

## Regulatory Committee 11 December 2019

Meeting is held in the Council Chamber, Level 2, Philip Laing House  
144 Rattray Street, Dunedin



Cr Gretchen Robertson, Co-Chair	Cr Carmen Hope
Cr Kate Wilson, Co-Chair	Cr Gary Kelliher
Cr Hilary Calvert	Cr Michael Laws
Cr Michael Deaker	Cr Kevin Malcolm
Cr Alexa Forbes	Cr Andrew Noone
Hon Marian Hobbs	Cr Bryan Scott

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Liz Spector, Committee Secretary

11 December 2019 09:00 AM - 09:45 AM

### Agenda Topic

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#### 1. APOLOGIES

No apologies were received prior to publication of the agenda.

#### 2. LEAVE OF ABSENCE

Nil

#### 3. ATTENDANCE

Staff present will be identified.

#### 4. 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.

#### 5. CONFLICT OF INTEREST

Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

#### 6. PUBLIC FORUM

Members of the public may request to speak to the Council.

#### 7. PRESENTATIONS

Nil

#### 8. ACTIONS

Nil

#### 9. MATTERS FOR DECISION

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##### 9.1 [Consideration of Draft Terms of Reference - Regulatory Committee](#)

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10. MATTERS FOR NOTING

11. CLOSURE

### 9.1. Consideration of Draft Terms of Reference

**Prepared for:** Regulatory Committee  
**Report No.** GOV1874  
**Activity:** Governance Report  
**Author:** Amanda Vercoe, Executive Advisor  
**Endorsed by:** Richard Saunders, General Manager Regulatory  
**Date:** 5 December 2019

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#### PURPOSE

- [1] To agree terms of reference for the Regulatory Committee and refer the final version to Council for adoption.

#### EXECUTIVE SUMMARY

- [2] At its meeting on 13 November 2019, the Council adopted a high-level committee structure, which included a Regulatory Committee. It was agreed committees would recommend to Council more detailed terms of reference, following a discussion at the first meeting of those committees.
- [3] Draft terms of reference for the Regulatory Committee are attached for consideration.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Refers**, following discussion, the proposed terms of reference for the Regulatory Committee to Council for adoption on 11 December 2019.

#### BACKGROUND

- [4] Detailed terms of reference need to be adopted for each of the committees established by the Otago Regional Council.

#### ISSUE

- [5] Terms of reference for the Regulatory Committee are attached for discussion.

#### DISCUSSION

- [6] See attachment.

#### OPTIONS

- [7] See attachment.
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## **CONSIDERATIONS**

### **Policy Considerations**

[8] Not applicable.

### **Financial Considerations**

[9] Not applicable.

### **Significance and Engagement**

[10] Not applicable.

### **Legislative Considerations**

[11] The Regulatory Committee must operate within the Local Government Act 2002 and the Local Government Official Information Act 1987.

### **Risk Considerations**

[12] Have been included in the draft terms of reference.

## **NEXT STEPS**

[13] The next steps are for Council to adopt the finalised terms of reference for the Regulatory Committee at its meeting on the 11 December 2019.

## **ATTACHMENTS**

1. Regulatory Committee 2019-2022 TOR DRAFT [9.1.1 - 1 page]

## Regulatory Committee

### Purpose

To oversee Council's consenting and compliance functions under the Resource Management Act, Biosecurity Act and Building Act, as well as any functions carried out by the Harbourmaster.

### Reporting

The Regulatory Committee reports to the Council.

### Membership

Co-Chair: Cr Kate Wilson

Co-Chair: Cr Gretchen Robertson

The Regulatory Committee shall have a membership of all elected Councillors.

A quorum of the Regulatory Committee shall be six members.

### Meetings

The Regulatory Committee will have ordinary meetings at quarterly intervals and will otherwise meet as required.

### Key Responsibilities

The Regulatory Committee shall take an overview of and report on:

- Consents processes, including RMA, Building Act and Bylaws;
- The monitoring of compliance with council issued consents, and any follow up actions or enforcement action required;
- The monitoring of compliance with council's plans, and any follow up actions or enforcement action required;
- The effectiveness of Council plans in meeting Council objectives and associated recommendations to Council;
- Changes in council's external operating environment which will affect the delivery of consenting and compliance functions;
- The delivery of the Harbourmaster functions and associated Navigational Safety Bylaw;
- The monitoring of compliance and enforcement activity under the Biosecurity Act and any follow up actions required;
- Risks associated with council delivering its consenting and compliance functions, and harbourmaster functions.

### Delegations

- The Regulatory Committee may recommend to Council the approval of functional strategies, project concepts and implementation plans.
- The Regulatory Committee may appoint subcommittees or working parties as appropriate provided they are limited to a time duration consistent with performance of their specified tasks.
- The Regulatory Committee shall carry out any other function or duty delegated to it by the Council.

## 9.2. Delegations

<b>Prepared for:</b>	Regulatory Committee
<b>Report No.</b>	GOV1875
<b>Activity:</b>	Regulatory: Policy Development
<b>Author:</b>	Charlies Horrell, Acting Team Leader Consents
<b>Endorsed by:</b>	Richard Saunders, General Manager Regulatory
<b>Date:</b>	5 December 2019

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### PURPOSE

- [1] Recent changes to the decision-making structure necessitates an update of delegations previously approved by Otago Regional Council (“the Council”).

### EXECUTIVE SUMMARY

- [2] This paper recommends changes to the existing delegations to reflect the changes to the new decision-making structure approved by Council on 13 November 2019. The changes relate primarily to delegations to the former Objections and Sub-Appointments Committees for certain functions under the Resource Management Act 1991.

### RECOMMENDATION

*That the Council:*

- 1) **Approves** the change to the delegations for objections and appointments under the Resource Management Act 1991 to reflect the new decision-making structure and to ensure efficiencies in decision making and authorise the Chief Executive to update the Delegations to reflect the changes.

### BACKGROUND

- [3] The decision-making structure for the Otago Regional Council 2019-2022 triennium was approved by Council on 13 November 2019. A notable change from the previous decision-making structure is the combination of the Objections Committee and the Commissioner Appointment Subcommittee (of the Regulatory Committee).

### ISSUE

- [4] The Council has delegated authorities under the Resource Management Act 1991 (RMA) and other enactments which were authorised in December 2016. These delegations were updated in November 2017, June 2018, March 2019 and June 2019.
- [5] The current delegations empower Council staff or members of Council Committees to undertake functions under the various enactments including the RMA (refer table at paragraph 7). With the change to the decision-making structure, there is a need to update delegations for specific sections under the RMA.
- [6] For efficiencies, it is recommended that instead of a separate committee to:

- a. Manage objections on a decision made for a Resource Consent application; and
- b. Appoint a commissioner and/or Councillor to mediate or decide on an application for resource consent, an objection on a resource consent decision or plan change

[7] That delegation be granted to any two of the Chairpersons of the Regulatory Committee and the General Manager Regulatory. The addition of the General Manager Regulatory provides for situations where a Chairperson is unavailable, including situations where there is a conflict of interest.

## DISCUSSION

[8] The Objections and Sub-Appointments committees currently hold delegation under a number of sections of the RMA. Recommended changes are outlined in the table below. The table shows the relevant sections of the RMA, the current positions and the new proposed positions.

Section of RMA	Description of Function	Currently delegated to	Proposed new delegation
34A(1)(1A) 357AB	Authority to appoint commissioners to hear and/or determine consent applications, objections and regional plans and plan changes.	Commissioner Appointment Subcommittee	Any two of:  Chairpersons of the Regulatory Committee  GMR <sup>[1]</sup>
34A(1), 99A	Appointment of Mediator for consent applications.	Commissioner Appointment Subcommittee	Any two of:  Chairpersons of the Regulatory Committee  GMR
100A	Appoint commissioner to hear consent application on request of applicant or submitter.	Commissioner Appointment Subcommittee	Any two of:  Chairpersons of the Regulatory Committee  GMR
357, 357A and 357B	Authority to consider and decide any objection made under any provision of Section 357 of the RMA, where the consent holder wishes to be heard.	The Objections Committee	Any two of:  Chairpersons of the Regulatory Committee  GMR

[9] The process for making a decision on appointing or considering a matter under the sections above is provided in the paragraphs below.

- [10] For appointing a commissioner to hear and decide an application, objection and plan changes under Section 34A(1)(1A), 100A or 347AB, Council staff will provide a memorandum outlining the details of the application, objection or plan change and requirement for a commissioner. A recommendation will also be provided on appropriate commissioner(s) to be appointed. Either two Chairpersons of the Regulatory Committee, or one Chairperson and the GMR will provide a written response on the appointment.
- [11] For appointing a mediator under Section 34(A) or 99A, a memorandum will be provided by Council staff as detailed in paragraph 9 with a recommendation of independent commissioner(s) or Councillor(s)<sup>[2]</sup> to mediate the consent application. Either two Chairpersons of the Regulatory Committee, or one Chairperson and the GMR will provide a written response on the appointment.
- [12] For considering and deciding an objection, a memorandum will be provided by Council staff as detailed in paragraph 9 with a recommendation of independent commissioner(s) or Councillor(s)<sup>[3]</sup> to hear, consider and decide the objection. Either two Chairpersons of the Regulatory Committee, or one Chairperson and the GMR will provide a written response on the appointment

<sup>[1]</sup> General Manager Regulatory

<sup>[2]</sup> Councillors must complete the making good decisions course.

<sup>[3]</sup> Councillors must complete the making good decisions course.

## CONSIDERATIONS

### Policy Considerations

- [13] This paper proposes a continuation of current Council policy of providing delegation to Council staff and Councillors. There are sufficient procedures and oversight in place so that Council can have confidence in the decisions made by staff and Councillors under these new delegations.

### Financial Considerations

- [14] There are no financial considerations in relation to the recommendations in this paper.

### Significance and Engagement

- [15] The recommended decision is not a significant decision in terms of the Council's significance policy and no community engagement is required.

### Legislative Considerations

- [16] The key legislative considerations in relation to this paper are to ensure that decisions under the RMA can continue to be made with certainty and to avoid any doubt as to the standing of officers exercising delegated authorities.

### Risk Considerations

- [17] If Council did not formalise the equivalence of roles exercising delegated authorities, no effective delegations would be in place for the sections subject to this report.



**Next Steps**

[18] The Council delegation are updated accordingly.

**ATTACHMENTS**

Nil