

## OTAGO REGIONAL COUNCIL

**Minutes of a meeting of the Council held in the  
Council Chamber, 70 Stafford Street, Dunedin on  
Wednesday 12 February 2014 commencing at 1.30 pm**

**Present:**

- Cr Stephen Woodhead (Chairperson)**
- Cr Gretchen Robertson (Deputy Chairperson)**
- Cr Graeme Bell**
- Cr Doug Brown**
- Cr Louise Croot MNZM**
- Cr Michael Deaker**
- Cr Gerrard Eckhoff**
- Cr Gary Kelliher**
- Cr Trevor Kempton**
- Cr Sam Neill**
- Cr Bryan Scott**
- Cr David Shepherd**

**In attendance:**

- Peter Bodeker**
- Wayne Scott**
- Jeff Donaldson**
- Fraser McRae**
- Gavin Palmer**
- Janet Favel**

Cr Woodhead noted that the Radio New Zealand reporter was present and was recording the meeting.

### CONFIRMATION OF AGENDA

Cr Woodhead advised that Items 3 and 3a would be taken together. There were no other changes to the agenda.

### MINUTES

The minutes of the public portion of the meeting held on 11 December 2013, having been circulated, were adopted on the motion of Crs Robertson and Kelliher.

## **Matters arising from minutes**

Attention was drawn to the item on page 7 of the minutes relating to terms of reference for the Audit and Risk Committee. The Chief Executive advised that work on the proposed terms of reference would be presented to a future meeting of the Council. There were no other matters arising from the minutes.

## **PART A - REPORTS FROM CHAIRPERSON AND CHIEF EXECUTIVE**

### Item 1

2014/0643 **Chairperson's Report.** Chair, 5/2/14

The report provided an overview of the Chairperson's activities for the period to 5 February 2014. The Chair noted the following points:

- Transport Summit 13/14 March – Cr Woodhead was unable to attend. Cr Kempton as Chair of the Regional Transport Committee would attend in his place, and would also attend the LGNZ National Council meeting on 13 March.
- Cabinet reshuffle – new Minister of Local Government Hon Paula Bennett, new Associate Minister Pesata Sam Lotu-Liga.
- Zones 5 and 6 meeting Invercargill 28 March – Councillors were welcome to attend.

Cr Woodhead advised that he had attended a Port Liaison Group Meeting on 29 January, and noted the upcoming visit on 8 April to observe Port operations. He advised from the Liaison Group meeting that milk and log exports were up, and meat exports were expected to increase; the log yard in Dunedin had been sealed because of ongoing dust issues; and delivery of the new tug was expected on target in the middle of the year.

### Item 2

2014/0631 **Chief Executive's Report.** CE, 31/1/14

The report provided an overview of the Chief Executive's activities for the period to 31 January 2014. Mr Bodeker noted the following points:

- The new organisational structure was now in place and was progressing well. He was pleased to see benefits from the changes that had been made, and to see staff groups working well together. There had been some reorganisation of office accommodation to reflect the new structure.
- Applications for the new position Director Stakeholder Engagement closed on 9 February, and Mr Bodeker was to meet with Mr Graeme Ewing, employment consultant, to review the applications.

- LGNZ Regional CEO activities – Mr Bodeker was a member of two groups:
  - reviewing special interest groups by looking at their status in the eyes of government agencies to ensure they were not too parochial, and how they reported back to the RCEOs’ group;
  - reviewing the provision of environmental data to MfE and whether existing monitoring might be able to fill the gaps left when NIWA and DoC withdrew from some monitoring activities.

Cr Woodhead moved  
Cr Bell seconded

*That the Chairperson’s and Chief Executive’s reports be noted.*

**Motion carried**

## **PART B – NOTICE OF MOTION**

### **Item 3 Notice of Motion**

Cr Eckhoff submitted a motion “That the Otago Regional Council endorse (in principle) the exploration for oil and gas off the Otago coast”.

Cr Eckhoff moved  
Cr Neill seconded

*That the Otago Regional Council endorse (in principle) the exploration for oil and gas off the Otago coast.*

Cr Eckhoff explained that the purpose of the notice of motion was to give Councillors the opportunity to state their views in public on exploration for oil and gas off the Otago coast. He noted the statement in the legal opinion that by taking a position on this matter, Council or its Councillors might be precluded from being able to take part in future considerations on this matter. Cr Eckhoff considered that the RMA could be used as a flag of convenience to prevent debate on some issues. He had watched issues like Project Hayes and Project Aqua being lost, and considered that it was important that these issues be discussed by Councillors. Cr Eckhoff was disappointed that the discussion had moved from exploration for oil and gas to discussion over whether it could be debated. He quoted the ORC’s Mission Statement “Promoting the sustainable development and enhancement of Otago’s resources”, and queried how that could be achieved if there was no debate. He also noted Goal 4 “Otago’s position on matters significant to our region are understood and appreciated”, and again asked how this could be achieved if matters were not debated. The Council’s objectives were to use resources in a sustainable way, and he considered sharing of knowledge was important. His proposal was about

sharing of knowledge in relation to any strike that was significant for the region.

Cr Eckhoff advised that he had taken advice from two former national politicians and a senior LGNZ politician, and all had expressed surprise at the level of opposition to bringing this notice of motion forward. He considered that the legal opinion from Council's retainer should not stand, and that the matter should be considered by an independent QC. Cr Eckhoff was concerned at the comment in the Chief Executive's report that "as ORC may be required to consider aspects of oil and gas production under a future RMA consideration, taking a position one way or the other may preclude the Council or its Councillors from being able to take part in future considerations on this matter." Cr Eckhoff did not agree that matters of commercial development should not be discussed, and asked what the difference was between this case and discussing irrigation schemes. He did not believe that an issue which was not in front of this Council in terms of a resource consent, and not likely to be for 3-5 years, should not be discussed, which he considered was overly cautious.

Cr Robertson stated that she would vote against the motion. She considered that arriving at a position on this issue was unlawful, and agreed with the opinion prepared by the Council's solicitor.

Cr Deaker thanked Crs Eckhoff and Neill for putting this motion forward and respected Cr Eckhoff's motivation for his action. He noted that the ORC was bound by statute, and it was not the Council's role to be involved in abstract debate on major issues. He was personally pleased about the possibility of finding gas off the Otago coast, but did not consider that Council should ignore advice from its solicitor.

Cr Shepherd noted the advice from the Council's solicitor that endorsing this notice of motion would be unlawful.

Cr Scott thanked Crs Eckhoff and Neill for raising the matter, but commented that the discussion was about the Council view, not about individual views. He agreed with the legal view that it would be unlawful for Council to support the notice of motion,

Cr Brown was pleased that this motion had been brought to the Council and agreed with a lot of what Cr Eckhoff had said. He personally supported exploration for oil and gas off the Otago coast, but noted the legal advice received, and considered it would be foolhardy for Council to support the motion given its regulatory responsibilities.

Cr Kempton agreed with much of the preceding comment, and commented that Council's lawyer was in tune with the RMA.

Cr Bell stated that he personally supported oil and gas exploration providing it was carried out with best practice. He appreciated the legal opinion and the views of other Councillors.

Cr Croot agreed with what had been said and noted the Council's regulatory responsibilities. She emphasised that the Council had to take a long term view, and the legal opinion was important.

Cr Neill stated that he had seconded the motion because he believed if it lapsed for want of a seconder, the Council's constituents would be confused. He considered that the debate had not clarified the situation. At election time he had spoken in favour of oil and gas exploration, and would vote in favour of the motion. Cr Neill commented that another lawyer had told him that it would not be hard to provide an opposing opinion.

Cr Kelliher agreed with the forgoing discussion and stated that on the basis of the legal opinion he would not support the motion.

Cr Eckhoff in giving his right of reply expressed his strong disappointment at the level of debate. He thanked Cr Deaker for stating clearly the reasons for his decision, and Cr Neill for his support. Cr Eckhoff commented that legal opinion was just that, and he could have brought another opinion to the contrary. He considered that ratepayers would feel they had been disenfranchised. He believed that exploration was important, and compared the issue under discussion with Council's support of exploration by Glass Earth Ltd. Cr Eckhoff stated that he would pursue the issue with central government and take it to judicial review.

The motion was then put by division:

For: Crs Eckhoff, Neill

Against: Crs Bell, Brown, Croot, Kelliher, Kempton, Robertson, Scott,  
Shepherd, Woodhead

Abstained: Cr Deaker

**The motion was lost**

Item 3a

2014/0633 **Matters pertaining to supporting commercial activity and its implication with ORC's regulatory responsibility.** CE, 31/1/14

The report noted that a notice of motion had been received to consider oil and gas exploration, and considered the implications for ORC support for commercial activity. Legal opinion received stated that ORC taking a position on the matter would not be lawful under the Local Government Act Purpose Statement, and taking a position one way or the other could preclude the Council or its Councillors from being able to take part in future considerations of the matter.

Cr Woodhead moved  
Cr Croot seconded

*That the report be noted.*

**Motion carried**

## **PART C – RECOMMENDATIONS**

Item 4

2014/0636 **Submission on the Local Government Act 2002 Amendment Bill (No. 3)**  
DCS, 4/2/14

The report explained that the Local Government Act 2002 Amendment Bill (No 3) was intended to implement the Government's second phase of legislative reform to improve the operation, efficiency and effectiveness of local government. The report sought approval of the Otago Regional Council's submission on the Bill. Mr Scott noted that the issues raised at the Finance and Corporate Committee meeting had been incorporated into the draft submission, and the summary and draft submission were now provided.

Clause 11 of the Bill - Mr Scott explained that requiring a review of delivery of services at the beginning of a triennium, with all councils carrying out their reviews at the same time, was considered inappropriate. It was suggested that it would be more useful to carry out the review as part of LTP preparation.

Clause 29 of the Bill - requirement to produce a separate Long Term Plan consultation document, thereby eliminating the requirement for a summary document. A question was raised as to what this clause was intended to fix. Mr Scott explained that there were currently two documents, one full and one summary, and the proposed document was halfway between the two. The draft submission queried the relevance of the proposed document.

Thanks were extended to staff for their preparation of the submission.

Cr Deaker moved  
Cr Neill seconded

1. *That the report be noted.*
2. *That the submission on the Local Government Act 2002 Amendment Bill (No 3) as attached to Report 2014/0636 be approved.*

**Motion carried**

## Item 5

2014/0594 **Appointments to Committees.** DCS, 16/1/14

The report advised that representation from Otago district councils on the Otago Regional Transport Committee and the Otago Civil Defence Emergency Management Joint Committee had now been advised and recommendations for committee appointments were made.

Cr Bell noted that Cr Stuart Duncan should be added as the CODC alternate appointment on the Regional Transport Committee.

Mr Scott noted a correction to the report which stated that Cr Woodhead had already been appointed as Chair of the CDEM Joint Committee. This appointment had not been made.

Cr Croot moved  
Cr Bell seconded

(1) *That the following be appointed to the Otago Regional Transport Committee:*

- *Cr Kate Wilson representing Dunedin City*
- *Deputy Mayor Lyal Cocks representing Queenstown Lakes District, (alternate Cr Alexa Forbes)*
- *Cr Barrie Wills representing Central Otago District, (alternate Cr Stuart Duncan)*
- *Cr Bill Kingan representing Waitaki District*
- *Cr Hamish Anderson representing Clutha District*
- *Mr Jim Harland representing NZ Transport Agency*

(2) *That the following be appointed to the Otago Civil Defence Emergency Management Joint Committee:*

- *Mayor Dave Cull – Dunedin City*
- *Mayor Vanessa Van Uden – Queenstown Lakes District (alternate Deputy Mayor Lyal Cocks)*
- *Mayor Tony Lepper – Central Otago District*
- *Mayor Gary Kircher – Waitaki District*
- *Mayor Bryan Cadogan – Clutha District.*

**Motion carried**

## Item 6

2014/0580 **Delegation under the Otago Regional Council Flood Protection Management Bylaw 2012.** DCS, 4/2/14

The report noted that the Council's Flood Protection Management Bylaw 2012 provided for control and protection of drains, defences against water, and floodways under the control of the Council. For administrative

efficiency, functions under the Bylaw could be delegated to appropriate staff.

Cr Eckhoff noted the reference in the Bylaw to obstruction, and queried whether bridges were regarded as obstructions in law, given that debris could pile up against them. Dr Palmer explained that the term applied only to scheduled drains, not water courses in general, which were dealt with under the RMA.

Cr Scott moved  
Cr Kelliher seconded

*That the delegation of authority under the Otago Regional Council Flood Protection Bylaw 2012 to any of the Director Engineering Hazards & Science, Director Policy Planning and Resource Management, and the Chief Executive, be approved.*

**Motion carried**

#### **PART D – ITEMS FOR NOTING**

Item 7  
2014/0627 **Financial Report.** DCS, 5/2/14

The report provided information in respect of overall Council finances for the six months to 31 December 2013.

Cr Shepherd moved  
Cr Croot seconded

*That the report be received.*

**Motion carried**

Item 8  
2014/0637 **Documents signed under Council's Seal.** DCS, 4/2/14

The report listed documents signed under the Council's Seal.

Cr Shepherd moved  
Cr Croot seconded

*That the report be noted.*

**Motion carried**



Item 9      **Reports from Councillors**

Cr Deaker noted that the scheduled meeting of the Tertiary Precinct Planning Group had been postponed to March.

**PART E - MINUTES OF MEETINGS**

Item 10      **Recommendations of the Communications Committee meeting** held on 29 January 2014, for adoption

Cr Kempton moved  
Cr Kelliher seconded

*That the recommendations of the Communications Committee meeting held on 29 January 2014 be adopted.*

**Motion carried**

Item 11      **Recommendations of the Finance and Corporate Committee meeting** held on 29 January 2014, for adoption

Cr Woodhead noted the reference in the minutes to the Council decision to seek approval from the Remuneration Authority to amend the remuneration model in terms of the proportion of payments to committee chairs and deputy chairs. A response had been received from the Authority and was to be circulated. Mr Scott advised that the request was declined by the Authority, on the basis that there was not a sufficiently robust argument for increased responsibility and therefore increased payment to deputy chairs.

Cr Shepherd moved  
Cr Croot seconded

*That the recommendations of the Finance and Corporate Committee meeting held on 29 January 2014 be adopted.*

**Motion carried**

Item 12      **Recommendations of the Policy Committee meeting** held on 29 January 2014, for adoption

Cr Robertson moved  
Cr Deaker seconded

*That the recommendations of the Policy Committee meeting held on 29 January 2014 be adopted.*

**Motion carried**

Item 13 **Recommendations of the Regulatory Committee meeting** held on 29 January 2014, for adoption

Cr Neill moved  
Cr Eckhoff seconded

*That the recommendations of the Regulatory Committee meeting held on 29 January 2014 be adopted.*

**Motion carried**

Item 14 **Recommendations of the Technical Committee meeting** held on 29 January 2014, for adoption

Cr Scott moved  
Cr Bell seconded

*That the recommendations of the Technical Committee meeting held on 29 January 2014 be adopted.*

**Motion carried**

## EXCLUSION OF PUBLIC

Cr Woodhead moved  
Cr Bell seconded

*That the public be excluded from the following part of the proceedings of the meeting.*

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

	<i>General subjects to be considered</i>	<i>Reason under LGOIMA for passing this resolution</i>	<i>Grounds under S.48 for the passing of this resolution</i>
Item 15	<i>Minutes of the non public portion of the Council meeting held on 11 December 2013, for adoption</i>	<i>To protect the privacy of natural persons. (S7(2)(a), and To enable the Council to carry out commercial activities without prejudice or disadvantage. (S7(2)(h)</i>	<i>S.48(1)(a)(i)</i>

*This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act or Section 6 or Section 7 or Section 9 of the Official Information Act 1982 as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above with respect to each item.*

**Motion carried**

Following discussion of Item 15,

Cr Woodhead moved

Cr Bell seconded

*That the meeting resume in open session.*

**Motion carried**

The meeting closed at 2.28 pm.



**Chairperson**