

## **THE WEST COAST REGIONAL COUNCIL**

### **MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE HELD ON 7 NOVEMBER 2011 AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOOUTH, COMMENCING AT 10.32 A.M.**

#### **PRESENT:**

B. Chinn (Chairman), R. Scarlett, T. Archer, D. Davidson, A. Robb, A. Birchfield, I. Cummings,  
F. Tumahai

#### **IN ATTENDANCE:**

C. Ingle (Chief Executive Officer), M. Meehan (Planning & Environmental Manager), C. Dall  
(Consents & Compliance Manager), T. Jellyman (Minutes Clerk)

#### **1. APOLOGIES**

**Moved** (Archer / Davidson) *that the apology from T. Scott be accepted.*

*Carried*

#### **2. PUBLIC FORUM**

There was no public forum.

#### **3. MINUTES**

**Moved** (Birchfield / Davidson) *that the minutes of the previous Resource Management Committee meeting dated 11 October 2011, be confirmed as correct.*

*Carried*

#### **Matters Arising**

There were no matters arising.

#### **4. CHAIRMAN'S REPORT**

Cr Chinn reported that he attended the twelve rating district meetings in the Westland area during the reporting period. He also dealt with the usual types of constituency queries during the month.

**Moved** (Chinn / Davidson) *that Council receive this report.*

*Carried*

#### **5. REPORTS**

##### **5.1 PLANNING AND ENVIRONMENTAL GROUP**

##### **5.1.1 PLANNING & ENVIRONMENTAL MANAGER'S MONTHLY REPORT**

M. Meehan spoke to his report advising that the Environment Court asked C. Dall to attend to provide advice on the way the rules would work in the Proposed Land and Riverbed Management Plan for the management of wetlands on the West Coast. M. Meehan reported that the Court is due to release an interim decision later this year, which will be followed by the final decision.

M. Meehan reported that Cabinet has agreed the NES for Assessing and Managing Contaminants in Soil to Protect Human Health and regulations come into effect on 12 January 2012. M. Meehan advised that the NES is designed to ensure that land has been impacted by contaminants is identified and assessed at the time of development and whatever is necessary to remediate the land for that use is put in place. M. Meehan advised that this is relevant for district councils when they

are assessing large subdivision consents. He advised that there are also permitted activity rules for removing petrol and sewage tanks. M. Meehan reported that staff will further assess any changes that need to be made to the Proposed Regional Land and Water Plan to give effect to the NES and advise Council.

M. Meehan reported that Government introduced the new Heritage New Zealand Pouhere Taonga Bill to Parliament on the 5<sup>th</sup> of October. He advised that this new Bill is intended to replace the Historic Places Act 1993 and is looking to improve on governance structure, rebalance heritage values with private ownership values and following on from the Christchurch earthquake emergency provisions to future-proof archaeological consenting in the event of natural disasters. He stated that this new Bill would also better align archaeological provisions with the RMA to be more efficient.

M. Meehan reported that Council has lodged its submission on the Ministry for the Environment's discussion document on the proposed Environmental Reporting Bill. He stated that this is self explanatory but Council believes further analysis is required by the Ministry to identify a monitoring framework and potential costs for regional councils.

M. Meehan reported that Council has received the final two Envirolink funded reports for the establishment of Fault Avoidance Zone along the length of the Alpine Fault. He stated that the initial report looked at the fault line over the entire region and the second report funded by Envirolink looked at Franz Josef in a lot more detail. He advised that this has been reported on to Westland District Council for them to use for planning purposes. Cr Archer asked if there are any likely significant ramifications in terms of the new NES for Assessing and Managing Contaminants in Soil to Protect Human Health. M. Meehan responded that there is not. Cr Archer passed on his congratulations to staff on their submission on the Environmental Reporting Bill. He stated that the content was robust and very precise. Crs Cummings and Birchfield agreed with Cr Archer's comments. Cr Chinn commented on the new Bill that replaces the Historic Places Act 1993, which has been out of balance in the past. Cr Birchfield stated that the Historic Places Act has been a big hold up with miners in the past and he feels it would be good if some timelines could also be introduced. M. Meehan stated that this is aimed at making the RMA side of things more efficient and in keeping with the Government's streamlining of this Act.

**Moved** (Archer / Robb) *that this report is received.*

*Carried*

### **5.1.2 HYDROLOGY & FLOOD WARNING UPDATE**

M. Meehan spoke to this report advising that the Waiho River went through its alarms several times during the month. He stated that there was one medium sized rainfall event that produced 250mm of rain in 27 hours. M. Meehan advised during this event the Waiho River peaked at 8.1 metres. He advised that the Buller River also went through its first stage alarm. M. Meehan advised that the 8.1 metre event on the Waiho River was a good test for the new flood banks as it was still a couple of metres of the top of the flood banks. M. Meehan advised that discussion has taken place regarding the alarm levels in the Waiho River as it is regularly going into alarm at quite low levels but this medium size event has now provided a little bit of clarity as to where the river sits in relation to the flood walls. M. Meehan advised that Council's Hydrologist would meet with Westland District Council, NZTA and DoC to discuss the alarm levels to ensure that all parties are comfortable with them.

M. Meehan reported that Mr Bob Hall, Consultant River Engineer, flew over the Callery River on the 27<sup>th</sup> of October and noted that the landslide dam has now gone. M. Meehan advised that staff are unsure of when the dam failed but feel that it is likely that it failed during the heavy rainfall event on the 25<sup>th</sup> of October. Cr Scarlett asked if the Callery River was graphed. M. Meehan advised that the Callery monitoring station is no longer in use because of the build up of gravel in this area and therefore the Waiho River is used for monitoring purposes. Cr Davidson asked if the dam bursting has increased the bed of the Callery River. M. Meehan advised that currently staff are going on the information given by the Consultant River Engineer. C. Ingle advised that a further survey of the Waiho River bed all the way up to the Callery River would be undertaken as this river is changing so much this year.

**Moved** (Robb / Cummings) *That this report be received.*

*Carried*

### 5.1.3 CIVIL DEFENCE REPORT & REGIONAL TRANSPORT REPORT

C. Ingle spoke to this report and advised that the new Civil Defence Booklet "Get Ready Get Thru" was included in the last edition of The Messenger and distributed to all households. C. Ingle advised that at the recent Lifelines Group meeting, Mel Sutherland, from Grey District Council was appointed as the new Chairman of this group. C. Ingle reported that fuel storage was discussed at the recent Lifelines meeting and this group will now follow up on barging and other options of bringing fuel to the West Coast during an emergency. He advised that this matter would then come back to the Civil Defence Group.

C. Ingle advised that Cr Scarlett and Regional Planner, Nichola Costley attended the Hearing on the Draft Canterbury Regional Land Transport Strategy and spoke to Council's submission. He advised that suggestions and an offer of R funding from this region was made to bring the priority of fixing State Highway 73 between Rough Creek and Mingha Bluff forward which Council has been pushing for several years now. He stated that this area of the highway is a high priority for the region.

Cr Davidson stated that he wonders how many people actually take notice of the Civil Defence brochure that is sent out and if there is a way of evaluating how many people read this. Cr Archer stated that more and more people are putting up "No Circulars" signs as a result of the amount of unsolicited mail that come through the mail system. He advised that The Messenger is considered to be a circular so these people would not get the "Get Ready Get Thru" booklet. Cr Archer feels this is an important document that everyone should have access to it and that the public could be advised via the Regional Council newsletter that spare copies are available at the Regional Council and District Councils.

**Moved** (Archer / Davidson) *That this report be received.*

*Carried*

## 5.2 CONSENTS AND COMPLIANCE GROUP

### 5.2.1 CONSENTS MONTHLY REPORT

C. Dall spoke to his report advising that he has spent a substantial amount of time preparing his evidence for the appeals before the Environment Court against the consents granted to Meridian Energy Ltd for its proposed Mokihinui Hydro Project. He stated that Meridian alone has 55 witnesses and some of the statements of the witnesses exceed 100 pages.

C. Dall stated that he was asked to attend the Environment Court hearing for the Wetlands Variation appeals which took two days.

Cr Birchfield due attention to RC07152 which gives consent to discharge contaminants, dust and diesel fumes to air from quarrying activities. Cr Birchfield stated that he has not seen this before.

C. Dall responded that this consent requirement only happens in situations where the applicant doesn't believe that they can comply with the relevant permitted activity rules. C. Dall stated in this case there is not a standard in terms of a physical measurement for fumes but there is one for dust, while for the fumes it would be a judgement call by the Compliance Officer. C. Dall advised that an example would be if there were a close neighbouring property.

**Moved** (Robb / Birchfield) *that the November 2011 report of the Consents Group be received.*

*Carried*

### 5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

C. Dall spoke to this report advising that the regular site visits showed a fairly good result in terms of compliance. He advised that Solid Energy Ltd has been very busy over past months getting new mining operations up and running. C. Dall advised that these operations include the new Reddale Mine at Reefton and the Number 2 South Cutback mine on the Stockton Plateau. He stated that staff have been provided with management plans required for these sites, which will require review and certification. C. Dall reported that staff have been busy following up on various issues relating to whitebait stands. C. Dall reported that a typical number of complaints were received during the reporting period. C. Dall advised that a couple of mining work programmes and bonds have also been received.

## **LATE ITEM**

### **BOND RELEASE FOR RESOURCE CONSENT RC02239**

C. Dall advised that RC02239 has been transferred from Brookdale Mining Ltd to Buller Coal Ltd. He advised that Buller Coal Ltd has lodged a new bond for the consent and this now means that the old bond for the consent can be released. C. Dall advised that Company has requested that council release this bond as soon as practicable.

**Moved** (Scarlett / Archer) *That Council release the bond lodged by Brookdale Mining Ltd for Resource Consent RC02239.*

C. Dall reported that a number of Council staff have been involved with the Rena incident in Tauranga.

Cr Archer asked C. Dall if he could confirm the location of the Reddale Mine. C. Dall responded that this mine is on a Landcorp block in the Burkes Creek area north of Reefton which is out of view and a long way from residential properties.

Cr Scarlett asked who pays for staff to attend the Rena incident. C. Dall responded that costs are recovered from Maritime NZ and council is not out of pocket. Cr Archer stated that it is heartening to see the utilisation of resources from around the country to assist with the Rena incident. C. Ingle advised that another two staff members have headed to Tauranga today to further assist with the recovery. Cr Scarlett asked what role is council staff carrying out in response to this incident. C. Dall responded that individual staff skills are married up with what is required. C. Dall advised that staff have assisted with planning, clean up and aerial assessments and wildlife also. M. Meehan advised that he spent a week assisting with the Rena incident and there are over 100 people in the command centre and others assisting with operations.

**Moved** (Archer / Cummings) *That the November 2011 report for the Compliance Group be received.*  
*Carried*

### **5.2.3 PROPOSED ALTERNATIVE ENVIRONMENTAL JUSTICE POLICY**

C. Ingle advised that this report has been prepared by Cr Robb and Phil McKinnel, Compliance Team Leader, C. Ingle advised that he has also been involved in the preparation of this report. C. Ingle advised that this is an extension of what Council is already doing regarding an alternative route for those who are facing an RMA prosecution. C. Ingle advised that this approach has been further developed by senior Environment Canterbury personnel and is similar to the restorative justice process which we already use and this is a variation of this called the Alternative Environmental Justice approach. If a defendant fits the criteria then they can be approached to do some environmental restitution work instead of going through the legal process and being prosecuted and fined. C. Ingle advised that this would very much depend on the attitude of the defendant and whether they are prepared to follow this process and whether there is restitution work that lends itself to the outcomes that council would be seeking. C. Ingle explained the process would involve an environmental justice conference and an independent facilitator would be involved and the council would be representing the environment and the defendant would be representing themselves and the independent facilitator would be looking for an outcome that would be suitable for both parties. C. Ingle advised that council would want to ensure that its costs are met and is not out of pocket. C. Ingle explained that the defendant who is prepared to do the right thing would end without having a conviction or a fine and will instead do environmental restitution. Cr Robb advised that a member of the public approached him regarding a seminar that they had attended where ECAN had presented this scenario. Cr Robb advised that he contacted Kim Drummond from ECAN and discussed how to apply this policy here. Cr Robb stated that if this policy had been available for previous cases where a defendant had admitted guilt then a better outcome could have been had for all parties involved. Cr Robb stated that ECAN are hoping that this new policy will evolve over time and become a viable option for prosecutions. Cr Scarlett asked if ECAN have implemented this policy yet. Cr Robb stated that they have used this on at least one occasion and possibly two. Cr Robb advised that the first occasion involved a dairy farmer who then undertook a community project around the damage that he had caused. Cr Robb stated that in some cases riparian planting around a creek to protect it could be done and the defendant would pay the costs of what is required to put things right. Cr Robb stated that in this case the Judge was happy with the outcome. The community project undertaken must be associated with the breach to the environment. Cr Archer asked if the judiciary gets involved with what the outcome of the alternative

justice policy is or is it sorted prior to going to court. C. Ingle advised that the Court would be more interested in the process that Council follows. C. Ingle advised that the paper sets out the process quite clearly. C. Ingle advised that his recommendation is that it would be incorporated into Council's Enforcement Policy. C. Ingle advised that when it comes to withdrawing charges in Court, if the policy has been followed using an independent facilitator, that would be the sort of thing that the Court would be looking for, as well as if there is an environmental outcome that is linked with the immediate environment where the offence has occurred. Cr Archer stated is supportive of this concept as it adds another tool to council's options. Cr Archer suggested that the last word on first line in step 5 on page 24 is changed to "may" instead of would. Further discussion took place on other possible changes but there was only the one change made to the policy. Cr Scarlett asked how would the defendant get an idea of what the restorative justice might be prior to pleading guilty. Cr Cummings stated that the greatest incentive would be not to have a criminal conviction and money might be secondary to a conviction. Cr Archer stated that defendants would be routinely advised to take legal advice in all cases.

**Moved** (Archer / Scarlett) *that the last word (would) on first line in step 5 on page 24 be changed to may.*

*Carried*

Cr Davidson stated that he is concerned that someone might get involved with something that he has not had any legal advice over. Cr Robb stated that this could happen in any situation and if someone chooses not to take legal advice then that is their problem. He stated that it would be made clear to a defendant that they have the option of legal representation. Cr Robb stated that legal representation couldn't be forced onto someone. Cr Scarlett asked if Council would appoint a facilitator for these matters or would it be on a case by case basis. C. Dall stated that he suspects that a facilitator would be appointed on a case by case basis in case of the parties knowing each other and also there could be a conflict of interest. C. Dall advised that there also could be cases where someone has particular expertise and knowledge which would be beneficial in facilitating the outcome.

It was noted that the costs would be on the defendant. C. Dall explained the costs of legal fees to the meeting.

**Moved** (Archer / Cummings) *that Council adopts the Alternative Environmental Justice Policy outlined above and incorporates it into the Council's Enforcement Policy.*

*Carried*

## **6.0 GENERAL BUSINESS**

There was no general business.

The meeting closed at 11.14 a.m.

.....  
Chairman

.....  
Date