

THE WEST COAST REGIONAL COUNCIL

MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE HELD ON 10 SEPTEMBER 2013 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, A. Robb, D. Davidson, A. Birchfield, I. Cummings, J. Douglas, 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

Owners of Schedule 2 Wetlands addressed the meeting. Mr & Mrs Dymock, Mr Tom Nolan, Mr Francis Graham from Whataroa were present. Mrs Dymock addressed the meeting. Mrs Dymock stated that she and her husband do not want schedule 2 wetland status over any of their property. Mrs Dymock stated that their property has now become worthless and this is not fair.

Cr Chinn asked the CEO to comment. C. Ingle advised that the wetland process was kicked off around ten years ago. He stated that council used to have a Land and Riverbed Plan that said that a resource consent was required for land development in any wetland. C. Ingle stated that he had been involved in a wetland process in Otago and realised that this would be problematic here because of the high rainfall as a lot of our land is wet a lot of the time. C. Ingle advised that the definition of wetland in the RMA says "*any land that supports plants or animals adapted to wet conditions*". C. Ingle stated that this could even apply to moss growing in someone's back lawn. C. Ingle advised that with help from MfE, Ecologists from Boffa Miskell in Christchurch were consulted and a long list of wetlands were compiled and these were then whittled down to 23 that council put forward as significant wetlands. C. Ingle stated that submissions were received from Forest & Bird and Friends of Shearer Swamp and DoC. He stated that all three of these parties were saying that these 23 wetlands weren't enough and there were a lot more that had significant habitat values that were not included though at the Council's plan hearing they presented no evidence on where these wetland areas were. These three groups took council to the Environment Court and said that council had not done its job properly identifying these wetlands. C. Ingle stated that a huge process was then undertaken to find out what areas they were talking about as initially they weren't entirely clear about this. The Environment Court accepted the DoC evidence on the new wetland areas despite council's lawyer warnings that some areas were over mapped. C. Ingle stated the council took the case to the High Court and said that this is wrong and unfair on those who have freehold land. Council lost the high court case. C. Ingle stated that council did manage to win a few parts and one is that schedule 2 wetlands are not classed as significant wetlands, they are classed as wetlands but there is no presumption that there are values that are significant there. C. Ingle advised that in these cases landowners need to go through a consent process and get an Ecologist to look at this. Mrs Dymock stated that they do not want to consult an Ecologist as they are mindful that the Ecologist will find something of significance.

C. Ingle advised that council told the Judge that the landowners who were affected were not aware that their land was being classed as wetland, but were told by the Court not to communicate with landowners. C. Ingle stated that after the court decision was finalised, the council wrote to landowners stating that if a mistake has been made and their land is not actually wet, then this land needs to be removed from the plan. C. Ingle advised that council will need to go through another plan process to get these areas removed.

Cr Robb added that it is not council who made the mistake but the court. Cr Scarlett advised the landowners present to ensure that they get a good practical and sympathetic ecologist. Cr Scarlett stated that there are probably 200 wet sites on DoC land alone and why do they need private landowner's wetlands as well. Mrs Dymock stated that the landowners have never had an opportunity to meet with DoC and DoC has got away scot-free. She asked where do they go from here. Mrs Dymock stated that it is unfair that the landowners have to pay for this. Mrs Dymock stated that she is extremely disappointed with this whole process. She thanked council for the opportunity to speak. Cr Robb stated that council would have been in contempt of court had they given out this information. He said that landowners need to look at where the decision came from and it was from the court and not this council.

Cr Birchfield stated that he put a letter in the Greymouth Evening Star in 2010 warning people about this. He stated that DoC hijacked the procedure and took it over and named their own wetlands. Cr Birchfield stated that he owns a coal mine and he has just been informed that a piece of this land has been included as a schedule 2 wetland. He stated he is in the same boat as the landowners. Cr Birchfield stated that he feels this process is open to challenge as the landowners were not notified and that this should be looked at after the local body elections. Cr Cummings asked C. Ingle how much of ratepayers money has been spent fighting this. C. Ingle responded that it would be over \$300,000 and this is only lawyer's costs and not staff time or his time.

Mr Francis Graham addressed the meeting. He stated that 96% of his land has been classed as a wetland. Mr Graham stated that he did not believe in his wildest dreams that this could happen to his freehold land. Mr Graham is concerned that he was not informed about this and he would like to know why he was not told about this. Cr Scarlett stated that he feels that there is a case to answer. He feels that they have been denied natural justice. Cr Davidson stated that he feels this is a grave injustice and it is unbelievable that the government has allowed this to happen.

Mr Tom Nolan addressed the meeting. Cr Chinn stated that the Nolan family has a long history of farming in the Whataroa area. Mr Nolan provided a history of the farm. He read a letter from his late father to the meeting. Mr Nolan stated that he finds this situation unbelievable.

C. Ingle clarified to those present that a resource consent is not required to continue grazing on a wetland but a consent would be required if a landowner wanted to put new drains in or to do humping and hollowing.

Cr Chinn stated that council staff will help landowners to gain a resource consent if they want one. C. Ingle advised that currently the Wetlands Co-ordinator is looking at those areas that are blatant mistakes (areas that are not even wet), and for those areas that are wet then the question is, if the landowner does want to develop them, are they significant or not? C. Ingle stated that this is very much open for a consent process. J. Adams confirmed that four resource consents have already been granted for schedule 2 areas and none have been declined yet. Cr Robb asked for an estimate of the costs involved. C. Ingle stated that the cost does depend on the size of the area. M. Meehan advised that he is aware of one consent that cost \$1500 for the Ecologist Report and the council's consent costs would have been under \$1000.

Cr Chinn thanked the presenters for their attendance. He stated that council staff would help landowners as much as they can with the consent process.

The meeting resumed at 11.10 a.m.

3. MINUTES

Moved (Robb / Davidson) *that the minutes of the previous Resource Management Committee meeting dated 13 August 2013, be confirmed as correct.*

Carried

Matters Arising

There were no matters arising.

4. CHAIRMAN'S REPORT

Cr Chinn reported that he has fielded further enquiries regarding schedule 2 wetlands. He stated that this matter is heating up and the time has come where something needs to be done.

Moved (Chinn / Davidson)

Carried

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 the Waiuta Clean Up has begun. M. Meehan advised that this site is on the hazardous site register and funding has been sought from MfE and DoC with both parties sharing the costs equally. M. Meehan advised that once the tender has been let it will take around a month for the work to be completed.

M. Meehan advised that Mr Elwell-Sutton's appeal on the Land and Water Plan is still before the Environment Court with decision on security of costs still awaited.

M. Meehan reported that 29 wetland landowners have contacted council requesting site visits following the sending out of the follow up letter and maps. M. Meehan advised that it may now be early next year before the variation to the Proposed Land and Water Plan is notified.

Moved (Robb / Scarlett) *that the report is received.*

Carried

5.1.2 REEFTON AIR QUALITY SUMMARY

M. Meehan spoke to this report and advised that 15 exceedances of the NES for PM₁₀ have been recorded so far this year. He advised that 27 exceedances were recorded last year. M. Meehan stated that the reduction in exceedances with year may be related to the efforts of residents to improve air quality.

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

Carried

5.1.3 REEFTON AIR SHED COMMITTEE

M. Meehan spoke to this report and advised that this committee was given Terms of Reference to address the air quality issues in Reefton and to make recommendations back to council on how to meet the NES. M. Meehan advised that the committee has worked very hard on analysing the issues and good progress is being made with the trial for the Oeko tube electrostatic filter and the testing of the down draught burner technology. M. Meehan

advised that the committee needs more time to assess the new technologies and to have the supporting information behind the trials. Cr Scarlett asked if the electrostatic filter has actually been trialled before. M. Meehan responded that Ecan has done a trial using wood burners and once more funding partners have been found (Crown Public Health is one) then the trial on coal burners will get underway.

Moved (Archer / Robb)

1. *That Council receives this report.*
2. *That Council amend Objective 3 from the Reefton Airshed Committee's Terms of Reference to read: "To present the recommendations to the West Coast Regional Council, by March 2014"*

Carried

5.1.4 REVIEW OF HYDROLOGY AND FLOW RECORDING SITES

M. Meehan spoke to this report and advised that regional councils have over 1,000 sites nationally compared to 120 NIWA sites. He advised that in this region there is a much higher proportion of NIWA sites compared to the rest of New Zealand with around 50 / 50. M. Meehan advised that council works very closely with NIWA to provide these services to the community. He stated that this relationship works both ways and allows council to provide a strong flood warning service to the community. M. Meehan stated that a new site was to be set up at Seddonville on the Mokihinui River but now that NIWA is rationalising its sites this work was put on hold. M. Meehan met with NIWA on the 14th of August to discuss this matter and NIWA have now put their sites into four different categories. He explained the categories and advised that of the sites that are still to be decided two are very critical to our flood warning network, they are Karamea River at gorge and Hokitika River at gorge. M. Meehan advised that NIWA have stated that these two sites are still up for discussion. Council has expressed that these sites are critical to flood warning and council would like them to remain. M. Meehan stated that NIWA has indicated that these sites will remain for this financial year. M. Meehan advised that if NIWA sites were to be closed, council's current flood warning budgets are not likely to be able to sustain a new Mokihinui flood warning service, long term. Cr Scarlett asked what would be the cost of the flood warning site on the Mokihinui River. M. Meehan advised that it would be around \$20,000 to \$30,000 with ongoing costs in maintaining the site of around \$15,000 for a site like this. Discussion ensued. C. Ingle advised that if NIWA pulled out completely then council may need to take on another staff member to cover this work. C. Ingle stated that this is a major problem for the West Coast. For the last 20 years NIWA has been contracted by the government to collect environmental data and now the NIWA board has made a decision to pull away from collecting environmental data. Cr Birchfield stated that he feels council should be looking at why they are doing flood warning at all. He stated that everyone knows that once it starts raining the river is going to come up. Cr Scarlett stated it is a bit different if you are farmer as you need to know whether or not to move stock. Cr Archer stated that he is very disappointed that NIWA has taken this position. He stated that NIWA is a state owned enterprise and there should have been some sort of ministerial input into any decision making when it comes down to the effect on communities. Cr Archer is opposed to the recommendation as he feels that the Mokihinui River has more regular flooding of residential properties than any other river on the West Coast. He feels that council should continue on with advancing the Mokihinui flood warning site. Cr Robb agreed with C. Ingle's comments and feels that the public need to be aware of the issues with NIWA. Cr Robb stated that analysis needs to be done on some sites as it could be that a new flood warning site is more needed than some of the other sites.

1. *That Council receives this report.*
2. *That Council continues with investigations into a potential Mokihinui River flood warning site on hold.*

3. *That Council undertakes a risk evaluation on all council flood warning sites before deciding whether to continue or discontinue these sites.*
4. *To engage at the highest level with Government regarding the declining level of Government funding for our biggest hazard risk on the West Coast.*

Carried

5.1.5 RESOURCE MANAGEMENT ACT – REFORM PROPOSALS

M. Meehan spoke to this report and stated that the proposals are expected to proceed to Parliament as a Bill within the next month or so. M. Meehan spoke about the four proposed areas of change which are, national planning template, a single resource management plan, plan development and council planning agreement. Cr Robb asked if councillors that are hearing commissioners would be able to be on this panel. C. Ingle said that MfE had initially said yes but the more recent wording was vague. M. Meehan advised that independent people are allowed onto the panel. Extensive discussion ensued on this matter.

Moved (Archer / Birchfield) *that the report is received.*

Carried

5.1.6 REGIONAL POLICY STATEMENT REVIEW

C. Ingle spoke to this report. Given the current state of the region's economy it is felt that the strategic document that leads and sets the scene for resource management plans throughout the region needs to recognise the positive effects of industry. C. Ingle advised that the RPS at the moment is more about environmental protection and it doesn't really have enabling policies. There is now a more pressing need for promoting the social, economic and cultural wellbeing of the region. C. Ingle stated that Taranaki has found a balance between enabling industries to develop and jobs to grow and the community to grow but at the same time ensuring that the environment is appropriately protected. C. Ingle stated that the way for this council to make a start on the RPS review is to publish a discussion document which sets out in a brief form the direction that council feel is required, prior to notifying a plan change. He stated that the advantage would be that by the time council is at the stage of notifying a plan change, the changes to the RMA might be in place and we might be able to use one of these alternative methods of getting things through. Cr Robb stated that he supports this and stated this it is very important for our region going forward. Cr Scarlett stated that this would bring some balance back and the Taranaki template is a very good one. Cr Archer stated that council needs to be mindful of opposition from extremist whose focus is solely based on ecology. Strong community support will be necessary at the time of public consultation.

Moved (Robb / Archer)

1. *That Council receives this report.*
2. *That Council endorses the preparation of a West Coast Regional Policy Statement Review Discussion Document, for consulting with our communities, based on the broader Resource Management approach used in the recent Taranaki Regional Policy Statement.*

Carried

5.2.1 CONSENTS AND COMPLIANCE GROUP

J. Adams spoke to this report and advised that two site visits were carried out during the reporting period. There were 14 non-notified consents granted, and 16 changes to consent conditions were granted. J. Adams reported that yesterday was the last day to lodge any appeals against RC12212 and as of this morning there were none lodged.

J. Adams reported that the appeal on the Cypress Mine was not upheld by the Environment Court with all the appeals by the Biodiversity League being dismissed. Mining is due to commence next week.

Cr Archer asked J. Adams for an update on the status of the Buller Coal Ltd appeals. J. Adams advised that the High Court refused to allow Forest and Bird to appeal to the Court of Appeal and Forest and Bird have now requested that the court allow them leave to appeal the court decision. Cr Archer stated that this is an orchestrated campaign to stop lawfully consented work and lawfully upheld appeals.

Moved (Archer / Tumahai) *That the September 2013 report of the Consents Group be received.*

Carried

5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

J. Adams spoke to this report advising that 53 site visits were completed with nine of these site visits found to be non-compliant. J. Adams reported that council staff have been busy with the marking out of whitebait stands.

J. Adams reported that 35 complaints were made during the reporting period, three of these resulted in enforcement action taking place. He advised that two formal warnings were issued in relation to riparian margin and unauthorised works, three abatement notices were served, with two of these served on the same mining operation. One abatement notice was served on a forestry block. He advised that nine mining work programmes were received during the reporting period.

Moved (Archer / Birchfield) *That the September 2013 report of the Compliance Group be received.*

Carried

6.0 GENERAL BUSINESS

There was no general business.

It was agreed that letters will be written to the three wetland owners that attended today's meeting.

Moved (Robb / Archer) *that individual letters are written to the three wetland owners that presented to today's meeting.*

Carried

Cr Chinn stated that today is his last meeting. He stated that he has found his three terms on council to be very rewarding. Cr Chinn said that he found council staff to be very cooperative and approachable. Cr Chinn stated he will miss being on council. Cr Chinn expressed his disappointment that the wetlands matter has not been tidied up prior to his departure. He stated that he hopes that the proposed changes to the RMA can help with this.

Cr Chinn wished his fellow councillors well for the up and coming local body elections.

The meeting closed at 12.18 p.m.

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Chairman

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Date