



MINUTES OF A MEETING OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE

- Date:** Thursday 8 March 2012
- Time:** 9.00am
- Venue:** Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER
- Present:** E von Dadelszen - Chairman
T Gilbertson
A J Dick
L Remmerswaal
E McGregor
C Scott
K Rose
F Wilson
- In Attendance:** A Newman – Chief Executive
H Codlin – Group Manager Strategic Development
I Maxwell – Group Manager Resource Management
M Black - Māori Committee
C Drury – Senior Consents Officer
C Reed – Senior Planner
G Ide – Team Leader Policy
B Lawrence – Manager Compliance and Harbours
M Drury – Committee Secretary

1. WELCOME/APOLOGIES/NOTICES

Chairman von Dadelszen welcomed all present. The Committee stood for a minute's silence in remembrance of Sir Rodney Gallen who passed away earlier in the week.

Apologies were received from Councillor Kirton and Mr Apatu.

EMC17/12 Resolution

That the apologies be accepted.

McGregor/Wilson

CARRIED

Chairman von Dadelszen advised that although there was no provision for proxies for absent members at this meeting, she had invited Mr Morry Black to sit at the meeting and provide advice on behalf of Mr Apatu, who had asked him to attend in his place.

Chairman von Dadelszen also advised that several Committee members would be attending Sir Rodney Gallen's funeral at 1.00pm. Councillor Wilson advised he was happy to step in as Chairman if the meeting had not finished.

2. CONFLICT OF INTEREST DECLARATIONS

There were no conflicts of interest declarations made.

HELD ON 8 FEBRUARY 2012

EMC18/12 Minutes of the Environmental Management Committee held on Wednesday, 8 February 2012, a copy having been circulated prior to the meeting, were taken as read and confirmed as a true and accurate record.

Scott/Rose

CARRIED

4. MATTERS ARISING FROM MINUTES OF THE ENVIRONMENTAL MANAGEMENT COMMITTEE HELD ON WEDNESDAY 8 FEBRUARY 2012

Councillor Remmerswaal sought clarification on an aspect of Council's Standing Orders and noted a suggestion from the Chairman that she meet with Mr Newman to discuss her concerns.

5. ACTION ITEMS FROM ENVIRONMENTAL MANAGEMENT COMMITTEE MEETINGS

Ms Codlin updated the Committee on the Action items listed and advised that the Tukituki Plan change agenda item had not been prepared as, following discussions with Mr Drury, it appeared that there would not be an over expenditure on this item. However confirmation of the financial position would follow the April reforecasting.

Responding to a question, Ms Codlin also advised that a report on the Draft Wastewater Plan Change was due in April and the Officer's Report was almost complete.

EMC19/12

Resolution:

1. That the Environmental Management Committee receives the report "Action Items from Previous Meetings".

Wilson/Rose

CARRIED

6. CALL FOR GENERAL BUSINESS ITEMS

1. Feral Cats
2. Resurgent Possum Numbers
3. Opoutama Clearance

7. UPDATE ON RECOVERY OF APPEAL COSTS

Mrs Drury and Mr Miller presented this agenda item which provided further information on a number of issues related to appeals as requested at the February Committee meeting.

Mrs Drury gave examples of cost details associated with appeals since July 2010, namely the Mexted, Williams and Malherbe appeal which totalled \$23,421.36 and the AFFCO appeal which totalled \$184,990.

Mrs Drury outlined the avenues which Council and staff could use to advocate to Central Government reform of the legislation that governs the operation of the Environment Court, and a draft guidance process consisting of 6 questions on the circumstances that a cost application should be lodged with the Environment Court.

Mr Newman joined the meeting at 9.20am.

The Committee discussed questions 1-6 contained in the draft guidance process as set out in the agenda item and noted that there could be occasions where there could be opportunities for obtaining an award of costs although it may not meet the requirements of Questions 1,2 and 3. This could result in a large amount borne by ratepayers. The Committee also noted that there were no guidelines for using the draft criteria contained in the recommendations and it was essential that guidelines were provided in order for staff to be able to determine a course of direction in the light that some situations could be very complex and expensive.

Responding to a question Mrs Drury advised that probably 70% of the total costs would be legal fees.

The Committee also discussed a suggestion that Council provides courses for submitters on RMA policies and rules to reduce the possibility for vexatious and frivolous appeals to be directed to the Environment Court. Mrs Drury advised that this suggestion had not been considered by staff as MfE offered multiple sources of information and several free publications were available.

Responding to a question, Mr Maxwell advised that Council would be required to make a subjective decision in regards the party against which the cost award has been made, who the applicant was and the ability for it to pay.

Mr Maxwell also confirmed that Council would need to determine the end game and the outcome that was required throughout the process and there would be several exit strategies in place.

Councillor Scott in moving the motion congratulated staff for their interest in reform discussions and noted that there would always be unbudgeted costs which could not be avoided; however by tightening up the appeal process via RMA reform these costs may be streamlined in the future.

EMC20/12 Resolutions:

That the Environmental Management Committee recommend Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and

significance of the issue to be considered and decided.

2. Receives the further information about the specific costs of appeals and uses this to inform the discussion about the inclusion in the 2012-2013 Long Term Plan of budget for costs associated with appeals.
3. Instructs staff to use the criteria within the guidelines 1 or 2 and in exceptional circumstances 3 identified in this paper to guide decisions about whether or not a cost application is lodged with the Environment Court.
4. Agrees that the delegation for decisions regarding whether or not a cost application is lodged with the Environment Court is maintained at a Staff level.

Scott/Wilson

CARRIED

8. TAHARUA MOHAKA UPDATE

Ms Codlin updated the Committee on the additional science costs and priorities which had been requested at 8 February Committee meeting to support a plan change to cover the whole of the Mohaka catchment.

Ms Codlin also explained the funding mechanisms and other funding sources which had been investigated to provide certainty that the work could be undertaken.

The Committee discussed the funding mechanisms, the proposed longitudinal survey at a cost of \$15,000 per year and the proposal that Section 36 charges was one of the funding options. Ms Codlin confirmed that it was hoped the longitudinal survey would be completed in the next 2 months.

Responding to a question, Ms Codlin advised that it was hoped that S36 charges would not increase significantly over what consent holders in the catchment were already paying. Ms Codlin confirmed that affected consent holders would be consulted. Currently there were 35 consent holders in the Mohaka catchment and 3 in the Taharua catchment.

In response to a question, Mr Newman advised that Crown's pending \$2 million "good governance initiative" could not be used as those funds were designed for physical work.

Ms Codlin confirmed that the science work to be undertaken by staff would not include any biodiversity investigations as it was more appropriate for a biodiversity strategy to be done on a regional level rather than a catchment area and it was important that the water issues in the catchment were solved first.

Concern was expressed for the need to have an increased deficit for the ongoing work. However the Committee recognised the importance of the ongoing work, the excellent consultation process around co-operation and consensus already undertaken by staff and noted that it was better to take more time and reach a successful outcome.

EMC21/12 Resolutions:

That the Environmental Management Committee recommends Council:

1. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
2. Funds the Science work that enables the scope of the Taharua plan change to extend to the whole of Mohaka Catchment by way of a combination of

- Section 36 charges where appropriate, and
- Approving a carry forward in June of any under-expenditure identified as a result of the April reforecasting exercise; and
- Approving an increase to the Year 2012-13 deficit of up to \$75,000 in the Draft Long Term Plan.

Scott/Wilson

CARRIED

9. REGIONAL SECTOR WATER PROGRAMME/LAWF - VERBAL UPDATE

Mr Newman updated the Committee on the Regional Sector Water programme and advised that work was currently being undertaken to assess how the regional sector was going to implement the freshwater policy in a consistent way across the country. A meeting was planned for 2 April in Wellington to determine the progress to date of each region.

Mr Newman noted that an assessment on the impact of climate change in relation to water was being undertaken which would be applied nationally once a final outcome had been achieved.

Mr Newman also advised that a one day symposium was planned for 23 April to discuss tools available for addressing issues with water quality and it was hoped that the web portal for water quality would be publicly launched that day.

Mr Newman also updated the Committee on 5 key areas of Stage 2 where work is currently being undertaken by LAWF and expressed optimism that delivery of a better framework for water in the future would be successful with consistency throughout the regions being vital.

EMC22/12

Resolution:

1. That the verbal update on the "Regional Sector Water Programme/LAWF presented by Mr Newman be received.

Rose/Scott

CARRIED

The meeting adjourned at 10.30am and reconvened at 10.45am

10. APPEALS UPDATE: PROPOSED REGIONAL COASTAL ENVIRONMENT PLAN - VERBAL

Mr Ide provided a verbal update on status of appeals relating to the proposed Regional Coastal Environment Plan (RCEP). Mr Ide informed the Committee that a signed Draft Consent Order had been lodged with the Environment Court earlier this week which, if endorsed by the Court, would result in the last remaining points of all appeals being resolved without the need for a Court hearing.

Mr Ide recapped that the RCEP was publicly notified in August 2006 and Council's decisions on submissions were issued in July 2008. Negotiations and settlement of over 300 individual appeal points (in 12 separate appeals) had spanned 3.5 years. Mr Ide advised that before the RCEP can be made fully operative, the RCEP would require approval from the Minister of Conservation for those parts of the RCEP relating to the coastal marine area.

Responding to a question, Mr Ide advised that the rivermouth hazard areas were progressing through a separate Variation process and were not part of the appeal proceedings.

EMC23/12

Resolution:

1. That the verbal report be received.

McGregor/Wilson

CARRIED

11. CANADIAN PETROCHEMICAL FACT FINDING TOUR REPORT

Mr Newman advised the Committee his reasons for approving Mr Lawrence's fact finding visit to Canada.

Mr Lawrence presented his report and highlighted the key conclusions as a result of his recent fact finding tour to Canada. Mr Lawrence concluded that the tour had been a success and there was now more clarity around the issues that Council would face when TAG Apache sought resource consents to undertake further investigation phases in relation to an oil exploration in Hawke's Bay.

The Committee discussed Mr Lawrence's report, the purpose of his visit and agreed that it was imperative that Council had an informed view in order to identify the issues that would confront Council as a result of a consent application being lodged. Concern was expressed that Mr Lawrence's report would not satisfy a section of the public who were strongly against the proposal

The Committee also noted that permits are issued by the Crown not Council, who does not have a say in what permits are granted.

Responding to questions from the Committee, Mr Lawrence advised:

1. Council would engage overseas well experts when required as problems highlighted overseas were around poor practice and poor well design;
2. Difficulties had been experienced on surface areas overseas however the environment was more sensitive there than the area proposed here;
3. He viewed some excellent examples of management processes while in Canada;
4. Most of the issues in Canada were with landowners were around where the pipes were located as there was a large number of wildlife in the areas but it will be up to the applicant to negotiate with landowners, not Council;
5. That an application expected on 19 March is for a test bore, where they will have to extract oil, but it was not for a production bore;

The Committee agreed that there were many challenges ahead with a big challenge around infrastructure issues but they were all manageable and it would be 4 years before any significant drilling took place.

Mr Maxwell advised that Council was aware of the timeframes involved following RMA amendments. However he was confident that timeframes would be met as a large effort had already been undertaken by staff with the applicant in the pre application stage. Mr Maxwell also confirmed that the timeframe would not commence until the application had been formally accepted.

Councillor Dick in moving the motion said there would be challenges in dealing with the public but it was the start of a journey and the continuation of a learning journey; however policy decisions would need to be made.

EMC24/12

Resolutions:

1. That the Environmental Management Committee receives the report "Canadian Petrochemical Fact Finding Report"
2. That the Environmental Management Committee recommends that Council:
3. Agrees that the decisions to be made are not significant under the criteria contained in Council's adopted policy on significance and that Council can exercise its discretion under Sections 79(1)(a) and 82(3) of the Local Government Act 2002 and make decisions on this issue without conferring directly with the community and persons likely to be affected by or to have an interest in the decision due to the nature and significance of the issue to be considered and decided.
4. Contributes to a gap analysis of all regulations managing all of the aspects of the oil/gas industry to avoid a disjointed approach to this industry.
5. Agrees that New Zealand regulatory agencies should consider adopting overseas standards, where applicable, to ensure consistent regulations rather than develop our own standards
6. Notes that the British Columbia Oil and Gas Commission (BCOGC), Energy Resources Conservation Board (ERCB) and National Energy Board (NEB) have all offered ongoing support to assist the East Coast Councils and New Zealand as a whole, for development of policy, regulations and technical support.

Dick/Scott

CARRIED

7/1

For: Dick, Scott, von Dadelszen, McGregor, Rose, Gilbertson, Wilson

Against Remmerswaal

12. STATUTORY ADVOCACY UPDATE

The Committee took this agenda item as read.

EMC25/12

Resolution::

1. That the Environmental Management Committee note there had been no new matters arising for the statutory advocacy project since 8 February Committee meeting.

Wilson/Scott

CARRIED

13. GENERAL BUSINESS

Feral Cats

Councillor Gilbertson advised that there appeared to a serious problem in the region as the number of feral cats being caught in ferret traps was high.

Resurgent Possum Numbers

Councillor Gilbertson advised that there were indications that there was a resurgence of possums with landowners now undertaking their own pest control in place of contractors.

Oputama Clearance

Councillor Remmerswaal advised that 240ha of native bush was being cleared in the Wairoa area and sought clarification on HBRC's stance on this issue.

Closure:

There being no further business the Chairman declared the meeting closed at 12.00 Noon on Thursday 8 March 2012.

Signed as a true and correct record.

DATE:

CHAIRMAN: