



Minutes of an ordinary meeting of Council held in the
Council Chamber on
Wednesday 25 May 2022 at 1:00 pm

Membership

Cr Andrew Noone	<i>(Chairperson)</i>
Cr Michael Laws	<i>(Deputy Chairperson)</i>
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 1:00 pm. Staff present in the Chamber included Gavin Palmer (GM Operations), Amanda Vercoe (GM Governance, Culture and Customer), Dianne Railton (Governance Support Officer), Steve Rushbrook (Harbourmaster), Andrea Howard (Manager Environmental Implementation), and present electronically were Nick Donnelly (Acting Chief Executive), Anita Dawe (GM Policy and Science), Richard Saunders (GM Regulatory and Communications), Tom de Pelsemaeker (Team Leader Freshwater and Land), Warren Hanley (Senior Resource Planner Liaison), Francisco Hernandez (Principal Advisor Climate Change), Anne Duncan (Manager Strategy), Alison Weaver (Commercial Regulatory Lead - Engineering) and.

1. APOLOGIES

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the apology for Cr Hope be accepted.

MOTION CARRIED

Cr Deaker and Cr Laws attended the meeting electronically.

4. CONFIRMATION OF AGENDA

Chair Noone said to accommodate Professor Skelton and MfE staff who were briefing Council in the first public-excluded item 3.1, the meeting would move into public-excluded after confirmation of the agenda. Following the briefing, Chair Noone said that he would adjourn the public-excluded meeting and reconvene the public meeting, following the published order.

Resolution: Cr Wilson Moved, Cr Calvert Seconded.

1) *That the meeting moves into public-excluded to consider item 3.1 of that agenda. Following consideration of public-excluded item 1, the public meeting will reconvene and following the published order.*

MOTION CARRIED

Chair Noone reconvened the public meeting at 1.29pm following consideration of the first item 3.1 on the public-excluded agenda.

2. PUBLIC FORUM

Mr Don Robertson spoke at the Public Forum regarding his concerns for Otago's Deepwater Alpine Lakes. Chair Noone thanked Mr Robertson and confirmed that Mr Robertson had also provided his concerns in writing, which had been circulated to Councillors.

3. PETITION

Chair Noone delivered the petition with 96 signatures, submitted by Alastair Chapman, relating to the Palmerston Bus Users requesting an extension to the existing Palmerston-Dunedin return bus service to include a pick-up, drop-off loop around Palmerston.

5. CONFIRMATION OF MINUTES

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 23 March 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Robertson Seconded

That the minutes of the (public portion of the) Council meeting held on 30 March 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 14 April 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

Resolution: Cr Noone Moved, Cr Wilson Seconded

That the minutes of the (public portion of the) Council meeting held on 10 May 2022 be received and confirmed as a true and accurate record.

MOTION CARRIED

7. CONFLICT OF INTEREST

No conflicts of interest were advised.

8. MATTERS FOR CONSIDERATION

8.1. Election of New Deputy Chairperson for ORC

The report advised the Council of the procedure to elect a new deputy chairperson following the resignation of Councillor Laws from the role, and to nominate and elect a new deputy chairperson. Amanda Vercoe (General Manager, Governance, Culture and Customer) was present to speak to the report and respond to questions.

Resolution CM22-155: Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Chooses** voting system A (election by the majority of members) for the election of a deputy chairperson.
- 2) **Agrees** that in the event of a tie under voting system A, the candidate to be excluded from the next round of voting shall be resolved by lot, as set out in paragraph 8.
- 3) **Agrees** to the process for nominating and election of a new deputy chair, outlined in paragraph 10.

MOTION CARRIED

Chair Noone nominated Cr Kevin Malcolm to be Deputy Chairperson and following discussion, moved:

Resolution CM22-156: Cr Noone Moved, Cr Wilson Seconded

That the Council:

- 1) **Appoints** Cr Malcolm as Deputy Chairperson, nominated by Cr Noone.

A division was called:

Vote

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

MOTION CARRIED (9 to 1)

8.2. Code of Conduct

The report was provided for Council to consider revisions to the Code of Conduct for the Otago Regional Council. Amanda Vercoe (General Manager, Governance, Culture and Customer) and Mr Bruce Robertson (CouncilMARK Consultant who reviewed the Code of Conduct) were present to speak to the report and respond to questions.

Mr Robertson said that the terms of reference for the review of the ORC Code of Conduct designated a focus on the complaints process. He advised that following the workshop with Councillors on 11 May 2022, he also met with Mr Len Andersen QC, who had previously spoken to Council about his concerns with the Code of Conduct. Mr Robertson then spoke to his recommended changes to the Code of Conduct.

Resolution CM22-157: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report, explanatory note and revisions, and updated code of conduct.
- 2) **Notes** not less than 75% support (9 Councillors) is required to adopt the updated code of conduct.
- 3) **Agrees** to incorporate the revised Section 12, Section 13 and Appendix C into the ORC Code of Conduct without changes.
- 4) **Adopts** the Code of Conduct 2022 (attached), with 75% or more support.
- 5) **Appoints** the Independent Member of the Audit and Risk Subcommittee to be the Independent Person under the update Code of Conduct.
- 6) **Refer** the paper and its result to LGNZ and LGC so they understand the process.

MOTION CARRIED

9 Councillors voted for the motion (75%). Cr Laws requested his vote against the motion be recorded in the minutes.

8.3. Order of Candidate Names on Voting Documents

The report outlined options to order candidate names on voting documents for the 8 October 2022 election and any subsequent by-elections that may become necessary. Amanda Vercoe (General Manager, Governance, Culture and Customer) was present to speak to the report and respond to questions.

Resolution CM22-158: Cr Wilson Moved, Cr Calvert Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves** the continued use of random order for candidate names on voting documents and any by-election voting documents for the 2022 triennial election.

MOTION CARRIED

8.4. Land and Water Governance Group Structure

The paper was provided to Council to update the structure of the Governance Group for the Land and Water Regional Plan (LWRP) by providing a permanent seat for Ngai tahu ki Murihiku. Anita Dawe (General Manager, Policy and Science) and Tom de Pelsemaeker (Team Leader Freshwater and Land) were present to speak to the report and respond to questions.

Ms Dawe advised that Ngai tahu ki Murihiku and Aukaha have reviewed the report, and Chair Noone noted that he forwarded the report to Mr Edward Ellison. Cr Wilson expressed concern that the Councillors who weren't part of the Land and Water Governance Group were not advised of the Governance Group's meetings. Cr Malcolm foreshadowed he would move a motion that Councillors are informed and invited to the Land and Water Governance Group meetings.

Resolution CM22-159: Cr Robertson Moved, Cr Forbes Seconded

That the Council:

- 1) **Notes** this report.

MOTION CARRIED

A division was called:

Vote

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

MOTION CARRIED (9 to 1)

Resolution CM22-160: Cr Robertson Moved, Cr Forbes Seconded

That the Council:

- 1) **Approves** the establishment of a permanent Ngāi Tahu ki Murihiku position on the Land and Water Regional Plan Governance Group, which may be attended by any one of the Board members of Te Ao Mārama, representing Awarua Rūnaka, Waihopai Rūnaka and Ōraka-Aparima Rūnaka.

A division was called:

Vote

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

MOTION CARRIED (7 to 3)

Resolution CM22-161: Cr Malcolm Moved, Cr Forbes Seconded

That the Council:

- 1) **Requests** that all Councillors be informed of and invited to the Land and Water Governance Group meetings.

MOTION CARRIED

The meeting adjourned for a break at 3.35pm and reconvened at 3.57pm

8.5. PC8 Rural Provisions Approval

The paper was provided for Council to approve part of Plan Change 8 (PC8) Discharge Management to the Regional Plan: Water for Otago (Water Plan) as amended by the Environment Court Decision No. [2022] NZEnvC 6[1] and to set a date for making the plan change partially operative by incorporating the amended provisions into the operative Water Plan. Anita Dawe (General Manager, Policy and Science) and Tom de Pelsemaeker (Team Leader - Freshwater and Land) were present to speak to the report and respond to questions.

Resolution CM22-162: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report.

- 2) **Approves** the provisions of Plan Change 8 (Rural Discharges) that have been amended by Environment Court Decisions [2022] NZEnvC 6 and [2022] NZEnvC 67 in accordance with Clause 17(2) of Schedule 1 of the RMA; and
- 3) **Approves** minor changes made to Proposed Plan Change 8 in accordance with clause 16(2) of Schedule 1 of the RMA.
- 4) **Affixes** Council's seal to Plan Change 8 (Rural discharges) to the Water Plan in accordance with Clause 17(3) of Schedule 1 of the RMA; and
- 5) **Resolves** to make Plan Change 8 partially operative from 4 June 2022, and publicly notify this date on 28 May 2022, in accordance with Clause 20 of Schedule 1 of the RMA.
- 6) **Thanks** the stakeholders for constructively participating in mediation to get to a final resolution by consent.

MOTION CARRIED

8.6. ORC Submission on New Zealand Emission Trading Scheme Proposed Amendments – Managing Exotic Afforestation Incentives

The paper was provided to report on the staff submission lodged on the Ministry for Primary Industries' (the Ministry) consultation: *"Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme."* (the consultation). Anita Dawe (General Manager Policy and Planning) and Warren Hanley (Senior Resource Planner Liaison) were present to speak to the report and respond to questions.

Cr Scott left the meeting at 4:04 pm due to a possible conflict of interest. Following discussion, Cr Malcolm moved:

Resolution CM22-163: Cr Malcolm Moved, Cr Kelliher Seconded

That the Council:

- 1) **Notes** this report and the submission on the Ministry for Primary Industries' consultation, *"Managing exotic afforestation incentives: A discussion document on proposals to change forestry settings in the New Zealand Emissions Trading Scheme"*.

MOTION CARRIED

Cr Scott returned to the meeting at 4:09 pm.

8.7. Otago Navigational Safety Bylaw 2020 Infringement Regime

The report was provided for Council approval of the proposed Navigation Safety Bylaw Infringement Offence Regime. Richard Saunders (General Manager Regulatory and Communications) and Steve Rushbrook (Harbourmaster) were present to speak to the report and respond to questions.

Resolution CM22-164: Cr Noone Moved, Cr Kelliher Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Acknowledges** the submissions received on the proposed infringement offence fee regime and staff response to those submissions.
- 3) **Endorses** the proposed infringement offences and fees for the Otago Regional Council's Navigation Safety Bylaw 2020.

- 4) **Authorises** the Chief Executive to make a formal request to the Ministry of Transport to make new infringement regulations for the Otago Regional Council's Navigation Safety Bylaw 2020.
- 5) **Notes** that the Parliamentary Counsel Office or the Ministry of Transport may require amendments to the proposed infringement offences and fees.

MOTION CARRIED

8.8. Briefing on National Adaptation Plan Consultation

The report was provided to inform Councillors on the Ministry for Environment (MfE) current consultation: "*Adapt and Thrive: Building a climate-resilient New Zealand; Draft National Adaptation Plan; Managed Retreat*" (the consultation). Anita Dawe (General Manager Policy and Planning), Anne Duncan (Senior Resource Planner Liaison), Francisco Hernandez (Principal Advisor Climate Change), were present to speak to the report and respond to questions.

Resolution CM22-165: Cr Wilson Moved, Cr Kelliher Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Approves a staff submission to be lodged, under the delegated authority of the Chief Executive, on the Ministry for the Environment's consultation: "Draft National Adaptation Plan."**
- 3) **Notes** that staff hosted a workshop on the Draft National Adaptation Plan on 18 May 2022 to provide an opportunity for Councillors' input to the submission.
- 4) **Notes** that a copy of the final submission will be provided in a report back to a full Council meeting in June 2022.

MOTION CARRIED

8.9. Emergency Management Otago Partnership Agreement

To report was provided for Council approval of a written agreement describing the partnership arrangement between Otago Regional Council (ORC) and the five territorial authorities of Otago for the delivery of civil defence and emergency management (CDEM) responsibilities within the Otago CDEM Group area. Gavin Palmer (General Manager Operations) was present to speak to the report and respond to questions.

Cr Scott asked how Council receives feedback from the Otago CDEM Group. Dr Palmer responded that CDEM report back to the CEG and CDEM Joint Committee, and that the minutes of the CDEM Joint Committee are posted on the Emergency Management Otago website. Dr Palmer also noted that reporting to Councillors could be through the Chair's Report.

Resolution CM22-166: Cr Wilson Moved, Cr Malcolm Seconded

That the Council:

- 1) **Receives** this report.
- 2) **Endorses** the proposed Otago Civil Defence and Emergency Management Partnership Agreement.
- 3) **Notes** that the proposed Partnership Agreement has been endorsed by the Otago Civil Defence and Emergency Management Coordinating Executive Group and discussed by the Joint Committee.

- 4) **Authorises** the Council Chairperson and Chief Executive to sign the Otago Civil Defence and Emergency Management Partnership Agreement on behalf of Council.

MOTION CARRIED

Cr Laws left for the remainder of meeting.

8.10. Waitaki Designation Notice of Requirements

Cr Malcolm sat back from the table due to a possible conflict of interest.

The paper was provided for Council approval to request new designations from the Waitaki District Council (“WDC”) as part of WDC’s District Plan (“the plan”) review, for land on which Otago Regional Council (ORC) flood protection works and assets are situated. Dr Gavin Palmer (GM Operations) and Alison Weaver (Commercial and Regulatory Lead) were present to speak to the report and respond to questions.

Resolution CM22-167: Cr Calvert Moved, Cr Wilson Seconded

That the Council:

- 1) **Notes** this report.
- 2) **Adopts** the recommendation to request new designations from Waitaki District Council for:
 - a. Hilderthorpe Floodway.
 - b. Hendersons and Waikoura Creek Floodways.
 - c. Groynes adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
 - d. Cross banks adjacent to the Waitaki River riverbed (Lower Waitaki River Control Scheme).
- 3) **Approves** the proposed Notice of Requirement (attachment 1) for public consultation.
- 4) **Approves** proceeding with public consultation on the proposed Notice of Requirement.

MOTION CARRIED

Cr Malcolm returned to the table.

8.11. Otago Catchment Community/ORC Contract

Cr Scott left the meeting due to a possible conflict of interest.

The report was provided for Council approval to enter a multi-year agreement with Otago Catchment Community Inc (OCC) to support Catchment Groups across Otago to improve the environment. Gavin Palmer (General Manager Operations) and Andrea Howard (Manager Environmental Implementation) were present to speak to the report and respond to questions.

Dr Palmer advised that an advantage of entering a multi-year agreement will be more operational efficiency. Cr Robertson thanked staff and said this will provide surety, allowing it to be easier for catchment groups to get co-funding.

Resolution CM22-168: Cr Robertson Moved, Cr Malcolm Seconded

That the Council:

- 1) **Notes** this report.

- 2) **Approves** the staff recommendation to enter into a three-year funding agreement with Otago Catchment Community Inc starting in 2022/2023, with funding in each year subject to funds being allocated in Council's Annual Plans.
- 3) **Notes** that funding totals \$1.175M (excluding GST) over the three-year period.
- 4) **Authorises** the Chief Executive to sign the agreement on behalf of Otago Regional Council.

MOTION CARRIED

Cr Scott returned to the meeting.

9. CHAIRPERSON'S AND CHIEF EXECUTIVE'S REPORTS

9.1. Chairperson's Report

It was noted that Chair Noone will write to DCC Mayor Hawkins and QLDC Mayor Boulton confirming receipt of their letter regarding transfer of public transport responsibilities, as Council will need to discuss the letter of response drafted by Cr Forbes.

Resolution: Cr Calvert Moved, Cr Forbes Seconded

That the Chairperson's report be received.

MOTION CARRIED

10. NOTICES OF MOTION

10.10. Notice of Motion - Revoking Decision for Poll on STV/FPP

Cr Wilson spoke to her Notice of Motion of 18 May 2022. She said that given the Future for Local Government review being undertaken at present, it seems likely that a voting system will be directed in any new legislation and as such the purpose of the poll in the 2nd part of original motion is now moot and does not justify the expense.

Resolution CM22-169: Cr Wilson Moved, Cr Noone Seconded

That the Council:

- 1) **Considers** the Notice of Motion.
- 2) **Revokes** its decision to hold a poll as part of the 2022 elections.

MOTION CARRIED

11. RECOMMENDATIONS ADOPTED AT COMMITTEE MEETINGS

11.1. Recommendations of the Strategy and Planning Committee

Resolution CM22-170: Cr Wilson Moved, Cr Robertson Seconded

That the Council adopts the resolutions of the 13 April 2022 Strategy and Planning Committee.

MOTION CARRIED

11.2. Recommendations of the Implementation Committee

Resolution CM22-171: Cr Scott Moved, Cr Noone Seconded

That the Council adopts the resolutions of the 14 April 2022 Implementation Committee.

MOTION CARRIED

11.3. Recommendations of the Otago and Southland Regional Transport Committees

Resolution CM22-172: Cr Forbes Moved, Cr Wilson Seconded

That the Council adopts the resolutions of the 8 April 2022 Otago and Southland Transport Committees.

MOTION CARRIED

12. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution: Cr Noone Moved, Cr Calvert Seconded:

That the meeting moves to public-excluded to consider the remaining items 3.2 through to 3.4 of the public-excluded agenda per the order paper.

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>Minutes of the public excluded Council Meeting 23 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a); To maintain legal professional privilege – Section 7(2)(g); To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h); To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i).	
<i>Minutes of the Extraordinary public excluded Council Meeting 30 March 2022</i>	To protect the privacy of natural persons, including that of deceased natural persons – Section 7(2)(a).	
<i>3.1 Professor Skelton to discuss matters arising out of meetings with senior ORC staff following the discussions with Council</i>	To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information— would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied – Section 7(2)(c)(i).	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 Delegations Manual – s.17 Court</i>	To maintain legal professional privilege – Section 7(2)(g).	Section 48(1)(a); Subject to subsection (3), a local authority may by resolution

<i>Proceedings</i>		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>3.3 Unit 3 Public Transport Tender Evaluation</i>	To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities – Section 7(2)(h); To enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(2)(i).	Section 48(1)(a); 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>3.4 Lake Wakatipu Ferry</i>	To protect information where the making available of the information— would disclose a trade secret – Section 7(2)(b)(i); To protect information where the making available of the information— would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information – Section 7(2)(b)(ii); 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.

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.

13. CLOSURE

There was no further business and Chairperson Noone declared the meeting closed at 5.03pm.



Chairperson

29 June 2022
Date