



Meeting of the:

Regulatory Committee Whakaretea

Thursday 9 May 2024 at 10.00am

Environment Southland Council Chamber, 220 North Road, Invercargill

24/RC/22

Committee Members

Cr Neville Cook (Chair)
Cr Alastair Gibson
Cr Robert Guyton
Cr Peter McDonald

Cr Jeremy McPhail (Deputy)
Cr Maurice Rodway
Chairman Nicol Horrell (ex officio)

Agenda

- 1 Welcome I Haere mai
- 2 Apologies I Ngā pa pouri
- 3 Declarations of interest
- 4 Public forum, petitions and deputations I He huinga tuku korero
- 5 Confirmation of minutes I Whakau korero
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- 6 Notification of extraordinary items/urgent business I He panui autaia hei totoia pakihi
- 7 Questions I Patai
- 8 Chairman and councillors reports I Ngā purongo-a-tumuaki me ngā kaunihera
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- 11 Public excluded business



Paul Hulse
General Manager, Integrated Catchment Management

Terms of reference – Regulatory Committee

Council assigns to the committee responsibilities from time, and the committee provides advice and reports back to Council on:

- 1 The approval of non-notified resource consent applications
- 2 The need for formal review and amendment of existing plans, strategies and bylaws
- 3 The consideration and determination of notified consent applications that are unable to be dealt with via the existing delegations to staff (via the appointment of qualified hearing panels)
- 4 The appointment and performance of hearing committees/panels
- 5 The implementation of NPS, frameworks, and environmental standards required
- 6 The monitoring of regional plans, strategies and bylaws
- 7 Compliance and enforcement activities, including those relating to permitted activities, resource consents and biosecurity matters.

Minutes of the Regulatory Committee

Held at Environment Southland, 220 North Road Invercargill
Thursday 22 February 2024 at 1pm



Present:

Jeremy McPhail (Chair)
Cr Peter McDonald
Cr Maurice Rodway
Chairman Nicol Horrell (ex officio)
Mr Paul Hulse (GM Integrated Catchment Operations)
Miss Shanin Brider (Meeting Secretary)
Cr Lyndal Ludlow also in attendance but not part of the committee
Cr Phil Morrison also in attendance but not part of the committee
Cr Eric Roy also in attendance but not part of the committee

1 Welcome I Haere mai

The chairperson welcomed everyone to the Regulatory Committee meeting for Thursday 22 February 2024.

2 Apologies

Apologies received from Cr Neville Cook, Cr Alistair Gibson and Cr Robert Guyton.

Moved by Chairman Horrell and seconded by Cr McDonald, **and resolved:**

That the Regulatory Committee accept the apologies.

Carried

3 Declarations of interest

A declaration of interest was declared for Item 3 by Chairman Horrell that he is the Chair of the Whakamana te Waituna Charitable Trust. He will remove himself from the discussions of the meeting for this item.

4 Public forum, petitions and deputations I He huiuga tuku korero

There were no public forum, petitions or deputations presented at the meeting.

5 Confirmation of minutes

Moved by Cr Rodway and seconded by Cr Horrell **and resolved:**

That the Regulatory Committee confirms the minutes of the meeting held Thursday 19 October 2023 as a true and correct record of that meeting.

6 Notification of extraordinary and urgent business I He panui autaiā hei totoia pakihi

There were no extraordinary items or urgent business tabled for inclusion in the agenda.

7 Questions I Patai

There were no questions asked by the membership.

8 Chairman and councillors reports

There were no questions tabled by the Chairman or councillors at the meeting.

9 Staff reports

9.1 Appointment of independent commissioner

To appoint an independent commissioner as decision maker to consider and determine a resource consent application without a hearing (APP-20233643) applied for by Whakamana te Waituna Charitable Trust.

Moved Cr Rodway and seconded Cr McDonald, **and resolved:**

That the Regulatory Committee

- 1 Receive the report "Appointment of independent commissioner for APP-20233643".**
- 2 Appoints Jayne MacDonald independent commissioner as decision maker under s34A of the Resource Management Act 1991.**
- 3 Delegates to Jayne MacDonald pursuant to s34A(1) of the Resource Management Act 1991, the function, powers and duties required to: consider and determine the Application.**

Carried

9.2 Consents division report for the period 1 October 2023 to 31 December 2023

For the Regulatory Committee to note the consents division report for the 1 October 2023 to 31 December 2023 period (second quarter 2023/2024)

Moved Chairman Horrell, seconded Cr Rodway **and resolved:**

That the Regulatory Committee

- 1 Receive the report "Consents division report for the 1 October 2023 to 31 December 2023 period"**

Carried

9.3 Resource management team report – 1 October 2023 to 31 December 2023

For the Regulatory Committee to note the compliance division report for the 1 October to 31 December 2023 period.

Moved Cr McDonald and seconded Cr Rodway , **and resolved:**

That the Regulatory Committee

- 1 Receive the report "resource management team report – 1 October 2023 to 31 December 2023"**

Carried

9.4 Group programme update

The purpose of this report was to update the Regulatory Committee on the Integrated Catchment Management Group Work Programme.

Moved Chairman Horrell, seconded Cr McDonald, **and resolved:**

That the Regulatory Committee

- 1 Receive the report “Group programme update”**

Carried

9.5 Biosecurity regulatory report – quarter two 2023/2024

This report was to inform the Regulatory Committee of the regulatory activities carried out under the Biosecurity Act 1993.

Moved Cr McDonald and seconded Cr Rodway, **and resolved:**

That the Regulatory Committee

- 1 Receive the report “Biosecurity Regulatory Report – quarter two 2023/2024”.**

Carried

10 Extraordinary/urgent business | Panui autaiā hei totoia pakihi

There were no extraordinary/urgent business items tabled for inclusion in the agenda.

11 Public excluded business | He hui pakihi e hara mo te iwi

There was no public excluded business.

Termination

There being no further business, the chairman closed the meeting at 1.40pm.

9.1 Resource management team report – 1 January 2024 to 31 March 2024

Objective ID: A104866

Report by: Donna Ferguson, Resource Management Manager

Approved by: Paul Hulse, General Manager Integrated Catchment Management



Purpose

For the Regulatory Committee to note the compliance division report for the 1 January to 31 March 2024 period.

Summary

The purpose of this report is to inform the Regulatory Committee of the activities within the compliance division, with a focus on:

- current topical issues
- emerging issues
- co-ordination initiatives
- key challenges
- activity of the compliance division during the past reporting period.

Recommendation

It is recommended that the Regulatory Services Committee resolves to:

- Receive the report “resource management team report – 1 January 2024 to 31 March 2024”

Current topical issues

Winter grazing

Planning has started for the 2024 winter grazing period.

As previously noted, the compliance portion of the organisational wide work programme will be the same as in 2023 with staff completing winter dairy inspections for winter barns, feed pads/stand-off pads and winter grazing consents as well as responding to winter grazing incidents, completing winter grazing flights and some proactive work as time allows. Planning is well underway for our activities and we are working with our communications team to ensure messaging is scheduled to go out to our community.

Aerial Inspections of dairy discharge permit inspections

The annual aerial inspections were scheduled for the last week of March this year; however, they were delayed due to the weather. These inspections were rescheduled for early April 2024 weather dependant. Communications will be given to the Southland community on the day of the flights. Due to us flying most areas of Southland we may not always be able to be specific in advising the areas where we are flying but we will do so wherever possible.

Notification times prior to farm inspections

As confirmed at previous Regulatory Committee meetings, the resource management team have been trialling a change in notification times again this season by contacting the person in charge and/or consent holders the day before to advise of an inspection.

In response to this trial, we received positive and negative feedback on the increased notification time from both the rural and urban communities.

It has been decided to continue with the current process of notification via text the afternoon prior to the inspection for the upcoming season and that we will review the notification timeframes at the beginning of each season moving forward.

Dairy top performer

During March 2024, we received the quality assurance checks on the returned dairy top performer self-inspection sheets. While overall compliance levels and accuracy of reporting was good, we have one property which may be withdrawn this season due to ponded effluent being present while on farm for the checks. A final decision is yet to be made once the cause of the ponding is investigated.

Winter air quality

The first of May 2024 signals the start of the prohibited outdoor burning season within the Invercargill and Gore air-sheds. Our focus over the winter season will be on any outdoor burning within the air-sheds, as well as the burning of prohibited items or the creation of nuisance smoke throughout the region. We will continue to work with the communications team to ensure the restrictions are well advertised.

We continue to receive ongoing complaints from the burning of fresh hedge clippings once the hedge trimmers have visited an area and we intend to once again work to educate those contractors who undertake this work so they can give the correct advice to their customers.

High-rate water consents

During the summer, our officers have been continuing checks of high-rate water take consents. This is a time of higher environmental risk due to seasonally lower river levels. These checks have included detailed assessments of telemetered abstraction data to determine compliance with abstraction limits, low flow trigger levels or cut-offs as well as asking consent holders to comply with the more administrative aspects of their consent conditions, such as supplying soil moisture readings, irrigation management plans or meter verifications. These consents have been given higher priority and the checks have been in much greater detail than in the past. The aim this year is to comprehensively assess all water abstraction consents at least once setting a new level of expectation moving forward. During the first quarter of 2024 we have undertaken 57 detailed abstraction record assessments and have completed 12 site audits of water permits.

Alarmist is a system that notifies consent holders when river low-flow trigger levels have been met. The resource management team monitors these alarms and checks that these trigger levels are complied with. We have been running through a process to make sure that all consents that have low flow triggers as part of their conditions receive these alarms. This process is ongoing.

Emerging issues

Gravel monitoring

Gravel monitoring inspections are continuing and we are noting a number of issues while completing these inspections such as stockpiling while not consented for stockpiles, stockpiling in flood ways which is in breach of the Flood Control Management Bylaw and reporting. All non-compliances are investigated through our standard process and breaches of the bylaw have been referred to the catchment operations team.

Key challenges

Resourcing

Staff levels continue to be reviewed due to an increase in workload for the resource management team which also takes into account the increase in regulations and the changing regulatory space in which we work. In the previous two years, we have streamlined a number of our processes and prioritised our work programmes and all the resource benefits gained from these actions have now been utilised by the work programmes.

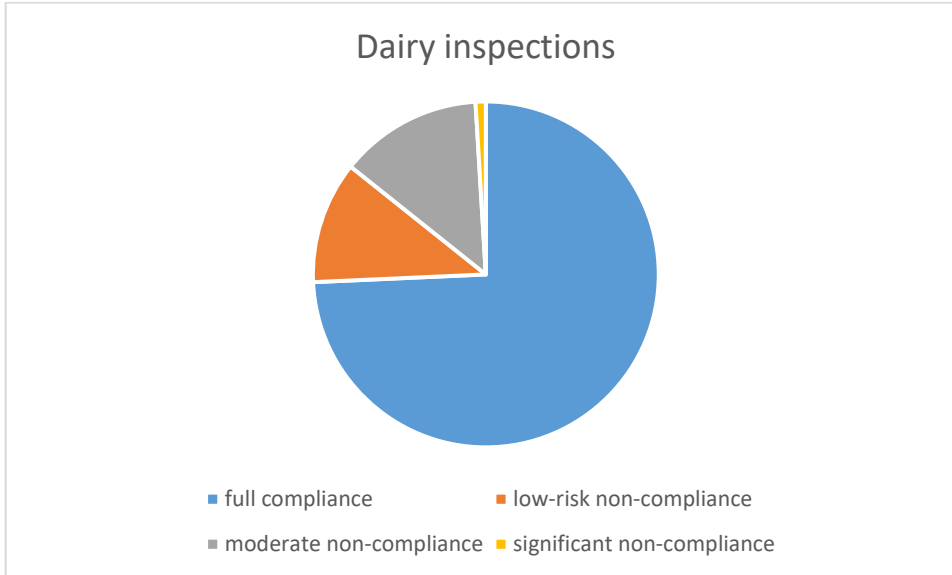
Activity of the Division

Over the last reporting period, as outlined above, the resource management team's activities have included:

Dairy inspections

105 dairy discharge permit site inspections for this quarter:

- 78 full compliance
- 12 low-risk non-compliance
- 14 moderate non-compliance
- 1 significant non-compliance



Industry monitoring

341 technical reviews were undertaken during this reporting period:

- 23 site inspections
- 318 report assessments

Enforcement

There were 11 completed enforcement outcomes for this reporting period.

ENFORCEMENT OUTCOME	NUMBER ISSUED	SUMMARY
Letter of advice	2	Whitebait stand and wetland issue which was fully investigated
Letter of direction	3	Two discharges to air, breach of reporting regulations relating to water meter
Formal warnings	2	Non supply of information, oil on road
Abatement notice	2	One cancelled for culvert issue after being resolved. One for a clean-fill.
Infringement notice	2	Breach of an abatement notice, clean-fill
Enforcement order	0	
Prosecution	0	

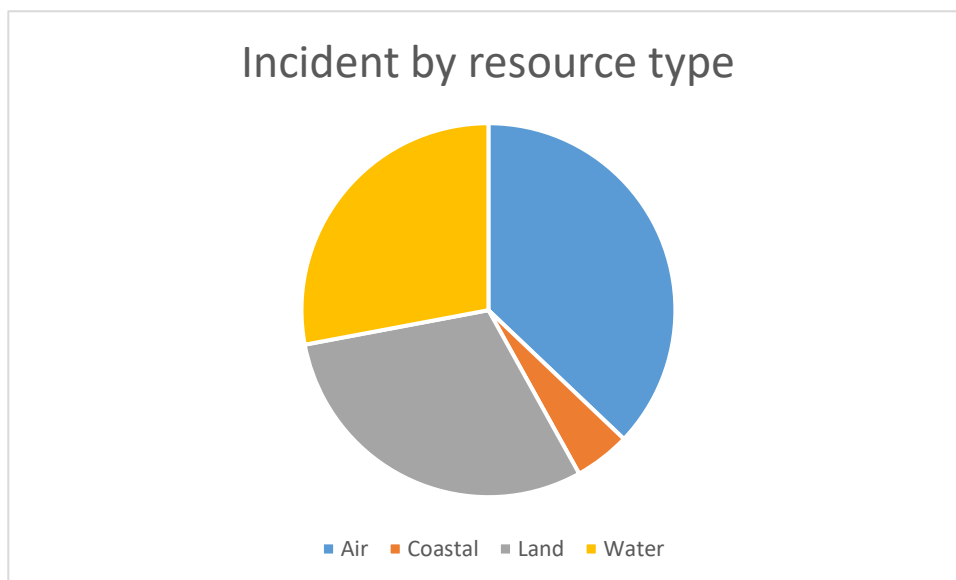
Permitted activities

During this reporting period the following permitted activities were identified:

- 0 silage pads
- 0 offal hole/farm landfill
- 0 calving pads
- 8 moorings

Incident response

186 incidents have been recorded for the reporting period - 165 external notifications and 21 internal notifications.



Above figure shows total incidents (internal and external)

35 of these incidents were from outdoor burning complaints noting smoke nuisance and burning of prohibited items.

Fit with strategic framework

OUTCOME	CONTRIBUTES	DETRACTS	NOT APPLICABLE
Managed access to quality natural resources	X		
Diverse opportunities to make a living	X		
Communities empowered and resilient	X		
Communities expressing their diversity			X

Considerations

Financial implications

There are no financial implications directly associated with this report.

Legal implications

This report and the associated recommendations comply with the appropriate statutory requirements placed upon Council.

9.2 Group programme update

Objective ID: A104864

Report by: Donna Ferguson, Resource Management Manager

Approved by: Paul Hulse, General Manager Integrated Catchment Management



Purpose

The purpose of this report is to update the Regulatory Committee on the Integrated Catchment Management Group Work Programme.

Recommendation

It is recommended that the Regulatory Committee resolves to:

1. Receive the report “group programme update”.

The Integrated Catchment Management Group is responsible for:

- undertaking regulatory functions on behalf of Council in line with the applicable act, existing plans, strategies and by-laws
- acting in a fair and reasonable manner with regards to the implementation of Council’s regulatory function
- identifying and managing strategic relationships and partnerships with other relevant regulatory bodies
- aligning Council’s regulatory functions with non-regulatory activities across catchments
- supporting the formal review and amendment of existing plans, strategies and by-laws
- undertaking compliance, monitoring and enforcement activities in relation to permitted activities resource consents, biosecurity and biodiversity matters, river and flood management and the harbourmaster.

Below is a table of current work streams for councillors' information:

Group work programme update as of 1 January 2024

PROJECT / PROGRAMME	KEY OBJECTIVES
1. REGULATORY REPORTS	Provide regular reports to the committee from the consents, compliance and biosecurity divisions and from the Harbourmaster and catchment operations when relevant
2. OPERATIONAL REGULATORY FRAMEWORK	The Operational Regulatory Framework will be discussed with the committee and implementation updates provided
3. ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT (CME) REPORT	Annual CME report to be presented to the committee post the 2023/2024 financial year
4. ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT PRIORITIES	Annual CME priorities to be endorsed by the committee in time for implementation in the 2024/2025 financial year
5. ANNUAL NATIONAL REPORTING	Annual reporting of compliance monitoring and enforcement to the compliance and enforcement special interest group (CESIG) Annual reporting of council activities to NMS

'Action Ahead' summary

	NEXT MILESTONES	STATUS	RELEVANT DATES
REGULATORY REPORTS	Regular agenda item from Consents, Compliance and Biosecurity. Activity specific updates from Harbourmaster and Catchment Operations to be undertaken when relevant	In progress	Ongoing
OPERATIONAL REGULATORY FRAMEWORK	Update provided to Committee on the framework	In progress	August 2024
ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT REPORT	Presentation of the Annual CME report for 2023/2024 to the Committee for endorsement	Not started (data will only be analysed in July 2024)	November 2024
ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT PRIORITIES	Endorsement of Annual CME priorities for 2023/2024 by the Committee	In progress	Workshop set with Councillors on 24 April 2024 <i>Please note date change due to scheduling conflicts</i>
ANNUAL NATIONAL REPORTING	Annual reporting of compliance monitoring and enforcement to the compliance and enforcement special interest group (CESIG) Annual reporting of council activities to Ministry for the Environment via the national monitoring standards (NMS) report	Not started (data will only be analysed in July 2024)	Reporting begins 1 July 2023 with report due to be released late 2024 Reporting begins 1 July 2023 with report due to be released late 2024

9.3 Biosecurity regulatory report - quarter three 2023/2024

Objective ID: A1069770

Report by: Ali Meade, Biosecurity and Biodiversity Operations Manager

Approved by: Paul Hulse, Integrated Catchment Management



Purpose

The purpose of this report is to inform the Regulatory Committee of the regulatory activities carried out under the Biosecurity Act 1993.

Summary

The biosecurity team carries out Biosecurity Act exemptions, compliance, and enforcement activity in relation to the Southland Regional Pest Management Plan and the Fiordland Regional Marine Pathways Management Plan.

Recommendation

It is recommended that the Regulatory Committee resolves to:

- 1 Receive the report “Biosecurity regulatory report – quarter three 2023/2024”.**

Report

Biosecurity divisional exemption activities

Exemptions to the Regional Pest Management Plan (RPMP) and the Fiordland Marine Regional Pathways Management Plan (FMRPMP) are processed by the biosecurity team under Sections 78 and 98 of the Biosecurity Act 1993. There have been no exemption requests this quarter.

Below is a summary of the current exemptions for the quarter January to March 2024

SPECIES	TOTAL CURRENT	NEW APPROVED THIS QUARTER	IN PROGRESS
Bengal cat	24	0	0
Wallaby	1	0	0
Rabbits	383	0	0
Undaria	3	0	0
Contorta pine	1	0	0
Spartina	1	0	0
Total	413	0	0

Fiordland Marine Regional Pathways Management Plan – clean vessel passes

All vessels entering the Fiordland marine area must have a current clean vessel pass (CVP). Overall, CVP applications were slightly lower this quarter, compared to Q2 23/24.

	APPLICATIONS RECEIVED – 2023	APPLICATIONS RECEIVED – 2024	CHANGE
January	70 (52 online)	78 (62 online)	▲
February	65 (48 online)	54 (38 online)	▼
March	59 (42 online)	46 (38 online)	▼

	APPLICATIONS RECEIVED – 2023	APPLICATIONS RECEIVED – 2024	CHANGE
April	22 (16 online)		
May	40 (30 online)		
June	15 (12 online)		
July	30 (20 online)		
August	55 (22 online)		
September	18 (14 online)		
October	24 (13 online)		
November	45 (30 online)		
December	55 (46 online)		
Total	498 (345 online)	178 (138 online)	▲

Biosecurity divisional compliance activities

Compliance monitoring of the RPMP and the FMRPMP is carried out by the biosecurity team. Below is a summary of the compliance work that was undertaken during the January – March 2024 quarter.

Pest plant inspections under section 109 were completed for a range of projects including Gunnera, Knotweed, Willow and Hawthorn on Rakiura, as well as Field Horsetail, Parrot’s Feather, German Ivy, Purple Loosestrife, Smilax, Bomerea, Buddleia, Old Mans Beard, Reed Sweet Grass, Siberian Lyme Grass, and other progressive containment species throughout mainland Southland.

WORK PROGRAMME	NOTICE OF INTENT TO ENTER	INSPECTIONS UNDER SECTION 109	NEW NOTICE OF DIRECTION	ACTIVE NOTICE OF DIRECTION	COMPLETE D NOTICE OF DIRECTION	LIENS	PROSECUTION
PEST ANIMALS	0	0	0	0	0	0	0
PEST PLANTS	1	170	0	0	0	0	0
NATIONAL PEST PLANT ACCORD	0	0	0	0	0	0	0
MARINE PESTS	0	82*	0	0	0	N/A	0

*82 Notices of Inspection were issued for the Fiordland-bound vessel inspections in February and March. Notices for the Milford compliance inspections had not been issued at the time of reporting.

As of 1 July 2023, Environment Southland became responsible for monitoring Fiordland-bound vessels in Bluff Harbour and Stewart Island/Rakiura. This work was previously completed by Biosecurity New Zealand. This work is being completed by a contractor who has been authorised by Environment Southland under Section 103 of the Biosecurity Act. A total of 71, 67 and 69 vessels were inspected in January, February and March 2024 respectively. The programme continues to successfully identify and treat vessels infected with *Undaria* before they head to Fiordland.

The marine biosecurity team completed compliance inspections in Milford Sound in March 2024. A total of 35 vessels were inspected in Freshwater Basin and Deepwater Basin. No marine pests were found during the trip; however, seven vessels did not have a current clean vessel pass (CVP). The below tables provide a summary of the types of vessels and structures inspected.

VESSEL TYPE	TOTAL	HULL INSPECTIONS	MARINE PESTS FOUND	NON-COMPLIANT (NO CVP)
Charter vessels	15	11	0	1
Fishing vessels	12	12	0	3
Private vessels	4	4	0	2
Pilot vessels	1	1	0	0
Passenger vessels	3	2	0	1
Trailer boats	0	–	–	–
Total	35	30	0	7

OTHER INSPECTIONS	TOTAL	MARINE PESTS FOUND
Moorings	0	0
Structures	16	0
Total	16	0

Views of affected parties

There are no issues within this report that trigger matters in this policy.

Fit with strategic framework

OUTCOME	CONTRIBUTES	DETRACTS	NOT APPLICABLE
Managed access to quality natural resources	x		
Diverse opportunities to make a living	x		
Communities empowered and resilient	x		
Communities expressing their diversity			x

Compliance with Significance and Engagement Policy

There are no issues within this report that trigger matters in this policy.

Considerations

Financial implications

There are no financial implications directly associated with this report. This work has all been completed within existing budgets.

Legal implications

There are no legal implications directly associated with this report.

Attachments

None

9.4 Consents division report for the period 1 January 2024 to 31 March 2024

Objective ID: A1069647

Report by: Lacey Bragg - Consents Manager

Approved by: Paul Hulse - General Manager Integrated Catchment Management



Purpose

For the Regulatory Committee to note the Consents division report for the **1 January 2024 to 31 March 2024** period (third quarter 2023/2024).

Summary

The purpose of this report is to inform the Regulatory Committee of the activities within the consent division during the past (third quarter 2023/24 year) reporting period (**1 January 2024 to 31 March 2024**), with a focus on:

- emerging consent-related issues
- relevant legislative reform
- co-ordination initiatives
- key challenges
- team resourcing.

Recommendation

It is recommended that the Regulatory Committee resolves to:

- 1 Receive the report “Consents division report for the **1 January 2024 to 31 March 2024** period”.

Current and emerging issues

Following recent decisions of the Environment Court in relation to the provisions of the Southland Water and Land Plan, with the ninth interim decision having been recently issued by the court, consents staff have been working with the policy and planning team to understand what these decisions mean for the status of various plan provisions. This can then also be communicated to our customers, so that it is clear which provisions are/are not treated as operative, and this can be appropriately factored into consent applications and considerations/decision-making. The policy and planning team have provided an updated version of the Proposed Water and Land Plan which is available online.

There are 38 marine farm coastal permits in Big Glory Bay, Rakiura/Stewart Island that are due to expire on 1 January 2025. The Government is currently consulting on a proposal to extend expiry dates for marine farm consents by 25 years. The National Environment Standards for Marine Aquaculture were introduced in 2020 in anticipation of replacement consenting nationally. The marine farm operators in Big Glory Bay have formed a group and there are indications that applications could be jointly lodged for new consents by the end of June 2024.

As previously reported, there is ongoing interest in Fiordland-related consent matters. Councillors will be aware that Regional Coastal Plan Change 5 relating to commercial surface water activities is awaiting approval by the Minister of Conservation to progress to become operative.

A number of municipal/township wastewater consents across the region are nearing expiry over the next 18 months. Staff of the relevant territorial authorities are generally being proactive in engaging with the consents team on these well in advance. The National Policy Statement for Freshwater Management 2020 significantly elevates the regulatory bar for consideration of such applications, particularly for activities proposing discharge of wastewater to water, which are often a feature of older municipal schemes.

The Ngai Tahu Seafoods' Hananui Aquaculture open ocean marine farm proposal in Foveaux Strait/Te Ara a Kiwa was declined through the Environmental Protection Authority. Council was notified that the applicant has since lodged an appeal and judicial review of the EPA panel decision to the High Court. Environment Southland and several other parties have joined this appeal as interested parties. Progression of the appeal and judicial review in the court has been rescheduled to October 2024, at the applicant's request.

Capil Grove Limited filed a notice of appeal against Council's recent hearing decision by an independent panel declining consent to establish a new dairy farm located east of Forest Hill. This is currently progressing through the mediation process and parties are required to report on this to the court in early May 2024.

The submitter to the Pahia Daires consent process, the New Zealand Animal Law Association, has filed a notice of appeal against Council's recent hearing decision by an independent commissioner granting consent for farming related activities, including intensive winter grazing. The parties are currently awaiting a preliminary hearing in late May 2024.

Contact Energy lodged an application with the Environmental Protection Authority (EPA) under the Covid-19 Recovery Fast Track Consenting Act in late 2023 to develop a 55-turbine wind farm east of Wyndham. Previously a site visit and workshop between Contact Energy staff, Council and TAMI was held in late September 2023. Contact Energy has been in regular discussions with Environment Southland in relation to technical matters associated with this process, with the most recent of these occurring on 10 April 2024.

Legislative reform

As previously communicated, at the time of writing the government remains currently committed to its programme of legislative reform in the environmental area. The most recent update on this is included in the link below:

<https://environment.govt.nz/news/rm-reform-update-march-2024/>

In March 2024, the government introduced the Fast Track Approvals Bill that focuses on establishing fast-track legislation to accelerate delivery of significant infrastructure and project development.

The Freshwater Farm Plan Regulations continue to be a point of discussion for government, which has recently indicated the intention to review the FFP system:

<https://www.beehive.govt.nz/release/freshwater-farm-plan-systems-be-improved>

Consents staff have been taking the opportunity to feed into Environment Southland's responses to these proposed changes at relevant stages, and keeping abreast of recent developments and information is being socialised in the Consent Consultants Forum regularly and catchment integration and resource management staff have attended this forum regularly to discuss this in more detail.

Co-ordination initiatives

There has been an ongoing focus in this quarter on supporting the integrated catchment management model. In particular, the consents and compliance teams have been working more closely together through:

- focusing on internally joined up approaches to planning for intensive winter grazing for 2024
- regular fortnightly leadership catchups
- consistent approaches to health and safety – use of the "Take 5" tool to encourage staff thinking in advance to mitigate health and safety risks
- regular sense-checking of consent conditions to ensure they are effective and clear for Compliance staff charged with their enforcement in the field
- cross-divisional field visits and training opportunities
- focus on collaboration for implementation of SWLP provisions.
- engaging in initiatives for Consents and Compliance to share information directly with the Policy division.

Key challenges

Workforce

A very important ongoing focus at a managerial level remains, ensuring appropriate processing capacity and capability to process incoming consents, responding to ongoing changes within the regulatory framework

and ensuring the ongoing professional and career development of team members. Recruitment for a new team leader and senior consents officer was successful with these staff joining in January 2024. Recent completion of an internal secondment provides the return of the second team leader to the team. Following resignation of a consents officer in March 2024, recruitment is underway for a replacement for that role.

Ongoing and interim support for consent processing is available through external consultants on an as required basis. There is considerable pressure on skilled consents staff at a national level, so attracting and retaining consents staff is an important ongoing focus.

The strategic regulatory advisor role continues to provide additional support for decision-making within consents in order to provide for business continuity while the new consents staff referred to above are trained, and decision-making coverage for managerial leave.

Staff are staying abreast of workloads and processing times at present. However, there is limited capacity in the processing system, particularly for more complex applications, if multiple applications get lodged simultaneously.

Uncertainties of future legislative reform and providing definitive advice in that context

As referred to above and in previous reporting, the government has a strong programme of legislative reform, which is currently progressing with ongoing changes occurring.

Consents staff are involved internally across integrated catchment management and externally through the national Consents Manager Group to input and align with direction on implementation where appropriate.

While the consents team is seeking to ensure that it keeps abreast of this national direction, this does create a level of uncertainty for applicants who seek some greater certainty regarding what the regulatory regime may look like in, for instance, three years' time when their farming consents may come up for renewal. There are limits to what consents staff at the coalface can do about that, however, other than qualify any advice accordingly.

Divisional activities

The activities of the consents division in the reporting period from 1 January 2024 to 31 March 2024 are summarised as follows:

General

- 113 applications lodged
- 97 decisions made (including incomplete returns and withdrawals)
- timeframe compliance over the period is 100%. This includes situations where the processing timeframe has been extended with the applicant's agreement (e.g., where draft conditions have been supplied to the applicant for feedback). 100% of applications lodged during the reporting period are being processed in-house. *(Note: Several larger applications currently being processed are being supported by external consultants, usually where the required competencies are not held in the in-house team)*
- it is worth noting, however, that 14 applications remain on hold relating to the Maitua Water Conservation Order reallocation processes, as referred to above, which are in train via a dedicated project team. Section 124 rights apply to those applications so the consent holders can continue to operate under their current consents. Review notices have been issued for consents affected by the Maitua over-allocation. These do not include the current on-hold replacement applications, as review notices cannot be issued for expired consents, and the solution to the over-allocation will be applied through the replacement consent process.

Team matters

- the Consents team has supported Fiordland Marine Guardians meetings and has provided regular reporting on consents activities. Mooring structures had continued to be a matter of discussion focus at the previous meeting. The next meeting is scheduled for June 2024
- the regular Consents Consultants' Working Group meetings have continued via Teams in this quarter on a monthly basis. This remains a very useful forum for dialogue and feedback on the consents division's processes and other related issues. Recent topics for discussion by consents and other presenters have included IWG rules under 9th interim decision – nutrient budgets and yearly water volumes calculations

- the ongoing progression of the review of the Mataura Water Conservation Order consents referred to above will create some additional processing pressures on the team over the coming months. It is very important, however, that the momentum is retained for this project, and hence some external consultant resource continues to be engaged to support the progression of this important workstream between now and the end of 2024/2025 financial year
- the team has been working on the details of applying rules related to implementing new provisions from the latest interim decision on the pSWLP.

Applications lodged and in progress

Processing of consents has kept pace with the number of applications lodged. The volume of applications lodged is trending upward by 13.2% (113 vs 98 last quarter) on the last reporting quarter.

Table 1 below summarises the current consent processing activity. (Note: Applications can require the auditing of up to 10 different activities per single application).

Table 1: Summary of current and recent consent processing activity

Applications lodged 1 January 2024 to 31 March 2024	113
Applications in progress	192
Applications currently publicly notified	7
Applications currently limited notified	7
Applications limited or publicly notified under S.91A suspension	4
Applications on hold for >15 working days	104
Applications awaiting written approvals	48

Table 2: Summary of consent decisions made on applications 1 January 2024 to 31 March 2024

Non-notified decisions made	83
Limited notified decisions made	2
Publicly notified decisions made	0
Total applications withdrawn within date range	5
Total applications declined within date range	0
Incomplete applications returned	7

In addition to applications received and processed, the consents division received 336 individual enquiries for the reporting period. The volume of enquiries for this reporting period is similar to the previous period.

Publicly notified and limited notified applications.

Table 3: Summary of publicly and limited notified applications in progress and resolved since last quarter

APPLICANT	ACTIVITY	STATUS
S Ellis and M Kuster	Commercial surface water activity	Limited notified. Submissions closed. Awaiting hearing scheduling. On hold for deposit payment. Applicant is awaiting Plan Change 5 becoming operative.
Gravity Fishing Limited	Commercial surface water activity	Publicly notified. Submissions closed 25 August 2022. Submissions received. The processing of the application is currently on hold awaiting a hearing deposit. The applicant asked for further time before the matter proceeds. A further update has been requested.

Capil Grove Limited	Dairy farming related activities	Publicly notified. Submissions closed 17 November 2022. One submission received. Hearing held 4 July 2023. Application refused by Hearing Commissioners on 28 August 2023. Notice of Appeal lodged by the applicant on 15 September 2023. Details above page 2.
Blue Sky Meats	Industrial related activities	Publicly notified 20 January 2023. Submissions closed 20 February 2023. Three submissions received. Staff liaising with applicant on next steps, technical review continues, with expert caucusing to occur in early May 2024.
Pahia Dairies Limited	Dairy farming related activities	Publicly notified. Submissions closed on 22 March 2023. One submission received. A pre-hearing meeting was held on 28 April 2023. An application has been lodged to strike out the submission on 15 May 2023. Independent decision maker declined the application to strike-out submission on 10 July 2023. A hearing was held on 5 October 2023. Application granted by Hearing Commissioner on 21 November 2023. Notice of Appeal lodged by the submitter on 12 December 2023. Details above page 2.
Roger & Marilyn Olsen	Coastal protection	Limited notified. Submissions closed 23 March 2023. One submission received. Application suspended under s91A. Follow up of this application is in progress.
Deep Cove Outdoor Education Trust	Discharge to CMA	Limited notified. Submissions closed 16 May 2023. One submission received. Applicant has since amended the proposal, requiring the process to restart. The new application version is close to being finalised.
C Harpur for South West Marine Services	Commercial surface water activity	Publicly notified. Submissions closed 17 August 2023. Two submissions received. Application suspended under s91A (extended at applicant's request until 15 April)
Southland District Council – Edendale-Wyndham	Wastewater treatment plant discharge	Publicly notified. Submissions closed 30 August 2023. Four submissions received. Application suspended under s91A. The Applicant has indicated consultation with submitters is ongoing.
Southland District Council – Balfour	Wastewater treatment plant discharge	Publicly notified. Submissions closed 15 September 2023. Two submissions received. Application suspended under s91A. The Applicant has indicated consultation with submitters is ongoing.
ES Catchment Management Division (Titiroa tide gates)	Coastal Structure/Occupy CMA	Publicly notified. Submissions closed 11 September 2023. Eight submissions received. The processing of the application is currently on hold awaiting a hearing deposit. Applicant seeking natural hazards expert advice.
Fiordland Cruises Limited	Coastal Structure/Occupy CMA	Limited notified. Submissions closed on 20 October 2023. Four submissions received. Application withdrawn on 22 March 2024

Southland District Council	Ohai water supply treatment plant discharge to land	Limited notified. Submissions closed on 1 February 2024. No submissions received. Application granted under delegated authority on 29 February 2024.
Shalimar Johnston Limited	Dairy farming related activities	Limited notified. Submissions closed on 5 February 2024. No submissions received. Application granted under delegated authority on 6 March 2024.
Meridian Energy Limited	River control	Publicly notified. Submissions will close on 17 April 2024.
Real Journeys Limited (Deepwater Basin)	Coastal Structure/Occupy CMA	Limited notified. Submissions closed on 15 March 2024. Two submissions received in support. Application granted 12 April under delegated authority.
Real Journeys Limited (Harrison Cove)	Coastal Structure/Occupy CMA	Limited notified. Submissions closed on 5 April 2024. One submission received. Liaison with the Applicant on the next steps is occurring.
Real Journeys Limited (Helena Falls)	Coastal Structure/Occupy CMA	Limited notified. Submissions closed on 5 April 2024. Two submissions received. Liaison with the Applicant on the next steps is occurring.

Timeliness of decisions

As referred to above, the division’s work reported 100% on time. This includes situations where applications are placed on hold at the applicant’s request and where the applicant agrees to a timeframe extension, as provided for under Sections 37-37A of the Resource Management Act 1991.

Views of affected parties

There are no matters in this report which require consideration under this heading.

Fit with strategic framework

OUTCOME	CONTRIBUTES	DETRACTS	NOT APPLICABLE
Managed access to quality natural resources	X		
Diverse opportunities to make a living			X
Communities empowered and resilient			X
Communities expressing their diversity			X

Compliance with Significance and Engagement Policy

There are no issues within this report which trigger matters in this policy.

Considerations

Financial implications

There are no financial implications directly associated with this report. However, the flow of work in the consents team has broader financial implications for Environment Southland’s broader budget, which will be reflected in quarterly budget reporting.

Legal implications

This report and the associated recommendations comply with the appropriate statutory requirements placed upon the Council, including the requirement of Council under Section 35 of the RMA to gather information, monitor and keep records of the exercise of functions and powers.

Attachments

None

9.5 Appointment of Hearing Commissioners- upcoming consent decisions



Objective ID: A1054741

Report by: Lacey Bragg, Consents Manager

Approved by: Paul Hulse, General Manager- Integrated Catchment Management

Purpose

To seek and appoint commissioners as decision makers to hear and decide three upcoming consent applications.

Summary

The consents team is seeking Regulatory Committee approval to appoint the respective parties outlined below for three upcoming consent decision making processes, as per the recently adopted Hearing Commissioner Appointment Policy.

It is recommended that these matters be considered by independent decision makers, rather than by staff or by a council committee, in order to ensure objectivity in the decision-making process.

Further background to each of the applications and the commissioners proposed to be appointed are outlined in the background and notification sections of this report below.

Recommendation

It is recommended that the Regulatory Committee resolves to:

- 1 Receive the report "Appointment of Hearing Commissioner/s- upcoming consent decisions "
- 2 Appoint Louise Taylor (Chair) and Neville Cook to hear and decide the application by Blue Sky Meats (NZ) Ltd - APP-2022295
- 3 Appoint Sharon McGarry (Chair) and Lyndal Ludlow to hear and decide the application by Meridian Energy Ltd - APP-20233670
- 4 Appoint Allan Cubitt sitting alone to hear and decide the application Environment Southland Catchment Division - APP-20211135
- 5 Delegate to these appointees pursuant to s34A (1) of the Resource Management Act 1991 all the function, powers and duties required to deal with any preliminary matters; and hear and decide the applications.

Background to each of the applications:

The applicant, Blue Sky Meats (NZ) Limited has applied to Environment Southland for renewal of resource consents including wastewater discharge and the use of ground water at its existing meat processing/rendering plant at Morton Mains.

The applicant is proposing to continue to take and use groundwater, discharge wastewater/effluent produced by the plant's functions to land via an effluent irrigator, to use offal pits for disposal and to discharge containments to air.

The applicant, Meridian Energy Limited has applied to Environment Southland for water and discharge permits for activities related to the Manapouri Lake Control Improvement Project.

The applicant has applied for two new resource consents proposing to construct and maintain a new channel in the Waiau River and to discharge (to land and water) the materials produced from the work related to the Manapouri Lake Control Structure Project.

The applicant, Environment Southland Catchment Division has applied to Environment Southland for the renewal of a coastal permit to occupy the coastal marine area with a tide gate and weir structure and to dam/ divert water on the Titiroa river near the Tokanui Gorge Road Highway bridge.

The purpose of the Titiroa Stream tide gates is to ensure on-going drainage capability and prevent flooding of the surrounding low-lying farmland. The gates' purpose is to prevent tidal inflow which impacts on land drainage. The tide gates influence approximately 11,500 hectares of improved pasture alongside the Titiroa Stream.

Notification

The s95 notification reports detail a full description of the applications, consultation undertaken, all legal and planning matters, as well as the recommendations, and decisions for notification.

Blue Sky Meats (NZ) Ltd -APP-20222295 had requested public notification of its application, which seeks a suite of new consents for its existing Morton Mains meat processing and rendering plant.

Three submissions were received, and one submitter wishes to be heard. Concerns raised regarding the application include (but not limited to) the proposed duration of consent, impacts on cultural values and potential effects on neighbouring properties.

A hearing may be required as there remains submitters wishing to be heard. A date is yet to be formally scheduled.

Meridian Energy Ltd-APP-20233670 had requested public notification of its application and for an independent decision maker/decision maker to hear/determine the application.

The notification report advises that the current depth and alignment of the channel has been identified as a constraint against flow conveyance (particularly flushing flows) because of the accumulation of gravel and bed materials. The proposal involves a number of land use activities, including within the bed of a lake (the Waiau Arm), which would ordinarily be subject to Sections 9 and 13 of the RMA. However, under Section 4 of the Manapōuri Te Anau Development Act 1963 (MTADA), Meridian is authorised to undertake certain activities which are necessary or requisite to the operation of the MPS or ancillary works. Under that authority Meridian is not seeking land use resource consents for the project, however, the environmental effects associated with these activities have been robustly assessed in their application and it will be appropriately managed.

At the time of writing this report, the submission period is open and will close on 17 April 2024.

Environment Southland Catchment Division - APP-20211135 had requested public notification of its application.

The notification report advises that the tide gates are an existing structure which open and close depending on the direction of water movement. That means that they close on tidal inflows, reducing the potential for tides to cause higher water levels upstream of the gates, which protects land upstream of the gates, particularly during flooding periods.

Eight submissions were received, some in support of the activity and some opposing. Five submitters wish to be heard, four are opposing and one is in support.

A hearing may be required as there remains submitters wishing to be heard. A date is yet to be scheduled.

Proposed Hearing Commissioner Appointments:

It is proposed to appoint experienced independent/ hearing commissioner/s to hear and decide the applications.

Council's Hearing Policy outlines the criteria for selection of hearing commissioners:

- scale, complexity, and nature of the hearing
- suitable experience
- ability to understand and evaluate the key issues associated with the application
- availability for hearing and decision making
- no conflict of interest
- Ministry for the Environment (MfE) Making Good Decisions Accreditation.

Having considered this policy and the importance of objectivity in decision making, Environment Southland has sought commissioners who have the ability to consider and evaluate the key issues, any relevant effects, as well as ensuring robust decisions.

It is therefore recommended that the following person/s be appointed:

APP-2022295 Blue Sky Meats (NZ) Ltd:

Louise Taylor (chairperson)

Louise is an accredited hearing commissioner, with chair endorsement, and experienced in hearing similar applications, either as chairman or panel member, around the country. She has over 25 years of experience providing expert advice in resource management and local government issues to both local authorities and private clients. She has a good understanding of various discharges and their impacts. She is also fully conversant with the relevant planning framework.

She has no conflict with parties and is available to hear/determine the application.

Neville Cook (Panel member)

Neville is accredited under the Making Good Decisions Programme, and experienced in hearing similar applications, as a panel member.

He has no conflict with parties and is available to be a panel member.

APP-20233670 Meridian Energy Ltd:

Sharon McGarry (chairperson)

Sharon is an accredited hearing commissioner, with chair endorsement, and with nearly 30 years of experience in environmental planning, policy, consents, and compliance monitoring, either as chairman or panel member, around the country. She has a good understanding of various coastal management, aquaculture, discharges, water takes, renewable energy and mining. She is also fully conversant with the relevant planning framework.

She has no conflict with parties and is available to hear the application.

Lyndal Ludlow (Panel member)

Lyndal is accredited under the Making Good Decisions programme, and experienced in hearing similar applications, as a panel member.

She has no conflict with parties and is available to be a panel member.

APP-20211135 Environment Southland Catchment Division:

Allan Cubitt – sitting alone

Allan is an accredited hearing commissioner, with chair endorsement, and with nearly 30 years of experience in planning and resource management and in hearing similar applications, either as Chairman or panel member, around the country. He has recently chaired a number of plan hearings. He is also fully conversant with the relevant planning framework.

He has no conflict with parties and is available to hear the application.

Considerations:

Legal implications

Section 100 of the Resource Management Act 1991 (RMA) provides an obligation to hold a hearing when a person who has made a submission in relation to an application or the applicant has requested to be heard. S34A of the RMA allows council to delegate functions to hearing commissioners appointed by the Southland Regional Council.

The Regulatory Committee appoints hearing commissioners in relation to consent authority matters under the RMA, in accordance with the recently adopted Hearing Commissioner Appointment Policy.

Financial implications

Processing of resource consent applications, including the decision-making process, are at cost to the applicant and the RMA provides for financial penalties to apply should the application not be processed within the required timeframe.

Next steps

When appointed, and the necessary arrangements made to schedule applications for decisions/hearings, the appointed Commissioners would then hear/determine the applications.

Views of affected parties

There are no matters in this report which require consideration under this heading.

Attachments

None