

OTAGO REGIONAL COUNCIL

Agenda for a meeting of the Regulatory Committee to be held in the Council Chamber, 70 Stafford Street, Dunedin on Wednesday 3 May 2017, following the Communications Committee

Membership:

Cr Bryan Scott (Chairperson)
 Cr Sam Neill (Deputy Chairperson)
 Cr Graeme Bell
 Cr Doug Brown
 Cr Michael Deaker
 Cr Carmen Hope
 Cr Trevor Kempton
 Cr Michael Laws
 Cr Andrew Noone
 Cr Gretchen Robertson
 Cr Stephen Woodhead

Apologies:

In attendance:

Please note that there is an embargo on agenda items until 8.30 am on Monday 1 May 2017

CONFIRMATION OF AGENDA

CONFLICT OF INTEREST

PUBLIC FORUM

MINUTES

The minutes of the meeting held on 22 March 2017, having been circulated, for adoption.

ACTIONS

Status report on the resolutions of the Regulatory Committee

Report No.	Meeting	Resolution	Status
2016/1137 Terms of Reference for the Regulatory Committee	23/11/16	<i>That the Terms of Reference for the Technical Committee be considered a final version to be presented to the Council on 7 December 2016 for adoption</i>	Adopted by Council on 7/12/16

2017/0595	8/2/17	<i>That reserve funding of up to \$50,000 is approved for the coordinated release of the Korean strain of the rabbit Haemorrhagic Disease Virus (RHDV-1K5) at strategic locations throughout Otago</i>	Recommendation endorsed by Regulatory Committee on 8/2/17
2017/0569	8/2/17	<i>That the Chief Executive be requested to provide a paper to the next committee round on establishing effective Council management communications in regards to constituent complaints.</i>	Item
2017/0593	8/2/17	<i>That ORC approach central government ministers with the intention of improving and further resourcing lagarosiphon control management in the Southern Lakes.</i>	
Matters Arising	22/3/17	<i>That future committee agenda include action against motions passed at previous meetings</i>	Scheduled agenda item for all Committee and Council meetings

PART A - RECOMMENDATIONS

Page Nos.

Item 1

- 2017/0779 **Responses to Constituent Complaints, DEMO, 28/4/17**
The report outlines the proposed process for responding to enforcement related complaints made by constituents to Councillors.

PART B – REPORTS FOR NOTING

Item 2

- 2017/0738 **Biosecurity and RMA Monitoring Report. DEMO, 19/04/17** -
This report describes the regulatory activity for the reporting period of 3 March to 13 April 2017

Item 3

- 2017/0757 **RMA, Biosecurity Act and Building Act Enforcement Activities. DPPRM, 13/04/17** -
This report details the Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 enforcement activities undertaken by the Otago Regional Council during the period 4 March to 13 April 2017.

Item 4

- 2017/0765 **Consent processing, consent administration and Building Control Authority update. DPPRM, 19/04/17** -
Detailing consent processing, consent administration and building control authority activity for the period 6 March to 13 April 2017.

Item 5

- 2017/0766 **Progress Report 1C - Deemed Permit Replacements and Water Groups, DPPRM, 09/04/17** -
This report notes progress on Project 1C implementation of the Regional Plan: Water policies for the period 6 March to 13 April 2017.

OTAGO REGIONAL COUNCIL**Minutes of a meeting of the Regulatory Committee
held in the Council Chamber, 70 Stafford Street, Dunedin
on Wednesday 22 March 2017, commencing at 9:00am**

Membership: Cr Bryan Scott (Chairperson)
Cr Sam Neill (Deputy Chairperson)
Cr Graeme Bell
Cr Doug Brown
Cr Michael Deaker
Cr Carmen Hope
Cr Trevor Kempton
Cr Michael Laws
Cr Andrew Noone
Cr Gretchen Robertson
Cr Stephen Woodhead

A minute silence was observed in respect of the passing of Cr Maggie Lawton.

Apologies: Cr Brown (for lateness)

In attendance: Peter Bodeker
Nick Donnelly
Gavin Palmer
Caroline Rowe
Scott MacLean
Lauren McDonald (Committee Secretary)
Karin Little (minute taker)
Marian Weaver (for the Director PPRM)

CONFIRMATION OF AGENDA

The agenda was confirmed.

CONFLICT OF INTEREST

No conflicts of interest were noted.

PUBLIC FORUM

No public forum was held.

MINUTES

The minutes of the meeting held on 8 February 2017, having been circulated, were adopted on the motion of Crs Scott and Deaker.

Discussion was held on the status of resolutions from previous meetings and a request was made for these to be reported back at each meeting.

Cr Brown entered the room at 9:08am.

Moved Cr Laws
Seconded Cr Bell

That future committee agenda include action against motions passed at previous meetings.

Motion carried

PART A - ITEMS FOR NOTING

Item 1
2017/0709 **Biosecurity and RMA Monitoring Report.** DEMO, 10/03/17

The report described the regulatory activity for the reporting period of 21 January to 3 March 2017

Discussion was held on the progress of the statutory approval process for the importation of the K5 virus, and the national communication strategy in place to assist in preparing for release of the virus in 2018.

Staff responded to questions from Councillors.

Moved Cr Woodhead
Seconded Cr Deaker

That the report is received.

Motion carried

Item 2
2017/0670 **RMA, Biosecurity Act and Building Act Enforcement Activities.** -
DPPRM, 03/03/17

This report detailed the Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 enforcement activities undertaken by the Otago Regional Council during the period 21 January to 3 March 2017.

Moved Cr Neill
Seconded Cr Hope

That the report be noted.

Motion carried

Item 3
2017/0685 **Consent processing, consent administration and Building Control Authority update.** DPPRM, 06/03/17

The report detailed the consent processing, consent administration and building control authority activity for the period 23 January to 3 March 2017.

Moved Cr Robertson
Seconded Cr Bell

That the report be noted.

Motion carried

Item 4
2017/0688 **Progress Report 1C - Deemed Permit Replacements and Water Groups,** DPPRM, 06/03/17

The report noted progress on Project 1C implementation of the Regional Plan: Water policies for the period 23 January to 3 March 2017.

Discussion was held on the tracking of the number deemed permits replacements which have been surrendered, cancelled or replaced by consent. A request was made for this information to be reported back to committee.

Moved Cr Noone
Seconded Cr Bell

That the report be noted.

Motion carried

The meeting was declared closed at 9:56am.

Chairperson

REPORT

Document Id: A997117

Report Number: 2017/0779

Prepared For: Regulatory Committee

Prepared By: Peter Kelliher, Legal Counsel

Date: 28/04/2017

Subject: Responses to Constituent Complaints

1. Background

All public organisations receive complaints. The Otago Regional Council receives over 1,400 complaints per year to the pollution hotline about environmental activity.

On occasions, constituents may raise environmental compliance matters with their local Councillor as an alternative (or in addition) to the pollution hotline. This paper proposes a process that will guide, assist and standardise Councillors and staff responses to constituent complaints made to a Councillor.

2. Process

- 1- Councillors must advise the Chief Executive in writing about the nature of the complaint. All correspondence held by the Councillor (including information either sent or received by the Councillor) about the complaint must be provided to the Chief Executive.
 - a. Justification - Information held by elected members of an agency in their official capacity is deemed to be held by the agency itself and is subject to the Local Government Official Information and Meetings Act 1987 (and if charges are laid, the Criminal Disclosure Act 2008).
 - b. Council enforcement officers may wish to speak directly to the complainant to seek further information and/or clarification.
- 2- The Chief Executive shall acknowledge receipt of the Councillor's advice.
- 3- The Chief Executive will assign the complaint to the appropriate directorate for investigation.
- 4- If the matter subject to the complaint has already been investigated by staff and a decision has been made and conveyed to the complainant the Chief Executive shall advise the Councillor of this and the outcome of that investigation.
- 5- When the complaint is an environmental compliance matter, the Chief Executive will communicate this to the Councillor. The Councillor must not involve him or herself in the investigation. The Councillor should advise the complainant that the Otago Regional Council is investigating the matter and that any further queries should be made to the relevant director.
 - a. Justification – Elected members are part of the governing body of the Council. They are democratically accountable to the ratepayers. Their role is necessarily separated from operational matters. This separation of responsibilities is particularly important for enforcement matters, where

decisions are scrutinised to ensure they are procedurally fair, and free from apparent or actual bias.

- b. The Ministry for the Environment, the Solicitor General and Auditor General (amongst other agencies) recognise and practice the need to separate enforcement decisions from perceived political influence.
- 6- A request from a Councillor (or a complainant) for information about an investigation will be considered by Council staff under the Local Government Official Information and Meetings Act 1987.
- 7- A Council enforcement officer will advise the complainant of the outcome of any investigation.
- 8- The Chief Executive will communicate the outcome of investigations to Councillors when necessary.

3. Outcomes

The proposed process ensures that Council staff interact with the complainant and the Councillor will be kept informed by the Chief Executive, where appropriate (and not for example where a conflict of interest would arise).

This policy is directed at ensuring compliance with the relevant legislation whilst ensuring Councillors remain informed.

4. Recommendation

That the Committee endorses the proposed process in responding to enforcement related complaints made by constituents to Councillors.

Scott MacLean

Director Environmental Monitoring and Operations

REPORT

Document Id: A991472

Report Number: 2017/0738

Prepared For: Regulatory Committee

Prepared By: Scott MacLean, Director Environmental Monitoring and Operations

Date: 19 April 2017

Subject: **Biosecurity & RMA Monitoring Report 3 March 2017 to 13 April 2017**

1. Précis

This report describes the Regulatory activity for the reporting period 3 March 2017 to 13 April 2017.

2. Harbour Master activities

- Recruitment for a permanent Harbour Master is underway with a large number of applications currently being assessed.
- The interim Harbour Masters attended the South Island Harbour Master navigation Safety workshop this reporting period.
- A harbour risk assessment and harbour safety policy are currently under development. This work involves a great deal of stakeholder engagement.
- The interim Harbour Masters were invited on to a cruise ship to observe an on-board fire drill.
- Two vessels broke free from their moorings this reporting period. One vessel was in the Oamaru Harbour and the other in the Otago Harbour. Both vessels were later recovered.
- A workshop is planned to be held with Waitaki District Council to discuss harbour management issues and options. This workshop is being facilitated by ORC's interim Harbour Masters.

3. Biosecurity

3.1 Velvet Leaf

178 Velvet Leaf Farm Management Plans have now been completed in Otago. The Velvet Leaf Plans include all properties where velvet leaf was found in during the inspections, and the properties that had suspected contaminated seed lines that were not inspected. There are 26 Velvet Leaf Farm Management Plans left to complete this project.

3.2 Aquatic pest activity

The Lake Wakatipu Aquatic Weed Management Group met recently to discuss the management of Lagarosiphon. It was agreed that the current management plan covering the Kawarau river needs reviewed and extended to include Lake Wakatipu. This is expected be complete by September 2017. There was also agreement that membership should be extended to include the commercial jet boat operators and representation from the Jet Boating Association.

With very low river levels in the Kawarau River, a number of Lagarosiphon beds are now surface bearing and this has created a heightened risk of Lagarosiphon being inadvertently transferred back up the river into Frankton Arm through jet boat activity. As an interim measure, the ORC has placed 400 metres of buoys to prevent boats accessing these surface bearing areas. Staff are investigating options for signage to be placed below the Kawarau Falls which would be highly visual to all lake and river uses. A meeting was held with the Jet Boating association to discuss the situation.

LINZ has completed a further round of control work for Lagarosiphon in Lake Dunstan at Bannockburn Inlet, Cromwell Swimming Beach, Dairy Creek, Burton Creek, Pisa Moorings, Lowburn Boat Harbour, McNulty Inlet, Bendigo boat ramp and approaches, Champagne Gully - Ramp and Ski Lane, Cromwell Swimming Beach, Dairy Creek, Devils Creek, Jackson's, Northburn Ski Lane, Old Cromwell Town and Boat Ramps, South of Brewery Creek and Weatherall Creek and Burton Creek.

3.3 Wallaby activity

Approximately 10,000 Hectares of land was inspected for the presence of wallaby during this reporting period.

A report was received from the public of a dead wallaby on the road east of Duntroon. Investigation of the carcass found what appeared to be a bullet hole in one side of the animal's chest, with corresponding bruising on the opposite side, indicating that it had most likely been shot and dumped on the side of the road.

A report was received of five wallaby seen in the Ardour area. The investigation found some unidentifiable faecal scat in the area as a result samples have been sent to Landcare Research Ecogene facility for DNA testing. Investigations are continuing.

A further report was received of a wallaby sighting in a recreation part of the Naseby forest. Trail cameras have been deployed and inspections are continuing.

A report was received from the public regarding a wallaby road kill on SH 83, located opposite the entrance to Borton's pond. The investigation found that the wallaby had injuries consistent with having been hit by a vehicle, including blood on the road. A joint operation with Ecan using contractors with specialist indicator dogs to search this area is planned for the coming weeks. It is possible that wallabies could migrate down the Waitaki River and head in-land at this point. Strategic surveillance will take place to ascertain if this is a potential migration pathway.

Staff followed up a report of a wallaby sighting in the Devils Bridge Road wet land area, near Oamaru. The investigation found that other land owners have seen the animal over the past few months and have failed to report to ORC. Night inspections with thermal imaging technology are continuing in this area.

A reported wallaby sighting near Swampy Summit Dunedin was investigated by staff. The witness stated that the animal was seen around two weeks prior, investigations have been postponed due to weather conditions. The DCC and the Department of

Conservation have been notified. ORC received reports of wallaby sightings in this area in 2011 but investigations failed to locate any animals at that time.

3.4 Bio-control

Monitoring of the Buddleia leaf weevil released at several sites in the Cromwell area last autumn, has shown that, while leaf damage was evident, the weevil has been slow in establishing itself. Further monitoring of this site is planned next summer.

4. Dunedin City Council drinking water bores

A survey of bores in the vicinity of the DCC Mosgiel bores to ascertain potential for aquifer contamination has been completed. Six bores were identified as not being adequately sealed. The owners of these bores will be requested to place an adequate seal (concrete pad) around the casing of the bore. No other issues were identified during the survey.

5. Recommendation

That this report is received.

Scott MacLean

Director Environmental Monitoring and Operations

REPORT

Document Id: A993757

Report Number: 2017/0757

Prepared For: Regulatory Committee

Prepared By: Peter Kelliher, Legal Counsel

Date: 13 April 2017

Subject: **Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 Enforcement Activities from 4 March 2017 to 13 April 2017**

1. Précis

This report details Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 enforcement activities undertaken by the Otago Regional Council during the period 4 March 2017 to 13 April 2017.

2. Resource Management Act 1991

a) Permitted Activity - Inspections

Table 1. Infringement Notices

Details	Period – 4 March 2017 to 13 April 2017	Total – from 1 July 2016
Discharge of contaminants to land in breach of a regional rule - effluent	1	22
Discharge of contaminants to land in breach of a regional rule - silage	0	1
TOTAL	1	23

Table 2. Authorised Legal Proceedings

Details	Period – 4 March 2017 to 13 April 2017	Total – from 1 July 2016
Discharge of contaminants to land in breach of a regional rule - effluent	0	5
TOTAL	0	5

Complaint Response

Table 3. Infringement Notices

Details	Period – 4 March 2017 to 13 April 2017	Total – from 1 July 2016
Disturbing the bed of a wetland	0	1
Disturbing the bed of a river	0	2
Discharge of contaminants to land where it may enter water – petrol	0	2
Discharge of contaminants to land where it may enter water – sediment	0	3
Depositing sediment on the bed of a river	0	1
Discharge of contaminants to land where it may enter water – wastewater	1	7
TOTAL	1	16

Table 4. Authorised Legal Proceedings

Details	Period – 4 March 2017 to 13 April 2017	Total – from 1 July 2016
Discharge of contaminants to land in breach of a regional rule - effluent	1	3
Discharge of contaminants to land where it may enter water – sediment	0	1
Discharge of contaminants to land where it may enter water – sediment; and Damming of water in breach of a regional rule	0	1
Discharge of contaminants to air – burning prohibited materials	0	1
Discharge of contaminants to land where it may enter water – wastewater	0	1
TOTAL	1	7

Table 5. Abatement Notices

Details	Period – 4 March 2017 to 13 April 2017	Total – from 1 July 2016
To cease discharging a contaminant in breach of a regional rule	0	2
To remove rubbish, material and debris from the head of a gully	0	1
TOTAL	0	3

3. Recommendation

That this report be noted.

Fraser McRae

Director Policy Planning and Resource Management

REPORT

Document Id: A995718

Report Number: 2017/0765

Prepared For: Regulatory Committee

Prepared By: Marian Weaver

Date: 19 April 2017

Subject: **Consents and Building Control Report 6 March to 13 April 2017**

1. Consent Processing

1.1 Limited Notification

- One application for five permits to carry out works in Otago Harbour for extension of a cycleway and
- One variation of a permit to discharge to air -were granted by staff under delegation.

- Kyeburn water permits holders have made application for 6 new permits to replace the existing permits in the Swinburn and Kyeburn catchments.
- An application to disturb and place a structure in a Regionally Significant Wetland has been received.
- Application to replace a groundwater permit in North Otago has been received.
These applications have gone to limited notification for lack of written approvals, and/or at the applicant's request.

2. Objections and Appeals

RM16.179 Port Otago Limited

These applications are to renew the consents for the three near shore maintenance dredging dumping sites at Heyward Point, Aramoana Spit and Shelly Beach. The applications were publicly notified. The hearing was in November and the decision was given granting the permits on 16 February. The applicant appealed one of the consent conditions. The appeal is expected to be resolved by agreement.

RM16.138 Oceana Gold Limited

These applications are for a new pit, waste rock stack and water dam near the location of the existing Coronation site. This was a joint process with consents also required from Waitaki District Council and Dunedin City Council. The decision to grant the permits subject to conditions was given on 19 December and two appeals were received. After negotiations between the applicant and appellants, both appeals have been withdrawn and a consent order from the Court is awaited.

RM16.309 and RM16.308 Waitaki District Council

These are water permits for the Hampden-Moeraki and Herbert water supply schemes. The objections are about water measuring conditions and are being resolved and finalised by staff under delegation.

3. Consent Statistics

Table 1. Consents Statistics Summary

Reporting Period	Lodged			Rejected	Decision Given		
	Consents	Variations			Consents	Variations	
		Regular	Water reporting date			Regular	Water reporting date
15/16 year totals	415	40	11	6	353	46	11
1 July to 19 Aug 2016	45	12	1	0	55	10	0
22 Aug to 4 Nov 2016	89	12	3	0	91	13	2
7 Nov 16 to 20 Jan 17	80	6	5	0	69	5	5
23 Jan to 3 March 2017	45	20	4	0	61	13	4
6 Mar to 13 April 2017	48	4	1	0	48	15	0
16/17 Year to date	307	54	13	0	324	56	11

All decisions on consents were given within RMA allowed timeframes.

4. Consent Administration

Table 2. Consent Administration Statistics

Reporting Period	Transfers Received	Transfers Issued	S417 Certs Received	S417 Certs Issued
15/16 totals	125	125	4	1
1 July – 19 Aug 2016	31	7	2	5
22 Aug to 4 Nov 2016	31	22	0	0
7 Nov 16 to 20 Jan 17	35	62	1	3
23 Jan to 3 March 2017	105	48	5	1
6 March to 13 April	15	63	0	3
16/17 year to date	111	202	8	12

5. Building Consent Authority (BCA) Administration

Table 3: Building Act Statistics

	Building Permits		Certificate of Acceptance		Code Compliance Certificate	
	received	issued	received	issued	received	issued
15/16 totals	6	6	2	10	2	4
1 July – 19 Aug 2016	1	1	0	0	1	0
22 Aug to 4 Nov	1	0	1	1	1	0
7 Nov 16 to 20 Jan 17		2			1	2
23 Jan to 3 March 2017	1	0	0	1	0	0
6 March to 13 April 2017	0	0	0	0	0	0
16/17 year to date	3	3	1	2	3	2

6. Public Enquiries

Appendix 1 shows that 374 enquiries were received during the reporting period.

Table 4. Public Enquiries Statistics

Period	Number of Enquiries
15/16 year total	2495
1 Jul - 19 Aug 16	295
22 Aug to 4 Nov 16	559
7 Nov 16 to 20 Jan 17	443
23 Jan to 3 March 17	341
6 March to 13 April 2017	374
16/17 year to date	1912

8. Recommendation

That this report is noted.

Fraser McRae

Director Policy Planning and Resource Management

Appendix 1 Public Enquiries 6 March to 13 April 2017
Total Number of Enquiries 374

Enquiry Type	No.	% of Total
Current Consents	133	35.6 %
Mining Privileges	3	0.8 %
Other	38	10.2 %
Permitted Activities	117	31.3 %
Pre-application	44	11.8 %
Property Enquiries	26	7 %
Students	1	0.3 %
TLA Enquiries	1	0.3 %
Transfers	11	2.9 %

Enquiry Location	No.	% of Total
Central Otago District Council	107	28.6 %
Clutha District Council	23	6.1 %
Dunedin City Council	65	17.4 %
Outside Otago	4	1.1 %
Queenstown Lakes District Council	53	14.2 %
Throughout Otago	8	2.1 %
Unspecified	97	25.9 %
Waitaki District Council	17	4.5 %

Enquiry Method	No.	% of Total
Counter	19	5.1 %
Email	216	57.8 %
Internet	2	0.5 %
Letter	1	0.3 %
Telephone	136	36.4 %

REPORT

Document Id: A995773

Report Number: 2017/0766
 Prepared For: Regulatory Committee
 Prepared By: Marian Weaver
 Date: 19 April 2017

Subject: **Deemed Permit Replacement Progress 6 March – 13 April 2017**

1. **Background**

The Water Plan promotes the replacement of deemed permits and other water permits that expire in 2021 to be held by water management groups. This project implements the Plan policies and this report notes progress.

2. **Promotion of Group Formation**

A prime focus of the project is to meet with clusters of deemed permit holders based on catchments, in order to outline the steps required for deemed permit replacement and encouragement to form water management groups.

Upcoming meetings	
Crown Terrace	18 April
Coal Creek, Teviot Valley	10 April
Burn Cottage (Lowburn)	3 May
Strath Taieri	4 May

Other meetings held/scheduled	
HortNZ tour	8 March
Expiring Deemed Permit Forum	29 March
Otago iwi	June

Deemed Permit Forum

On Wednesday 29 March a forum for deemed permit and other permit holders in Alexandra was held. 140 people attended. Speakers covered the work ORC is doing in encouraging permit replacements, the information required to prepare consent applications, details of our new fish & flows portal, importance of retaining easements for water races, some consent and some group configuration options. Department of Conservation, Otago Fish & Game and Kai Tahu ki Otago presented information about their interests as affected parties in the consent replacement process. A summary of progress about the various minimum flow plan changes was also given.

Group Permit Applications

An application from the Kyeburn group of permit holders has been received, and it is being processed by limited notification.

An application from 3 permit holders in the Eweburn catchment has been received.

Objectives

Performance Measure 1:

Water taken under deemed permits are replaced by resource permits (water permits) by 2021, less any permits cancelled or surrendered.

Performance Target 2:

50% of the volume of water taken in Otago under consents is being managed by groups at 1 October 2021; 50% of water permits are managed through groups or water allocation committees.

All deemed permits are replaced or have applications lodged by 31 March 2021.

Progress on Objectives:

For reporting purposes a “group” includes existing irrigation companies and Territorial Authorities.

Table 1. Allocated Surface Water

	Total	Groups	TLA	Other	%Held by Groups & TAs
l/sec	322,154	69,508	5,685	246,961	23.3%
No. Permits	1,152	131	71	950	17.5%

No change since last report.

Due to the impact of the water measuring regulations, (some cancellations and surrenders and consent replacement) the number of deemed surface water permits is slowly decreasing. In April 2014 there were 458, and on 13 April 2017 there were 390 deemed permits.

7. Recommendation

That this report is noted.

Fraser McRae
Director Policy Planning & Resource Management