

THE WEST COAST REGIONAL COUNCIL

MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE HELD ON 4 SEPTEMBER 2012 AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH, 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), R. Mallinson (Corporate Services Manager), M. Meehan (Planning & Environmental Manager), J. Adams (Consents & Compliance Manager), T. Jellyman (Minutes Clerk)

1. APOLOGIES

There were no apologies.

2. PUBLIC FORUM

There was no public forum.

1. MINUTES

Moved (Birchfield / Cummings) *that the minutes of the previous Resource Management Committee meeting dated 14 August 2012, be confirmed as correct.*

Carried

Matters Arising

There were no matters arising.

2. CHAIRMAN'S REPORT

Cr Chinn reported that he received two inquiries regarding the resource consent on the Waitangitaona River at Whataroa. Cr Chinn advised that he went and had a look at the river and then contacted M. Meehan to discuss this further.

Moved (Chinn / Birchfield)

5. REPORTS

5.1 PLANNING AND ENVIRONMENTAL GROUP

5.1.1 PLANNING & ENVIRONMENTAL MANAGER'S MONTHLY REPORT

M. Meehan spoke to his report and advised that Government has considered changes to the Exclusive Economic Exclusion Zone (EEEZ) and Continental Shelf (Environmental Effects) Bill. He outlined the key changes Government is proposing to make. M. Meehan advised that the Environment Minister, Amy Adams, considers the revised penalty for non-compliance will provide significant incentive to comply with the regime when operating in the EEEZ.

M. Meehan reported that Council has been successful in obtaining funding for a Biodiversity Co-ordinator from the Biodiversity Advice and Condition Fund to work with landowners with wetlands identified in the Land and Riverbed Plan to assist them to obtain funding to protect these areas. M. Meehan reported that Council also received funding from the same source for a small wetland enhancing project at Carew Bay, Lake Brunner.

M. Meehan reported that staff are working with Grey District Council on the Contaminated Land National Environmental Standard (NES) to see what systems can be put in place to better streamline what is required for subdivision processes relating to contaminated land management. If this is successful then it will be rolled out to Buller and Westland District Councils.

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

Carried

5.1.2 REEFTON AIR QUALITY SUMMARY

M. Meehan spoke to this report and advised that the end of the winter reporting period has now been reached and 27 exceedances of the NES for PM₁₀ in Reefton between 1 May to 22 August.

Moved (Robb / Archer) *that Council receive this report.*

Carried

5.1.3 AIR QUALITY PLAN REVIEW

M. Meehan spoke to this report advising that the Air Quality Plan was made operative on the 2nd of July 2002 and is currently undergoing its ten year review. M. Meehan advised that a huge part of this review is giving effect to the NES for Air Quality from the Ministry for the Environment. M. Meehan stated that it is important that we get input from the community at the front end of the plan review process. M. Meehan advised that he proposes that Council forms a Reefton Airshed Committee (RAC) to make recommendations back to Council on how Council can meet the NES. M. Meehan is proposing the Council forms an Appointments Committee and they would seek representatives from the local community, a WCRC representative, a Buller District Council representative and local Iwi. M. Meehan advised that at the August Councillor Workshop the principles of what to use when drafting changes to the plan were discussed. He advised that the same principles could be used to guide the RAC.

M. Meehan read out the five guiding principles from his report. M. Meehan suggested that the RAC meets monthly for a year and then council would receive the recommendations from the RAC.

Cr Scarlett feels that Council should meet with the Reefton community and seek those who are willing to progress this and take this forward to try to find a solution on how to meet the NES. Cr Scarlett feels that it is not necessary to have a representative on the RAC from the energy industry. Cr Scarlett stated that the appointment process for RAC needs to be a transparent process and it is important that the community owns it and that the community appoints the RAC. Cr Scarlett stated that the community needs to address the issues under the Terms of Reference and be guided by these Terms of Reference.

Cr Robb agreed with Cr Scarlett and stated that community backing is the most important thing. M. Meehan stated that members of the community who are not on the RAC could come along to the meetings and speak. C. Ingle advised that the Chairman of the RAC should be a member of the community. Cr Scarlett stated that it is critically important that Reefton solves this problem themselves.

C. Ingle suggested a sub committee of three councillors to form the appointment committee. Cr Scarlett stated that people who are close to Reefton who can attend these meetings are the best candidates. It was agreed that Crs Scarlett, Robb and Birchfield be the council representatives on the appointment committee. Cr Birchfield stated that he would like to see the Reefton representatives be publicly elected at a meeting, not by postal votes but by the people of Reefton. Cr Scarlett agreed with Cr Birchfield. Cr Robb stated that in view of the recent news item on TV 3 there should be a reasonable amount of people attending the public meeting. C. Ingle stated that the timeframe is reasonably tight to start to work through the issues so that the MFE 50 mcg limit of PM₁₀ can be reached by 2016.

Moved (Davidson / Archer)

1. *That this report is received.*

2. *That Council form a Liaison Committee, made up of Crs Scarlett, Robb and Birchfield, tasked with forming the Reefton Airshed Committee, and confirming the Terms of Reference it will operate under.*

Carried

Cr Scarlett suggested that the committee be called a liaison committee and not an appointments committee. Cr Davidson agreed with this.

Cr Chinn invited F. Tumahai to join the RAC committee. F. Tumahai accepted this nomination and confirmed that he would represent local Iwi. Cr Scarlett nominated Cr Archer onto the RAC and he feels

Cr Archer has a technical background and brings his previous experience from Buller District Council with him. Cr Scarlett stated that there needs to be a representative from Buller District Council on the RAC committee as well.

Moved (Scarlett / Robb) *that Cr Archer be the Regional Council representative on the Reefton Airshed Committee and that F. Tumahai represent Iwi on this committee.*

Carried

Cr Scarlett stated that the Liaison Committee now needs to get together and work through the Terms of Reference and organise a meeting in Reefton to make community appointments. Cr Scarlett stated that Council has until 2016 to get the 27 exceedances down to three and this needs to be done in 2 ½ year's time. Cr Scarlett stated that if there is not a lot of progress being made by 2016 then there will be problems, as time is needed to implement the changes in this Airshed. Cr Scarlett stated that this is a big ask and a start needs to be made.

LATE ITEM

REGIONAL PLAN UPDATE

Moved (Davidson / Scarlett) *That Council accept the late agenda item.*

M. Meehan advised that this matter needs to be urgently addressed at today's meeting because it deals with Variation 2 of the Land and Riverbed Plan. The intention was to have that Plan made operative at the same time as we release the decisions on the Land and Water Plan. The Land and Riverbed plan cannot be made operative unless we have withdrawn variation 2.

Cr Chinn stated that he is not very happy with the procedure, as the whole thing has come in the backdoor. He stated that there are landowners with wetlands that don't know that they are involved and here council is putting things into the plan and people don't know. Cr Chinn stated that he knows that the Environment Court has made a decision and whether we agree with that decision or not the whole thing is a big disappointment. Cr Scarlett asked if Council has notified everyone that is affected. M. Meehan responded that staff are yet to inform landowners. Cr Birchfield stated that someone could quite easily challenge this, as natural justice would allow you to challenge this as it has been done behind landowner's backs. Cr Birchfield stated that the wetlands decisions have effectively taken people's property rights away. Cr Chinn stated that people with a significant wetland will have to get a consent and then they will have to get the swamp expert in who will recommend against it, then go to appeal and then end up in the Environment Court and you have to front up with \$25,000 and you are going to lose anyway. Cr Chinn stated that this is more or less taking the land off you. Cr Chinn stated there is 400 hectares of wetlands in Westland. Cr Scarlett asked the Chairman if Council has a legal obligation to notify people of this. C. Ingle stated that this question was asked of the Court, as it was the Court who put the wetlands into the plan and not the Council. C. Ingle advised that Council's lawyer asked the Judge when she would like council to notify the landowners and the Judge responded that the Court did not want to go there. C. Ingle stated that he is now left in a bit of uncertainty as to where Council is legally in terms of informing people. C. Ingle said that if Council want him to inform people and send out maps of wetlands on individual's properties then Council could do this. Cr Birchfield said people might have started work on their wetlands without knowing that they would need to get consent. C. Ingle advised that he knows that some of these areas have been developed in the interim period and he feels it would be a good idea to get these developed areas documented as well so that landowners can be told that they did not do this illegally as they did it before it became law. M. Meehan advised that he currently has his team working through aerial photos to see where there have been changes to the mapped wetlands. M. Meehan said that he has visited some areas where work has been done prior to the wetlands being included in the plan and that it is important these areas are documented and that landowners are informed of the rules from now on. M. Meehan stated that it might be that in a couple of years time, council may need to do a variation to reduce down the size of some of the wetlands where there has been some development if it is obvious that it is not a wetland anymore. Cr Archer stated that he totally supports the concept of Council notifying the affected landowners. He stated that any legal recourse is up to the landowners to take up with their own solicitors. Cr Scarlett stated it is important that landowners concerned are given a factual explanation as to what has happened.

Cr Scarlett stated that the good news is that landowners can apply to council for a resource consent, which council can grant prior to development and this land is not locked up forever. C. Ingle stated that areas could be developed unless there are significant values identified. Cr Davidson stated that the government should acknowledge that they have a responsibility to these landowners. C. Ingle responded

that he and Cr Scarlett went to see the Conservation Minister about this some years ago and talked to her about compensation. C. Ingle advised that one of the obvious solutions was a land swap where the landowner gets some low value DoC land that he can use and DoC gets proper protection over the significant wetlands. C. Ingle suggested that once landowners have been informed of the new rules then perhaps the Minister of Conservation could be asked to come over and talk to landowners directly. Cr Scarlett agreed with this and stated that there is a matter of justice. Cr Birchfield stated that council should have said to the government, before the wetlands were identified, what compensation are landowners going to be paid. If the government said no compensation then Council should have refused to identify the wetlands. Cr Scarlett stated that this is what he and C. Ingle visited the Minister about at the very start and she was not interested. Cr Scarlett stated that council should remain keen to seek some sort of compensation from the government for these landowners.

Moved (Scarlett / Archer)

That Council notifies landowners of wetlands of the new rules requiring wetlands to have resource consent prior to any development being undertaken.

Carried

M. Meehan spoke to the late item on the Regional Plan Update. M. Meehan reported that appeals on Variation 1 to the Proposed Land and Riverbed Management Plan have been resolved through the Environment Court. Variation 2 to the Proposed Land and Riverbed Management Plan was notified on 17 July 2009. He advised that Variation 2 sought to include two additional wetlands and boundary adjustments to two other wetlands already included in Schedule 1 into the Land and Riverbed Plan. M. Meehan reported that submissions were received on Variation 2 but that process was put on hold until there was a resolution on Variation 1. M. Meehan reported that one of the outcomes on Variation 1 was the introduction of Schedule 2, which introduces a number of new wetlands with an accompanying discretionary rule status. M. Meehan reported that the proposed new wetlands in Variation 2 have been included in Schedule 2 and therefore council can now withdraw Variation 2 using Clause 8D of the First Schedule. C. Ingle explained that now that the court process and appeals process for Variation 1 has been gone through we now have the Variation 2 wetland areas put into the plan by the Court. He said that Variation 2 is basically already done and all the now needs to be done is to tidy up the loose ends.

M. Meehan advised that appeals on the Proposed Water Management Plan were filed in April 2005 but this was put on hold pending Variation 1. He stated that now resolution on Variation 1 has been gained, the Court is directing Council to go back to mediation on the Proposed Water Management Plan. M. Meehan advised that there is likely to be some minor amendments but a lot of the issues that were appealed on in the Water Management Plan have now been resolved with Variation 1. M. Meehan reported that mediation is set down for three days during October.

Moved (Archer / Tumahai)

1. *That Council receives this Report; and*
2. *That Council agree, pursuant to clause 8D of the First Schedule of the RMA, to withdraw Variation 2 to the Proposed Regional Land and Water Plan; and*
3. *That Council publicly notify the operative status of the Land and Riverbed Management Plan as per clause 20 of the First Schedule of the RMA; and*
4. *That Council withdraws the Land and Riverbed Management Plan, Proposed Water Management Plan and the Regional Plan for Discharges to Land once the Land and Water Plan becomes operative.*

Carried

5.2 CONSENTS AND COMPLIANCE GROUP

5.2.1 CONSENTS MONTHLY REPORT

J. Adams spoke to his report advising that 18 non-notified resource consents were granted during the reporting period. Along with ten notified variations to consent conditions and two limited notified

resource consents granted during the reporting period. J. Adams reported that the decision on the consent applications for Solid Energy NZ Ltd's joint application for opencast mining at Mt William North on the Stockton Plateau was granted on the 17th of August. J. Adams reported that TrustPower Ltd has lodged an appeal in the Environment Court against two of the conditions associated with the granting of the consents for the operation and maintenance of the Kaniere Forks Hydro Power Scheme. He advised that the appeals are around how long the period of summer is for in relation to water takes. J. Adams is currently liaising with the two parties and attempting to arrange informal mediation.

Moved (Robb / Scarlett) *That the September 2012 report of the Consents Group be received.*

Carried

5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

J. Adams spoke to this report advising that 36 site visits were carried out during the reporting period. He advised that five dairy sheds were inspected during the reporting period. These were picked up during the recent annual dairy flight and were suspected of being non-compliant. He advised that there are a number of investigations underway following these inspections. J. Adams reported that three infringement notices were issued during the reporting period and one formal warning was also issued. J. Adams reported that five mining work programmes were received during the reporting period. He reported that an inspection would be carried out on the Stockton Plateau tomorrow prior to the work programme being granted.

Cr Davidson asked J. Adams if there are extra costs involved with the new system of GPS marking of whitebait stands. J. Adams responded that a number of the rivers have been washed out and he has taken bearings and back bearings to more accurately locate the stands and he has given these readings to the whitebait stand owners. This will provide consistency for future years and is more accurate than compass readings.

Moved (Archer / Cummings) *That the September 2012 report for the Compliance Group be received.*

Carried

6.0 GENERAL BUSINESS

There was no general business.

The meeting closed at 11.31 a.m.

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Chairman

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Date