \$500,000 where that expenditure is within the annual plan or other Council approval. The Chief Executive may, in turn, sub-delegate this authority to staff, and limit, suspend or withdraw said delegation at their discretion.

The exercise of delegation is on the total expenditure commitment and attention must be given to approved delegation levels. Staff must be aware of their delegations, and if necessary, obtain approval from appropriate staff with a higher delegation level if the procurement will exceed their own delegation limit.

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Staff can only use their delegations within their area; delegations are not to be used elsewhere in Council.

Splitting procurement costs in order to bring the pricing under delegation or procurement level limits while knowing that the total expenditure is prohibited.

Authority to sign off contracts (excluding Deeds) rests with the relevant staff who have a level of delegation consistent with the total expenditure expected over the life of the contract (refer Financial Delegations Authority table). Once in place, individual invoices under that contract may be authorised by relevant staff with the level of delegation appropriate to each invoice.

If contract modification, extension or amendment is required, it is treated as being part of the original contract and can only be approved by the staff member of same or higher delegation level of that which approved the original contract, regardless of the size or value of the modification, extension or amendment

9.4.1 Procurement Principles¹

Council staff are guided by the following principles when procuring goods and/or services on behalf of the Otago Regional Council:

1. Council has a responsibility to manage its resources in an effective and efficient manner, and in doing so will consider best value for money over the whole of life cycle when procuring goods and services
2. Council may procure goods and services as sole procurer or in conjunction with other Councils or entities
3. Council will ensure open and effective competition as a competitive procurement process, as this is likely to result in a better procurement outcome
4. Council will provide a full and fair opportunity for both local and national suppliers
5. Council will comply with all relevant legislation, policies and procedures when engaging in the procurement process
6. Council will require sustainably produced goods and services whenever possible, having regard to economic, environmental, social and cultural impacts over their life cycle

Delegations by the Chief Executive set out in the Financial Delegations Register (refer Table 3 below) attach to the position.

Sub-delegations may be made without the approval of the Chief Executive but are subject to approval by the relevant Manager and General Manager. No further delegation is permitted.

¹ Otago Regional Council Procurement Policy

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Table 3: Financial Delegations Authority

Chief Executive	Limited by amount set in Annual Plan, Long Term Plan or other specific authorisation by Council	
PA to CE & Chair	5,000	
Executive Advisor	50,000	
General Manager People, Culture & Communications	100,000	
General Manager Corporate Services*	150,000	Delegated amounts extended to \$250,000 where payment is part of an approved contract; accept public tenders up to \$250,000 on recommendation of appropriate General Manager.
Manager Corporate Planning	25,000	
Finance Manager – Revenue*	25,000	Delegated amount of \$5,000 for Rates Refund; Authority to approve remission of rates penalties in accordance with agreed procedures; Authority to make supplier payments as required.
Finance Manager – Reporting*	25,000	Delegated amount of \$5,000 for Rates Refund; Authority to approve remission of rates penalties in accordance with agreed procedures; Authority to make supplier payments as required.
Manager IT	25,000	
Senior GIS / IT Operations Officer	5,000	
Legal Counsel	50,000	
Management Accountant	25,000	Authority to make supplier payments as required.
Coordinator Records & Information	5,000	
RITS Contract Lead - Public Transport Ticketing		No financial delegation, but have ability to approve timesheets and leave requests.
Fleet & Facilities Advisor	5,000	
Manager Support Services	25,000	
General Manager Operations	100,000	Delegated amount increased to \$250,000 where payment is part of an approved contract.
Manager Biosecurity and Rural Liaison	25,000	

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Manager Engineering	50,000	
Manager Transport	50,000	
Manager Natural Hazards	25,000	
Acting Director Emergency Management Otago	25,000	
Team Leader Biosecurity and Biodiversity	5,000	
Procurement and Contracts Coordinator	5,000	
Senior Engineering Officer Taieri	5,000	
Engineering Officer - Taieri	5,000	
Senior Field Officer Alexandra	5,000	
Team Leader Public Transport Dunedin	5,000	
Team Leader Community Engagement	5,000	
Manager Community Engagement	25,000	
Manager Communication Channels	25,000	
Manager Customer Experience	25,000	
Manager People and Culture	25,000	
People & Safety Assistant	5,000	
Safety & Wellbeing Coordinator	5,000	
Safety & Wellbeing Partner	5,000	
General Manager Regulatory	100,000	
Manager Compliance	\$25,000	
Harbourmaster	25,000	
Manager Consent Systems and Administration	25,000	
Manager Consents	25,000	
Team Leader Investigations & Enforcement	5,000	
Team Leader Compliance (Central Otago)	5,000	
Team Leader Compliance (Coastal)	5,000	

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Principal Compliance Specialist	5,000	
General Manager Strategy, Policy and Science	100,000	
Manager Policy and Planning	25,000	
Manager Strategy	25,000	
Manager Science	25,000	
Manager Environmental Monitoring	25,000	
Team Leader Environmental Monitoring /Team Leader Data Systems	5,000	
Team Leader Freshwater & Land	5,000	
Team Leader RPS, Air & Coast	5,000	
Team Leader Water	5,000	
Team Leader Biodiversity	5,000	
Network Infrastructure Lead	5,000	
Team Leader Urban Growth and Development	5,000	
Team Leader – Land	5,000	
Environmental Resource Scientist	5,000	
Senior Environmental Officer	1,000	
Environmental Monitoring & Reporting/LAWA Project Manager	5,000	For LAWA Project Expenditure

* = bank signatories

9.5 Contingency Expenditure

9.5.1 Emergency Procurement

An emergency procurement situation can arise from natural disasters such as flooding and earthquakes. Emergency procurement is not available to compensate for poor planning or to procure without a purchase order. In an emergency, the following procedure is to be followed by staff²:

² Otago Regional Council Procurement Policy

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- An emergency for procurement purposes must be classified by either the General Manager Corporate Services, Chief Executive, Chairperson or Group Controller of Emergency Management Otago.

The Chief Executive, General Manager Operations, Manager Engineering, and Director Emergency Management Otago are authorised in emergency circumstances to undertake the necessary remedial or response action (within the same maximum limits as provided in the Financial Delegations Register) and, at the first subsequent meeting of the Council, report on action taken under the delegation.

9.6 Other financial commitments

9.6.1. Invoice debtors

The authority to approve invoices for revenue to be charged against debtor accounts is delegated to the relevant Manager and may be sub-delegated with approval from the relevant General Manager, where this sub-delegation will facilitate the invoicing process.

9.6.2. Debt recovery

In a number of areas of the Council's operation it may be necessary on occasion to negotiate a reduction in amounts owing or to write-off debts which cannot be collected.

The authority to approve write-downs and/or write-offs within the financial delegation limits above is delegated to General Manager Corporate.

The authority to take appropriate action within Council policy to recover debts within the financial delegation limits above, including, but not limited to Court, Tribunal proceedings and debt collection agencies is delegated to General Manager Corporate, which can be subdelegated to Managers.

Explanatory note: See also court proceedings delegations.

9.6.3. Raise credit notes

Credit notes represent a disbursement of a Council asset. Authorisation to raise a credit note is delegated to any General Manager, in accordance with the maximum limits as provided in the Financial Delegations Register. This authority may be sub-delegated with approval from the relevant General Manager, where this sub-delegation will facilitate the process of raising credit notes.

9.6.4. Banking and payment signatory

Changes to banking arrangements requires the signature of General Manager Corporate and a Finance Manager.

Specific terms and conditions: All payments must be authorised by TWO approved signatories signing and countersigning appropriate documentation. Bank signatories are 'person specific'.

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9.6.5. Operational expenditure – Payroll, PAYE, ACC and other Taxes

For payroll, PAYE, ACC and other taxes and deductions - any two authorised bank signatories jointly.

9.7 Specific Financial Delegations

9.7.1 Regional On-scene Commander (Marine oil spill response)

The Regional On-Scene Commander is a person trained and authorised by Maritime New Zealand and appointed by Council under the Maritime Transport Act 1994. Appointment by Council provides financial authorisations within the Tier II Marine Oil Spill Response Plan.

- a. The Regional On-scene Commander is authorised to expend up to \$50,000 of the Council's funds in relation to Marine Oil Spill Response operations.
- b. The expenditure of \$50,000 may be exceeded by up to a limit of \$100,000 with prior consultation with the Chief Executive or General Manager Operations.
- c. Any person authorised by the Council when acting as Regional On-scene Commander, who for the time being is the Acting Regional On-scene Commander, is authorised to spend up to \$50,000 in relation to Marine Oil Spill Response operations.
- d. Regional On-scene Commanders are required as a condition of the delegation to:
 - i. comply with Maritime New Zealand Operational Policy; and
 - ii. comply with Council procedures and subsequently report to the next meeting

10. Rating

10.1 Introduction

The following section of the Delegations Manual describes the delegations given in relation to rating matters.

The Chief Executive is delegated all powers, functions and duties under the Local Government (Rating) Act 2002 that are legally able to be delegated under section 132 of the Local Government (Rating) Act 2002.

The Local Government (Rating) Act 2002 prohibits the delegation of the power of delegation. Accordingly, the following table sets out a range of other delegations made by the Council to specified positions.

In relation to the Rating Valuations Act 1998 and the Rate Rebate Act 1973 the Council delegates to the Chief Executive all powers, functions and duties under these two Acts that are legally able to be delegated. In accordance with Clause 32 of Schedule 7 of the LGA, the Chief Executive has made the following sub-delegations as indicated below in the following tables.

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10.2 Local Government (Rating) Act 2002

Section	Function	Delegated to
40	Power to correct rates	Finance Manager
41	Authority to issue an amended rates assessment if an error is encountered.	Finance Manager
54	Power not to collect rates that are uneconomic to collect	Finance Manager
61,62,63	Powers for recovery of unpaid rates	Finance Manager
85, 86	Power to remit rates pursuant to Council rates remission policy	Finance Manager to approve postponement of rates on applications which meet the criteria of the Council's policy
87,90	Power to postpone rates pursuant to Council rates postponement policy	Finance Manager to approve postponement of rates on applications which meet the criteria of the Council's policy
91-113	Rating of Maori freehold land including district valuation rolls, land vested in trustees, multiple ownership, using land in multiple ownership	GM Corporate to be exercised in accordance with Council's Rates policies
114-115	Power to remit or postpone rates on Maori Freehold land	GM Corporate to be exercised in accordance with Council's Rates policies

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10.3. Rating Valuation Act 1998

Section	Function	Delegated to
43	Obligation to pay annually a share of the costs of any territorial authority in the region in preparing and maintaining is district valuation roll	GM Corporate
43	Resolve any dispute regarding the amount payable, including in arbitration	Finance Manager

11. Property services

11.1 Leases and Licences

Matter	Function	Delegated to
New leases/ Licences	The authority to: (a) as lessor or lessee to sign agreements to lease for residential and commercial property granting leases for periods of no more than eight years (b) grant new leases or licenses for terms not exceeding twenty-one years for all other land (c) execute contracts of guarantee	GM Corporate
Assignment and subleasing	The authority as lessee or licensee to approve the sublease and assignment of leases and licenses	GM Corporate
Mortgages	The authority to: (a) secure a mortgage over the lessees' interest in the lease (b) vary mortgage terms (c) release a mortgage	Two of Finance Managers or GM Corporate
Rents	The authority to: (a) appoint an officer to set rentals for council property (b) set, review and reduce prices and rents in relation to existing Council leases or licenses	Manager Support Services Legal Counsel

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Rents	The authority to: (a) issue rent/fee rebates (b) appoint an arbitrator where rent reviews are appealed	GM Corporate
Variation of leases	The authority to: (a) approve variations to commercial, industrial and residential leases; and (b) all licenses	GM Corporate Legal Counsel
Termination and surrender of leases	The authority: (a) as lessor or lessee, or licensor or licensee, to terminate leases or licences within the terms and conditions of the contract, including failure to pay rent (b) as property owner, lessor, assignor or licensor, to approve the surrender of leases and licences	GM Corporate Legal Counsel
Registration	The authority to sign an authority and instruction form authorising registration of a lease or any surrender, variation or renewal of a currently registered lease approved under the above delegations	GM Corporate
Consent	The authority to provide (or withhold) any consent required under a lease	Manager Support Services Legal Counsel

11.2 Otago Regional Council (Kuriwao Endowment Lands) Act 1994

Section	Function	Delegated to
9, 10	To exercise all rights, powers, and obligations of the lessor under leases	Legal Counsel
13	Authority to sign an authority and instruction form for the sale of land authorised by Council resolution	GM Corporate

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11.3 General and miscellaneous

Matter	Function	Delegated to
Access	Authority to enter into, vary, revoke or cancel an access agreement.	Any Manager
Land acquisition	Authority to approve minor land purchases or sales by agreement, for public works, subject to the transaction being in accordance with the Long Term Plan and to sign an authority and instruction form for the above purpose.	GM Operations
Affected party approvals For further delegations on affected party approvals see: 14.10	Providing approval, consents and make submissions or objections as adjoining landowner or potentially affected party in relation to property owned, leased or managed by Council This delegation maybe subdelegated.	GM Corporate
Land Interests	Power to register, approve amendments to or withdrawals or discharges of caveats, easement certificates and releases of bonds or encumbrances Specific terms and conditions: This delegation will only be exercised upon confirmation that all obligations have been satisfied	GM Corporate Legal Counsel
Signing Issues	Sign any other applications, documents, agreements or instruments or certify any documents or instrument in relation to any interest in land, on behalf of Council not otherwise provided in these property delegations. This delegation maybe subdelegated.	GM Corporate
Emergency	Power to close a premises / facility in an emergency situation	Any General Manager
Use of Council Property and land	Authorise the use of any Council building, land, facility or equipment by an outside person or organisation in accordance with established guidelines	GM Corporate
Disposal	Dispose (whether by tender or otherwise) of any motor vehicle or item of plant or surplus Council asset in accordance with the policy	GM Corporate
Statutory Land Charge	The authority to release a statutory land charge	GM Corporate

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Easements and other interests	The authority to (a) create, vary and surrender, easements and covenants over Council land. (b) request removal of easements, covenants and profits à prendre from LINZ register and removal of fencing covenants from title; (c) to sign an authority and instruction form for the above purposes	GM Corporate
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Explanatory note: Land owned by Otago Regional Council is held pursuant to a range of different statutes, often as endowment land. Further, other statutory obligations, including under the Public Bodies Leases Act 1969, may be relevant to how the land may be able to be dealt with.

For the avoidance of doubt, nothing in the above delegations relieves the Council from complying with the statutory obligations that apply in relation to the land.

The exercise of the property delegations must also be carried out in accordance with the financial delegations, e.g. the value of the lease may require a higher level of authority to sign the document than provided for in the delegations.

11.4. Trespass Act 1980

Section	Function	Delegated to
3	Power to warn a trespasser to leave the property Power to issue trespass notices This delegation maybe subdelegated.	Any General Manager
4	Power to either at the time of the trespass or within a reasonable time thereafter, warn a trespasser to stay off the property This delegation maybe subdelegated.	Any General Manager
4(2), 9(1)	Power to, where there is reasonable cause to suspect that any person is likely to trespass on the property, warn that person to stay off the property and to require that a person give name and other particulars This delegation maybe subdelegated.	Any General Manager

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PART E: REGULATORY RMA **DELEGATIONS**

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PART E: REGULATORY RESOURCE MANAGEMENT ACT DELEGATIONS

12. General Matters

12.1 Information and Reports

Section	Function	Delegated to
35(2A)	Prepare and make available to the public a report on monitoring activities undertaken by Council in the course of exercising its functions under the RMA	GM Policy, Science and Strategy

12.2 Administrative charges

Section	Function	Delegated to
36(5)	Require payment of additional charges over and above any fixed charges to enable the recovery of actual and reasonable costs.	Manager Policy & Planning Manager Consents Manager Compliance
36(6)	Approve an estimate of any additional charges likely to be imposed where requested by a person liable to pay an additional charge	Manager Policy & Planning Manager Consents Manager Compliance
36AAB(1)	Waive or remit the whole or any part of any charge referred to in section 36 which would otherwise be payable.	Manager Policy & Planning Manager Consents Manager Compliance GM Corporate
36AAB(2)	Where a charge of a kind referred to in section 36 is payable, cease performing the action to which the charge relates until the charge has been paid in full.	Manager Policy & Planning Manager Consents Manager Compliance

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36AA	Determine any discount under section 36AA on an administrative charge imposed under section 36.	Manager Consents
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12.3 Power to waive or extend time limits or waive requirements

Section	Function	Delegated to
37(1)(a)	Extend time periods associated with a resource consent process, if the applicant has agreed to the extension.	Team Leader Consents except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
	Extend time periods associated with a resource consent process, where the applicant has not agreed to the extension.	Manager Consents except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
	Extend any other time period not associated with a resource consent process.	GM Policy, Science and Strategy GM Regulatory
37(1)(b)	In relation to resource consent processes, waive a failure to comply with a requirement regarding the time or method of services of documents.	Manager Consents except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.

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	In relation to any process other than a resource consent process, waive a failure to comply with a requirement regarding the time or method of service of documents.	GM Policy, Science and Strategy GM Regulatory
37(2)	In relation to a resource consent process, waive compliance with a requirement (including a procedural requirement) to provide information or direct that the omission or inaccuracy be rectified, and the manner of the correction.	Manager Consents except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
	In relation to any process other than a resource consent process, waive compliance with a requirement (including a procedural requirement) to provide information or direct that the omission or inaccuracy be rectified, and the manner of the correction.	GM Policy, Science and Strategy GM Regulatory

12.4 Commissioning reports

Section	Function	Delegated to
42A	Require an officer or commission a consultant or other person to prepare a report.	Team Leader Consents Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and Co-chairs of the Regulatory Committee.

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42A(3)	Waive compliance with the requirements in sections 42A(3) and 42A(4)(b).	GM Policy, Science and Strategy or
42A(4)(b)		
42A(5)		GM Regulatory

12.5 Protection of sensitive information

Section	Function	Delegated to
42	<p>Make an order under this section to avoid:</p> <ul style="list-style-type: none"> serious offence to tikanga Maori, or to avoid the disclosure of the location of wahi tapu; the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; <p>and, in the circumstances of the particular case, the importance of avoiding such offence, disclosure, or prejudice outweighs the public interest in making that information available.</p>	<p>GM Policy, Science and Strategy</p> <p>GM Regulatory</p>

13. Policy and Planning

13.1 Evaluation reports

Section	Function	Delegated to
32 Schedule 1, Clause 5	Direct the preparation of an evaluation report for a proposed policy statement or plan in accordance with section 32.	<p>Team Leader RPS, Air and Coast</p> <p>Team Leader Freshwater and Land</p> <p>Team Leader Urban Growth and Development</p>
32AA Schedule 1, Clause 5	This is a report to be prepared or commissioned by the hearing panel making recommendations on the planning document.	Not delegated

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165H(1A)	Prepare a report summarising the matters required by section 165H(1) and make it available for inspection.	Manager Policy & Planning
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13.2 Consultation

Section	Function	Delegated to
Schedule 1, Clause 3	Determine affected Ministers of the Crown, local authorities and other persons to consult with during the preparation of a proposed policy statement of plan	Manager Policy & Planning
Schedule 1, Clause 4A	Consult with iwi and provide documents on any proposed RPS or Regional Plan	Manager Policy & Planning

13.3 Notification

Section	Function	Delegated to
Schedule 1, Clause 5(1C)	Determine whether a person is likely to be directly affected by the proposed policy statement or plan and determine what information to provide those persons.	Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development
Schedule 1, Clause 5(5)	Determine appropriate locations in the region to make any proposed policy statement or plan available.	Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development

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13.4 Summary of decisions requested

Section	Function	Delegated to
Schedule 1, Clause 7	Publicly notify a summary of decisions requested by persons making submissions on a proposed policy statement, plan, or plan change and/or service notice on relevant persons where a decision was made to have limited notification of a RPS or Regional Plan	Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development

13.5 Resolution of disputes

Section	Function	Delegated to
Schedule 1, Clause 8AA(1)	Invite persons to a meeting for the purpose of clarifying or facilitating the resolution of any matter relating to a proposed policy statement or plan.	GM Policy, Science and Strategy
82	Resolution of disputes relating to inconsistencies between instruments by referral to the Environment Court (relates to inconsistency between water conservation orders and the Regional Policy Statement, or Regional Policy Statement or Plans and a District Plan, or between Regional Policy Statement or Plan and a national direction)	GM Policy, Science and Strategy

13.6 Amendments to policy statements or plans without using Schedule 1

Section	Function	Delegated to
Schedule 1, Clause 16(1) and (2) Schedule 1, Clause 20A	Amend a proposed or operative policy statement or plan in accordance with Clauses 16(1), 16(2) (to give effect to national direction or a direction from the Environment Court) and 20A (to correct a minor error) without using the Schedule 1 process.	Manager Policy & Planning

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292	Amend a plan without using the process in Schedule 1 of the RMA to remedy a mistake, defect, or uncertainty or to give full effect to a plan as directed by the Environment Court.	Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development
85(3) 293	Make an amendment directed by the Environment Court under sections 85(3) and 293 without using the process in Schedule 1.	Manager Policy & Planning

13.7 Notification of operative dates

Section	Function	Delegated to
Schedule 1, Clause 20	Publicly notify a date on which a policy statement or plan becomes operative.	Manager Policy & Planning

13.8 Private plan changes

Section	Function	Delegated to
Schedule 1, Clause 23(1) and (2)	Require, by written notice, further or additional information in accordance with Clause 23.	Manager Policy & Planning
Schedule 1, Clause 23(3)	Commission a report in relation to a request made under Clause 21 and notify the person who made the request.	Manager Policy & Planning
Schedule 1, Clause 24	Modify a request made under Clause 21 with the agreement of the person who made the request.	Manager Policy & Planning
Schedule 1, Clause 28	Give notice that request made under Clause 21 will be deemed to be withdrawn if not advised of wish to continue with request.	Manager Policy & Planning

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13.9 Incorporation of documents by reference

Section	Function	Delegated to
Schedule 1, Clause 34	Consult on proposal to incorporate material by reference in a proposed plan, variation, or change in accordance with Schedule 1, Clause 34.	Team Leader RPS, Air and Coast Team Leader Freshwater and Land Team Leader Urban Growth and Development

13.10 Written approval on behalf of the Council

Section	Function	Delegated to
104(3)(ii) 104(4)	Where the Council is an affected party, give or decline to give written approval on behalf of the Council to a resource consent application, and withdraw any written approval given.	Manager Policy & Planning – for policy interests GM Operations – for operational matters GM Corporate – for property matters Any Harbourmaster – for maritime interests

14. Submissions

Council is responsible for setting the region's policy direction through its regional policy statement (RPS) which territorial authorities must give effect to. An important part of implementing the RPS is through making

submissions on District or City Councils' proposed plans, plan changes, and resource consent applications. These submissions seek to implement Council's previous decisions so generally will not require further approval from Council.

Where Council has no relevant policy, but the issues raised in a plan change or consent application are significant the matter should be referred to Council for consideration. Where this is not possible within the

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time that is available a submission should be lodged subject to Council endorsement and the matter brought to the next Council or relevant Committee meeting.

Section	Function	Delegated to
96	Lodge or withdraw a submission on a resource consent application on behalf of Council.	GM Policy, Science and Strategy – for policy interests or on behalf of GM Operations, GM Corporate or Any Harbourmaster GM Operations – for operational matters GM Corporate – for property matters Any Harbourmaster – for maritime interests
149E 149F 149O	Make a submission to the EPA on a matter that has been called in or referred to it	GM Regulatory GM Policy Science and Strategy
Schedule 1, Clause 6 Schedule 1, Clause 8	Lodge or withdraw a submission or further submission on a proposed plan or plan change on behalf of Council.	Manager Policy and Planning
Part 5	Make a submission in relation to a proposed National Policy Statement, National Environmental Standard, NZ Coastal Policy Statement	Not delegated

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15. Resource consents and certificates of compliance

15.1 Application for resource consents

Section	Function	Delegated to
88(3)	Determine that an application is incomplete.	Consents Officer
88(3A)	If an application is determined to be incomplete, return the application to the applicant with written reasons for the determination.	Consents Officer
91C(2)	Following a period of suspended processing, decide whether to return the application to the applicant with a written explanation as to why it is being returned or continue to process the application.	Team Leader Consents Principal Consents Officer
91C(3)	If a decision is made under section 91C(2) to return an application, return the application with a written explanation as to why it is being returned.	Team Leader Consents Principal Consents Officer
165D	Refuse to receive and application for a coastal permit where consent for a similar activity has been refused within the previous 12 months	Manager Consents

15.2 Further Information requests

Section	Function	Delegated to
92(1)	Request further information relating to a resource consent application.	Senior Consents Officer
92(2)	Commission a person to prepare a report on any matter relating to a resource consent application.	Team Leader Consents Principal Consents Officer
92A(2)	When requesting further information under section 92, set a reasonable time within which the applicant must provide the information and tell the applicant in a written notice.	Senior Consents Officer

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15.3 Notification

Section	Function	Delegated to
91(1)	Defer the notification or hearing of an application for resource consent where it is considered other resource consents will also be required and it is appropriate that applications for one or more of those other resource consents be made before proceeding further.	Senior Consents Officer
95(1)	Decide whether to give public or limited notification of a resource consent application in accordance with sections 95A and 95B and notify the application as determined appropriate.	Team Leader Consents; or Principal Consents Officer except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
95E 95F 95G 127(4)	Determine if a person is an affected person.	Team Leader Consents; or Principal Consents Officer except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
95D	For the purposes of deciding whether to publicly notify an application, determine whether the effects of the activity will be more than minor.	Team Leader Consents; or Principal Consents Officer except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.

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15.4 Submissions

Section	Function	Delegated to
97	Adopt an earlier closing date for submissions.	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.

15.5 Pre-hearing meetings and mediation

Section	Function	Delegated to
99(1)	Invite the applicant and submitters to attend a pre-hearing meeting.	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99(1)	Require the applicant and submitters to attend a pre-hearing meeting.	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99	Decide who will chair a pre-hearing meeting	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision

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		maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99(2)	Invite a person or persons to attend a pre-hearing meeting.	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99(2)	With the consent of the applicant, require a person or persons to attend a pre-hearing meeting.	Manager Consents; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99(8)	Decline to process a person's application or consider a person's submission if they were required but failed to attend a pre-hearing meeting.	GM Regulatory; except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99A	Refer an applicant and submitters to mediation.	GM Regulatory except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
99A	Appoint mediators for consent applications	Any two of the following: GM Regulatory and co-

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		chairs of the Regulatory except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
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15.6 Hearings

Section	Function	Delegated to
34A(1) 34A(1A)	Appoint a hearing commissioner(s) to hear and decide resource consent applications and delegate to that person or persons all the necessary powers, functions, and duties in the RMA.	Manager Policy & Planning for plan hearings Any two of the following for a resource consent hearing: GM Regulatory or the co-chairs of the Regulatory Committee of Council
39 40 41A 41B 41C	To determine the procedures for the conduct of a hearing	The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular plan proposal or consent application
41D	To strike out all of part of a submission in accordance with the section	Manager Consents Manager Policy & Planning The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular plan proposal or consent application
100	Determine that a hearing of an application is necessary.	Manager Consents

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100A(4)	Where an applicant or submitter has made a request under section 100A, appoint a hearing commissioner(s) to hear and decide the application.	Any two of the following: GM Regulatory and co-chairs of the Regulatory
101(1) 101(3)	Fix and give notice of the commencement date, time and place of a hearing.	Senior Consents Support Officer; or Consents Support Officer
102(1)	In relation to joint hearings, agree that applications are sufficiently unrelated that a joint hearing is unnecessary.	Manager Consents
102(2)	Instead of the regional council, agree that for a joint hearing another authority should be responsible for notifying the hearing, setting the procedure, and providing administrative services.	Manager Consents
103(1)	Determine that applications for resource consents for the same proposal are sufficiently unrelated that it is unnecessary to hear and decide the applications together.	Manager Consents

15.7 Decision-making on applications

Section	Function	Delegated to
104A 104B 104C 104D 104F 105 107 108 108AA 217	<p>Determine applications and impose conditions for the following activities or types of application:</p> <ul style="list-style-type: none"> • Applications for a non-complying activity <p>Determine applications and impose conditions for any activity where:</p> <ul style="list-style-type: none"> • the application was notified or limited notified but no hearing is required (subject to section 100) • the recommended consent term is greater than 25 years. • the recommended consent conditions are not consistent with the Council's standard consent conditions. 	<p>Manager Consents; Team Leader Consents; or Principal Consents Officer</p> <p>The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine a consent application including where the ORC is the applicant for consent.</p>
104A 104B 104C	Determine applications and impose conditions for any other activity, where the recommended conditions are consistent with the Council's standard consent conditions and the recommended consent term is less or equal to 25 years.	<p>Manager Consents; Team Leader Consents; or Principal Consents Officer</p>

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104D 104F 105 107 108 108AA 217		The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular consent application including where the ORC is the applicant for consent.
104A 104B 104C 104D 104F 105 107 108 108AA 217	Authority to decide non-notified resource consent applications to install or alter a bore.	Senior Consent Officer. The Hearings panel or Commissioners, or Commissioner sole appointed to hear and determine the particular a consent application including where the ORC is the applicant for consent.
108A 109	Implementation of requirement in a resource consent for a bond to secure the performance of consent conditions Note: If a bond or covenant is considered as a possible consent requirement than all matters relating to consent conditions under sections 104A, 104B, 104C, 104D, 104F, 105, 107, 108, 108AA and 217 must be considered together with delegation exercised by the GM Regulatory.	GM Regulatory
110(1)	Refund or return the whole of a financial contribution or land in accordance with section 110.	GM Regulatory
110(2)	Determine the portion of a financial contribution or land to retain to cover the costs incurred by the Council in relation to the activity and its discontinuance.	GM Regulatory
114(2)	Determine what other authorities and persons are considered appropriate to be notified of a decision on a resource consent application.	Manager Consents
n/a – internal policy	Determine whether an application for financial support for resource consent processing fees for environmental enhancement projects is to be accepted or rejected, upto a	GM Regulatory

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	maximum value of \$10,000 taking into account budget availability and other factors. See ORC policy 'Financial Support for Resource Consent Processing Fees - Environmental Enhancement Projects' dated July 2021.	
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15.8 Duration of consent

Section	Function	Delegated to
124	Allow a resource consent holder to operate under an expired resource consent while the application for a new consent and any references (appeals) to the Environment Court are determined in accordance with section 124.	Team Leader Consents Principal Consents Officer
125(1A)(b)	Determine an application for extension of the lapse date of a consent.	Manager Consents

15.9 Cancellation and change of consents

Section	Function	Delegated to
126(1)	Cancel a resource consent by written notice in accordance with section 126.	Manager Compliance
126(2)	Revoke the notice of cancellation of a resource consent and determine a new period after which a new notice of cancellation may be issued in accordance with section 126.	GM Regulatory
127	Change or cancel consent condition on application by the consent holder	Principal Consents Officer

15.10 Review of consent conditions by consent authority

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Section	Function	Delegated to
128 129	Determine whether to review the conditions of a resource consent, serve notice on a consent holder of the intention to review the conditions, and propose new conditions.	Manager Consents
130	Determine whether notification of a review is required and whether a hearing be held.	Manager Consents
131 132	Change the conditions of a resource consent on a review under section 128.	Manager Consents

15.11 Determining activities are permitted activities

Section	Function	Delegated to
87BB(1)(d)	Determine that an activity is a permitted activity in accordance with section 87BB(1)(a) to (c) and advise the person proposing to undertake the activity.	Team Leader Consents Principal Consents Officer

15.12 Minor corrections

Section	Function	Delegated to
133A	Issue an amended consent that corrects minor mistakes or defects in the consent in accordance with section 133A.	Team Leader Consents Principal Consents Officer Senior Consents Officer

15.13 Transfer and surrender

Section	Function	Delegated to
136(2)(b)(ii)	Approve the transfer of a water permit in whole or in part to another person on another site or to another site in accordance with section 136.	Manager Consents
137(3)(b)	Approve the transfer of a discharge permit in whole or in part to another person or another site in accordance with section 137.	Manager Consents

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138(2)	Refuse to accept the surrender of part of a resource consent	Manager Consents
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15.14 Certificates of compliance or existing use

Section	Function	Delegated to
139(4)	Require further information to be provided in relation to a request for a certificate of compliance.	Consents Officer
139(5)	Issue a certificate of compliance.	Principal Consents Officer Team Leader Consents Senior Consents Officer
139A(3)	Require further information to be provided in relation to a request for an existing use certificate.	Consents Officer
139A(5)	Issue an existing use certificate.	Manager Consents
139A(8)	Revoke an existing use certificate in accordance with sections 139A(7) and (8).	Manager Consents

15.15 Permits over land other than that of the holders

Section	Function	Delegated to
417	To sign a certificate that defines a water race on land, as authorised by a mining privilege.	Not delegated

15.16 Direct referral

Section	Function	Delegated to
87E	Decide whether to agree to an applicant's request for direct referral of a resource consent application to the Environment Court.	GM Regulatory

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87F	Approve the content of a report prepared under section 87F on an application that has been directly referred to the Environment Court.	Manager Consents
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15.17 Objections

Section	Function	Delegated to
357C	Hear and decide objections against certain decisions under sections 357, 357A and 357B – except where the objector has requested that the matter be resolved by a hearing commissioner.	Manager Consents Manager Compliance Except that if they made the decision that is the subject of the objection the objection must be determined by their General Manager, or the CE
357AB(2)	If requested by an applicant with a right of objection under section 357A(1)(f) or (g), appoint a hearing commissioner to consider the objection in accordance with section 357AB.	Commissioner Appointed by two of the three: GM Regulatory and the co-chairs of the Regulatory Committee of Council
357C(4)	Hear and decide objections against additional charges collected under section 36(3).	GM Regulatory Manager Compliance

15.18 Consents where the ORC is the applicant

Section	Function	Delegated to
88(1)	Authority to apply for a resource consent on behalf of the ORC	GM Operations Any Harbourmaster GM Regulatory
	For all delegations covered in sections 16.1 to 16.16 of this Manual decision making will be delegated to an external, independent and appropriately qualified commissioner appointed by the Commissioner Appointment Sub Committee.	Independent Commissioner

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	All analysis, processing, report writing and support for the Independent Commissioner will be provided by an independent consultant appointed by the Manager Consents from an approved panel of consultants.	Independent Consultant
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15.19 Consent applications where the ORC may be an affected party

Section	Function	Delegated to
95B	Authority to make submissions, or provide written approval of a resource consent application on behalf of Council where it is an affected party	GM Operations GM Policy, Science and Strategy

16. Enforcement and compliance

16.1 Enforcement officers

Section	Function	Delegated to
38(1)	Authorise staff to act as enforcement officers.	Chief Executive
38(5)	Supply enforcement officers with warrants.	Chief Executive

16.2 Requirement to supply information

Section	Function	Delegated to
388	Require information to be supplied by a person exercising a resource consent as to the nature and extent of activities carried out under the consent and the effects of the activities on the environment.	Environmental Officer

16.3 Powers of entry or search

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Section	Function	Delegated to
332	Use powers of entry for inspection in accordance with section 332.	Warranted Officer where specified on warrant
333	Use powers of entry for survey in accordance with section 333.	Warranted Officer where specified on warrant
334	Authority to apply to an issuing officer for a warrant for entry to search where there are reasonable grounds to believe an offence against the RMA has been or is suspected of having been committed that is punishable by imprisonment.	Manager Compliance

16.4 Infringement notices

Section	Function	Delegated to
343B	To decide to proceed by way of filing a charging document or serving an infringement notice	GM Regulatory
343C	Where an enforcement officer observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, authority to serve an infringement notice in respect of that offence.	Team Leader Compliance Team Leader Investigations and Enforcement
343C	To commence proceedings for a defended infringement notice	GM Regulatory

16.5 Abatement notices

Section	Function	Delegated to
322	To decide to serve an abatement notice	Manager Compliance
325A	Determine that an abatement notice be cancelled, changed, or confirmed.	Manager Compliance

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16.6 Enforcement orders

Section	Function	Delegated to
316	Apply to the Environment Court for an enforcement order.	Manager Compliance
317	Where an application for an enforcement order is made, serve notice on every person directly affected by the application.	Team Leader Investigations and Enforcement
318	Give and withdraw notice of wish to be heard on an application for an enforcement order.	Team Leader Investigations and Enforcement
320	Apply to the Environment Court for an interim enforcement order.	Manager Compliance
321	If directly affected by an enforcement order, apply to the Environment Court to change or cancel the order.	Manager Compliance

16.7 Offences

Section	Function	Delegated to
338	To initiate and/or withdraw a prosecution for an offence against the RMA.	GM Regulatory GM Operations
338	If a decision has been made to prosecute, authority to file a charging document on decisions to prosecute for offences.	Manager Compliance

16.8 Water shortage direction

Section	Function	Delegated to
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329	Issue, amend or revoke a water shortage direction	GM Policy, Science and Strategy GM Regulatory
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16.9 Reclamations

Section	Function	Delegated to
355B	Authority to act against unlawful reclamations.	GM Regulatory

16.10 Emergency works

Section	Function	Delegated to
330	Power to undertake emergency works for ORC and/or other preventative measures to contain or minimise adverse effects on the environment.	Manager Engineering GM Operations
330A	Apply for a retrospective consent for emergency works	GM Operations Manager Engineering
331(1)	Require reimbursement or seek compensation for any emergency action undertaken by the Council.	GM Regulatory GM Operations
331(1A)	Apply for enforcement order under section 314(1)(d) to recover costs.	GM Regulatory

17. Court proceedings

17.1 Environment court

Section	Function	Delegated to
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120 174 192 195 Schedule 1, Clause 14 Schedule 1, Clause 27	Lodge, withdraw, or oppose an appeal to the Environment Court in relation to a resource consent, a designation, or a heritage order, plan reviews, policy statements, plan changes and new plans where the ORC is an applicant or made a submission as an affected party. This delegation includes authority to enter into mediation, approve Consent Memoranda, draft Consent orders and side agreements, appear at hearings, present evidence, deal with costs, where these arrangements or activities protect ORC's interest as either the applicant or an affected party.	Manager Consents Manager Policy & Planning GM Operations
174 179 192 195 Schedule 1, Clause 14 Schedule 1, Clause 27	Lodge, withdraw, or oppose an appeal to the Environment Court in relation to a resource consent where the ORC not an applicant or a decision maker.	GM Policy, Science and Strategy GM Regulatory
267	Participate and make decisions in Environment Court conferencing and/or appoint a representative who has authority (on behalf of Council) to participate and make decisions	Manager Consents Manager Compliance Manager Policy & Planning
268A	(1) For RMA planning matters, settle a dispute or issues at stake at mediation or other alternative dispute resolution sessions to resolve proceedings directly relating to the contents of Otago Regional Council Regional Policy Statements and Plans, including approving Consent Memoranda, draft Consent Orders and side agreements, provided that a position paper is run by the relevant committee chair prior to the officer attending mediation or other alternative dispute resolution sessions (2) For other RMA planning matters, settle a dispute or issues at stake at mediation or other alternative dispute resolution sessions, including approving Consent Memoranda, draft Consent Orders and side agreements	Manager Consents Manager Compliance Manager Policy & Planning

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	For RMA resource consent and other RMA matters, approve Consent Memoranda, draft Consent Orders and side agreements.	Manager Consents Manager Compliance Manager Policy & Planning
272 275 277A	Decide to appear at proceedings before the Environment Court and call evidence, or new evidence for the Council.	Manager Consents Manager Compliance Manager Policy & Planning
274	Lodge, withdraw, or oppose a notice of intention to become an interested party to Environment Court proceedings.	GM Policy, Science and Strategy GM Regulatory
278 279 280	Seek, withdraw, or oppose orders in accordance with sections 278, 279 and 280.	Manager Consents Manager Compliance Manager Policy and Planning
281	Lodge, withdraw, or oppose an application for a waiver or direction in accordance with section 281.	GM Policy, Science and Strategy GM Regulatory
285	Authority to approve an application for costs, respond to an application for costs, or waive the pursuit of costs in Court proceedings.	GM Policy, Science and Strategy GM Regulatory Manager Policy & Planning
291	Lodge, oppose, or withdraw a Notice of Motion (or originating application) with the Environment Court seeking an order and give or withdraw notice of a wish to be heard on an application.	GM Policy, Science and Strategy GM Regulatory
294	Apply to the Environment Court for a rehearing of its proceedings where new and important evidence has become available after the Court's decisions	GM Policy, Science and Strategy GM Regulatory
308G 311	Lodge, withdraw, join, or oppose an application for declaration with the Environment Court.	GM Policy, Science and Strategy GM Regulatory

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356	Apply to the Environment Court for a matter to be determined by arbitration	Any General Manager
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17.2 High Court

Section	Function	Delegated to
149V 299 300	Lodge, withdraw, oppose, or join an appeal to the High Court and any related applications or proceedings. Settle a dispute or issues at stake at mediation or other dispute resolution sessions. Approve Consent Memoranda, draft Consent Orders, side agreements, or other documents required to settle a matter.	Chief Executive
301	Give or withdraw notice of intention to appear and be heard on appeal in High Court proceedings.	Chief Executive
305	Lodge, withdraw, oppose, or join an appeal to the High Court.	Chief Executive
306	Lodge, withdraw, or respond to an application for an extension of time.	Chief Executive

17.3 Court of Appeal and Supreme Court

Section	Function	Delegated to
308 RMA Subpart 8 of Part 6 of Criminal Procedure Act 2011	Lodge, withdraw, join, or otherwise respond to an application for leave to appeal to the Court of Appeal, a Notice of Appeal to the Court of Appeal, or any related applications or proceedings and be heard in relation to any application or proceedings. Settle a dispute or issues at stake at mediation or other dispute resolution sessions. Approve Consent Memoranda, draft Consent Orders, side agreements, or other documents required to settle a matter.	Chief Executive

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18. Proposals of national significance

Section	Function	Delegated to
142(1)	Request that the Minister for the Environment call in a resource consent application as a matter is of national significance.	GM Regulatory
142(2) 147(4)	Provide the Council's view on a direction to be made by the Minister for the Environment.	GM Regulatory GM Policy, Science and Strategy
149	Prepare a report requested by the EPA	GM Regulatory
149B	Provide information to the EPA	Manager Consents Manager Policy and Planning
149K	Provide suggestions to the Minister on the members of a Board of Inquiry	GM Regulatory
149G 149M 149N	Prepare a report for the EPA on key planning matters relating to a called in application and provide information or comments to the EPA on proposed plans or plan changes	GM Regulatory Manager Policy and Planning
149Q(4) 149Q(5)	Provide comments to the EPA on minor or technical aspects of a draft Board of Inquiry report.	GM Regulatory GM Policy, Science and Strategy
149W(2)(a)	Amend a proposed plan, change, or variation under clause 16(1) of Schedule 1 as if the decision were a direction of the Environment Court under section 293.	GM Policy, Science and Strategy
149(ZD)	Recover actual and reasonable costs of a process involving a matter of national significance.	GM Regulatory GM Policy, Science and Strategy

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19. Water conservation orders

Section	Function	Delegated to
205 209 211	To make a submission to a special tribunal on a water conservation order, appeal to the Environment Court and power to be heard in person or be represented by another person at an inquiry conducted by the Environment Court under section 210.	GM Regulatory GM Policy, Science and Strategy

20. Designations

Section	Function	Delegated to
168	Authority to give notice of a requirement for a designation to a territorial authority.	GM Operations
172	Authority to make a decision on a recommendation on a notice of requirement for a designation	GM Operations
174	Authority to appeal a decision of the territorial authority relating to a designation	GM Operations
176 178	Authority to approve activities on land affected by a designation	GM Operations
176A	Prepare an outline plan to be constructed on designated land	Manager Engineering
181 182	Authority to amend or remove a designation	GM Operations
184	Authority to seek extension of a designation before lapsing	GM Operations
195	Authority to appeal a matter subject to a heritage order	GM Operations

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21. Other RMA matters

Section	Function	Delegated to
80 186	Power to acquire land	Chief Executive
237D	Transfer of land to the Crown or regional council	Chief Executive
245	To approve or decline a plan of make a submission to a special tribunal on a water conservation order, appeal to the Environment Court and power to be heard in person or be represented by another person at an inquiry conducted by the Environment Court under section 210.To approve or decline a plan of survey of a consented reclamation.	Not delegated

22. Regulations

22.1 Measurement and Reporting of Water Takes

Regulation	Function	Delegated to
6(5)	Approving format of records	Manager Consents
7(4)	Determining whether the certifier is suitably qualified	Manager Consents; or Manager Compliance; or Manager Consent Systems and Administration
8(4) 8(6)	Authority to request evidence from the consent holder	Consents Officer
9	Approval to measure water taken each week (instead of each day).	Team Leader Consents; or Team Leader Compliance
10	Approval to use device or system installed near (instead of at) location from which water is taken.	Manager Consents; or Manager Compliance; or Manager Consent Systems and Administration

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11	Authority to revoke approval granted under regulations 9 or 10.	Manager Consents; or Manager Compliance
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22.2. Resource Management (Forms, Fees, and Procedure) Regulations 2003

Section	Function	Delegated to
Clause 10A(2)	Require a notice to be affixed in a conspicuous place.	Manager Consents

23. Regional Plan: Water for Otago

Section	Function	Delegated to
Rules: 12.1.2.4, 12.1.1.5, 12.2.2.2, 12.2.2.5 and 12.2.2.6	To suspend permitted activity takes of water as provided for in the Regional Plan: Water for Otago.	GM Policy, Science and Strategy

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PART F: REGULATORY DELEGATIONS - OTHER

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PART F: REGULATORY NON-RMA DELEGATIONS

24. Council bylaws

24.1 Navigation Safety Bylaw 2019

The Otago Regional Council Navigation Safety Bylaw 2019 establishes a range of responsibilities, obligations and rules for the purpose of ensuring maritime safety for the waters in the Otago region as defined in the bylaw.

Except as provided below, delegations for the Navigation Safety Bylaw 2019 are provided for in the Maritime Transport Act 1994 and the Bylaw itself.

	Function	Delegated to
Otago Regional Council written approval		
	For issuing or refusing any written approval on behalf of the Council.	GM Regulatory

24.2 Flood Protection Management Bylaw 2012

Clause	Function	Delegated to
Authority to carry out work		
5.1	To approve/refuse authority under the Bylaw, including granting authority on such conditions as are considered appropriate.	Manager Engineering, except where ORC is the applicant then this is delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
5.2	Determining, refunding, remitting or waiving the whole or any part of any fee payable under the Bylaw.	GM Operations; or GM Regulatory except where ORC is the applicant then this is

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		delegated to an independent decision maker(s) appointed by any two of the following: GM Regulatory and co-chairs of the Regulatory Committee.
Compliance and Enforcement		
6.1	Revocation of an authority granted under the Bylaw	Manager Engineering
6.3	Issue a notice to remedy	GM Regulatory GM Operations
6.4	Authorisation of removal of works and cost recovery	refer Local Government Act 2002 delegations

25. Biosecurity Act 1993

The Biosecurity Act 1993 contains legislative provisions and powers to enable the effective implementation, including enforcement, of a regional pest management plan. The Act provides powers to a Principal Officer (Chief Executive) and Authorised Persons (who are appointed by the Chief Executive under section 105(1) of the Act).

In addition to the functions and powers delegated by the Chief Executive to “authorised persons” the following functions and powers are delegated.

Section	Function	Delegated to
13(1)(a)	Power to carry out monitoring and surveillance of pests, pest agents, and unwanted organisms for the purposes of Part 5 of this Act	Team Leader Biosecurity
13(1)(b)	Power to provide for the assessment and management or eradication of pests	Team Leader Biosecurity
70-75	Prepare and review a regional pest management plan	GM Operations to make recommendations to Council

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76,96	Lodge, withdraw or oppose an application to the Environment Court Settle a dispute or issues at stake at mediation or other alternative dispute resolution sessions Approve Consent Memoranda, draft Consent Orders and side agreements Decide to appear at proceedings before the Environment Court and call evidence for the Council	GM Operations
78	Exempt a person from a requirement in a rule in a regional pest plan.	Manager Biosecurity and Rural Liaison
90-95	Prepare and review a regional pathways management plan	GM Operations to make recommendations to Council
98	Exempt a person from a requirement in a rule in a regional pathways management plan	Manager Biosecurity and Rural Liaison
100M 100N	Recovery of a levy as a debt due	GM Operations
100V	Prepare a small scale management programme	GM Operations can make recommendations to council
122	Power to issue/withdraw a Notice of Direction	Authorised Person
128	Power to act on default and authorise action for work and recover costs of that action	GM Operations
129	Power to put a charge on the property	GM Corporate
130	Power to declare a restricted place	Team Leader Biosecurity
131	Declare a specified area to be a controlled area	GM Operations
135	Power to recover costs of administering the Biosecurity Act 1993 and performing the functions, powers and duties provided for in the Act in accordance with section 135 and regulations	Manager Biosecurity and Rural Liaison in conjunction GM Corporate as to the methods used
154	Power to issue/withdraw a Compliance Order	Manager Biosecurity and Rural Liaison
154M	To initiate and/or withdraw a prosecution for an offence under this Act	GM Operations

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154N 154O	Authority to file a charging document that has been laid in relation to a prosecution	
159	Commence, withdraw or join proceedings in respect of infringement offences	GM Operations

26. The Building Act 2004

Otago Regional Council is a regional authority under the Building Act 2004. Regional authorities have several functions, powers and duties in relation to dams. Under a 2008 Deed of Transfer the Council exercises certain functions powers and duties under the Building Act for both Environment Southland and the West Coast Regional Council.

The table below lists the delegations for the Building Act functions exercised by ORC. The Building Act requires persons exercising authority to have requisite qualifications and experience and limits the scope of authorities exercised by any individual to the extent of their registrations under the Act.

ORC uses qualified external advisers to ensure the quality and technical proficiency of the advice that it uses in making decisions under the Building Act.

Section	Function	Delegated to
Project Information Memorandum (PIM) functions		
31 34	Issue and re-issue a PIM in certain circumstances and provide a copy of a PIM to the applicant as required.	Senior Consents Officer or Consents Officer with Building Act responsibilities
33	Determine further information required in relation to a PIM application.	Senior Consents Officer or Consents Officer with Building Act responsibilities
36	Attach development contribution notice.	Senior Consents Officer or Consents Officer with Building Act responsibilities

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37	Issue a certificate if a resource consents is required	Senior Consents Officer or Consents Officer with Building Act responsibilities
38	Provide copy of PIM to network utility operator(s) and/or statutory authority, if required.	Senior Consents Officer or Consents Officer with Building Act responsibilities
39	Advise Heritage New Zealand Pouhere Taonga of PIM application, if required.	Senior Consents Officer or Consents Officer with Building Act responsibilities
45	Receive additional information.	Senior Consents Officer or Consents Officer with Building Act responsibilities
Building Consents		
45(1)(c)	Require additional information as part of a building consent application.	Senior Consents Officer or Consents Officer with Building Act responsibilities
45A	Deciding to grant a minor variation to a building consent	Principal Consents Officer or Manager Consents
47(3)	Proceeding to determine a building consent application without an NZFSC memorandum	Senior Consents Officer or Consents Officer with Building Act responsibilities
48(1)	Deciding on a building consent application or an application for a minor variation	Principal Consents Officer or Manager Consents
48(2)	Deciding whether further information is required	Senior Consents Officer or Consents Officer with Building Act responsibilities
49	Deciding to grant a building consent	Principal Consents Officer or Manager Consents

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49(2)	Declining to grant a building consent until any charges or levies payable are paid	Principal Consents Officer or Manager Consents
50	Refusing the application for a building consent	Principal Consents Officer or Manager Consents
51(3)	Deciding whether or not to grant a building consent in the absence of a PIM	Principal Consents Officer or Manager Consents
52(b)	Allowing a lapse period beyond 12 months for a building consent	Manager Consents
Building Levies		
53(2)	Determining the estimated value of building work for the purposes of calculating levies	Senior Consents Officer or Consents Officer with Building Act responsibilities
62(2)	Recovery of unpaid levies from a building consent applicant	Principal Consents Officer or Manager Consents
Waivers and Modifications		
67(1) 67(2)	Decision to grant an application for a building consent subject to a waiver or modification and to impose any conditions	Principal Consents Officer or Manager Consents
Construction of dams on land subject to natural hazards		
71(2)	Determining whether adequate provision has been made in respect of certain aspects relating to natural hazards	Senior Consents Officer or Consents Officer with Building Act responsibilities
72	Determining whether the matters in s72 relating to natural hazards are satisfied	Senior Consents Officer or Consents Officer with Building Act responsibilities
74(3)	Determining whether the matters in s74(3) apply	Senior Consents Officer or Consents Officer with Building Act responsibilities
83(3)	Deciding to approve the removal of entry on a certificate of title	Senior Consents Officer or Consents

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		Officer with Building Act responsibilities
Inspections by Building Consent Authorities		
90	Inspect land on which building work is being or is proposed to be carried out; building work that has been or is being carried out on or off the building site and any building.	Chief Executive or Officer warranted under the Building Act
Code Compliance Certificates		
93(1) 93(4) 94	Deciding whether to issue a code compliance certificate	Principal Consents Officer or Manager Consents
93(2)	Agreeing on a period beyond two years for an application for a code compliance certificate	Principal Consents Officer or Manager Consents
93(4)	Requiring further information in relation to an application for a code compliance certificate	Senior Consents Officer or Consents Officer with Building Act responsibilities
Certificates of acceptance		
96(1) 98(1)	Deciding whether to issue a certificate of acceptance	Principal Consents Officer or Manager Consents
97(c)	Specifying any additional information that is required to be lodged with an application for a certificate of acceptance	Senior Consents Officer or Consents Officer with Building Act responsibilities
98(2)	Requiring further information in relation to an application for a certificate of acceptance	Senior Consents Officer or Consents Officer with Building Act responsibilities
99(2)	Qualifying a certificate of acceptance to the effect that only parts of the building work were able to be inspected	Manager Consents
Compliance schedule		
95A	Refusal to issue code compliance certificate	Principal Consents Officer or Manager Consents

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102(1)	Deciding whether to amend a compliance schedule in response to an application to do so	Principal Consents Officer or Manager Consents
102(2)	Issue a Compliance Schedule under s102(1)	Principal Consents Officer or Manager Consents
106(3)	Specifying the information that is required to be lodged with an application for an amendment to a compliance schedule	Senior Consents Officer or Consents Officer with Building Act responsibilities
106(4)	Deciding whether to amend a compliance schedule in response to an application to do so	Principal Consents Officer or Manager Consents
106(5)	If the compliance schedule is amended, give notice of the amendment to the owner	Senior Consents Officer or Consents Officer with Building Act responsibilities
106(6)	Give written notice and reasons why the amendment to the compliance schedule has been refused.	Senior Consents Officer or Consents Officer with Building Act responsibilities
107(2)	Deciding whether to amend a compliance schedule on the council's own initiative	Manager Consents
Annual Building Warrant of Fitness		
109(c)	Deciding to accept a recommendation to amend a compliance schedule arising from the annual building warrant of fitness	Manager Consents
110(c)	Requirement to produce compliance schedule reports under s110(a)	Manager Consents
111(1)	Decision to inspect building work or specified systems where a compliance schedule has been issued	Manager Consents
111(2)	Charging of a fee for inspections under s111	Manager Consents
Alterations to existing buildings		
112	Decision to grant building consent for an alteration to an existing building	Principal Consents Officer or Manager Consents

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113	Dealing with buildings with less than a 50 year life	Principal Consents Officer or Manager Consents
Change of use, extension of life and subdivision of land		
115	Decision to allow the change of use of a building	Principal Consents Officer or Manager Consents
116(1) 116(3)	Decision to allow the extension of the life of a building	Principal Consents Officer or Manager Consents
Classification of Dams		
134A(1)	Requiring an owner to classify a referable dam	Principal Consents Officer or Manager Consents
136(1) 136(2)	Decision to approve or refuse a dam classification	Principal Consents Officer or Manager Consents
138(1)	Requiring the re-audit of a classification	Manager Consents
138(2)	Specifying a period beyond 15 working days for a dam classification re-audit	Manager Consents
Dam safety assurance programmes		
143(1)	Decision to approve or refuse to approve a dam safety assurance programme	Principal Consents Officer or Manager Consents
145(2)	Requiring a period beyond 15 working days for a dam safety assurance programme to be re-audited	Manager Consents
146(2)(b)	Requesting a review of the dam safety assurance programme for an earthquake-prone or flood-prone dam	Manager Consents
148(a)(iii)	Decision on keeping a dam safety assurance programme in a place agreed by the Regional Council and the owner	Senior Consents Officer or Consents Officer with Building Act responsibilities
Register of dams		

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151	Maintain a register of dams in Otago	Senior Consents Officer or Consents Officer with Building Act responsibilities
Dangerous dams		
154(1)	Determine that a dam is dangerous in terms of s153 and take action as set out in s154(1)(a), (b) and (c).	Manager Engineering or Manager Consents
155(1)(b)	Determining whether building consent is required in respect of work required by a notice to fix	Manager Engineering or Manager Consents or Manager Compliance
156(1)	Apply to a District Court for an order enabling the Otago Regional Council to carry out building work.	GM Regulatory GM Operations
156(3)(b)	Recover costs of carrying out work under s156(1) from the owner.	GM Regulatory GM Operations
157(2)	Decision to take action to avoid immediate danger.	GM Regulatory GM Operations
157(3)(b)	Decision to recover costs of taking action under section 157(2).	GM Regulatory GM Operations
158	To make an application to the District Court to confirm warrant for emergency work on a dam	GM Regulatory GM Operations
Issuing Notices to Fix		
164	Determination that a notice to fix should be issued, or should be issued by another authority	Manager Engineering; or Manager Consents; or Manager Compliance

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165(1)	Determination of the matters relevant to issuing a notice to fix and the scope and nature of a notice to fix.	Manager Engineering; or Manager Consents; or Manager Compliance
167	Inspection of building work carried out in accordance with a notice to fix, a decision to confirmation or refuse to confirm that a notice to fix has been complied with and a decision to issue a further notice to fix if required.	Manager Engineering; or Manager Consents; or Manager Compliance
Determinations		
177 180	Making and withdrawing an application for a determination	GM Regulatory
182(2)	Commencement of proceedings in the High Court where the matter has been the subject of a determination	GM Regulatory
185(2)(b)	Agreeing on a period beyond 60 workings days for making a determination	GM Regulatory
189(b)(ii)	Agreement to amendment of a determination for clarification purposes	GM Regulatory
190(3)	Filing a direction to the District Court as to costs in respect of a determination	GM Regulatory
Registration and Accreditation as Building Consent Authority		
194	Making application for registration as a building consent authority	GM Regulatory
252(4)	Request to change the scope of accreditation	GM Regulatory
253	Application for accreditation to perform Building Consent Authority functions	GM Regulatory
200 202	Make submissions and respond to complaints or to an investigation	GM Regulatory
276(2)(b)	To make submissions on a review of the regional authority	GM Regulatory
Appeals		

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208 209	Appealing a decision of the CEO of the Ministry responsible for the administration of the Building Act	Chief Executive
Carrying out building work on default		
220(2)	Making application to the District Court for an order in respect of building work required to be done	GM Regulatory
220(4)(b)	Recovery of costs associated with carrying out building work authorised under s220(2)	GM Regulatory
221	Disposal, sale, etc. of materials that result from carrying out building work authorised under s220(2)	GM Regulatory
222	To authorise persons to carry out inspections under the Act	Chief Executive
Responsibilities of a BCA that is not a Territorial Authority		
240(2)	Refusal to perform functions under the Building Act where fees, charges or levies are unpaid	Manager Consents
243	Power to impose fees or charge and recovery of costs and to collect levies	Manager Consents
Fees and charges		
281A 281B 281C 219	Setting fees, imposing fees and charges, charging of a fee for the issue of compliance schedule, increasing the amount of a fee or charge to meet additional costs, and waiving or refunding a fee – consistent with the Council's fees and charges policy	Manager Consents
Other matters		
315(1)	Making a complaint about a licensed building practitioner.	Manager Consents
363A(2)	Deciding whether to issue a certificate for public use	Principal Consents Officer or Manager Consents
363A(5)	Deciding and requesting further reasonable information	Principal Consents Officer or Manager Consents
403(4)(b)	Making submissions as an 'interested person' to proposed Orders in Council or regulations	GM Regulatory

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Schedule 1, part 1, clause 2	Deciding whether a building consent is not necessary	Manager Consents
Offences		
371(2)	Commencement of proceedings where an infringement notice has been issued	GM Regulatory
372	Issuing an infringement notice	Warranted Officer where specified on warrant
372B(2)	Authorising officers to issue infringement notices	Chief Executive
377	Filing a charging document	GM Regulatory
381(1) 381(2)	Making an application to the District Court for an injunction	Chief Executive

27. The COVID-19 Recovery (Fast-Track Consenting) Act 2020

In 2020, Central Government introduced the COVID-19 Recovery (Fast-track Consenting) Act 2020. The purpose of this Act is to fast-track projects that can boost employment and economic recovery. The Environmental Protection Authority (EPA) is the Government Department responsible for this legislation and for administering the process. Decisions on applications that use this process are made by Expert Consenting Panels. Membership of these panels can include those nominated by relevant local authorities.

Section	Function	Delegated to
Clause 3(2) of Schedule 5	Nominate a person to be part of an Expert Consenting Panel set up under the COVID-19 Recovery Act 2020.	Council Chairperson

28. The Crown Minerals Act

The Crown Minerals Act provided transition provisions for mining licence issued under the Mining Act 1971 which was repealed in 1991. There is now only one residual section left in schedule 1 of the Crown Minerals Act 1991 that refers to Regional Councils.

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Section	Function	Delegated to
Schedule 1 clause 16	Require the holder of a coal mining right to increase the amount of bond or deposit.	GM Regulatory
Schedule 1 clause 16	To make a determination whether the holder of an existing mining privilege has complied with the terms and conditions of the privilege.	GM Regulatory

29. The Local Government Act 2002

Section	Function	Delegated to
162	Apply for injunction restraining a person committing a breach of a Bylaw or an offence against this Act	GM Regulatory GM Operations Any Harbourmaster
163	Removal or alteration of work or thing that is or has been constructed in breach of a bylaw and recovery of costs.	GM Regulatory GM Operations Any Harbourmaster
164	To seize and impound property not on private land	Warranted officer where specified on warrant
165	To seek a search warrant	GM Regulatory GM Operations Any Harbourmaster
168	To dispose of property seized and impounded	GM Regulatory GM Operations Any Harbourmaster
171	Power of entry.	Warranted officer where specified on warrant
172	Power of entry for enforcement purposes.	Warranted officer where specified on warrant
173	Powers of entry in cases of emergency.	Warranted officer where specified on warrant

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174	Authority to appoint an authorised person and issue warrants for the purposes of: <ul style="list-style-type: none"> • Local Government Act 2002 • Building Act 2004 • Otago Regional Council Bylaws • Soil Conservation and Rivers Control Act 1941 • Land Drainage Act 1908 	Chief Executive
174	Authority to act.	Warranted officer where specified on warrant
175	Power to recover costs of damage.	GM Operations GM Regulatory
176	Power to recover costs of remedying damage arising from breach of bylaw.	GM Operations GM Regulatory
177	Authority to appoint enforcement officers and issue warrants.	Chief Executive
181	Authorise construction of works on or under private land, or under a building on private land, considered necessary for land drainage and rivers clearance.	Manager Engineering
181(4)	Enter land to inspect, alter, renew, repair, or clean any work constructed under section 181.	Manager Engineering
182	Power of entry to check utility services.	Warranted officer where specified on warrant
185	Grant approval for occupier to undertake work	Manager Engineering
186	To approve works if owner or occupier defaults	GM Operations GM Regulatory
187	To approve the recovery of costs	GM Operations GM Regulatory
189 190	Power to acquire land	Chief Executive
224-236 238-239	To initiate or withdraw a prosecution for an offence against this Act.	GM Operations GM Regulatory

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241	Authority to file charging document.	GM Operations GM Regulatory
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30. Land Transport Management Act 2003

Section	Function	Delegated to
116(2)	Duty of regional council to contract for the provision of every unit on an exclusive basis	GM Operations
121	Obligations regarding notification and provision of copies of plans	GM Operations
127	Power to (1) require information from operators of public transport services, including patronage and fare revenue data and (2) disclose other data to a person who is registered by the regional council to tender for the provision of a unit.	Manager Transport
128	Power to make decisions on the release of information and a duty to consult with relevant organisations.	Manager Transport
129	Power to make decisions on release of information and duty to consult with organisation	Manager Transport Legal Counsel
133	Authority to make decisions regarding the notification of a proposal to operate or vary exempt services.	Manager Transport
134	Authority to decide on the grounds in section 134 to decline registration or variation of exempt services.	Manager Transport
136	Authority regarding the registration of exempt services or variations to exempt services	Manager Transport
137	Authority to decide to deregister an exempt service and remove details of variations	Manager Transport
138	Authority to undertake the process for deregistering exempt services or removing details of variations	Manager Transport

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139	Authority to make decisions in relation to the withdrawal of exempt services	Manager Transport
146	Authority to require a person to produce and inspect records.	GM Operations
147	Authority to manage offences , including making decisions to initiate or withdraw a prosecution.	
148		
149		

31. Maritime Transport Act 1994

For the purpose of ensuring maritime safety in the Otago region, Council is empowered to regulate (1) ports, harbours, and waters in the region and (2) maritime related activities in the region.

Section	Function	Delegated to
Navigation safety		
33D(1)	Appoint a harbourmaster for any port, harbour or waters in the Otago region.	Chief Executive
33F	To initiate or withdraw a prosecution for an offence for contravening a direction or requirement under section 33F	Any Harbourmaster
33G	Appoint enforcement officers and honorary enforcement officers for the purpose of ensuring maritime safety or enforcing navigation bylaws, and regulations and rules under this Act	Chief Executive
33I	To undertake harbour works for the purpose of ensuring maritime safety.	Any Harbourmaster
33J	Remove and deal with any wreck within the Otago region that is a hazard to navigation safety.	Any Harbourmaster
33L	Remove, store, sell, or otherwise dispose of an abandoned ship.	Any Harbourmaster
33M	Consult with the Director of Maritime New Zealand in preparing Navigation Safety bylaws.	Any Harbourmaster
33N	To initiate or withdraw a prosecution for an offence for contravening a navigation bylaw.	Any Harbourmaster
33O 33P	Approve the filing of a charging document to prosecute an infringement offence.	Any Harbourmaster

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200(3A)	To erect, place, and maintain navigation aids in accordance with section 33I	Any Harbourmaster
Maritime response		
231	Authority to notify the Director of Maritime Safety and process matters relating to the Council's notification responsibilities.	Any Harbourmaster
Appointment of Regional On-scene Commander		
318	Authority to appoint a Regional On-scene Commander for the Otago region.	Chief Executive

32. River Engineering

Council has extensive functions in relation to river engineering which fall under a number of different statutes. These delegations should be read alongside the delegations made under the Local Government Act 2002, and the delegations made under the Flood Protection Management Bylaw 2012.

32.1 Land Drainage Act 1908

Section	Function	Delegated to
17	Authority to construct and maintain drains and watercourses.	Manager Engineering Manager Natural Hazards
18	Entry to lands for inspection, survey, or inquiry.	Warranted Officer where specified on warrant
62	Order removal of an obstruction from a watercourse or drain where the obstruction is causing or likely to cause damage to any property. Authority to remove any obstruction from a watercourse or drain	Manager Engineering Manager Natural Hazards Manager Compliance
n/a	Consider and make decisions on taking enforcement action, including cost recovery and registration of a charge	GM Operations GM Regulatory

32.2 Public Works Act 1981

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Section	Function	Delegated to
18	Prior negotiation required for acquisition of land for essential work	GM Operations
19	Authority to register, approve amendments to or to withdrawals or discharges of compensation certificates. Authority to sign an authority and instruction form for the above purposes	GM Operations GM Corporate
110	Power of entry onto private land for the purposes of carrying out any public work or any proposed public work.	Manager Engineering,
111	Power of entry onto private land for survey and investigation purposes.	Manager Engineering
133 134	Provide for the removal of trees and hedges that interfere with public works.	Manager Engineering,
135	Emergency work on trees	Manager Engineering
233 234	Obligation to provide notice before entry onto private land.	Manager Engineering
237	Approve excavations near public works.	Manager Engineering
238	Power to bring action for damage to public work.	GM Operations
239	Power to remove and/or dispose of abandoned property from public works land.	GM Operations
242	Consider and make decisions on taking enforcement action for offences committed.	GM Operations
242	Authority to file charging document for enforcement action.	GM Operations

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32.3 Water and Soil Conservation Amendment Act 1971 (carried over by S413 RMA)

Section	Function	Delegated to
12	Issue a certificate of priority.	Team Leader Consents
14(1)(d)	Direct a privilege holder to stop water running to waste.	Warranted Enforcement Officer under the RMA
14(1)(g)	Require structures permitting private or public access over water races to be kept in good repair and condition.	Warranted Enforcement Officer under the RMA
14(1)(h)	Require privilege holder to record and report information concerning the exercise of the privilege.	Team Leader Consents Team Leader Compliance
14(2)	Give directions for the repair, strengthening or otherwise of dams	Manager Consents Manager Compliance
16(2)	Determination of what is a reasonable quantity of domestic needs of animals or for firefighting.	Manager Consents Manager Compliance
30	Provide certified copies of privileges	Team Leader Consents

32.4 Soil Conservation and Rivers Control Act 1941

Council has the functions, duties, and powers of a catchment board and a regional water board under the Soil Conservation and Rivers Control Act 1941 in accordance with the 1989 local government reorganisation *Gazette* notice.

Section	Function	Delegated to
30A	To certify that a land improvement agreement has expired or has been terminated	Legal Counsel
30A	Enforcement in relation to Land Improvement Agreements	GM Corporate

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30A	To determine requests for consents and approvals as a consequence of the Council having an interest in land by virtue of a land improvement agreement	Legal Counsel
30A	To authorise the release/discharge of a land improvement agreement on behalf of Council	GM Corporate
126	To carry out its functions under the Act, including the power to construct, reconstruct, alter, repair, and maintain works to control of regulate water to prevent or lessen the overflow or breaking of the banks of any watercourse	Manager Engineering Manager Natural Hazards
131	To determine to carry out or execute any works that the Council is empowered to undertake under this Act.	Manager Engineering Manager Natural Hazards
132	Power to enter land for survey and investigation	Manager Engineering Manager Natural Hazards
133	Decide to undertake work to maintain and improve watercourses and defences against water and authorise other staff and agents to undertake such works Decide to undertake urgent work to meet an emergency in respect of any watercourse or defences against water and authorise other staff and agents to undertake such works.	Manager Engineering Manager Natural Hazards
134(1)	Approve the planting or sowing and maintenance of trees, shrubs, plants, or grasses.	Manager Engineering Manager Natural Hazards
135	Decide to take any of the actions listed in section 135.	Manager Engineering Manager Natural Hazards
136	Where works may interfere with any road, street, footpath, or any other public work, give one months' notice (in writing) to the body in control of the road, street, footpath, or other public work.	Manager Engineering
137	Approval to give public notice or to undertake works on private land and resolve any objections.	Manager Engineering

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		Manager Natural Hazards
138	To apportion costs with owners of land	GM Operations
139	To purchase land on a system of time payment (if approved by the Minister)	Chief Executive
153, 154	Consider and take all enforcement action as necessary and appropriate in relation to any person preventing, obstructing, or impeding the Council in carrying out the provisions of this Act, or doing any work or thing authorised by the Act.	GM Operations
153,154	Consider and take all enforcement action as necessary and appropriate in relation to any person that wilfully destroys any watercourse or defence against water, including all matters set out in Section 154.	GM Operations
153,154	Authority to file charging document when enforcement action is approved	GM Operations

33. Civil Defence Emergency Management Act 2002

The Otago CDEM Group is established under section 12 of the Civil Defence Emergency Management Act 2002 and is made up of representatives from each of the local authorities in the Otago region. This Group is responsible for managing civil defence in the region. Every local authority must be a member of a CDEM Group.

Section	Function	Delegated to
13(1)	Authority to represent the Council and act on its behalf on the Civil Defence Emergency Management (CDEM) Group under section 13(1) of the Civil Defence Emergency Management (CDEM) Act 2002	The Chairperson of the Council (or an elected member of Council approved by the Chairperson)
20	Membership of the CDEM Co-ordinating Executive Group	Chief Executive (or a person acting on the Chief Executive's behalf)

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Explanatory Note: The Civil Defence Emergency Management Co-ordinating Executive Group is responsible for:

- a) Providing advice to the CDEM Group (and advisory groups) and implementing its decisions.
- b) Overseeing the development, implementation, monitoring and evaluation of the CDEM Group Plan.

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7.8. Regional Shared Services

Prepared for:	Council
Report No.	CS2213
Activity:	Governance Report
Author:	Robert Body, Chief Information Officer Nick Donnelly, General Manager Corporate Services
Endorsed by:	Sarah Gardner, Chief Executive
Date:	23 February 2022

PURPOSE

- [1] To seek Council's endorsement for ORC to become a shareholder in a proposed regional sector shared services organisation (RSHL – Regional Software Holdings Limited) and seek approval to prepare documentation to undertake consultation on that proposal.

EXECUTIVE SUMMARY

- [2] RSHL is an existing Council Controlled Organisation (CCO) created to facilitate collaboration and cost sharing for various initiatives. It was created over ten years ago primarily to support development of IRIS (Integrated Regional Information System). The shareholders of RSHL are the six original IRIS councils (Northland, Waikato, Taranaki, Horizons, West Coast, Southland).
- [3] Over time, the remit of RSHL has expanded to provide additional shared services for regional and unitary authorities. This includes financial management of sector shared projects (LAWA, Sector Group Office, and shared funding projects) and delivery of shared technology projects (Wells, LIDAR programme management, IRIS NextGen Integrated National Farm Data Platform).
- [4] ORC is an active participant in many of these projects. Participating agencies fund each project through contractual agreements which share cost, benefit, and risk across participants. The six shareholders of RSHL are not exposed to project costs or risks for projects they are not participating in.
- [5] At the Regional Chief Executives Group meeting on 3 August 2021, the business case for the creation of a Regional Sector Shared Services Organisation was tabled for approval. The creation of a Regional Sector Shared Services Organisation (RSSSO) was considered as a step forward for the sector, and an important foundational building block for future collaboration and delivery of shared services and initiatives.
- [6] The regional sector, through the regional Chief Executive forum, is proposing a new RSSSO is established to consolidate existing collaboration programmes and put in place a fit for purpose structure to enable the sector to respond quickly to shared issues and opportunities while sharing cost and resources. It will also provide a platform for future strategic regional sector shared services initiatives.

- [7] The intention is to create a Council Controlled Organisation (CCO) based on the current Regional Services Holdings Limited (RSHL) model. RSHL is an existing shared services CCO owned by six regional Councils. For the 2022/23 financial year the intention is for EMAR / LAWA and Regional Sector Offices to transfer to the new entity.
- [8] The new RSSSO entity will deliver more services over time. Shared staff resources, consenting hubs, shared data management systems have been suggested to date.
- [9] ORC has the opportunity to become a shareholder in a new RSSSO entity. This would give ORC an ownership stake in the new entity and enable it to hold governance positions and help set and oversee the direction of the new entity. Alternatively, ORC may choose not to become a shareholder and effectively choose to continue participating in regional collaborative opportunities as a customer of the new entity only.
- [10] ORC would continue to decide which projects and services it participates in, as it does today. Costs, benefits, and risks for each RSSSO project or service are shared by the participating councils by way of contractual agreements. The costs and risks are not carried by the non-participating shareholders of the RSSSO entity.
- [11] If ORC wishes to become a shareholder in a CCO, consultation is required under the Local Government Act 2002 (LGA 2002).
- [12] This paper was originally presented to Council on 9 December 2022. Council requested more information around any risk to ORC around shareholder exposure to cost overruns in projects undertaken by the CCO. This risk has been explained above and the attached briefing paper and business case include further information on risk and benefits associated with this proposal.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.
- 2) **Endorses** the establishment of a regional sector shared services organisation.
- 3) **Endorses** ORC becoming a shareholder in a regional sector shared services organisation once that entity is established.
- 4) **Approves** the preparation of consultation documentation as required under the Local Government Act 2002 to enable consultation to be undertaken on ORC becoming a shareholder in a new regional sector shared services organisation.
- 5) **Authorises** the Chief Executive to provide a letter to Regional Services Holdings Limited, indicating ORC's intent to become a shareholder in the proposed new regional sector share services organisation.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [13] There are no strategic framework or policy considerations.

Financial Considerations

- [14] There are no financial considerations of becoming a shareholder of the proposed CCO as all costs of that entity are fully reimbursed and indemnified by ORC participating in various work streams. However, there may be costs and/or savings as a result of participation in shared work programmes delivered by the entity.

Significance and Engagement

- [15] Under s.56 of the Local Government Act 2002 (LGA 2002) consultation is required via a special consultative process (s.82 of the LGA 2002) before ORC can establish or become a shareholder in a CCO or CCTO.

Legislative and Risk Considerations

- [16] There are legislative requirements around becoming a shareholder in a CCTO as outlined above.

Climate Change Considerations

- [17] There are no climate change considerations.

Communications Considerations

- [18] There are no communications considerations other than the requirement to consult as outlined above.

NEXT STEPS

- [19] If approved, a consultation document would be prepared and presented back to Council for approval to proceed with consultation in early 2022.

ATTACHMENTS

1. Letter to councils regarded RSSO Membership ORC [7.8.1 - 2 pages]
2. Regional Sector Shared Services Briefing Paper September 2021 [7.8.2 - 4 pages]
3. Regional Sector Shared Services Business Case [7.8.3 - 42 pages]



Council
Collaboration
Into Action

Sarah Gardner
Otago Regional Council
Private Bag 1954
Dunedin 9054

–

22 September 2021

RE: Creation of a Regional Sector Shared Services Organisation.

Tēnā koe Sarah,

At the Regional Chief Executives Group meeting on the 3rd of August 2021 the business case for creation of a regional sector shared services organisation was tabled for approval.

The business case is included with this letter, as is a briefing paper for council senior staff and councillors.

The Chief Executive Group passed the following resolutions at the meeting:

- APPROVE the Regional Sector Shared Services Organisation Business Case.
- AGREE to the creation of a Regional Sector Shared Services Organisation.
- AGREE to allocate the sum of \$75k under the 2021-22 Sector Business Plan to develop the organization.
- AGREE to seek a letter of intent from the 16 Regional Sector Organisations to become a shareholder of the new organisation.

With respect to the fourth resolution, could you please outline your councils' intentions with respect to becoming a shareholder of the new organisation. Specifically:

- If you intend to become a shareholder at the establishment of the new company,
- Whether you expect to undertake community consultation on this matter,
- Any specific questions or issues that your council would expect to be resolved prior to becoming a shareholder.
- Your point of contact for this initiative.

Please provide this response as soon as possible, but at the latest, by 15 October 2021.

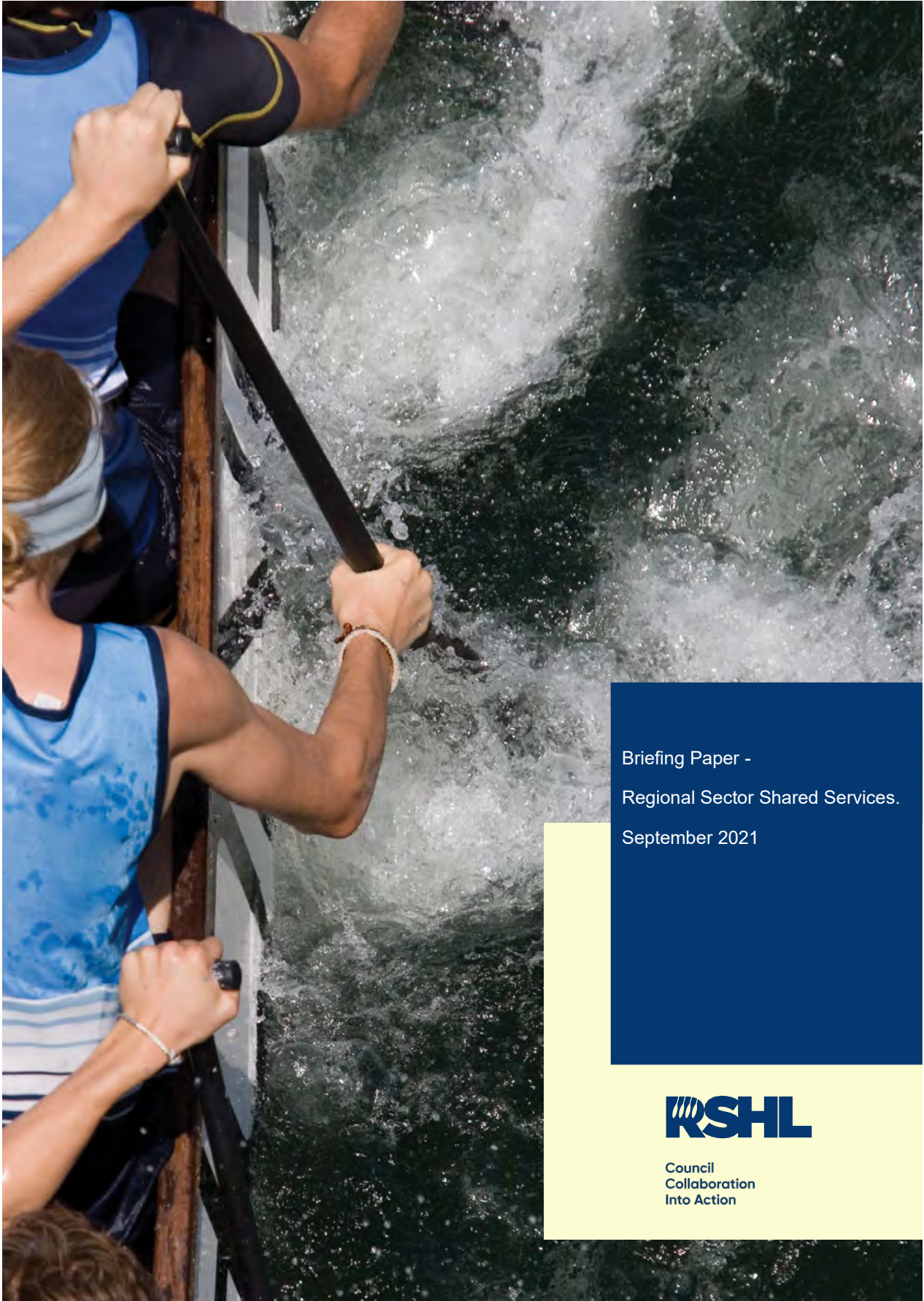
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Into
action.

The creation of a Regional Sector Shared Services organisation is an exciting step forward for the sector, and an important foundational building block. We thank you for your support of this important work.

Nāku iti noa, nā

A handwritten signature in black ink, appearing to read 'M.D.', with a large, sweeping underline that loops back to the left.

Mark Donnelly
General Manager
Regional Software Holdings Limited.



Briefing Paper -
Regional Sector Shared Services.
September 2021



Council
Collaboration
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Introduction

On the 3rd of August 2021 the Regional Chief Executive Officers Group approved a business case for the development of a Regional Sector Shared Services Organisation, passing the following resolutions:

- APPROVE the Regional Sector Shared Services Organisation Business Case.
- AGREE to the creation of a Regional Sector Shared Services Organisation.
- AGREE to allocate the sum of \$75k under the 2021-22 Sector Business Plan to develop the organisation.
- AGREE to seek a letter of intent from the 16 regional sector organisations to become a shareholder of the new organisation.

The purpose of this paper is to brief councils on this important initiative for the regional sector.

Background

Regional Councils and Unitary Authorities (the regional sector) are responding to an unprecedented period of challenge and change. Local government and resource management reform is occurring concurrently with implementation of new comprehensive freshwater regulations. Internally, councils are struggling to attract and retain talent, while community expectations are increasing.

All of this is happening in the context of a global pandemic and climate change.

The sector has several resource sharing and collaboration programmes in place. Examples include the Special Interest Group (SIG) Network, EMAR/LAWA, Essential Freshwater Implementation Programme, the Regional Sector Office, the Sector Financial Management System and Regional Software Holdings Limited (RSHL).

The relationship between councils in the regional sector is becoming stronger as we seek collective solutions to shared challenges. Kotahitanga (Unity) is a central theme of the Regional Sector Strategy and Business Plan.

The next evolutionary step is to consolidate existing collaboration programmes and put in place a fit-for-purpose structure that will enable the sector to respond quickly to shared issues and opportunities, while sharing cost and resources. Ultimately, **doing more for less**.

This new structure will also support and enable shared services of larger scope, when it makes sense to do so.

There are several initiatives in progress that may eventually require the creation of shared services. These include Environmental Data Management, Farm Data Management, Consenting Hubs, Resource Sharing, and IRIS Next Generation.

The regional sector intends to implement a regional sector shared services organisation. This will be a Council Controlled Organisation¹ based on the current RSHL model. The sector will consolidate existing collaboration and resource sharing activities under RSHL. RSHL already has much of the capability required for the shared services organisation.

The consolidated organisation will provide the platform for future strategic regional sector shared services initiatives.

RSHL	<p>Regional Software Holdings Limited is a not-for-profit Council Controlled Organisation (CCO) that exists to help the regional sector achieve outcomes through collaboration and operate the IRIS Programme, the Sector Financial Management System and ReCoCo on behalf of the sector.</p> <p>RSHL's strategic focus is to deliver a broad scope of shared services to the regional sector.</p> <p>RSHL is currently owned by six Regional Councils but provides services to all organisations in the regional sector.</p>
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¹ A Council Controlled Organisation (CCO) is an entity in which local authorities control 50% or more of the voting rights or appoint 50% or more of the members of the governing body. A CCO can be a company, trust, partnership, incorporated society, joint venture, or other similar profit-sharing arrangement. The purpose of a CCO is to conduct commercial and non-commercial activities on behalf of local authorities.

Document ID: RSHL-587691331-5009

What are the drivers for change?

- Increased pressures from Central Government to input into, implement and deliver a broad range of reform packages.
- Changes to the shape and future of local government. These are posed in the form of the Resource Management Act reform and the Three Waters proposal. The Sector must consider how it is best placed to meet these challenges.
- Severe capacity and capability issues and competition between councils to attract and retain talent.
- Expectations from our communities for councils to do more with less.
- The need for the Sector to demonstrate that it can act cohesively to respond to a changing strategic landscape.

How will this benefit councils?

This change will have several benefits to councils in the regional sector, both collectively and individually.

- Primarily, councils can expect improved outcomes from investments in sector shared programmes.
- The change will increase the credibility of the sector as a trusted deliverer with a unified and consistent sector profile.
- The change will also reduce the lead time for the implementation of shared services.

A review by PWC recommended using the current RSHL model, which will be expanded to create an organisation owned by all (or close to all) regional sector organisations. Ideally all Regional Councils and Unitary Authorities will take a nominal shareholding in RSHL.

Recognising that not all councils will be able to complete the necessary steps to take a shareholding in RSHL immediately, the company will be structured in such a way as to allow councils to join when it is practical to do so.

Governance and representation

The business case recommends the creation of an organisation that all regional councils and unitary authorities will invest in, fairly sharing the benefits, costs, and risks of the investment.

It is proposed that the new organisation would have a board of eight directors, appointed by the shareholding councils.

Shared services framework

Based on the principle that benefit, cost and risk should be shared between councils that participate in any given project, large programmes will be contained within wholly owned trustee companies to partition benefit, cost, and risk. This simplifies asset and debt ownership.

Cost and Risk

It is expected that the management and administrative costs for the new organisation will be funded using existing funding for the Sector Office and the RSHL Management & Administration budget. **As such there will be no net increase in costs to councils through participation in the CCO.**

The CCO model spreads the risks for any shared activities across the participating councils, mitigating and minimising the risk to individual councils. RSHL already has the necessary controls and processes in place to manage risk.

Next Steps

The Regional Sector Shared Services implementation project is in the initiation phase. Key activities under way are:

- Establishment of a steering group made up of Chief Executives and RSHL board members.
- Confirmation of councils' intention to participate in the regional sector shared services organisation.
- Detailed planning for implementation.

We expect to provide further updates to councils by 30 October 2021.

If you would like further information, please contact Mark Donnelly, RSHL General Manager at mark.donnelly@rshl.co.nz.

Document ID: RSHL-587691331-5009

Council
Collaboration
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Regional Sector Shared Services Organisation

Single Stage Business Case

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Prepared for:	Regional CEs Forum
Date:	July 23 2021
Version:	V 1.0
Status:	Final

Document Control

Document Information

	Position
Document owner	Mark Donnelly, General Manager RSHL.

Document History

Version	Issue Date	Changes
0.9	18/07/2021	Final Draft for discussion.
1.0	23/07/2021	Version finalised for submission

Document Review

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Glossary of Terms

Term	Definition
RSHL	Regional Shared Holdings Limited is a not-for-profit Council Controlled Organisation (CCO) that exists to help the regional council sector achieve outcomes through collaboration and operate the IRIS Programme, the Sector Financial Management System and ReCoCo on behalf of the sector.
SIG Network	Special Interest Groups (currently 28) that represents the broad range of professional and technical disciplines within Regional Councils and Unitary Authorities
IRIS	Software platform that supports regional sector regulatory functions for 7 councils. Currently undergoing RFP for IRIS NextGen
SFMS	Sector Financial Management System provides management of the funding for regional sector collaborative programmes
ReCoCo	Regional Council Collaboration is a programme under the SFMS led by the Corporate & Finance SIG to deliver collaborative technology projects for groups of regional councils
CCO	A Council Controlled Organisation is an entity in which one or more local authorities control 50% or more of the voting rights or appoint 50% or more of the members of the governing body. A CCO can be a company, trust, partnership, incorporated society, joint venture or other similar profit-sharing arrangement
LAWA	Land, Air, Water Aotearoa – collaboration of organisations including regional and authoritarian councils to share environmental data and information.
EMAR	Environmental Monitoring and Reporting - partnership between Local Government NZ's Regional Sector and the Ministry for the Environment (MfE) to achieve consistent and integrated regional and national environmental data collection and reporting.
RSSSO	Regional Sector Shared Service Organisation – the proposed new Regional sector entity

Executive Summary

This business case seeks approval for a Regional Sector Shared Services Council Controlled Organisation (RSSSO) based on RSHL, creating a platform for new large-scale shared service opportunities and consolidating current collaborations including:

- Environmental Data Reporting i.e. LAWA/EMAR;
- Special Interest Group (SIG) network;
- Regional Sector Offices;
- IRIS Programmes; and
- ReCoCO Programmes.

The consolidated organisation will provide the platform for strategic regional sector shared services initiatives.

Why would we do this?

This business case identifies drivers that support the need for investment. Compelling drivers noted are:

- Increased pressures from Central Government to input into, implement and deliver a broad range of reform packages, often without additional resource. There is an expectation that this trend will continue.
- Substantive changes to the shape and future of local government are likely. These are posed in the form of the Resource Management Act reform and the Three Waters package. This provides the Sector with a timely opportunity to consider how it is best placed to meet these challenges.
- Severe capacity and capability issues; and the currently undesirable scenario which pits council against council in competition to attract and retain a small pool of talent.
- Expectations of the community for councils to do more but with less.
- The need for the Sector to demonstrate that it can act cohesively to respond to a changing strategic landscape.
- The need for the sector to respond quickly to emerging opportunities and issues.
- Limitations of the existing regional sector shared services entity (RSHL) to respond to the above challenges on behalf of the whole sector.

Investment Objectives

This business case seeks to provide a solution to align with the identified key investment objectives of:

1. The Sector is better prepared to respond to future challenges.
2. Better return on investment with a focus on quality of outcome and value proposition of sector is realised.
3. Increased credibility of the sector as a trusted deliverer with a unified and consistent sector profile.
4. Improved staff attraction and retention.
5. Consistent good practise process across the sector and within councils.

Preferred Way Forward

The preferred implementation approach is to restructure RSHL as the Council Controlled Organisation to provide the structure for RSSSO. By modifying the existing structure of RSHL, future flexibility will be provided.

A thorough review by PWC has indicated support for the ownership model which will be expected to create an organisation that is owned by the 16 Regional Councils and Unitary Authorities, each with a nominal shareholding for the company.

Governance and representation

The business case recommends the creation of an organisation that all regional councils and unitary authorities could invest in, fairly sharing the benefits, costs and risks of the investment.

It is proposed that the new organisation would have a board of 8, appointed by the member councils.

The objective is to have an entity that all regional and unitary authorities own, to create efficiencies, spread cost and risk, and to deliver an aligned sector response to upcoming reforms, provide consistent guidance for local authorities, and a cohesive and consistent service to the NZ public.

For each programme of work, Advisory Groups will continue to provide feedback, support and representation from councils.

Shared services framework

Based on the principal that cost and risk should be shared between councils that participate, with RSHL engaging suppliers or facilitating the service and initiating projects.

It is proposed that capital projects to be contained within wholly-owned trustee companies to partition benefit, cost and risk. This simplifies of assets ownership by creating compartmentalisation of ownership for each asset.

Costs

It is expected that the Management and Administrative costs for the new organisation will be funded using existing funding for the Sector Office budget and RSHL Management & Administration budget. As such there will be no net increase in costs to councils through participation.

Business Case Purpose

This business case seeks approval to restructure the current RSHL organisation into a platform for new large-scale shared service opportunities and consolidating current collaborations for NZ Regional Councils.

An investment of \$75,000 in 2020/21 and \$50,000 in 2021/22 has been approved from the Sector Business Plan to cover external specialist advice into the establishment of a Regional Sector Shared Service Organisation (RSSSO) including:

- Professional legal services;
- Accounting support;
- Communications and Engagement;
- Stakeholder Management; and
- Project Management.

The current shareholders of RSHL will also provide funding and in-kind support.

The Strategic Case

Strategic Context

RSHL's strategic focus is to deliver a broad scope of shared services to the regional council sector (the Sector). The current structure of RSHL means its ability to meet this objective is limited.

There are five employees working full-time on Regional Sector activities:

- CEOs Executive Principle Advisor
- SIG Network Administrator
- EMAR Project Manager
- IRIS Project Manager
- RSHL General Manager

Those employees are employed by RSHL, Horizons and Otago Regional Council.

There are several current and emerging initiatives that are driving the need to revisit the structure and operation of RSHL. These include Resource Sharing, IRIS NextGen, Environmental Data Management, Farm Data Management and Consenting Hubs.

Regional Shared Holdings Limited Overview

RSHL was initiated in 2008 by six founding shareholder councils - Northland Regional Council, Waikato Regional Council, Horizons Regional Council, Taranaki Regional Council, West Coast Regional Council and Southland Regional Council - to put in place shared services for the Integrated Regional Information System (IRIS), designed to meet regional council regulatory management requirements.

To facilitate the governance, management, and procurement of IRIS, RSHL was established as a Council Controlled Organisation (CCO) with shareholdings agreed on a range of size factors. Alongside development and operation of the IRIS solution, the scope of RSHL activity has increased to include support for a range of regional sector work programmes that provides greater consistency in how we operate our core processes.

RSHL provides a more cost-effective alternative than what individual councils can achieve on their own.

The company operates by facilitating collaborative initiatives between councils and through managed contractual arrangements. Some councils are both customers of RSHL and providers of service to RSHL.

Ownership and Governance

The ownership and governance structure of RSHL is limited to the 6 founding councils.

Under this structure, RSHL has been able to provide effective support for ReCoCo and the Sector Financial Management System. These programmes are classified as "PayGo" meaning funding is received and used to obtain services on behalf of the sector. These programmes carry little or no residual risk to RSHL and its shareholders.

As the sector seeks to consolidate its staff under one organisation, and invest in larger, more complex projects; including capital projects, it is not tenable for RSHL and the 6 shareholders to carry the inherent risks and liabilities on behalf of the sector.

Brand and Position.

The Sector is seeking to use RSHL as a vehicle to further its objectives. The current branding and positioning of RSHL is not consistent with an increased role as the Sector's change vehicle. RSHL will need to be repositioned and aligned with the sector brand.

Alignment to existing strategies

Central Government is implementing a broad range of reform packages, and it is expected that this trend will continue. The reforms that the regional sector is currently facing include:

- Freshwater Implementation;
- RMA Reform; and
- Climate Change.

Central Government is expecting the sector to input into, implement and deliver the above reform packages. Substantive changes to the shape and future of local government are also likely.

These are posed in the form of the Resource Management Act reform and the Three Waters package. Additionally, on 23 April 2021 the Minister of Local Government announced a Review into the Future for Local Government. The Minister is seeking recommendations from the Review that look to achieve:

- a resilient and sustainable local government system that is fit for purpose and has the flexibility and incentives to adapt to the future needs of local communities;
- public trust/confidence in local authorities and the local regulatory system that leads to strong leadership;
- effective partnerships between mana whenua, and central and local government in order to better provide for the social, environmental, cultural, and economic wellbeing of communities; and
- a local government system that actively embodies the Treaty partnership, through the role and representation of iwi/Māori in local government, and seeks to uphold the Treaty of Waitangi (Te Tiriti o Waitangi) and its principles through its functions and processes.

The scope of the review comprises what local government does, how it does it, and how it pays for it. The scope will include a future looking view of the following:

- roles, functions and partnerships;
- representation and governance; and
- funding and financing.

In light of the significant changes ahead it is critical that the Sector demonstrates that it can act cohesively to respond to a changing strategic landscape. It will also be important to collaborate together to identify the challenges and gain a common understanding and approach to the solutions so that the sector can influence the reform outcomes in a positive and constructive way.

Feasibility of a Regional Shared Service Organisation

In order to gain an understanding of the value and support of a Regional Shared Service Organisation, a feasibility report was written by Rina Douglas, Executive Principal Adviser to the Regional Chief Executives (RCEOs) Group and Mark Donnelly, General Manager RSHL. This was presented to the Regional Council Chief Executives on 07th April 2021 outlining the issues the proposal for consolidation was addressing.

The feasibility report was set out to address:

- The strategic opportunities and issues for a collaborative shared services approach.
- A potential structure for a shared services organisation.
- A roadmap for the creation of a shared services model.

The feasibility report highlighted the value to be created in consolidating the sectors current activities under one organisation. The consolidated organisation will then provide the ideal platform for wider shared services.

The feasibility report was approved to progress to business case with the recommendation that a working party formed by a section of Chief Executives from Regional Council to provide key oversight and governance.

A project team was formed of Subject Matter Experts across the sector to provide insight and assistance in the development of a business case.

PWC was engaged to provide advice on a new operating model for RSHL that allows it to fulfil its role as a fully-fledged shared services organisation for the regional sector which allow flexibility to accommodate the changing needs of the sector.

Key Drivers

With the environmental, regulatory and political landscape changing at an unprecedented rate, community and central government have increased expectations of the regional sector to deliver meaningful change.

Through collaboration, the Sector can use resources more efficiently, deliver greater national consistency and achieve economies of scale in the implementation of common policies, services and programmes.

RSHL still provides a potential vehicle to embrace the consolidation of shared services for the Sector, but will require structural changes to allow more flexibility around participation.

Changing the structure of RSHL to allow shareholders to enter and exit more easily, allocate risk appropriately, and apportion costs fairly, will generate more buy-in from councils to a collaborative shared services delivery model.

The key drivers to invest in a Shared Service Organisation have been identified as:

Driver 1	Central Government Pressure: increasing pressures from Central Government to implement and deliver a broad range of reform packages (eg Resource Management Act (RMA), Three Waters), often without additional resource
Driver 2	Value for money: expectations of the community for councils to do more, but with less

Driver 3	Cohesive sector: the need for the Sector to demonstrate that it can act cohesively and quickly to emerging opportunities and issues across all 16 councils (five of which are unitary authorities).
Driver 4	Increasing Utilisation and Sharing of Scarce Resources: Create an environment where it is easier for councils to share scarce resources, ensuring maximum utilisation of specialist talent and knowledge across the Sector

Driver 1 – Central Government Pressure

With increasing pressure from central government to deliver on a broad range of reform packages, and no concurrent resource boost for councils beyond traditional funding streams, significant funding challenges are expected for councils to meet additional capacity demands.

The risk with individual councils finding independent pathways to resolve capacity demands, s an overall lack of alignment, duplication of effort, inconsistent interpretations of government policy, local concerns over-riding national direction, and overall fragmentation of the delivery on central government reform. Looking ahead to the rollout of combined regional and district plans, these factors will only embed inconsistency across the country, ultimately resulting in confusion, and increased compliance costs, on the ratepaying public, along with a weakened voice for the sector.

With a shared service organisation across the sector, it is expected that these risks will be largely mitigated, with delivery of an aligned sector response to upcoming reforms, consistent guidance for local authorities, and coherent delivery to the NZ public.

Driver 2 – Value for Money

The drivers here are technological (change is accelerating, altering public expectations around service levels), and reducing levels of community tolerance for year-on-year rate increases that eclipse the rate of inflation.

The reasonable public expectation is that the sector should be able to innovate, find efficiencies, and deliver higher service levels, within the money already rated from the public purse. This effort is hampered under the risks outlined in Driver 1.

Driver 3 – Cohesive Sector

The focus here is all about cohesive and consistent services to the public, independent of structures, systems, and capacity within individual councils. Building off the value of money driver, better use of resources leads to greater cross-sector alignment, and an overall customer-facing experience that is better organised, with reliable and predictable service delivery.

The influence that the sector has is seen when it takes a collaborative approach to addressing national challenges (EMaR/LAWA). With the broad range of community outcomes where the sector is accountable to the public, through outputs such as public safety (emergency management, river management), bio-security, regulatory, and public transport, there is opportunity to grow, reach and influence by putting community engagement and service delivery at the fore-front of shared services strategy.

A solution is sought for councils to share risks and to resolve:

- Contention between national and local councils – single spatial plan for each region each subject to community consultation.

- Customer confusion – need for consistency of information with our customers
- Inconsistency in levels of service in common areas which are understood and agreed upon including public safety, bio-security, regulatory, public transport
- Many different access points for customers to find information – unpredictable levels and information

Driver 4 – Increasing Utilisation and Sharing of Scarce Resources

With growing demands in areas such as freshwater reform, the Sector finds itself in competition amongst its members for a limited pool of specialised people. Smaller and provincial councils will be at a disadvantage, resulting in uneven reform implementation, with consequent rise in risk status on successful delivery on central government policy initiatives. While "capability and capacity matters can be overcome through assistance provided by central government, or through shared services with other regional councils and specialist expertise can ... be contracted in when needed to smaller councils"¹, the tension from the overriding competition of a diminishing resource pool remains.

Resource sharing supports retention especially in less desirable areas. Sharing provides more lifestyle choices to high value staff. Having a national solution provides the scope to influence and impact without being restricted to place of residence.

The Case for Change

A benefits workshop with representatives from the Sector was undertaken to identify what was being sought from the business change, the value that will be provided to our stakeholders and what capabilities are required to be built to enable the success of the business case.

From this work, key investment objectives were identified to define the desired outcomes for the proposed investment.

Investment objectives

Investment Objective 1	Sector better prepared to respond to future challenges
Investment Objective 2	Better return on investment with a focus on quality of outcome/ Value proposition of the sector is realised
Investment Objective 3	Increased credibility of the sector as a trusted deliverer / Unified and consistent sector profile
Investment Objective 4	Improved key staff attraction and retention
Investment Objective 5	Consistent good practise in processes within councils

¹ <https://www.lgnz.co.nz/assets/Uploads/0d8247b887/Local-Government-Regulatory-Review-submission.pdf>

INVESTMENT OBJECTIVE 1

KEY FACTORS	Sector better prepared to respond to future challenges
Existing Arrangements	Sector organisations often work independently of each other while responding to events or regulatory functions. This causes a duplication of effort and is limited by the resources available
Business Needs	Ability to adapt and respond in a timely manner to future challenges that trends in economic, social, demographics, environmental and technology that will impact local government regulatory functions in the future.
Potential Scope	Provision of a vehicle for delivery of sector outcomes that provides flexibility for initiatives requiring a cohesive, collective response when the sector has many similarities. Implementation of structure that provides a repeatable methodology to prevent duplication of effort and outputs.
Potential Benefit	Improved and timely responses to strategic issues and opportunities Risk spread across the sector with collective problem solving.
Potential Risks	Not all regional or unitary authorities will engage in change initiatives, which could result in some being left behind, their views are not known and considered, and/or they undermine the CCO’s sector-spokesperson role if they are not involved.
Constraints & Dependencies	Sector may not wish to invest in initiatives or changes until they see what the RMA looks like

INVESTMENT OBJECTIVE 2

KEY FACTORS	Better return on investment with a focus on quality of outcome
Existing Arrangements	Benefit realisation is generally not managed well across the sector with limited visibility of the return of investment and quality of outcomes.
Business Needs	Investment against activity instead of outcomes. Vehicle enabled that can demonstrate through reporting: <ul style="list-style-type: none"> • Portfolio, programme and project management • Key stakeholder framework engaged • Outcomes delivered and benefits achieved at the appropriate level
Potential Scope	Benefit framework across the sector providing management and reporting of benefits. PMO driven quality assurance framework.
Potential Benefit	Increase realisation and visibility of benefits including cash releasing as well as other
Potential Risks	Return on investment is difficult to measure meaning that the benefits are not fully understood or captured Some regional or unitary authorities may choose not to take part, reducing the potential benefits
Constraints & Dependencies	Benefit management concepts are not consistently applied across councils.

INVESTMENT OBJECTIVE 3

KEY FACTORS	Increased credibility of the sector as a trusted deliverer
Existing Arrangements	The environmental, regulatory and political landscape is changing at an unprecedented rate. At the same time the community and central government have increased expectations of the Regional Sector to deliver meaningful change. There is limited visibility of the activity and outcomes of the projects within the current RSHL structure because RSHL only has a portion of regional councils as shareholders, therefore it doesn't have the mandate, profile and sector input to represent the whole sector.
Business Needs	Kotahitanga – to speak as one voice and have an engagement model that delivers a unified approach Delivery of better project outcomes for less cost. Increased engagement with government agencies and a single entity of contact for government agencies to engage with the sector. Increased willingness from Central Government to fund regional sector projects. Wider range of collaborative projects across the scope of regional sector activities.
Potential Scope	Strong branding for the RSHL CCO and associated deliverables Improved stakeholder model Mature PMO structure Coherent roles and responsibilities across the Sector collaboration models
Potential Benefit	Increased collaboration programmes/projects initiated and delivered Reduced funds allocated to unviable projects. Increased engagement with Central Government, including the ability for the sector to feed back to Central Government in a more effective way
Potential Risks	Not all regional or unitary authorities will engage in every initiative, which could result in some being left behind, their views are not known and considered, and/or they undermine the CCO's sector-spokesperson role if they are not involved.
Constraints & Dependencies	Success will be reliant on regional and unitary authorities engaging with the entity and contributing to initiatives

INVESTMENT OBJECTIVE 4

KEY FACTORS	Improved key staff attraction and retention
Existing Arrangements	There is high competition for Sector staff from central government and private organisations. Resources with the skill and capacity to meet the ever increasing demands of local government are limited and certain areas across the country are seen as less desirable from a lifestyle perspective and struggle to recruit and retain skilled staff.
Business Needs	The Sector requires the ability to offer flexibility for key staff including taking advantage of the gains developed over the last year with the uptake and confidence in remote working.
Potential Scope	A collaborative approach within the sector on programmes of work and responses to government reform/questions will increase access to key resources as they will be able to lead and guide on a national basis as opposed to regional. Resource sharing arrangements will make it easier for councils to share resources and provide more flexibility for staff.

Potential Benefit	Flexible ways of working including remote working and opportunities across a national shared service platform will provide more opportunities for all regions to access the right resources. Improved knowledge sharing across the sector supporting better working environments
Potential Risks	Council concerns around poaching may make them reluctant to share staff with other councils. Commercial disagreements on costs and deliverables may cause ill-will between councils, leading to disengagement from the programme.
Constraints & Dependencies	Sector is limited in its ability to meet competitive salaries offered by private organisations. Inconsistent processes will make it more difficult for staff to move between councils and be productive. (See objective 7) Employment law will limit the ability of councils to move staff between locations without their agreement.

INVESTMENT OBJECTIVE 5

KEY FACTORS	Consistent good practise in processes within councils
Existing Arrangements	Central government designs regulation but often leaves it up to councils to design their process for implementation. There is contention between national and local councils – single spatial plan for each region, each subject to community consultation resulting in various practises in processes. Customers who straddle more than one region can get different experiences and rulings from each without consistency. This can result in customer confusion and inconsistency in levels of services that are understood and agreed upon. A ‘Good Practice Model’ was developed for the local government sector by Taituarā (previously SOLGM) as an online resource to meet the challenges faced by inconsistent practises across councils however the uptake and adoption of this model is unknown
Business Needs	Within each area of local government, the sector needs to reflect the expectations of the different characteristics and priorities of the community however the processes and practises should align to a standard that is “as national as possible, as local as necessary”. Agreed and driven guidance and templates across the Sector Single point of entry for customers to find information that is consistent across the sector
Potential Scope	An audit of the adoption and engagement of Sector using the Good Practice model
Potential Benefit	Improved compliance in meeting RMA targets Better experience for the customer who would get a more consistent approach from different regional councils (for example if their property straddles two regions)
Potential Risks	
Constraints & Dependencies	Different regional community needs and wants which require a collaboration model to provide flexibility in meeting regional challenges and opportunities

Main risks

Risks resulting from uncertain events that could potentially negatively impact on the achievement of the benefits for a consolidated shared service organisation were identified below.

Main Risks	Consequence (H/M/L)	Likelihood (H/M/L)	Comments and Risk Management Strategies
RSSSO will be perceived as a provider for all shared services/sector engagement within the Regional Councils and there will be an expectation that they have ownership against all initiatives that will benefit from a collaborative approach	M	H	<p>Road map to be developed to clearly show scope and timelines for delivery of areas of consolidation and progress towards this.</p> <p>Evaluation framework to identify and prioritise the initiatives that will become part of the RSSO and which will/may be included in future evolution of the organisations. (e.g., legislative vs nice to have)</p> <p>Name branding exercise to clearly articulate which services/engagement activities are under the RSSO umbrella</p>
Changes to staff roles from existing organisation to new RSSO structure may require redundancy negotiations in host organisation.	M	M	<p>Specific conditions to be investigated with each staff member.</p> <p>Consider negotiated settlements, or grandparenting of existing roles via secondment.</p>
There is a risk that the benefits of a RSSSO structure are not met if delays in decision making and/or change activities are not undertaken in a timely manner at Regional Council level	M	M	<p>Change management plan to be focused on and embedded at organisation level to ensure changes are adopted and working well.</p> <p>Clear communication strategy with advance warning of any key upcoming decisions/requirements</p>
Threat of RM reform may create a defence for decision makers to not make decisions while awaiting impact of this	M	H	Promotion of a collaborative approach to RM reform so RSSSO is seen as a vehicle to approach issues/RM impacts and influence outcomes collaboratively
Stakeholder risk that some organisations (e.g., LGNZ) may perceive RSSSO as a competing agency for funds and resources	L	M	<p>Clear articulation of boundaries and roles. Reiteration that organisations are there for shareholders and can work together towards common goals instead of competing.</p> <p>Communications through CE level to support shared interests</p>

There is a risk that the RCEOs Group and Lead SIGs will perceive that the new organisation is interfering in their relationships with key stakeholders, leading to a lack of support.	M	M	Clear articulation of boundaries and roles. Clear engagement plan that sets out the role of each group.
Not all councils will agree to participate as shareholders in the new organisation.	L	L	Company structure and arrangements that do not require 16/16 council participation.

Key Constraints and Dependencies

The proposal is subject to the following constraints and dependencies. These dependencies will be carefully monitored during the project.

Dependencies/Constraints	Notes and Management Strategies
RM Reform	While there are significant reform changes noted in the near future, these are seen as areas that a new RSSO will assist with and should not create any dependencies or constraints to a successful implementation
Local Government Act Requirements.	The local government act requires councils to undertake specific action (e.g. Consultation) prior to taking an ownership position in a CCO or CCTO.
Programmes of Work	Programmes identified in this business case such as the EDMS, IRIS NextGen Consenting Hubs are at different stages of development. This business case is not dependent on those programmes, and is valid on its own merit, however these programmes are dependent on having the right shared services platform in place.

Economic Case

To understand the options for a Consolidated Shared Services model for RSHL, PwC was engaged to provide ownership, governance and operational advice.

The PwC report built on advice provided in March 2018 on a review of the RSHL governance and operating model to address future opportunities for a broader shared service system organisation.

Key to the report recommendations was the consideration of the following:

- Company Structure – how to best structure RSHL to meet the needs of the Sector presently and in the future. Consideration was given to type of structure (CCO vs CCTO) and a new entity versus reconstituting the existing company.
- Shared Services Framework – how to best structure services including shared projects and initiatives under RSHL management.

Options Analysis

The project team identified and reviewed the following options including the recommended option identified in the feasibility report and further supported by the PwC report.

1. Do Nothing (ie maintain status quo)

This is a viable option however will not address the key drivers. The expectation for regional councils to do more with less resources, provide consistent interpretations and processes is anticipated to increase with no other known initiatives to address at a national level. RSHL will continue to provide benefits and support however this will be limited with current constraints.

2. Do Minimum

The least the project team identified to be able to make a difference was to reassign all resources into the current RSHL structure. This was discounted as a viable option as it was believed to hold all the risks with very little of the benefits.

3. Do Recommended

The options identified through the feasibility report was reviewed by PwC and is defined further below. This option is recommended by the project team as having the highest chance of success against the key investment objectives, able to meet the ongoing and increasing challenges facing the Sector with little or no cost increase to current status.

4. Do Maximum

The option to provide the maximum was seen to be consolidating the RSSSO organisation while also immediately establishing infrastructure to undertake major projects. While this is the long term future of the re-established RSHL, this is not seen as a viable option with the risks associated with significantly increasing the organisations capacity before a solid foundation is established.

The PwC Report identified the following options and recommendations:

For a copy of the full PwC Report "RSHL Ownership, governance and operational advice" please contact Mark Donnelly mark.donnelly@rshl.co.nz

Current Structure

The PwC report identified that the current structure of RSHL limits its ability to deliver a broad scope of shared services to the Sector in the following ways:

- The current shareholder and customer model means that RSHL's ability to attract more councils to participate and its ability to extend its collaboration framework and service delivery beyond IRIS, is restricted.
- Voting rights are based on equal proportions rather than the size of shareholding, which represents a shareholding in IRIS specifically.
- The lack of appetite from other regional councils to participate given their historical reluctance to take part in shareholding models.
- The current allocation of risk among shareholders is directly related to the IRIS asset.
- The lack of process for new regional councils to invest in existing assets owned and managed by RSHL.

COMPANY TYPE - CCO versus CCTO

The purpose of a CCO is to conduct commercial and non-commercial activities on behalf of local authorities. A CCO that undertakes trading activities to make a profit, is called a council-controlled trading organisation (CCTO).

Since RSHL was founded on the principle of cost recovery, as opposed to profit making, and assuming that the future regional shared services organisation will similarly exist 'for the sector, by the sector' (ie not for profit), the CCTO model has been discounted.

New Entity versus Reconstituted RSHL model?

Given that the CCO construct is deemed appropriate and the broad principles that RSHL was originally founded on have not fundamentally changed, the purpose of the CCO does not need to substantially change and no significant benefit to do this was identified by PwC

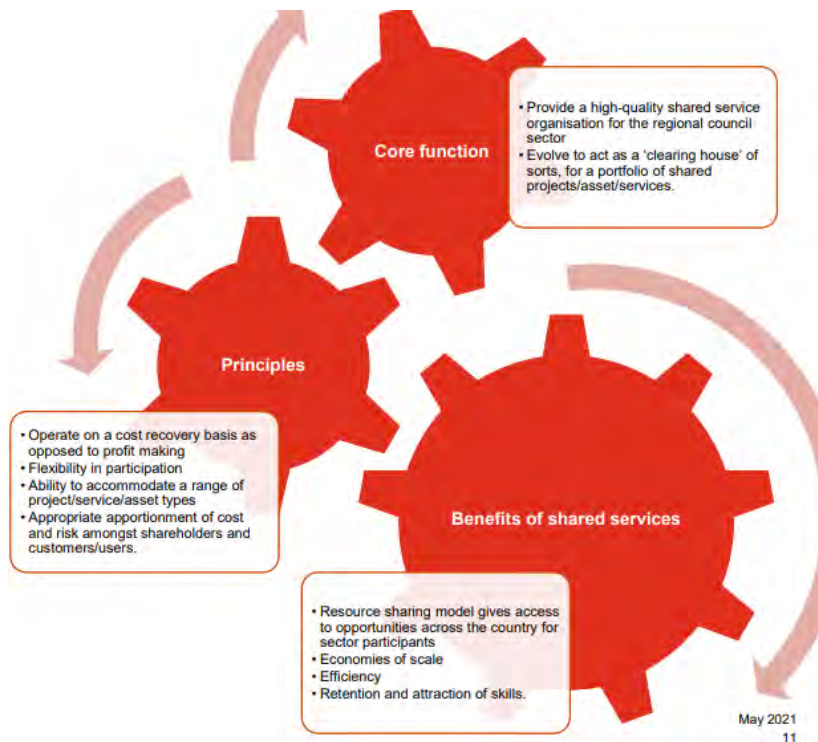


Image from PWC Report Ownership, governance, and operational advice.

It recommends that RSHL should continue to operate as a not-for-profit CCO for the Sector, by the Sector with the recommended path to modify the existing structure of RSHL to allow for future flexibility.

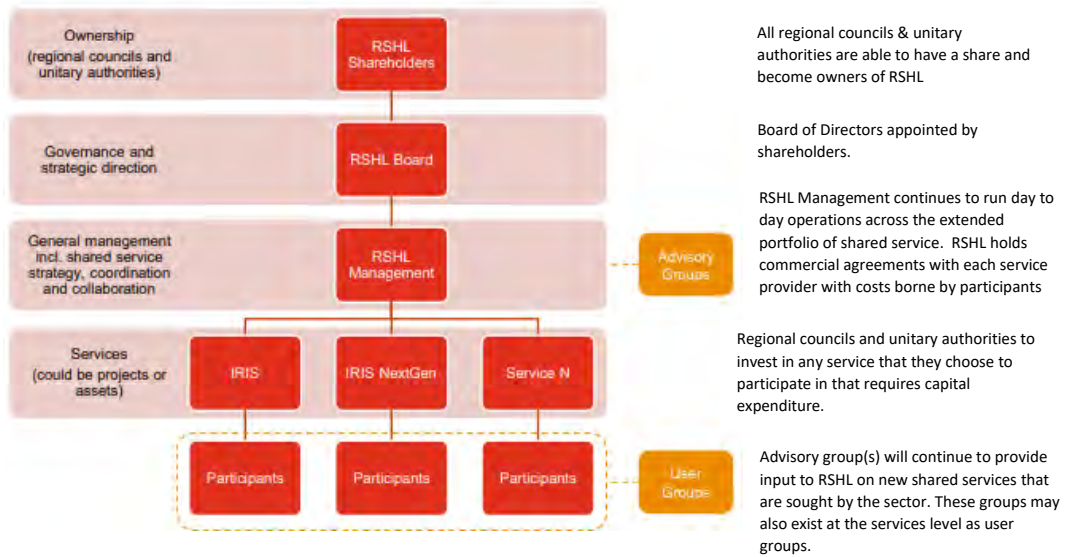
Long Term Company Structure

Current Structure – Participating shareholders plus customers

Under the current model, additional councils have become customers of RSHL rather than shareholders. New shareholders can be invited to join by special resolution, though this has not yet occurred in the existence of RSHL.



Proposed Structure: member shareholders plus participants



Shared Services Framework

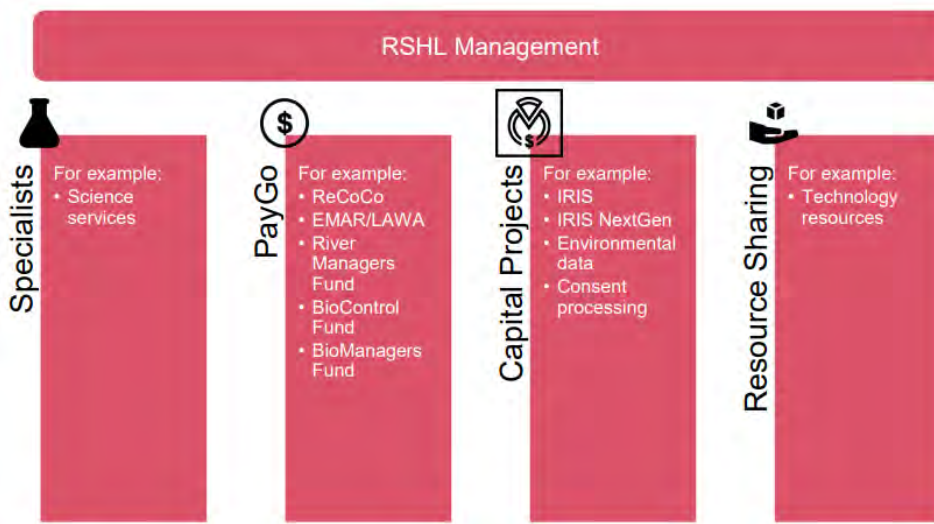
The PwC report identified that the regional sector has the opportunity to combine the capabilities that are offered by RSHL, the Sector Financial Management System and the Sector Office in a cohesive, integrated way.

Currently, the set of regional sector initiatives that are being operated by separate sector organisations are either PayGo or Capital Projects. RSHL operates IRIS, which is the only cross-sector Capital Project. The PayGo initiatives include:

- ReCoCo (operated by RSHL)
- EMAR/LAWA (primarily operated by Otago Regional Council, although RSHL is involved)
- River Managers Fund (operated by River Managers Special Interest Group)
- BioControl Fund and BioManagers Fund (operated by BioManagers Special Interest Group)

The RSSO Feasibility Report identified how the various projects and services could be brought under the remit of a restructured RSHL organisation and be extended to incorporate future Capital Projects and organisational functions. The feasibility report classifies potential future functions into four categories, shown in the table below.

Category	Features	Examples
Specialists	<ul style="list-style-type: none"> • Opex only • No asset creation and minimal risk • Funding in, payment out • Specialist resources retained for all of sector initiatives • Fixed term or contract roles. 	<ul style="list-style-type: none"> • Science advisor • Lobbyist • CIO
PayGo	<ul style="list-style-type: none"> • Opex only • No asset creation and minimal risk • Funding in, payment out • Initiatives managed as projects • Participation agreed on a project by project basis. 	<ul style="list-style-type: none"> • ReCoCo • BioControl
Capital Projects	<ul style="list-style-type: none"> • Mix of opex and capex • Create and operate assets • Risk management required • Initiatives managed as projects • Participation agreed on a project by project basis. 	<ul style="list-style-type: none"> • IRIS • IRIS NextGen • EDMS • Wells
Resource Sharing	<ul style="list-style-type: none"> • Opex only • Inter-council recharge model • 'Gigging' platform for sharing of staff between councils. 	<ul style="list-style-type: none"> • Scientist • Technology resources



The four service categories have been designed to incorporate the features below – see appendix 1:

- Establishment processes – eg how is a new service within one of the categorises generated?
- Service level governance (where appropriate)
- Cost and risk apportionment (where appropriate)
- Flexibility

Capital Projects

The Capital projects shared service is where legacy IRIS and IRIS NextGen would sit. The model that IRIS was formulated on can be adopted here for new capital investment projects. Capital projects create and operate assets and will incur both capital and operational expenditure. Capital projects will also require active risk management of the assets created.

Design Considerations

Critical Success factors were taken from the design considerations identified in the RSSO Feasibility Report and include:

1. Pinpointing the right solution to the problem.
2. The model will be based on goodwill and collaborative intent.
3. The model will incorporate te ao Māori.
4. **The model will be equitable for all participants, to the extent that the benefits and value created for each council can be demonstrated.**
5. **This is a long-term strategic initiative. The investment, commitment and structure will reflect this.**
6. Shared outcomes, shared commitment – we stand or fall together.
7. **Balance flexibility with responsiveness.**

PwC considered 4,5 and 7 as being particularly relevant for selecting the framework for Capital Projects.

Design Options

Option 1 – each Capital Project is owned and managed by RSHL as an individual programme of work

This option would broadly follow the model that the Specialist and PayGo services are likely to follow, whereby RSHL would set up a standalone programme of work to manage the implementation and delivery of each new Capital Project. It is envisaged that the majority of the delivery of the service would be outsourced to a third party supplier, with RSHL being involved in a programme management capacity. Each council participating in the service would be required to sign a cost-sharing agreement with RSHL. Conversely, councils that are not participating would need to sign some form of agreement with RSHL to be excluded from reaping any benefits of the asset created and indemnified from any risk associated with the programme.

Option 2 – Special Purpose Vehicle (SPV) created by RSHL for each Capital Project

RSHL would create an SPV for each Capital Project when it is initiated. There would be a contractual management and funding agreement between RSHL and the SPV. The SPV would enable shares to be allocated to participating councils, potentially based on the size of their investment. This would be formalised via a shareholders agreement signed by participants. RSHL would outsource delivery of the service to a third party supplier and the shareholder would take a license of the IP from the SPV.

Option 3 – Wholly-owned trustee company created by RSHL to manage Capital Projects

Similar to the SPV option above, but instead of an SPV, a wholly owned trustee company would be created by RSHL. A single trustee company could manage multiple assets (if the assets are similar in nature) or separate trustee companies could be set up for each individual asset (if each asset is distinctly different). There would be an associated management and funding agreement between RSHL and the trustee company. There would also be a trust deed for each asset that would be signed by the settlor (RSHL) and trustee (the wholly owned trustee company). Councils that participate in the service would receive a license for the service, which then entitles them to use or participate in the service and also recognises them as the beneficiaries of the trust.

Capital Project Design Options Analysis

Design considerations	Option 1 – individual programme managed by RSHL	Option 2 – SPV	Option 3 – Wholly owned trustee company
(4) The model will be equitable for all participants, to the extent that the benefits and value created for each council can be demonstrated.	<ul style="list-style-type: none"> It will be complex for RSHL to maintain robust records of beneficial owners of each asset as the portfolio of Capital Projects grows and different councils participate in different (Capital Project) services. 'Contracting out' or indemnifying non-participating councils can potentially be achieved by a series of agreements, but is not recommended due to the complexity of the arrangements involved. If RSHL took the decision to sell an asset in the future, this would make due diligence on RSHL extremely complex and may limit the ability to sell. 	<ul style="list-style-type: none"> This option provides an equitable and clear record of benefits and value created for each participating council through allocation of shares in the SPV. 	<ul style="list-style-type: none"> This option provides an equitable and clear record of benefits and value created for each participating council through naming participating councils as beneficiaries in the trust deed for each individual asset.
(5) This is a long-term strategic initiative. The investment, commitment and structure will reflect this.	<ul style="list-style-type: none"> This option will become more difficult to manage in the long-term as the number of Capital Projects increases, since there will be correspondingly greater numbers of financial interests of councils to keep track of. 	<ul style="list-style-type: none"> This option provides a robust framework that is repeatable and scalable in the long-term. 	<ul style="list-style-type: none"> This option provides a robust framework that is repeatable and scalable in the long-term.
(7) Balance flexibility with responsiveness.	<ul style="list-style-type: none"> If there were only one or two assets in the portfolio, this may seem like the simplest and fastest option, but as the number of assets increases, it becomes more complex and less responsive as the process to set up each asset is more bespoke than other options. The drawback of this option is that it actually limits future flexibility (whereas the other options preserve it). 	<ul style="list-style-type: none"> A pro-forma management and funding agreement and SPV shareholders agreement could enable this option to be scaled and repeated with ease. Compliance requirements for an SPV are likely to be slightly more complex than those for a trustee company and include a need to transfer shares when new councils come on board. Governance arrangements for the SPV could be debated amongst shareholders and hard to agree. 	<ul style="list-style-type: none"> A pro-forma trust deed and management and funding agreements could enable this option to be scaled and repeated with ease. Compliance requirements for trustee companies involve preparing trust accounts annually and basic company annual returns.
Other comments		<ul style="list-style-type: none"> This option gives RSHL less control than Option 3 since shareholders will have the ability to vote on appointing board members. This option also has relatively more complexity in governing, than Option 3. Under this option, a CCO exemption under s7 of the Local Government Act 2002 (LGA) would be proposed. 	<ul style="list-style-type: none"> Overall, this option gives RSHL the most control over the assets. RSHL would have the right to appoint a board for each trustee company. Under this option, a CCO exemption under s7 of the LGA would be proposed.

Capital Project Design Recommendation

PWC recommends option 3 of a wholly-owned trustee company created by RSHL to manage Capital Projects for the below reasons:

Option 1, where each Capital Project is owned and operated by RSHL as an individual programme of work is **not recommended** by PwC as it will become onerous to manage over time and more complex as more assets are added to RSHL's portfolio. This option also limits future flexibility.

If options 2 or 3 are pursued, the CCO requirements will apply, but the level of compliance with those requirements can be specified by the owner (RSHL). With RSHL's intention to exist 'for the Sector, by the Sector', and since it will operate on the basis of cost recovery and will not pursue profit, there is a strong case for an SPV or Trustee Company to be exempt from the CCO requirements, which reduces the administrative burden of these options.

The SPV and Trustee Company options are very similar, the key difference is how each is governed. An SPV 'self governs' outside of RSHL and requires more input from the participants (and correspondingly less ability for RSHL to 'get on and do it').

The Trustee Company structure allows the settlor (RSHL) to appoint the board of each Trustee Company. This would provide RSHL with greater control and is less of a burden on the participants of the service. The Trustee Company option can utilise a single Trustee Company to manage multiple assets, with each asset effectively held on trust with the beneficiaries defined through the trust deed. Participants in each service (beneficiaries) are granted a 'license' to use a service, in exchange for a cost. This would only require a single management agreement back to RSHL, whereas each SPV would require its own management agreement with RSHL (noting this would probably be a standardised agreement anyway).

On balance, options 2 and 3 are similar, but there are some additional benefits of the Trustee Company over the SPV option. The Trustee Company provides more future flexibility for new participants to engage in a service via granting a license to use the service, bringing that participant into the cost sharing and ultimate beneficial ownership of an asset. The trust deed can simply and cleanly provide for this to occur. This mechanism still requires detailed design as the cost-sharing proportions involved could differ depending on the asset. This is considered to be simpler and more straight forward than amending shareholders agreements for each SPV each time there is a participant change.

Shareholder Arrangement and Fees

Shareholder Costs

Arrangements for RSHL member councils are envisaged to be two-fold. There are arrangements required at the RSHL shareholder level and at the service level (if a council chooses to participate in a service).

When a council agrees to join RSHL they will be required to buy shares in RSHL, and sign a shareholders agreement that may include provisions such as:

- Agreement to RSHL managing the shared services that shareholders can opt to participate in.

- Agreement to pay a fixed fee (to cover RSHL restructure/setup costs) and a membership fee (eg annual) to cover management overheads that are not directly attributable to services. These fees will likely be pro-rated based on the relative size of the shareholder council.

As councils choose to participate in different services, RSHL Management will apportion additional costs to a member council, attributed to each service they participate in. These costs would be outlined in the service-specific agreements that the participating councils enter into with RSHL.

Management Fees

The RSHL membership fee will be designed to be minimised, but will need to cover the overhead costs of unilateral functions conducted by RSHL Management that cannot be directly attributed to a service. The overhead costs are likely to include:

- The majority of the General Management function (potentially excluding contract negotiations which should be easily attributable to an individual service).
- Most of the Support functions (potentially excluding components of accounting, legal and programme office that are directly attributable to an individual service).
- All of the Sector Office.

The extent to which overheads are passed onto the service level would be designed during the restructure of RSHL considering complexity, magnitude and fairness

Service Costs

Service costs could include reasonably apportioned costs that are passed down from RSHL management. Service costs for the Specialist, Resource Sharing and PayGo services are essentially user-pays. The councils that participate in the service pay for the amount of the service that they 'consume', and this is managed via cost sharing agreements with RSHL administering the recharging process.

Financial Case

The business case for the Regional Shared Service Organisation proposes combining current Regional Sector collaborative and shared services activities under one organisation. Intuitively, the funding requirements for each council should not increase through this arrangement.

The table below shows a comparison of the funding requirements for each council, based on a draft one year budget. For the purposes of modelling, the known costs for 2021/22 have been used.

Category	Council	Current Structure and Model			Proposed Structure and Model			
		SFMS Costs (,000)	RSHL/IRIS Costs (,000)	Total (,000)	Member Contributions (,000)	SFMS (,000)	IRIS and IRIS NG (,000)	Total (,000)
Large Category Councils	Auckland Council	\$292		\$292	\$64	\$236		\$300
	BOP RC	\$247		\$247	\$64	\$191		\$255
	Waikato RC	\$252	\$447	\$699	\$64	\$196	\$420	\$680
	Greater Wellington	\$252		\$252	\$64	\$196		\$260
	Environment Canterbury	\$217		\$217	\$64	\$161		\$225
Medium Category Councils	Northland RC	\$156	\$165	\$321	\$42	\$119	\$155	\$317
	Environment Southland	\$146	\$165	\$311	\$42	\$109	\$155	\$307
	Hawkes Bay	\$151	\$157	\$308	\$42	\$114	\$155	\$312
	Horizons RC	\$166	\$221	\$387	\$42	\$129	\$208	\$379
	Otago RC	\$144		\$144	\$42	\$107		\$150
	Taranaki RC	\$144	\$165	\$309	\$42	\$107	\$155	\$305
Small Category Councils	Marlborough DC	\$80		\$80	\$22	\$61		\$83
	Tasman DC	\$80		\$80	\$22	\$61		\$83
	West Coast RC	\$65	\$53	\$118	\$22	\$46	\$50	\$118
	Gisborne DC	\$75		\$75	\$22	\$56		\$78
	Nelson City	\$73		\$73	\$22	\$54		\$75
Total		\$2,542	\$1,372	\$3,914	\$684	\$1,944	\$1,297	\$3,925

The modelling is based on consolidating the activities of RSHL (Including IRIS) with the Sector Financial Management System, the Sector Office and EMAR.

Based on the **draft** budget, all councils contributions are within 4% of current levels with some councils funding reducing and some increasing. We expect that further refinement at the next stage will reduce contributions below current levels.

Current Structure

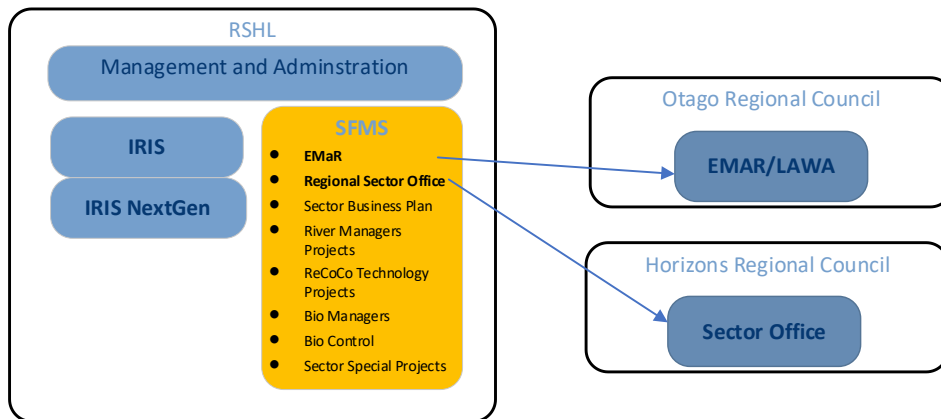


Figure 1 - Current Operating Structure

RSHL has an 2021/22 operating budget (excluding CAPEX) of \$1.5M, of which about 15% is management and administration. In addition RSHL collects ~\$2.5M in addition funding on behalf of the sector.

From the Regional Sector (and the Sector Financial Management System)

Work Programme	Budget (Based on 2021/22)
Staffed Programmes	
EMaR	\$347,000
Regional Sector Office	\$250,000
Variable budget, PayGo Programmes	
Sector Business Plan	\$517,000
River Managers Projects	\$365,000
ReCoCo Technology Projects	\$250,000
Bio Managers	\$191,000
Bio Control	\$500,000
Sector Special Projects	\$120,000

Consolidated Structure

The consolidated structure would bring together all dedicated staff working on Regional Sector Collaboration under one organisation, while still allowing for costs to be allocated at the programme level.



Figure 2 - Consolidated Organisation

Core organisation
Paygo Projects
Capital Projects. Would be contained within trustee companies.

For the purposes of modelling the costs of the new organisation activity has been grouped as follows:

Activity	Budget (,000s)	Description
Management and Administration	\$144	<p>Management and Administration of the company:</p> <ul style="list-style-type: none"> • General Management • Staff Management • Promotional Costs • Statutory Requirements (SOI, Reports, Audit) • Accounting and admin <p>This activity would be funded by member contributions, plus cost allocation from supported work programmes.</p>
Sector Office and EMAR	\$539	<p>The Sector Office consists of the CEs Principle Advisor and SIG Network Administrator, along with costs from the SIG Network.</p> <p>EMAR costs include the EMAR Project Manage, plus vendor costs for development and operation of LAWA.</p> <p>Both programmes are permanent, have a staff establishment and are funded by all sector organisations.</p> <p>This activity would be funded by member contributions.</p>
Sector Financial Management System	\$1,943	<p>The Sector Financial Management System Projects are delivered by contractors and vendors, have custom funding models and variable costs year-to-year.</p> <ul style="list-style-type: none"> • Sector Business Plan • River Managers Projects • ReCoCo Technology Projects

		<ul style="list-style-type: none"> • Bio Managers • Bio Control • Sector Special Projects <p>These programmes would continue to be funded by the Regional Sector under an agreed annual funding plan.</p>
IRIS Next Gen	\$802	<p>The IRIS NextGen programme will replace the current IRIS Legacy Solution. PWC recommends that IRIS NG be partitioned in a trustee company.</p> <p>Funding for IRIS NG would be provided by the participating councils exclusively and the programme would also make a contribution to Management and Administration.</p> <p>The Trustee Company would hold any IRIS NextGen asset.</p>
IRIS Legacy	\$1,145	<p>The IRIS Legacy Programme supports the current IRIS Legacy Solution. PWC recommends that IRIS be partitioned in a trustee company.</p> <p>Funding for IRIS would be provided by the participating councils exclusively and the programme would also make a contribution to Management and Administration.</p> <p>The Trustee Company would hold any IRIS assets.</p>

Future Structure

Having the consolidated structure in place, would then support future initiatives such as Resource Sharing, EDMS, Consent Hubs, etc. The scope of this business case is limited to the Consolidated Organisation as an enabler to other work programmes. It is envisaged that other work programmes will be developed while the consolidated organisation is created.

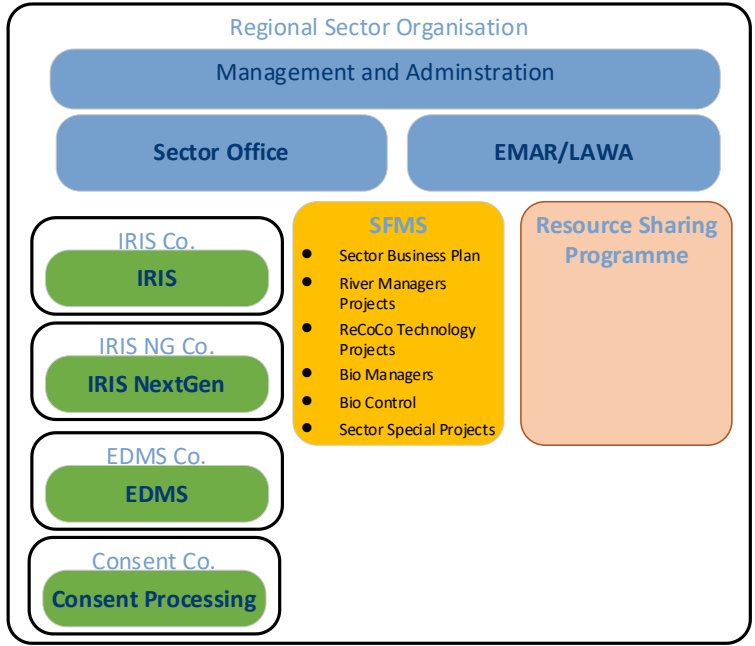


Figure 3- Future shared services structure

Core organisation
Paygo Projects
Capital Projects. Would be contained within trustee companies.
Resource Sharing Programmes.

Draft Annual Operating Budget

The following is a draft operating budget for the Shared Services Organisation, based on known budgets for 2021/22.

	Notes	Management and Admin	Sector Office and EMAR	SFMS	IRIS Next Gen	IRIS Legacy
Income						
Members Contribution	1	682,775	143,775	539,000	-	-
Programme Fees	2,3	<u>3,889,734</u>	-	-	<u>801,750</u>	<u>1,144,984</u>
		4,572,509	143,775	539,000	1,943,000	1,144,984
Other Income						
Interest Received		600	600	-	-	-
Council Specific Software Funding		<u>126,066</u>	<u>126,066</u>	-	-	-
		126,666	126,666	-	-	-
Total Income		4,699,176	270,441	539,000	1,943,000	801,750
Expenditure						
Administration costs		54,525	9,525	45,000	-	-
Accounting & Technical Support		34,350	11,750	5,000	12,600	2,500
Audit & Legal fees		140,000	3,000	3,000	79,000	27,500
Datacom Support Services (IRIS)		260,000	-	-	-	260,000
Technology Services		756,040	-	110,000	-	300,000
IT Hosting Charges		62,444	-	40,000	-	22,444
Finance Costs		-	-	-	-	-
Secondments		90,000	4,500	-	-	61,000
Personnel Costs		530,000	80,000	250,000	65,000	30,000
Promotional Costs		84,000	16,000	68,000	-	-
Independent Director's Fees		33,000	7,000	7,000	8,000	7,000
Travel & Meeting Costs		29,750	12,000	11,000	2,000	3,750
Council Specific Software Purchases		126,066	126,066	-	-	-
Regional Sector Shared Services		<u>1,776,400</u>	-	-	-	-
		3,976,576	269,841	539,000	1,943,000	431,750
						792,984
Other Expenditure						
Depreciation		<u>920,438</u>	-	-	-	-
		920,438	-	-	-	920,438
Total Expenditure		4,897,014	269,841	539,000	1,943,000	431,750
Surplus/ (Deficit) before tax		-197,838	600	-	-	370,000
Income Tax Expense						
Surplus/(Deficit) after Tax		-197,838	600	-	-	370,000
						-568,438

This simplified budget would be used as a baseline for the 2022/23 statement of intent, which would include more detail about how costs would be allocated between the activities.

Funding Allocation Detail

The current funding allocations for the various work programmes can be continued.

Note 1 – Member Contributions

Member contributions will be collected to fund Management & Administration, The Sector Office and EMAR. The standard sector funding model, which groups councils into Large, Medium and Small could be used.

Large Councils		
Auckland Council	9.40%	\$ 64,181
BOP RC	9.40%	\$ 64,181
Waikato RC	9.40%	\$ 64,181
Greater Wellington	9.40%	\$ 64,181
Environment Canterbury	9.40%	\$ 64,181
Medium Councils		
Northland RC	6.20%	\$ 42,332
Environment Southland	6.20%	\$ 42,332
Hawkes Bay	6.20%	\$ 42,332
Horizons RC	6.20%	\$ 42,332
Otago RC	6.20%	\$ 42,332
Taranaki RC	6.20%	\$ 42,332
Small Councils		
Marlborough DC	3.20%	\$ 21,849
Tasman DC	3.20%	\$ 21,849
West Coast RC	3.20%	\$ 21,849
Gisborne DC	3.20%	\$ 21,849
Nelson City	3.20%	\$ 21,849
Total	100%	\$ 684,141

Note 2 – Programme Fees, Sector Financial Management System

The funding for the Sector Financial Management System varies from year to year. Most Programmes use the standard Small/Medium/Large model. Biocontrol has a custom funding model.

	Standard %	Standard Programme Amounts	BioControl Amounts (Fixed)	Total
Large Councils				
Auckland Council	9.40%	\$ 135,642	\$ 100,000	\$ 235,642
BOP RC	9.40%	\$ 135,642	\$ 55,000	\$ 190,642
Waikato RC	9.40%	\$ 135,642	\$ 60,000	\$ 195,642
Greater Wellington	9.40%	\$ 135,642	\$ 60,000	\$ 195,642
Environment Canterbury	9.40%	\$ 135,642	\$ 25,000	\$ 160,642
Medium Councils				
Northland RC	6.20%	\$ 89,466	\$ 30,000	\$ 119,466
Environment Southland	6.20%	\$ 89,466	\$ 20,000	\$ 109,466
Hawkes Bay	6.20%	\$ 89,466	\$ 25,000	\$ 114,466
Horizons RC	6.20%	\$ 89,466	\$ 40,000	\$ 129,466
Otago RC	6.20%	\$ 89,466	\$ 18,000	\$ 107,466
Taranaki RC	6.20%	\$ 89,466	\$ 18,000	\$ 107,466
Small Councils				
Marlborough DC	3.20%	\$ 46,176	\$ 15,000	\$ 61,176
Tasman DC	3.20%	\$ 46,176	\$ 15,000	\$ 61,176
West Coast RC	3.20%	\$ 46,176	\$ -	\$ 46,176
Gisborne DC	3.20%	\$ 46,176	\$ 10,000	\$ 56,176
Nelson City	3.20%	\$ 46,176	\$ 7,392	\$ 53,568
Total	100%	\$ 1,445,886	\$ 498,392	\$ 1,944,278

Note 3- Programme Fees, IRIS and IRIS NextGen

Funding for IRIS and IRIS NextGen is currently sourced from the 7 councils that use IRIS. The funding model is loosely based on the shareholding of RSHL. It is expected that more councils will participate in IRIS NextGen with a new funding model. For the purposes of this business case it is assumed that the current 7 councils are funding IRIS and IRIS NextGen.

RSHL has substantial cash reserves to put towards IRIS and IRIS NextGen. In 2021/22 those programmes are budgeted to cost \$1.9M, However only \$1.2M will be required to be collected from participating councils.

Council	%	Amount
Waikato Regional Council	32%	\$ 403,830
Northland Regional Council	12%	\$ 148,774
Horizons Regional Council	16%	\$ 199,499
Taranaki Regional Council	12%	\$ 148,774
Southland Regional Council	12%	\$ 148,774
West Coast Regional Council	4%	\$ 48,310
Hawkes Bay Regional Council	12%	\$ 148,774
Total	100%	\$ 1,246,734

NPV Analysis

Management Case

With board approval of the business case, RSHL will proceed towards implementing a restructured Regional Shared Services Organisation using established project methodology.

Workstreams will be developed to cover the three core activities of the implementation including:

- Engagement/Communication

Undertake Council consultation on CCO restructure. Through the Communications SIG, this workstream will deliver Sector-wide consultation, both with current RSHL shareholders/members and potential new shareholders/members.

- RSHL Reorganisation

Review of RSHL’s capabilities to operate the model/services/functions (e.g. cost monitoring and charge back). Development of organisation structure and staffing requirements including transitioning sector staff.

Note: RSHL is currently established as a stand-alone CCO with robust fit for purpose policies/employment agreements therefore any changes to current policies/agreements will be managed through BAU activities

- Legal

This workstream will have 2 main components to deliver:

One will be the agreements required to cover cost and risk responsibilities of participants in shared services, for each of the four types of services. The other is the accounting and legal activities to ‘move’ the IRIS shareholding from top level RSHL to the secondary service level, to enable the move to the proposed structure.

Specialist resources required to support workstreams have been identified as:

Workstream	Resource	Estimated Costs
Engagement	Branding/comms	\$16,000
RSHL Re-organisation	Legal – employment contracts	\$5,000
Legal	Legal	\$100,000
Legal	Accounting	\$25,000

Implementation Phase Governance Structure

During implementation phase, governance will be sought from representatives from the membership of the Regional CE forum group and RSHL Board.

This group will be engaged to ensure delivery aligns with strategic intent, benefits are met, and any high-level issues or roadblocks impacting on the establishment of the RSSO are managed appropriately.

The proposed membership of this group is as follows:

Michael McCartney, CE - Horizons Regional Council	RCEO Group Convenor
Mike Nield, Corporate Services Manager, Taranaki Regional Council	RSHL Board Chair
Stefanie Rixecker, CE - Environment Canterbury	RCEO Group Member
Sarah Gardner, CE- Otago Regional Council	RCEO Group Member
Fiona McTavish, CE - Bay of Plenty Regional Council	RCEO Group Member
James Palmer, CE - Hawkes Bay Regional Council	RCEO Group Member
Jess Ellerm, Corporate Services Manager, Hawkes Bay Regional Council	HBRC Representative to RSHL board meetings
Asbjørn Aakjaer	RSHL Independent Director
Malcolm Nicolson, CE Northland Regional Council	RSHL Board Member and RCEO Group Member.

Milestones

Key Project Milestones have been identified as below. Milestones and dates to be reviewed once business case signed off and a detailed project schedule drafted.

Date for new RSSO to be implemented by would be expected to commence at start of new financial year 2022/23

MILESTONE	DATE
Implementation plan developed	September 2021
Governance structure established	September 2021
Engagement and communications plan agreed	October 2021
Public Consultation commenced	November 2021
Statement of intent drafted	January 2022
Legal agreements finalised	March 2022
Sign off shareholder agreements	June 2022
New RSSO implemented and functional	July 2022

Communication to Stakeholders

Stakeholder	Key Messages
Chief Executives	Project tracking to agreed baseline Risk escalation Information for elected members Staff impacts Visibility
Corporate and Finance SIG	Project tracking to agreed baseline Risk escalation Information for elected members Staff impacts
RSHL Board	Project tracking to agreed baseline Risk escalation Information for elected members Staff impacts Budget spend/forecast
SIG Convenors	Clarity about what is changing, why and when. Potential to use ADKAR change model to support comms with this group How will impact directly 'what's in it for me'
RSHL Staff	Clarity about what is changing, why and when. Potential to use ADKAR change model to support comms with this group
"Sector" Staff	Job security, opportunities, input into structures
RSHL Advisory Group	Staff impacts Clarity about what is changing, why and when. Potential to use ADKAR change model to support comms/change
ReCoCo Advisory Group	Project tracking to agreed baseline Risk escalation Staff impacts
Council Elected Members	Benefit realisation, strategic rationale to logic, keeping low key (no major impacts), what's in it for me
ELT	Benefit realisation, strategic rationale to logic, keeping low key (no major impacts), what's in it for me
Council staff	What impact it will have 'what is in it for me?'
LGNZ	Connection maintained, complimentary to LGNZ. Way of working with sector may be impacted however will be worked on together.
Central Govt	Better ways of working, improved organisational processes/reporting requirements
Ministers	Better ways of working, improved organisational processes/reporting requirements. Good news stories

Appendices

Appendix 1: Shared Service Framework Features – PwC Report

Service categories	Specialist <i>The Specialist shared service category is likely to be used for contracting external specialists (eg scientists, emissions trading experts or other consultants) to provide ad-hoc advice to the sector on a specific topic.</i>	PayGo <i>The PayGo shared service category contains services that only incur operational expenditure. There is no asset creation and minimal risk.</i>	Capital Projects <i>The Capital projects shared service is where legacy IRIS and IRIS NextGen would sit. The model that IRIS was formulated on can be adopted here for new capital investment projects. Capital projects create and operate assets and will incur both capital and operational expenditure. Capital projects will also require active risk management of the assets created.</i>	Inter-council Resource Sharing <i>The Resource sharing service allows one member council to 'borrow' a resource from another member council.</i>
Establishment process	<ul style="list-style-type: none"> • If an advisory group or special interest group raises the need for a new service, this must be presented as a business case to RSHL Management, ie the feasibility and ground work is completed before bringing the idea/need to RSHL. • RSHL Management would review the business case and check it is aligned to strategy. • RSHL Management would present the business case to the board for approval. • Board would review and challenge the business case, and decide whether or not to approve. • RSHL Management would be responsible for the procurement of the service, with participants being involved in defining their specific requirements (if desired). • RSHL Management would be responsible for establishing an appropriate governance structure for each service. • Each service under the four categories would be treated as a separate entity or programme. This allows participants to vary across the different services offered. 			<ul style="list-style-type: none"> • RSHL will offer a collaboration platform or 'marketplace' where councils can advertise resources available or wanted. • Councils will discuss and agree the terms of a resource sharing arrangement directly, or RSHL Management could establish an agreed set of terms. • RSHL will facilitate the financial recharge or cost recovery mechanism between councils.
Service level governance	<ul style="list-style-type: none"> • RSHL Management would hold the commercial arrangement (fixed term or contract) with the specialist resource and manage the resource on a day to day basis. 	<ul style="list-style-type: none"> • RSHL Management would hold the commercial arrangement with the service provider. • RSHL Management would set up a cost sharing agreement with each council that wishes to participate in the service, then manage the collection of payments from each council to pay for the service. This may require some working capital for RSHL to manage cashflows. 	<ul style="list-style-type: none"> • RSHL Management would hold the commercial arrangement with the service provider. • For each Capital Project, it is proposed that RSHL would set up an individual entity (eg SPV or a wholly owned trustee company – these options are discussed in the following pages) to compartmentalise the ownership of the service to the specific set of participants involved. • The governance of the project/service is influenced by the individual entity type utilised (discussed in the following pages), with varying levels of control by RSHL. 	<ul style="list-style-type: none"> • RSHL Management would be responsible for putting an umbrella resource sharing agreement in place so that it can facilitate the financial recharge or cost recovery mechanism between councils. • Minimal oversight of resource sharing is required by RSHL – it is anticipated that the council who employs the resource, will manage that resource's time.

Service categories	Specialist <i>The Specialist shared service category is likely to be used for contracting external specialists (eg scientists, emissions trading experts or other consultants) to provide ad-hoc advice to the sector on a specific topic.</i>	PayGo <i>The PayGo shared service category contains services that only incur operational expenditure. There is no asset creation and minimal risk.</i>	Capital Projects <i>The Capital projects shared service is where legacy IRIS and IRIS NextGen would sit. The model that IRIS was formulated on can be adopted here for new capital investment projects. Capital projects create and operate assets and will incur both capital and operational expenditure. Capital projects will also require active risk management of the assets created.</i>	Inter-council Resource Sharing <i>The Resource sharing service allows one member council to 'borrow' a resource from another member council.</i>
Cost (and risk) apportionment	<ul style="list-style-type: none"> RSHL Management would set up a cost-sharing agreement with each council who wishes to participate in the service, then manage the collection of payments from participants to pay for the service. Internal costs incurred by RSHL to manage the contract with the supplier would be allocated to each service and participants invoiced periodically. It is expected that there will be minimal risk associated with these services, with the participating councils owning the service risk. 		<ul style="list-style-type: none"> Councils who choose to participate in a Capital Project will provide capital funding on a pro-rated basis. RSHL will manage the apportionment of the capex and ongoing opex amongst participants with annual wash-up to balance out capex and opex if new participants leave or join the service during the year. 	<ul style="list-style-type: none"> RSHL Management would facilitate inter-council recharging for the resource's time, and invoice for its own costs incurred, at the end of the year (or other agreed period). It is expected that there will be minimal risk associated with resource sharing.
Flexibility	<ul style="list-style-type: none"> Flexibility in adding or subtracting new participants to a service can be achieved through recharging mechanisms managed by RSHL Management. Flexibility in scope of services can be achieved by procuring specialist resources on a fixed term contract basis, to deliver specific requirements. This avoids the commitment of employing permanent members of staff who may not be needed on an ongoing basis. 	<ul style="list-style-type: none"> Flexibility in scope of services can be achieved by creating separate delivery programmes for each PayGo service. This also allows flexibility for participants who can pick and choose which PayGo services they need to participate in. 	<ul style="list-style-type: none"> By containing each new Capital Project in its own entity (discussed in the following pages), this simplifies the addition of new services through a repeatable process using pre-established templates. This also ring fences the intellectual property (IP) and asset ownership to those participating councils. Adding (or subtracting) participants can be managed through buy-in/buy-out mechanisms and conditions as determined by the entity governance (eg annual entry/exit, minimum commitments). 	

8.1. Recommendations of the Data and Information Committee Resolution

That the Council adopts the resolutions of the 8 December 2021 Data and Information Committee.

Report	Resolution	Res#	Mover/ Seconder
Clutha Delta and Molyneux Bay Coastal Morphology and Natural Hazards	<ol style="list-style-type: none"> 1. Receives this report by Jacobs (New Zealand) Ltd; <u>Molyneux Bay and Clutha Delta Morphology Investigation</u>, dated July 2021. 2. Notes the changes to the Molyneux Bay-Clutha Delta coastal environment expected to occur as a result of coastal erosion and sea level rise processes. 3. Notes the information the report provides for building understanding, planning for further investigation, and preparation for adaptation. 4. Endorses the report and the presentation and dissemination of this information to the public and stakeholders. 	DAIC21-113	Cr Robertson / Cr Hope
Queenstown and Dunedin 2021/22 Q1 Patronage Report	Notes the report	DAIC21-114	Cr Kelliher / Cr Laws

8.2. Recommendations of the Implementation Committee Resolution

That the Council adopts the resolutions of the 8 December 2021 Implementation Committee.

Report	Resolution	Res#	Mover/ Seconder
Environmental Implementation Update	1. Bring to the next Governance, Communications and Engagement meeting advice on protocols around how we approach governance/staff engagement.	IMP21-116	Cr Forbes / Cr Laws
Environmental Implementation Update	1. Notes this report. 2. Notes the range of standard business and transformational activities being undertaken to maintain and improve Otago Regional Council's delivery of environmental implementation activities. 3. Notes progress towards the development of a joint Memorandum of Understanding for a Southern Biosecurity Partnership between ORC, Environment Southland and Environment Canterbury which will be considered by the Council in early 2022.	IMP21-117	Cr Malcolm / Cr Forbes
Outcomes from Dunedin Electric Bus Trial	1. Notes this report. 2. Notes that the trial was successful in providing a range of valuable data about operational performance of an electric vehicle in Dunedin. 3. Notes that the trial is representative of contracts operated by Go Bus Transport. 4. Endorses Council staff preparing a subsequent report for Council consideration to the 8 June 2022 Implementation	IMP21-118	Cr Malcolm / Cr Calvert

	Committee, regarding scope to prepare for a transition to a zero-emission public transport fleet.		
Decision on Future of Rabbit Control Assets	<ol style="list-style-type: none"> 1. Notes this report. 2. Notes the outcome of the initiative to supply poisoned carrot bait to landholders on a trial basis over Winter 2021, based in Central Otago, for the purposes of rabbit control and promoting this opportunity to landholders. 3. Approves the extension of this arrangement for the Winter 2022 control season. 4. Notes the results of the contractor survey on the future use of Council-owned rabbit control assets. 5. Notes the results of the safety assessment of Council-owned rabbit control assets by an independent Senior Safety & Compliance Engineer. 6. Approves the staff recommendation to dispose of all remaining Council-owned rabbit control assets with the exception of the Galloway depot and oat processing equipment and report back before the end of the financial year 2021/22 with options for the Galloway depot and oat processing equipment including the value of the property, buildings and equipment. 7. Notes the environmental incentive contestable funding package for 2021/2022 to support better rabbit management by communities (within existing LTP budgets). 	IMP21-119	Cr Calvert / Cr Kelliher

8.3. Recommendations of the Regulatory Committee**Resolution**

That the Council adopts the resolutions of the 9 December 2021 Regulatory Committee.

Report	Resolution	Res#	Mover/ Seconder
Regulatory Group – Quarterly Activity Report	<ol style="list-style-type: none"> 1. Notes the Quarterly Update Report from the Regulatory Group. 2. Acknowledges the improvements in compliance monitoring and enforcement for Mrs Gardner and her staff. 	REG21-107	Cr Wilson / Cr Calvert
Territorial Local Authority Wastewater Treatment Plan Compliance Report	<ol style="list-style-type: none"> 1. Receives this report. 2. Notes that the Annual Compliance Report will include information on the compliance of wastewater treatment plants in the Otago region. 	REG21-108	Cr Wilson / Cr Hope
Plan Change 7 and Consent Applications	<ol style="list-style-type: none"> 1. Notes this report. 2. Requests that staff provide Councillors with a quarterly update on progress to complete the processing of deemed permit replacement applications. 	REG21-109	Cr Noone / Cr Calvert

8.4. Recommendations of the Strategy and Planning Committee

Resolution

That the Council adopts the resolutions of the 9 February 2022 Strategy and Planning Committee.

Report	Resolution	Resolution #	Mover/Seconder
Real Time Data	1. Notes this report.	SP22-101	Cr Hope / Cr Wilson
TAG Update	1. Notes this report.	SP22-102	Cr Robertson / Cr Wilson

9.1. Chairperson's Report

Prepared for: Council
Activity: Governance Report
Author: Cr Andrew Noone, Chairperson
Date: 23 February 2022

KEY MEETINGS

- [1] Provided a short video message endorsing North Otago Sustainable Land Management's entry into the Ballance Farm Environment Awards.
- [2] Met with Mike Barnes, new Dunedin Hospital Project Director.
- [3] Attended an informal Zone 6 meeting in Gore. Mayor Tim Cadogan gave an update about work the 3 Waters Governance Working Group has been undertaking. This group is looking at options on how four entities could be run in relation to representation, governance and accountability.
- [4] Met with Colin Weatherall, Chair Otago Fish and Game Council. We agreed that Governance representatives from both organisations meet to allow an opportunity to discuss directly, issues of common interest.
- [5] Along with Cr Forbes, Cr Wilson and Queenstown Lakes District Council Mayor, plus staff from both Councils, and the Ministry of Education, met to understand the scope of the MoE's Queenstown school bus review. QLDC concerns included more children being driven to school causing greater congestion of the transport network, trying to accurately plan for public transport needs in terms of future services (particularly when international tourism returns), and future infrastructure requirements.
- [6] As a representative of the owners of Port Otago, I was interviewed for a documentary being made by Ben Dickens, a freelance film maker, about the Rio ship noise journey in terms of impacts and actions taken. I was asked about how ORC balanced its responsibilities as owner, ensuring profitability versus achieving acceptable environmental outcomes.
- [7] Met with Justin Stott, Positive Property Ltd, the developer behind the new building being built on the Wolfenden and Russell site in South Dunedin.
- [8] Attended a Cosy Homes Trust meeting.
- [9] Met with Jeff Cloustan, a Lauder farmer.
- [10] During the Christmas break I spent time walking the Manuherekia River from Falls Dam to Alexandra. I also walked parts of the Cardrona and Taieri rivers.

LETTERS RECEIVED AND SENT

- [11] Rhys Millar–Project Lead, Predator Free Dunedin / Annual Report and letter of thanks.
- [12] Annabeth Cohen – Freshwater Conservation Advocate, Forest & Bird / Every Wetland Counts Pamphlet and encouraging Council to take the lead by setting a goal to increase the restoration of wetlands throughout the region.
- [13] Minister for Biosecurity, Damien O’Connor, RPMP Operational Plan.
- [14] Letter sent to Iwi for Kai Tahu representation on the Land & Water Regional Plan Governance Group when work occurs in areas of specific or shared interest, e.g. Catlins, Upper Lakes or Waitaki / North Otago.

RECOMMENDATION

That the Council:

- 1) **Notes** this report.

ATTACHMENTS

1. Ltr from Hon Damien O' Connor - 21-2645 Cr Andrew Noone 140222 [9.1.1 - 1 page]
2. Invite - Southland LWRP GG 2021-11-26 [9.1.2 - 1 page]
3. Ltrs from Predator Free Dunedin & Forest & Bird [9.1.3 - 6 pages]

Hon Damien O'Connor

MP for West Coast-Tasman
Minister of Agriculture
Minister for Biosecurity
Minister for Land Information
Minister for Rural Communities
Minister for Trade and Export Growth



14 February 2022

Cr Andrew Noone
Chairperson,
Otago Regional Council
Via email: Andrew.Noone@orc.govt.nz

Dear Andrew

Thank you for forwarding the copy of the Otago Regional Council Operational Plan 2021-22 for the Otago Regional Pest Management Plan. Councils are not required by the Biosecurity Act 1993 to send a copy of their operational plans to myself as the responsible Minister, however it provided valuable insight into the regional biosecurity system.

I am pleased to see that Otago Regional Council is committing significantly increased resources to pest management within the Otago Region. I am especially pleased to see Otago Regional Council's increased commitment to the national wilding conifer and wallaby programmes. I also commend the commitment to working in partnership with Kāi Tahu on biosecurity issues.

Thank you again for sending the operational plan through and I look forward to seeing the outcome of this year's pest management activities.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Damien O'Connor'.

Hon Damien O'Connor
Minister for Biosecurity

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand
+64 4 817 8715 | d.oconnor@ministers.govt.nz | beehive.govt.nz



Our Ref: A1570556

17 December 2021

To the Chairs of:

Hokonui Rūnaka – Riki Parata
Te Rūnanga o Awarua – Gail Thompson
Waihopai Rūnanga – Evelyn Cook
Te Rūnanga o Oraka Aparima – Stewart Bull
Te Ao Marama – Dean Whaanga (Kaupapa Taiao Manager)

E rau rangatira ma, tēnā koutou katoa, ngā mihi kauana o te ra nei. The Otago Regional Council are currently developing a Land & Water Regional Plan for Otago to be notified in 2023. The Policy team therefore are undertaking work at both a region-wide and at the FMU (Freshwater Management Units) level, this work will continue through 2021 and 2022 with the respective communities in each FMU. The next phase of the FMU rollout involves the Catlins and Upper Lakes rohe, where community consultation is presently underway.

It is important to the Otago Regional Council that engagement with and involvement of manawhenua on policy and plan development is well integrated with the policy and plan processes. In addition to direct engagement with manawhenua via Aukaha and Te Ao Marama on policy and plan development the Council created two positions for iwi on the Strategy & Planning Committee, on which sit Dr Lyn Carter and Edward Ellison.

In addition to the Council formed LWRP Governance Group, in partnership with Kāi Tahu, membership from iwi on that committee is held by Hoani Langsbury and Edward Ellison. There were two additional positions available to be used for Kāi Tahu representation when FMU work occurs in areas of specific or shared interests, eg; Catlins, Upper Lakes or Waitaki/North Otago.

With the development of FMU's in the shared interest areas or regions where Southland Rūnanga have an interest (Catlins and Upper Lakes rohe), the LWRP Governance Group consider it appropriate, should the Southland Rūnanga wish to take up the opportunity, to invite you to nominate one representative to be a member of the LWRP Governance Group.

The LWRP Governance Group meet monthly for up to 1.5 hours, generally via Zoom, and they exercise an overview role of the work programme. I attach a copy of the Terms of Reference to the LWRP Governance Group.

Thank you in advance for your consideration of this request/invitation.

Kind regards

A handwritten signature in black ink that reads "Andrew Noone".

Cr Andrew Noone
Chairperson

Copy to: Te Rūnanga o Moeraki, Kati Huirapa Rūnanga ki Puketeraki, Te Rūnanga o Otākou, Aukaha

For our future

70 Stafford St, Private Bag 1954, Dunedin 9054 | ph (03) 474 0827 or 0800 474 082 | www.orc.govt.nz



Predator Free Dunedin Trust
PO Box 1320, Dunedin Central, Dunedin 9054
info@predatorfreedunedin.org
predatorfreedunedin.org

Councillor Andrew Noone
Otago Regional Council
Level 2, Philip Laing House
144 Rattray Street
Dunedin 9016

Dear Councillor Noone,

I am writing to share Predator Free Dunedin's Annual Report for 2021. Overall, our community had a fantastic year with major progress being made across more than 30,000 hectares of Ōtepoti/Dunedin's urban and rural landscapes. Together, we have removed more than 50,000 possums, rats, and stoats — protecting native wildlife, strengthening communities, and getting us closer to the vision for a Predator Free Dunedin by 2050.

None of this would have been possible without support from Otago Regional Council as a key funder and member organisation of Predator Free Dunedin. We are exceptionally grateful for your contribution and look forward to working together in 2022.

If you have any questions, or would like to learn more about our work, please don't hesitate to get in touch.

Kā mihi nui ki a koe to you and your team.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Rhys Millar'.

Rhys Millar — Project Lead, Predator Free Dunedin

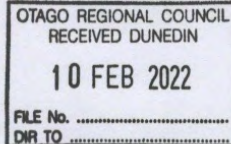
rhys@predatorfreedunedin.org
027 387 7866



Attn: Council Mayor, Council Chief Executive, Senior Environmental/Climate Policy, Senior Environmental/Climate Scientist, and Senior Communications Liaison, and other relevant staff

Tēnā koe,

Andrew
Sarah
Jean-Luc
Ly?
Johaler



2-February-2022

We are pleased to share with you information associated with the Every Wetland Counts He Piupiuaki la Rohe Kōreporepo Campaign, which is supported by ten additional environment, health, recreation, and climate organisations.

Wetland restoration and protection is one of the most important things we can do for the climate and our own wellbeing. The enclosed pamphlet and media release outline how wetlands can store more carbon than they emit, and how they will be essential in dampening the effects of climate change on communities and the environment.

You and your team know all too well that only 10 percent of the original wetland extent remains in Aotearoa, and that more are under threat from being drained, degraded, and destroyed to make way for agriculture, mining, quarrying, landfills, and urban development.

We are calling on the Government to build an **Aotearoa Wetland Protection and Restoration Plan**.

Part of the plan is the national goal to **double the extent of natural wetlands by 2050** with regional and district targets to support this vision, and an additional \$100 million of Government funding over the next four years.

Your council has an important role to play. Please share this information with your staff in the policy, science, and communications teams. It is important that we all understand how important wetlands can be in protecting communities from the effects of climate change.

We think your council could take the lead, by setting a goal to increase the wetlands in your area. How many hectares can you restore? Strategically restoring historic wetlands in the right places can reduce flood, drought or fire risks, and effects from sea level rise and storm surges. How much more carbon could your council offset by restoring wetlands?

I hope that you'll consider pledging to protect and restore wetlands, and publicly announce your goal and a plan to help deliver it.

Ngā mihi,

Annabeth Cohen
Freshwater Conservation Advocate
freshwater@forestandbird.org.nz
www.forestandbird.org.nz/campaigns/wetlands

Attachments: 5 copies of the Every Wetland Counts He Piupiuaki la Rohe Kōreporepo Pamphlet



Forest & Bird
TE REO O TE TAIAO | Giving Nature a Voice

EVERY WETLAND COUNTS

HE PUIPUIAKI IA ROHE KŌREPOREPO

A national campaign to protect and restore Aotearoa New Zealand's wetlands for the climate, nature, and community

Kaitiaki wetland habitat restoration, Bay of Plenty, © Rob Suisted

EVERY WETLAND COUNTS | HE PUIPIUAKI IA ROHE KŌREPOREPO



Wetland drainage canals, Te Puke, © Rob Suisted



Matuku-hūrepo bittern, © Neil Robert Hutton



Salt marsh, Marlborough, © Rob Suisted

WHAT'S HAPPENING TO OUR WETLANDS?

We have lost 90% of our wetlands over the last century. They have been drained, degraded, and destroyed to make way for farming, housing, mining, quarrying, and landfills. This is still happening today, much of it done illegally and with impunity.¹

Every drained wetland has negative effects on our climate. Their loss also reduces the natural diversity of our special wetland birds, fish, insects, and plants.

But we can do something about it. Drained wetlands can be rewetted and restored, and when they are it's a WIN-WIN-WIN for the climate, nature, and communities.

**HEALTHY WETLANDS
HEALTHY NATURE**

The survival of threatened wetland birds such as matuku-hūrepo Australasian bittern, pāteke brown teal, mātātā fernbird, and kōtuku white heron relies on remnant wetlands.

Native fish like inanga, tuna longfin eel, and waikaka mudfish are vulnerable to the effects of climate change.⁵ In New Zealand, wetlands support the greatest concentration of wildlife species than any other native habitat.⁶

Special plants need wetlands too, like the critically endangered swamp helmet orchid which is only found in Whangamarino Wetland.⁷ And the plant Māori musk, found in salt marshes, will continue to be vulnerable if coastal wetlands are not mapped and restored.

**HEALTHY WETLANDS
HEALTHY CLIMATE**

Wetlands store large amounts of carbon, helping mitigate the impacts of climate change. Peatlands are significant long-term carbon sinks and hold carbon in compact spaces over thousands of years.

Globally, peatlands store twice as much carbon as all the world's forests combined.⁸

Coastal wetlands such as mangroves, salt marshes, and sea grass beds are vital for the sequestration of blue carbon. Coastal wetlands store carbon quickly in their fast-growing plants and accumulated soil.

Coastal wetlands sequester carbon up to 57 times faster than a tropical forest.⁹

Restoring wetlands increases climate resilience by buffering communities from coastal storm surges, wave damage, and floods. They help stabilise shorelines, waterways, water supplies, and local microclimates.

Wetlands offer nature-based solutions to help us adapt to climate change and reduce disaster risk.¹⁰

Wetlands maintain local climate and reduce temperature extremes. By storing rainwater and slowly releasing it to the surrounding environment, they can recharge water to the ground, rivers, lakes, and streams.

The water released from wetland vegetation has a local cooling effect and reduces fire risk.¹¹



Mangroves, Hauraki Gulf, © Rob Suisted

ONLY 10% OF NEW ZEALAND'S ORIGINAL WETLANDS REMAIN - 230,000 HA²

DRAINED PEATLANDS RELEASE UP TO 6% OF AGRICULTURAL EMISSIONS³

HEALTHY NATURAL WETLANDS CAN STORE MORE CARBON THAN THEY EMIT⁴



Kahikatea swamp, Lake Brunner. © Steve Roebke

HEALTHY WETLANDS HEALTHY COMMUNITY

Wetlands are taonga for tangata whenua with cultural, economic, historical, and spiritual significance. They are sources of many things including mātauranga knowledge, oranga wellbeing, mahinga kai food gathering, and rongoā medicines. Healthy wetlands protect the mauri of freshwater and the wellbeing of the wider environment and community.¹²

Protecting and restoring wetlands delivers many co-benefits for people. Wetlands can clean pollution from water and provide a place for leisure, recreation, and cultural practices. Identifying, valuing, and restoring wetlands as a climate action will also support community health and wellbeing.¹³

Rewetting drained peatlands can provide a pathway for the primary sector to transition toward more sustainable land uses. Paludiculture is the productive use of formerly drained peat wetlands. Landowners can restore wetlands to reduce emissions, provide valuable habitat, and still generate income.¹⁴



Inanga. © Rod Morris

SAVE OUR WETLANDS

Forest & Bird and 10 leading climate, environment, health, and recreation organisations are calling on the Government to draw up a national wetland protection and restoration plan. As part of the country's climate response, we want to see the Prime Minister and her ministers:

- 1 **Double the extent of natural wetlands by 2050** with interim goals.
- 2 Establish and implement an **Aotearoa Wetland Protection and Restoration Plan** for carbon sequestration and the mitigation of climate change effects with ambitious, measurable, and enforceable regional targets.
- 3 **Provide \$100 million of additional government funding** in the next four years to establish seed funding for new wetland restoration and paludiculture trials.
- 4 **Map** current and historical mangrove, salt marsh, and sea grass extent by 2030.
- 5 Require land managers to **account for drained wetlands in the Emissions Trading Scheme**, and protect and restore wetlands as emission reduction mechanisms in Farm Environment Plans.
- 6 Stop the current destruction of wetlands by agriculture, urban development, mining, quarrying, and landfills by ensuring **existing regulations are not watered down - and are properly enforced.**

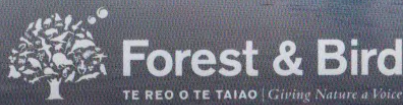
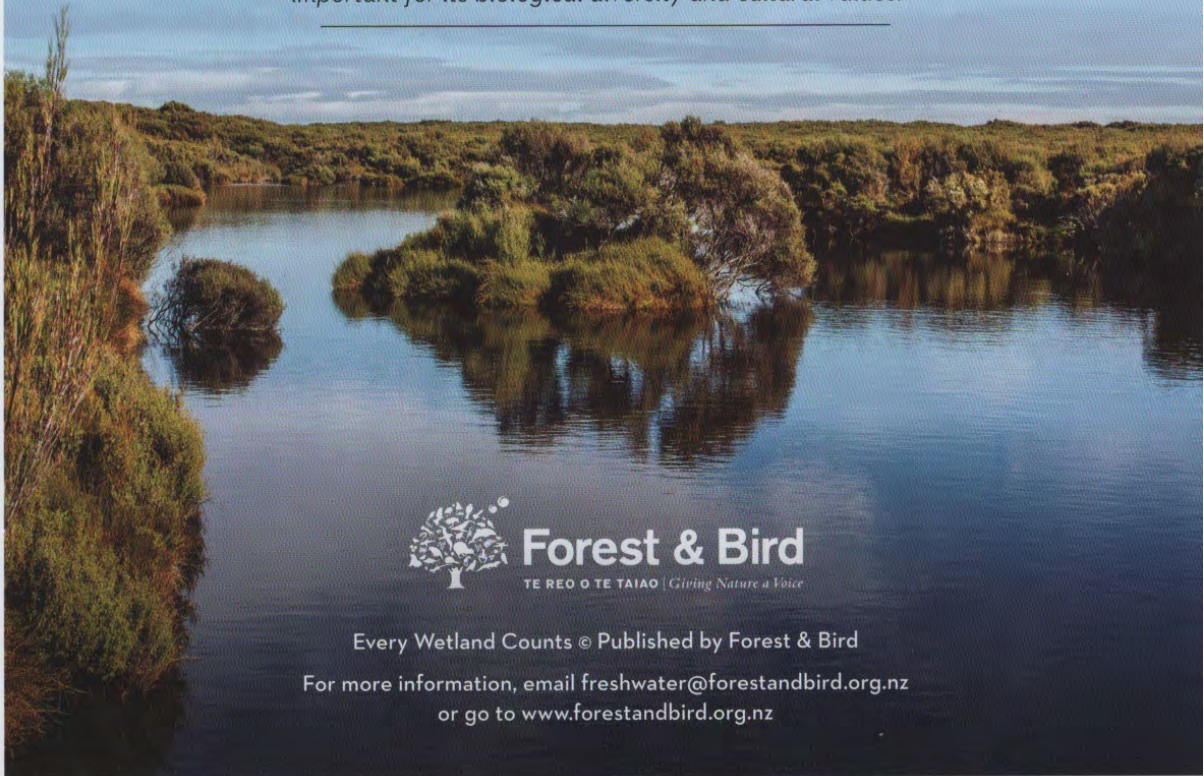
Taken together, these six actions will significantly boost the ability of New Zealand's wetlands to help mitigate climate change impacts for the benefit of people, nature, and the planet.



REFERENCES:

1. Denyer, K. et al. (2020). "The Root Causes of Wetland Loss in New Zealand: An Analysis of Public Policies & Processes." National Wetland Trust.
2. Dymond, John. "Revised Extent of Wetlands in New Zealand." *New Zealand Journal of Ecology* 45.2 (2021): 1-8.
3. Ausseil, A.-G. E et al. "Soil Carbon Stocks in Wetlands of New Zealand" *Wetlands Ecology and Management* 23.5 (2015): 947-961.
4. Burrows, L. et al. (2018). "Carbon sequestration potential of non-ETS land on farms." *Manaaki Whenua for the New Zealand Ministry for Primary Industries.*
5. Egan, E. and Williams, E. (2020, March) *Climate Change Vulnerability Assessment of Selected Freshwater Taonga Species Supplementary Appendix 1: Species Profiles.* NIWA.
6. Department of Conservation. (2021) "Wetlands," www.doc.govt.nz/nature/habitats/wetlands/.
7. Department of Conservation. (2021). "The perfect match: uncovering secrets of the swamp helmet orchid."
8. Fennessy, S.M. & Lei, G. (2018). "Wetland restoration for climate change resilience." *Ramsar Briefing Note No.10.* Gland, Switzerland: Ramsar Convention Secretariat.
- 9, 10, 11 Ibid
12. Taura, Y. et al. (2017). "Te Reo o Te Repo: Connections, understandings and learnings for the restoration of our wetlands." *Manaaki Whenua and Waikato Raupatu River Trust.*
13. Finlayson, C Max., Pierre, Horwitz, and Philip. Weinstein. *Wetlands and Human Health.* 1st ed. 2015. Dordrecht: Springer Netherlands, 2015.
14. Wichmann, Sabine. "Commercial Viability of Paludiculture: A Comparison of Harvesting Reeds for Biogas Production, Direct Combustion, and Thatching," *Ecological engineering* 103 (2017): 497-505.
15. Department of Conservation. (2022) "Awarua Waituna Wetlands." <https://www.doc.govt.nz/>.

*"The Awarua-Waituna wetlands is one of the largest remaining wetland complexes in New Zealand and is important for its biological diversity and cultural values."*¹⁶



Every Wetland Counts © Published by Forest & Bird

For more information, email freshwater@forestandbird.org.nz or go to www.forestandbird.org.nz

The following organisations endorse Every Wetland Counts He Puipuiaki la Rohe Kōreporepo.



9.2. Chief Executive's Report

Prepared for: Council
Activity: Governance Report
Author: Sarah Gardner, Chief Executive
Date: 23 February 2022

KEY MEETINGS ATTENDED

- 9 December – Three Waters update (Zoom)
- 10 December – Otago Mayoral Forum
- 10 December – Three Waters Steering Group pre-meeting LGNZ & Taituarā reps
- 13 December – Chair / Deputy Chair / CEO weekly catch-up (Zoom)
- 13 December – Three Waters Steering Group (Zoom)
- 15 December – Internal Steering Group meeting for Whare Rūnaka
- 15 December – Progressing the takīwā approach to Three Waters update (Zoom)
- 17 December – Whare Rūnaka Steering Committee (Zoom)
- 18 January 2022 – Otago Regional Leadership Group meeting (Zoom)
- 18 January – Trifecta Workshop – Executive (Local and Regional Emergency Management) (Zoom)
- 19 January – COVID-19 Omicron update (Zoom)
- 20 January – Trifecta Workshop – Executive (Local and Regional Emergency Management) (Zoom)
- 24 January – Chair / Deputy Chair / CEO weekly catch-up (Zoom)
- 25 January – ELT meeting to discuss COVID vaccine position and COVID business continuity planning (Zoom)
- 27 January – met over Zoom with Chair Noone, Deputy Chair Laws and Amanda Vercoe to discuss COVID arrangements for Governance
- 31 January – Chair / Deputy Chair / CEO weekly catch-up (Zoom)
- 3 February – Otago CE Forum (Zoom)
- 3 February – ORC Whare Rūnaka steering committee (Zoom)
- 3 February – Reforms update – Mayors, Chairs and CEOs (Zoom)
- 4 February – Otago Regional Leadership Group (Zoom)
- 8 February – ELT meeting to consider the updated Vaccine Policy (Zoom)

- 9 February – Strategy & Planning Committee (Zoom); Extraordinary Council meeting (Zoom); Briefing – Resource Management Reform (Zoom)
- 10 February – Workshop (non-public): working with the media (Zoom)
- 14 February – Three Waters Steering Group (Zoom); Chair / Deputy Chair / CEO weekly catch-up
- 16 February – With Chair Noone and Consents Manager Jo Gilroy, I met with Robb Stevens & Ian Goldschmidt from Fonterra to discuss their business continuity plan and discuss the implications it might have on their consents with ORC (Zoom)
- 16 February – Regional & Unitary CEO's Group meeting (Zoom)
- 17 February – Reforms update – Mayors, Chairs & CEOs (Zoom)
- 21 February – Chair / Deputy Chair / CEO weekly catch-up (Zoom); ELT meeting (Zoom);
- 22 February – South Island Regional Council CEOs (Zoom)
- 23 February – Update for Mayors & CEs of the Ngai Tahu Takīwā: Three Waters (Zoom)

RECOMMENDATION

That the Council:

- 1) **Notes this report.**

DISCUSSION

Assistance to West Coast Regional Council

- [1] As you will be aware our friends on the West Coast have had some challenging weather events already this year. As per the arrangements we have in place, early warning of the first event facilitated the organisation of assistance before the weather hit through the network of River Managers and Civil Defence Group Controllers. We sent both Civil Defence and Engineering staff to help with the event. We are grateful to staff who are prepared to travel and assist during these difficult times.

Vaccination Mandate

- [2] The Executive Leadership Team has confirmed and commenced the implementation of our policy that mandates vaccination for all staff and visitors to ORC sites. In addition, to ensure business continuity of critical services such as public transport and response to emergencies and incidents, we are now operating at a maximum of 50% occupancy at all ORC sites. This is to ensure that during the period where COVID is active in our community at increased levels, we minimise the opportunity for infections occurring across staff all at once. This is intended to assist in maintaining services and ensure that we can respond if we need to stand up Civil Defence. We have also rearranged vehicle allocations to avoid cross contamination where possible, and to minimise the need to access pool vehicles used by staff from across the organisation.

ATTACHMENTS

Nil

That the Council excludes the public from the following part of the proceedings of this meeting (pursuant to the provisions of the Local Government Official Information and Meetings Act 1987) namely:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>1.1 Minutes of the public excluded meeting of Council held on 9 December 2021</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>1.2 Minutes of the public excluded meeting of Council held on 9 February 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
<i>3.1 Clutha/Mata Au River – Despositing of Material on bed of river</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a)	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of

		the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.
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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 are shown above.