

**MINUTES OF 334<sup>TH</sup> MEETING OF ENVIRONMENT CANTERBURY HELD IN THE  
COUNCIL CHAMBER, ENVIRONMENT CANTERBURY, 28 KILMORE STREET,  
CHRISTCHURCH ON WEDNESDAY, 25 MARCH 2009 AT 8.34 A.M.**

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**PRESENT**

Crs T K Burke, J T Demeter, C J Evans, P C R Harrow, J M Kane, R M Kirk, R I R Little,  
A R McKay, B S Murray, A G Neill, M E Oldfield, E M Sage, D P Sutherland and R M G  
Tindall.

## **MANAGEMENT AND OFFICERS PRESENT**

B R Jenkins (Chief Executive) and J C Pani (Manager Secretariat). J L Atkinson (Director Regional Programmes), K L Drummond (Director Regulation), K Lawn (Director Operations), D J Rule (Director Resource Planning and Consents), K J W Taylor (Director Investigations and Monitoring) and I W Thomas (Director Finance and Corporate Services), were in attendance for part of the meeting and some report authors were in attendance to present their reports.

### **1. APOLOGIES**

There were no apologies.

### **2. CONFLICTS OF INTEREST**

There were no declarations of conflicts of interest.

### **3. MINUTES OF MEETING – 5 MARCH 2009**

*Resolved*

*That the minutes of 5 March 2009, be confirmed as a true and correct record, and be adopted.*

Cr Harrow/Cr Kirk

Cr Tindall arrived at 8.36 a.m.

### **4. MATTERS ARISING**

In response to discussion on a consistent funding policy for regional parks, Dr Jenkins, Chief Executive, advised that there was a different starting point to meet the different circumstances on each occasion.

Later in the meeting a legal opinion from Duncan Cotterill relating to conflicts of interest was tabled. This document was additional information to that tabled at the 5 March meeting – Item 2 Conflict of Interest.

Crs Murray and Little arrived at 8.40 a.m.

### **5. DEPUTATIONS AND PETITIONS**

There were no deputations and petitions.

Cr Oldfield arrived at 8.46 a.m.

### **6. OPTIONS FOR THE COUNCIL IN RELATION TO IMPROVING AIR QUALITY IN THE TIMARU URBAN AREA**

Katherine Wilson (Senior Resource Management Planner) introduced this item to update Council on the consultation process with Timaru District Council relating to air quality in the Timaru urban area, and to outline and assess the options to progress from here.

**Resolved**

***That, with regard to the functions and duties of the Council under the Resource Management Act, the Council endorses staff to continue with consultation regarding air quality in the Timaru urban area and review the position after winter 2009.***

Cr Oldfield/Cr Murray

Item 9 was taken at this time.

**9. REGULATORY DELEGATIONS**

Donald Fraser (Consents Hearing Officer) introduced this item to update the Regulatory Delegations.

There was discussion on the appropriate level for some of the delegated authority. Don Rule (Director Resource Planning and Consents) explained the delegated responsibilities and actions with that delegation. In response to questions relating to challenges around limited notifications, Mr Rule advised he would provide information relating to any procedures to review limited notifications.

Recommendations (a), (b) and (c) as presented in the officer report were moved by Cr Neill, seconded by Cr McKay. The recommendations were declared CARRIED.

A Division was called for recommendation a(iv) and recommendation a(iv) was declared CARRIED, 8 votes to 6, the voting being as follows:

<b>For (8)</b>	<b>Against (6)</b>
Cr McKay	Cr Murray
Cr Kane	Cr Sage
Cr Neill	Cr Oldfield
Cr Kirk	Cr Sutherland
Cr Evans	Cr Demeter
Cr Burke	Cr Tindall
Cr Little	
Cr Harrow	

**Resolved**

***That Council approve the following changes to the Regulatory Delegations to staff:***

- (a) *Add the position of Senior Consent Investigating Officers to the delegations with the authority to:***
- (i) *Section 42A – Authority to require an officer of a local authority or a consultant or any other person to prepare a report for a hearing.***
  - (ii) *Section 88(3) – Power to determine that an application for a resource consent is incomplete and the reasons for that determination.***
  - (iii) *Section 91 – Authority to defer the notification or hearing of an application for a resource consent if it is considered other consents are also required.***

**(iv) Section 127 – Authority to determine whether an application for a change or cancellation of a condition of a resource consent shall be notified in accordance with the Act.**

**(v) Section 130 – Authority to serve notice of intention to review the conditions of a resource consent and to propose new conditions.**

**(b) Add the positions of Principal Consents Investigating Officer and Team Leader Consents to the delegations with the authority to:**

**Section 94(C)(2) – Authority to require notification of an application if special circumstances exist in relation to the application.**

**(c) Add the positions of Chief Executive and Director Regulation to the delegations with the authority to:**

**Section 338 – withdraw any information that has been laid in relation to a prosecution.**

Cr Neill/Cr McKay

Item 8 was taken at this time.

## **8. OPTIONS FOR MAKING NRRP – AIR PROVISIONS OPERATIVE**

Katherine Wilson (Senior Resource Management Planner) introduced this item to decide on the process Council will use to bring the provisions in the proposed Natural Resources Regional Plan (NRRP) Air Chapter to the stage where we can require activities operating as existing uses under s20A of the Resource Management Act 1991 (RMA), to comply.

### **Resolved**

**That the Council resolves:**

**(a) To seek approval from the Environment Court to make part of the proposed NRRP Chapters 1-3 operative under Clause 17 of the First Schedule to the RMA (Option 3 in this report).**

**(b) That the timing of and provisions to be included in the application for approval, shall be determined by progress with appeals and the need for existing activities to comply with the rules for discharges to air by April 2010.**

Cr Kane/Cr Harrow

## **7. COMMUNICATIONS AND ENFORCEMENT OF AIR PLAN RULES**

Linda Kirk (Programme Manager Air and Energy) presented this item to obtain Council approval on the communications and enforcement implementation of the Air Plan once it becomes operative; in particular, the domestic provisions, that is, the small scale solid fuel burner provisions. Jo Dawkins (Marketing Team Leader) talked to the communication strategy.

There was discussion on the communication aspects and clarity was sought on the status of a resident being “registered”. It was considered that to avoid confusion a

robust communication plan be adopted aligned with the LTCCP consultation. It was also suggested that priority be given to clean heat registered households.

The recommendations (a) and (b) of the officer report were moved by Cr Kane, seconded Cr Sage.

An amendment was moved by Cr Demeter, seconded Cr Evans, that the wording “with priority given to clean heat registered households” be included in recommendation (a).

The Amendment was put and declared CARRIED.

The substantive motion was then put and declared CARRIED.

[Immediately following the morning tea adjournment it was moved by Cr Burke, seconded by Cr Evans **that Council returns to item 7 and amends the editing error in recommendation (b)(ii). The motion was put and declared CARRIED.** Editing error in recommendation (b)(ii): Bullet points should start with the following words: *first, second, third, fourth and continued breaches*, instead of *first, second, second, third and continued breaches*. The Chairman sought leave of the meeting to correct this editing error.]

## **Resolved**

### **That Council resolves:**

- (a) **to approve the Air Quality Communications Plan as outlined in Attachment 1 with priority given to Clean Heat registered households.**
- (b) **to approve the enforcement approach of Rules AQL10 and AQL11 to be broadly applied as follows:**
- (i) **Discharging from open fire or prohibited small scale solid fuel burner between 1 April 2010 and 30 September 2010 without purchasing an alternative – firm approach:**
- **2009 proactive communications and advice of rules becoming operative**
  - **First visit and found to be discharging = infringement notice of \$300**
  - **Second visit and discharging = \$300 plus issue Abatement Notice**
  - **Third and subsequent visit and discharging: \$300 + \$750 = \$1050 for each occasion**
  - **Continued breaches = prosecution**
- Note: Discretion allowed to enforcement regime to take into account the householder’s specific circumstances**
- (ii) **Discharging from open fire or prohibited small scale solid fuel burner between 1 April 2010 and 30 September 2010 with proof of purchasing an alternative – firm approach in accordance with complying with section 84 of the RMA and must stop discharging from said device:**

- **First visit and found to be discharging - written warning**
- **Second visit and discharging = infringement notice of \$300**
- **Third visit and discharging = \$300 plus issue Abatement Notice**
- **Fourth and subsequent visit and discharging: \$300 + \$750 = \$1050 for each occasion**
- **Continued breaches = prosecution**

**Note:** Discretion allowed to enforcement regime to take into account the householder's specific circumstances

Cr Kane/Cr Sage

Morning tea was taken from 10.10 to 10.40 a.m.

## 10. ELECTED MEMBERS REMUNERATION 2009-10

Jude Pani (Manager Secretariat) introduced this item to enable the Council to formulate a proposal to be submitted for approval to the Remuneration Authority on the remuneration of elected members for the 2009/10 financial year, commencing 1 July 2009, and to consider whether changes are required to the Councillors' Allowances and Reimbursements Policy. Additional information was tabled providing further scenarios for allocation of the remuneration pool.

It was moved by Cr Oldfield, seconded Cr Murray that there be no increase in the 2009/10 remuneration. A division was called for and the motion was declared LOST, 8 votes to 6, the voting being as follows:

<b>For (6)</b>	<b>Against (8)</b>
Cr McKay	Cr Kane
Cr Neill	Cr Kirk
Cr Murray	Cr Evans
Cr Oldfield	Cr Sage
Cr Sutherland	Cr Harrow
Cr Little	Cr Burke
	Cr Demeter
	Cr Tindall

[Later in the meeting Cr Harrow advised that his vote was for this motion and had been recorded in error. This was acknowledged and the voting was corrected to 7 votes for and 7 votes against. With a split vote, the status quo remained and therefore the motion remained defeated.]

The corrected Division voting is as follows:

<b>For (7)</b>	<b>Against (7)</b>
Cr McKay	Cr Kane
Cr Neill	Cr Kirk
Cr Murray	Cr Evans
Cr Oldfield	Cr Sage
Cr Sutherland	Cr Burke
Cr Little	Cr Demeter
Cr Harrow	Cr Tindall

There was discussion on an appropriate elected member remuneration level with comments on the current economic climate.

**Resolved**

**That the Council:**

- (a) **Notes the salary determined for the Chairman of \$142,365.**
- (b) **Adopts the following proposal for Councillors' Remuneration for the 2009/2010 financial year up until 30 June 2010 for recommendation to the Remuneration Authority.**

<b>Deputy Chair</b>	<b>\$56,710</b>
<b>Councillors x 12</b>	<b>\$53,280</b>
<b>NRRP panellists (2)</b>	<b>\$4,200 (6 month allowance)</b>

- (c) **Agrees that no changes will be made to the Councillors' Allowances and Reimbursements Policy at this time.**

Cr Tindall/Cr Sage

Cr Kane requested that her vote against recommendation (b) be recorded.

## **11. COMMITTEE REPORTS**

### **11.1 FINANCE AND AUDIT COMMITTEE**

Cr Sage presented the report of the Finance and Audit Committee meeting held on 10 February 2009.

**Resolved**

**That the Council:**

- (a) **Receives the report of the Finance and Audit Committee held on 10 February 2009.**
- (b) **Notes the progress made on project levels of service detailed in the "Tri-annual Report, Progress on Levels of Service 2008/09 July – October".**
- (c) **Approves the following changes to the levels of service for the projects, as outlined in the report:**
- **0476 Aids to Navigation - Harbours**
  - **0459 Stock Effluent Disposal Sites**
  - **0483 Cycleway Development**
  - **0264 Hazardous Waste Working Party and Canterbury Waste Joint committee**
  - **0611 Regional Hazardous Waste Management Strategy Implementation**
  - **0624 Industrial Pollution Prevention**
  - **0599 Regional Agrichemical Collection**
  - **0261 G/Water Investigations, Drilling and Testing**
  - **0631 Canterbury Strategic Water Study (as amended)**

Cr Sage/Cr Burke

## 11.2 REGIONAL PLANNING COMMITTEE

Cr Sage presented the report of the Regional Planning Committee meeting held on 11 February 2009. The recommendations in the officer report were moved by Cr Sage, seconded Cr Demeter. Following a request to clarify a point relating to property rights, discussion on this item was adjourned and later in the meeting the motion was put and CARRIED.

### **Resolved**

- (a) ***That the report of the Regional Planning Committee meeting held on 11 February 2009 be received, and that the following be approved.***
- (b) ***That the following changes be made to the draft Regional Policy Statement Chapter 10 Beds of Rivers and Lakes and their Riparian Zones:***
- ***Issue 10.4 to read: “Maintaining and improving public access to and along river and lake beds, whilst managing the adverse effects of that access on the natural, physical, cultural, amenity, and historic heritage values of those beds while respecting private property rights.”***
  - ***Policy 10.2 to include the words “protection and enhancement” in (a), (b) and (c).***
  - ***Policy 10.2, method 6: include reference to “...manage riparian zones and indigenous biodiversity.”***
  - ***Policy 10.4 to read: “To enable the removal of vegetation and bed material from river beds ....”***
- (c) ***That the Council approve the draft Regional Policy Statement chapters in relation to Soils, and the Beds of Rivers and Lakes and their Riparian Zones, for consultation purposes with constituent territorial councils and other interested parties, with the amendments and resolutions sought by the Committee.***

Cr Sage/Cr Demeter

## 11.3 REGIONAL PLANNING COMMITTEE

Cr Kirk, Chairperson of the Regional Planning Committee presented the report of the Regional Planning Committee meeting held on 11 March 2009.

### **Resolved**

#### ***That the Council:***

- (a) ***Receives the report of the Regional Planning Committee meeting held on 11 March 2009.***

- (b) Approves:**
- (i) that the Environmental Flow Regime reviews which are not yet notified as variations to the proposed Natural Resources Regional Plan (NRRP) be completed as stand-alone plans for each catchment.**
  - (ii) That such catchment plans are consistent with provisions in the proposed NRRP as appropriate for each catchment.**
  - (iii) That the evolution and operation of the existing Community Advisory Group process be reviewed.**
  - (iv) That a specific community consultation plan be developed for each Environmental Flow Regime review, depending on the issues and interested/affected parties in each catchment.**
  - (v) That Environmental Flow Regimes reviews be prioritised in the following order:**
    - (a) Firstly completion of variations to the proposed NRRP except that work on Variation 8 – Hurunui will take into account the Board of Inquiry’s progress on the Water Conservation Order application.**
    - (b) Secondly, once decisions on these NRRP variations have been notified, drafting and notifying of environmental flow plans for the**
      - 1. Waipara, Ellesmere, Pareora;**
      - 2. Orari, Waiau, Waimakariri Tributaries; and**
    - (c) Thirdly once decisions have been notified on environmental flows for the Waipara, Ellesmere, Pareora, Orari, Waiau and Waimakariri tributaries, commencing work on environmental flow regime reviews for Hinds, Banks Peninsula Streams and the review of the Opihi Plan.**
  - (vi) That officers report back to the Committee on which, if any, notified environmental flow variations to the proposed NRRP require additional work and possible renotification, and this report to include details of the budget and resources available.**

Cr Kirk/Cr

#### **11.4 REGIONAL TRANSPORT COMMITTEE**

Cr Kane, Chairperson of the Regional Transport Committee presented the report of the Regional Transport Committee meeting held on 26 January 2009.

***Resolved***

***That the Council receives the report of the Regional Transport Committee meeting held on 26 January 2009.***

Cr Kane/Cr Burke

**11.5 REGIONAL TRANSPORT COMMITTEE**

Cr Kane, Chairperson of the Regional Transport Committee presented the report of the Regional Transport Committee meeting held on 16 March 2009.

***Resolved***

***That the Council receives the report of the Regional Transport Committee meeting held on 16 March 2009.***

Cr Kane/Burke

The meeting moved to Item 16 to allow Cr Demeter to present her report on the North Pegasus Bay Coastal Management Plan prior to her leaving the meeting.

**16. COUNCILLOR REPORTS EXTERNAL APPOINTMENTS/ CONFERENCES/ SEMINARS**

Cr Demeter talked to the report on the Northern Pegasus Bay Coastal Management Plan included with the agenda. There was discussion on the Governance Group agreeing on actions that did not align with Council policy.

Crs Little and Demeter, Council appointments to the Governance Group responded to questions of clarification and outlined strongly that this was a community driven process.

Discussion on item 16 was adjourned until later in the meeting.

Lunch was taken from 12.38 to 1.15 p.m.

Item 17 was taken at this time. The Chairman advised that the Chief Executive would brief Council on the following two items additional items with the public excluded: Target Pest Enterprises Limited and Commissioner Remuneration.

## 17. PUBLIC EXCLUDED

### **Resolved**

***That the public be excluded from the following part of the proceedings of this meeting, namely:***

- 17.1 Proposed NRRP Chapter 3 Air Quality – Appeals**
- 17.2 Target Pest Enterprises Limited Liquidation**
- 17.3 Commissioner Remuneration**

***The general subject of the matter to be considered while the public is excluded, the reason for passing this resolution and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:***

<b><i>General subject of each matter to be considered</i></b>	<b><i>Reason for passing this resolution in relation to each matter</i></b>	<b><i>Ground(s) under section 48(1) for the passing of this resolution</i></b>
<b>17.1 Proposed NRRP Chapter 3 Air Quality – Appeals</b>	<b><i>The exclusion of the public from the meeting is necessary to enable the Council to deliberate in private on its decision in proceedings which are before the Council and which will be proceeding to the Environment Court.</i></b>	<b>Section 48(1)(d)</b>
<b>17.2 Target Pest Enterprises Limited</b>	<b><i>That good reason exists for not discussing the matter with the public present and is not outweighed by the public interest.</i></b>	<b>Section 48(1)(a)</b>
<b>17.3 Commissioner Remuneration</b>		

***This resolution is made in reliance on Section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interests protected by Section 7 of that Act which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public are as follows:***

- 17.1 Maintain legal professional privilege – Section 7(g).**
- 17.2 Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(i).**
- 17.3 Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) – Section 7(i).**

Cr Burke/Cr Kirk

The meeting moved into public excluded session from 1.17 p.m. to 3.10 p.m.

**12. MINUTES OF MEETING – CANTERBURY MAYORAL FORUM**

***Resolved***

***That the Council receives the minutes of the Canterbury Mayoral Forum meeting held on 23 February 2009.***

Cr Burke/Cr McKay

**13. CHAIRMAN'S REPORT**

Cr Burke advised there was no report from the Chairman.

**14. FINANCIAL REPORTS ON COUNCIL PORTFOLIO ACTIVITIES**

***Resolved***

***That the information on the financial reports for the period ending 28 February 2009 be received.***

Cr Little/Cr Evans

Cr Demeter returned at 3.20 p.m.

**15. CHIEF EXECUTIVE'S ITEMS**

Bryan Jenkins presented the Chief Executive items. Dr Jenkins advised that a suggested approach for dealing with community water supplies in red zones will be taken to the April Regional Planning Committee meeting. A document on this subject was tabled.

***Resolved***

***That the Chief Executive's items be received and Director Finance and Corporate Services, Wayne Thomas, be appointed Acting Chief Executive during the period of Dr Jenkins' absence from 20 – 28 April 2009.***

Cr Burke/Cr Sage

**16. COUNCILLOR REPORTS EXTERNAL APPOINTMENTS/ CONFERENCES/ SEMINARS (RECONVENED)**

Cr Evans reported on a very successful Community Board Conference. Cr Tindall advised he has attended a meeting of COSS.

***Resolved***

***That the reports be received.***

Cr Burke/Cr Little

**18. NOTICES OF MOTION**

There were no notices of motion.

**19. QUESTIONS**

There were no questions.

**20. EXTRAORDINARY AND URGENT BUSINESS**

There was no extraordinary and urgent business.

**21. NEXT MEETINGS – 31 MARCH, 1 APRIL AND 28 APRIL 2009**

**22. CLOSURE**

The Chairman declared the meeting closed at 3.30 p.m.

CONFIRMED

DATE \_\_\_\_\_ CHAIRPERSON \_\_\_\_\_