

Policy Committee 20190612 Attachments

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Minutes of a meeting of the Policy Committee held in the Council
Chamber at Philip Laing House, 144 Rattray Street, Dunedin
Wednesday 1 May 2019, commencing at 1 p.m.

Membership

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

Welcome

Cr Robertson welcomed Councillors, members of the public and staff to the meeting at 1:05 p.m.

1. APOLOGIES

No apologies were noted.

2. LEAVE OF ABSENCE

The leaves of absence for Councillor Kempton, Councillor Noone and Councillor Woodhead were noted.

3. ATTENDANCE

Sarah Gardner (Chief Executive)
Nick Donnelly (General Manager Corporate Services and CFO)
Gavin Palmer (General Manager Operations)
Sally Giddens (General Manager People, Culture and Communications)
Andrew Newman (Acting General Manager Policy, Science and Strategy)
Liz Spector (Committee Secretary)

4. CONFIRMATION OF AGENDA

The agenda was confirmed as tabled.

5. CONFLICT OF INTEREST

No conflicts of interest were advised.

6. PUBLIC FORUM

No requests to address the Committee members were received.

7. PRESENTATIONS

No presentations were held.

8. CONFIRMATION OF MINUTES

Resolution

That the minutes of the meeting held on 20 March 2019 be received and confirmed as a true and accurate record.

Moved: Cr Hope
Seconded: Cr Robertson
CARRIED

9. ACTIONS

Status report on the resolutions of the Policy Committee

Draft Biodiversity Strategy Feedback	13/06/18	<i>That a paper on implementation be brought to the Policy Committee in the next 2-3 months</i>	ON HOLD. Strategy out. Reference group meeting to be held before end of year and bring the next stage to Policy update in GMs report..Committee in 2019
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Biodiversity Action Plan	17/10/18	Approve the draft Biodiversity Action Plan in Attachment 2 for consultation with iwi and key stakeholders before a final draft is brought back to this committee for approval on 28 November 2018.	ON HOLD.
Water Meter Telemetry	28/11/2018	Report to Policy Committee to detail the communications strategy to encourage landowners to install telemetry sites to improve real-time collection of water meter data.	IN PROGRESS
New Approach for managing water in the Priority Catchments	20/03/2019	<i>Establish a TAG and CRG with formalised TORs to provide ongoing technical and strategic advice and input to the ORC to support delivery of the plan change for water management in the Manuhēria catchment and provide a progress report at the next council meeting.</i>	IN PROGRESS – reported to Council at 3/04/19. TORs to be established for TAG and CRG groups.

10. MATTERS FOR COUNCIL DECISION

Nil

11. MATTERS FOR NOTING

11.1. General Manager's Report on Progress

Acting GM Policy, Science and Strategy Andrew Newman and Acting Manager Policy and Planning Anita Dawe reviewed the report with the Committee members. A general discussion was held around recent Central Government proposals predominantly focusing on fresh water management. Ms Dawe mentioned that new national planning standards have been released which address requirements for regional policy statements and plans. She said staff will conduct an in-depth assessment of the impact of the new standards on ORC plans and the partially operative RPS within the next month.

Ms Dawe reviewed the Council's biodiversity/biosecurity work programme with the Councillors. She said a cross-organisational project team has been put together to develop a strategic framework to develop business case options for implementing the work programme. She plans to present the options for consideration to the Council in 2020.

A general discussion was then held about the Manuhēria, Arrow and Cardrona catchments plan changes. Mr Newman said the first meeting of the Technical Advisory Group will be conducted in May 2019. Councillor Hope asked if any Councillors will be on the community reference group. Mr Newman said staff will request Council designate a councillor from one of

the constituencies to participate on the CRG. Ms Dawe said the community engagement programme for the Arrow and Cardrona communities will also begin in May 2019.

Councillor Robertson thanked Mr Newman and Ms Dawe for the comprehensive report. As there was no further discussion, she asked for a motion.

Resolution

That the Council:

- 1) **Receives** this report.

Moved: Cr Hope
Seconded: Cr Brown
CARRIED

11.2. Implications of the Environment Court's procedural decision on the Proposed Otago Regional Policy Statement

Councillor Robertson asked ORC legal counsel Alistair Logan to join Mr Newman and Ms Dawe and provide an update on the recent Environment Court procedural decision on the RPS. Mr Logan said the court's decision rules that the pORPS does not achieve the purpose of the RMA, and leaves the pORPS essentially compromised. Ms Dawe said the decision was very unusual, and contains errors of fact. She said changes to the pORPS were submitted to answer some of the court's concerns and that ORC has appealed the procedural decision to the High Court. Councillor Scott suggested staff provide an outline of the fundamental issues to the Councillors. Councillor Deaker stated the public will want to know the legal status of the RPS, whether it is operative, partially operative, or inoperative. Ms Dawe said she considers the pORPS to be partially operative, but the decision of the court leaves the document vulnerable to future legal challenges.

Ms Dawe said responses from other parties regarding the proposed changes are due to be received on Friday, 26 April 2019. She also mentioned the amended National Planning Standards which will require the RPS to be reorganised. She said staff is working through the implications of these changes. Legal Counsel Logan said the ORC has gone back to court and have until 8 May to advise if they wish to be heard.

Councillor Robertson thanked the team for the update. There were no further comments and Cr Robertson asked for a motion.

Resolution

That the Council:

- 1) **Notes** that the Environment Court has ruled that the proposed Otago Regional Policy Statement does not achieve the purpose of the Resource Management Act 1991.
- 2) **Notes** that the ORC has proposed changes to the Environment Court to remedy its concerns
- 3) **Notes** that the ORC has appealed the procedural decision to the High Court.

Moved: Cr Neill
Seconded: Cr Hope
CARRIED

12. NOTICES OF MOTION

No Notices of Motion were advised.

13. CLOSURE

The meeting was declared closed at 02:03 pm.

Chairperson

Date

Functions, powers, and duties of local authorities

30 Functions of regional councils under this Act

(1)

Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:

(a)

the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region:

(b)

the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land which are of regional significance:

(ba)

the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region:

(c)

the control of the use of land for the purpose of—

(i)

soil conservation:

(ii)

the maintenance and enhancement of the quality of water in water bodies and coastal water:

(iii)

the maintenance of the quantity of water in water bodies and coastal water:

(iiia)

the maintenance and enhancement of ecosystems in water bodies and coastal water:

(iv)

the avoidance or mitigation of natural hazards:

(v)

[Repealed]

(ca)

the investigation of land for the purposes of identifying and monitoring contaminated land:

(d)

in respect of any coastal marine area in the region, the control (in conjunction with the Minister of Conservation) of—

(i)

land and associated natural and physical resources:

(ii)

the occupation of space in, and the extraction of sand, shingle, shell, or other natural material from, the coastal marine area, to the extent that it is within the common marine and coastal area:

(iii)

the taking, use, damming, and diversion of water:

(iv)

discharges of contaminants into or onto land, air, or water and discharges of water into water:

- (iva)
the dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations:
- (v)
any actual or potential effects of the use, development, or protection of land, including the avoidance or mitigation of natural hazards:
- (vi)
the emission of noise and the mitigation of the effects of noise:
- (vii)
activities in relation to the surface of water:
- (e)
the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body, including—
 - (i)
the setting of any maximum or minimum levels or flows of water:
 - (ii)
the control of the range, or rate of change, of levels or flows of water:
 - (iii)
the control of the taking or use of geothermal energy:
 - (f)
the control of discharges of contaminants into or onto land, air, or water and discharges of water into water:
 - (fa)
if appropriate, the establishment of rules in a regional plan to allocate any of the following:
 - (i)
the taking or use of water (other than open coastal water):
 - (ii)
the taking or use of heat or energy from water (other than open coastal water):
 - (iii)
the taking or use of heat or energy from the material surrounding geothermal water:
 - (iv)
the capacity of air or water to assimilate a discharge of a contaminant:
 - (fb)
if appropriate, and in conjunction with the Minister of Conservation,—
 - (i)
the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water:
 - (ii)
the establishment of a rule in a regional coastal plan to allocate space in a coastal marine area under [Part 7A](#):
 - (g)
in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land, for the purpose of—
 - (i)
soil conservation:
 - (ii)
the maintenance and enhancement of the quality of water in that water body:

(iii)
the maintenance of the quantity of water in that water body:

(iv)
the avoidance or mitigation of natural hazards:

(ga)
the establishment, implementation, and review of objectives, policies, and methods for maintaining indigenous biological diversity:

(gb)
the strategic integration of infrastructure with land use through objectives, policies, and methods:

(h)
any other functions specified in this Act.

(2)
A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the [Fisheries Act 1996](#).

(3)
However, a regional council and the Minister of Conservation may perform the functions specified in subsection (1)(d) to control aquaculture activities for the purpose of avoiding, remedying, or mitigating the effects of aquaculture activities on fishing and fisheries resources.

(4)
A rule to allocate a natural resource established by a regional council in a plan under subsection (1)(fa) or (fb) may allocate the resource in any way, subject to the following:

(a)
the rule may not, during the term of an existing resource consent, allocate the amount of a resource that has already been allocated to the consent; and

(b)
nothing in paragraph (a) affects [section 68\(7\)](#); and

(c)
the rule may allocate the resource in anticipation of the expiry of existing consents; and

(d)
in allocating the resource in anticipation of the expiry of existing consents, the rule may—

(i)
allocate all of the resource used for an activity to the same type of activity; or

(ii)
allocate some of the resource used for an activity to the same type of activity and the rest of the resource to any other type of activity or no type of activity; and

(e)
the rule may allocate the resource among competing types of activities; and

(f)
the rule may allocate water, or heat or energy from water, as long as the allocation does not affect the activities authorised by [section 14\(3\)\(b\) to \(e\)](#).

(5)
In this section and [section 31](#),—

business land means land that is zoned for business use in an urban environment, including, for example, land in the following zones:

(a)

business and business parks:

(b)

centres, to the extent that this zone allows business uses:

(c)

commercial:

(d)

industrial:

(e)

mixed use, to the extent that this zone allows business uses:

(f)

retail

development capacity, in relation to housing and business land in urban areas, means the capacity of land for urban development, based on—

(a)

the zoning, objectives, policies, rules, and overlays that apply to the land under the relevant proposed and operative regional policy statements, regional plans, and district plans; and

(b)

the capacity required to meet—

(i)

the expected short and medium term requirements; and

(ii)

the long term requirements; and

(c)

the provision of adequate development infrastructure to support the development of the land

development infrastructure means the network infrastructure for—

(a)

water supply, wastewater, and storm water; and

(b)

to the extent that it is controlled by local authorities, land transport as defined in [section 5\(1\)](#) of the Land Transport Management Act 2003.

Section [30](#) heading: amended, on 20 August 1998, by [section 9](#) of the Resource Management Amendment Act 1994 (1994 No 105).

Section [30](#)(1)(ba): inserted, on 19 April 2017, by [section 12\(1\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section [30](#)(1)(c)(iiia): inserted, on 1 August 2003, by [section 9\(1\)](#) of the Resource Management Amendment Act 2003 (2003 No 23).

Section [30](#)(1)(c)(v): repealed, on 19 April 2017, by [section 12\(2\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section [30](#)(1)(ca): inserted, on 10 August 2005, by [section 11\(1\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Section [30](#)(1)(d)(ii): replaced, on 1 April 2011, by [section 128](#) of the Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3).

Section 30(1)(d)(iva): inserted, on 20 August 1998, by [section 9](#) of the Resource Management Amendment Act 1994 (1994 No 105).

Section 30(1)(d)(v): amended, on 19 April 2017, by [section 12\(3\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 30(1)(fa): inserted, on 10 August 2005, by [section 11\(2\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(fb): inserted, on 10 August 2005, by [section 11\(2\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(1)(ga): inserted, on 1 August 2003, by [section 9\(2\)](#) of the Resource Management Amendment Act 2003 (2003 No 23).

Section 30(1)(gb): inserted, on 10 August 2005, by [section 11\(3\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(2): replaced, on 1 October 2011, by [section 9](#) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Section 30(3): replaced, on 1 October 2011, by [section 9](#) of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

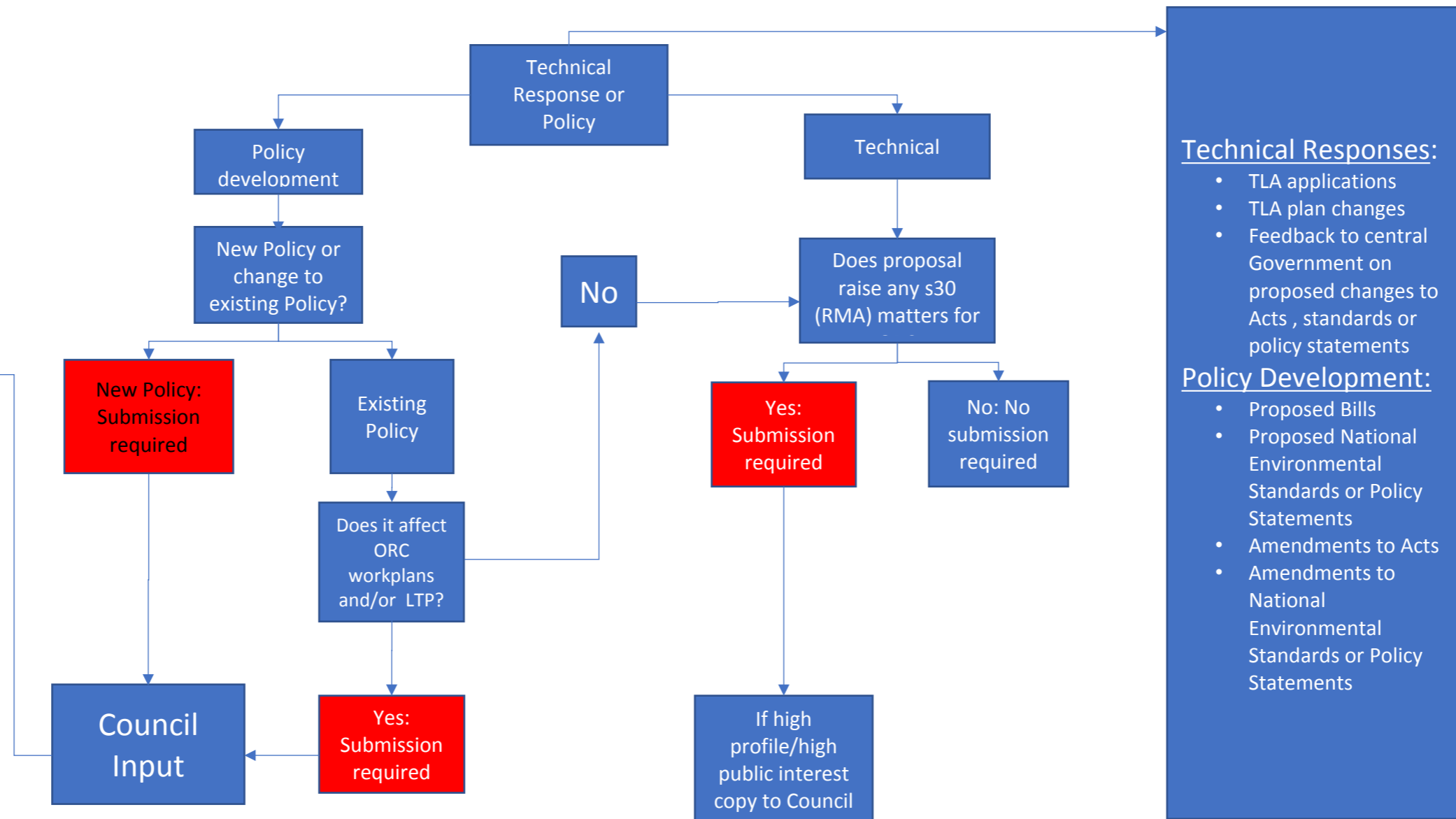
Section 30(4): inserted, on 10 August 2005, by [section 11\(4\)](#) of the Resource Management Amendment Act 2005 (2005 No 87).

Section 30(5): inserted, on 19 April 2017, by [section 12\(4\)](#) of the Resource Legislation Amendment Act 2017 (2017 No 15).

Council input:

Where the timeframe for a response allows:

- **Priority 1:** briefing paper for regulatory committee. The purpose is to provide an overview of issues and enable Council to record any matters it would like considered in a response. For more complex issues, this may also involve a workshop with Councillors.
- **Priority 2:** Circulate draft submission for comment.



Technical Responses:

- TLA applications
- TLA plan changes
- Feedback to central Government on proposed changes to Acts, standards or policy statements

Policy Development:

- Proposed Bills
- Proposed National Environmental Standards or Policy Statements
- Amendments to Acts
- Amendments to National Environmental Standards or Policy Statements