

Notice is hereby given of the

## Regulatory Committee - Whakaretea

**Thursday 17 October 2024 at 1:30 pm**

Environment Southland Council chamber, 220 North Road, Invercargill  
24/RC/60

**Committee Members:**

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

Cr Jeremy McPhail  
Cr Maurice Rodway  
Chairman Nicol Horrell



# Agenda

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*This meeting will be livestreamed through YouTube and will be available to view on our website.  
<https://www.es.govt.nz/about-us/live-stream>*

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**Don Rule**

General Manager Regulatory

RECOMMENDATIONS IN COUNCIL REPORTS ARE NOT TO BE CONSTRUED AS COUNCIL POLICY UNTIL ADOPTED BY COUNCIL

## 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.

## **1 Welcome I Haere mai**

## **2 Apologies I Ngā pa pouri**

At the time of the agenda closing, no apologies had been received for this meeting.

## **3 Declarations of interest**

At the time of the agenda closing. No declarations of interest had been received for this meeting.

## **4 Public forum, petitions and deputations I He huinga tuku korero**

At the time of the agenda closing, no public forum, petitions or deputations were received for the meeting.

## **5 Confirmation of minutes I Whakau korero**

Attached are the minutes from the meeting held 6 August 2024.

## Minutes of the Regulatory Committee - Whakaretea

Held at Environment Southland, 220 North Road, Invercargill  
Tuesday 6 August 2024 at 1:00 pm

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### Present:

Chairman Nicol Horrell  
Cr Neville Cook  
Cr Alistair Gibson  
Cr Robert Guyton  
Cr Peter McDonald  
Cr Jeremy McPhail  
Cr Maurice Rodway

Mr Bruce Halligan (Acting General Manager Regulatory)  
Ms Ali Flynn (Committee Advisor)

## 1 Welcome I Haere mai

The chairperson welcomed everyone to the Regulatory Committee meeting for Tuesday 6 August 2024.

## 2 Apologies I Ngā pa pouri

### *Resolved:*

Moved Chairman Horrell, seconded Cr McPhail that apologies be accepted on behalf of Cr Gibson.

Carried

## 3 Declarations of interest

At the time of the agenda closing. No declarations of interest had been received for this meeting.

## 4 Public forum, petitions and deputations I He huinga tuku korero

At the time of the agenda closing, no public forum, petitions or deputations were received for the meeting.

Regulatory Committee - Whakaretea - Minutes - 6 August 2024



## 5 Confirmation of minutes I Whakau korero

### **Resolved:**

**Moved Cr McPhail, seconded Chairman Horrell that the minutes of the Regulatory Committee meeting held on 9 May 2024 be confirmed as a true and accurate record.**

**Carried**

## 6 Notification of extraordinary items/urgent business I He panui autaiia hei totoia pakihi

At the time of the agenda closing, no extraordinary or urgent business had been received for this meeting.

## 7 Questions I Patai

### **Questions received from Councillor McDonald:**

- 1 Would the committee members support a workshop in September (before cultivation decisions are made) with compliance and communication staff in attendance to review the past season and then map out some key dates running up to May of next year so that a communications campaign can be developed and “preloaded” into the calendar?
- 2 Perhaps these outputs could feed into the IWG working group or complement that group's work?

Mr Halligan responded that overall practice is improving in this area and that staff would need to be more proactive prior to cultivation season. Ms Ferguson noted that a Council workshop would be held on the matter. Chairman Horrell emphasised the need to be mindful of communication to the public and that staff and the internal working group should release some messaging in the form of an ongoing campaign. Support was received for this approach.

## 8 Chairman and councillors reports I Ngā purongo-a-tumuaki me ngā kaunihera

No Chairman and councillors reports were received.



Regulatory Committee - Whakaretea - Minutes - 6 August 2024



## 9 Reports

### 9.1 Biosecurity Regulatory Report Q4 June 2024

Ms Ali Meade was in attendance and spoke to this report, where the purpose was to inform the Regulatory Committee of the regulatory activities carried out under the Biosecurity Act 1993.

**Resolved:**

**Moved Cr Rodway, seconded Cr McPhail that Council:**

- 1 Receive the report - Biosecurity Regulatory Report Q4 June 2024.

**Carried**

### 9.2 Regulatory Framework Update

Mr Bruce Halligan was in attendance and spoke to this report, where the purpose was to update the committee on progress towards the delivery of the Council's Operational Regulatory Framework, including some recent measures to increase alignment of regulatory delivery across the Integrated Catchment Management Group.

**Resolved:**

**Moved Chairman Horrell, seconded Cr McDonald that Council:**

- 1 Receive the report – Regulatory Framework Update.

**Carried**

### 9.3 Consents Division Report Q4

Mr Bruce Halligan spoke to this report, where the purpose was to note the consents division report for the **1 April 2024 to 30 June 2024** period (fourth quarter 2023/2024).

**Resolved:**

**Moved Cr McPhail, seconded Cr Rodway that Council:**

- 1 Receive the report - Consents Division Report Q4.

**Carried**

Regulatory Committee - Whakaretea - Minutes - 6 August 2024



## 9.4 Appointment of Hearing Commissioners

Mr Bruce Halligan spoke to this report, where the purpose was to seek and appoint commissioners as decision makers to determine the upcoming consent decision making processes.

**Resolved:**

**Moved Cr Rodway, seconded Chairman Horrell that Council:**

- 1 Receive the report - Appointment of Hearing Commissioners.
- 2 Appoint Allan Cubitt as an Independent Commissioner to decide the MWCO consent reviews.
- 3 Appoint Jayne MacDonald as an Independent Commissioner to hear and decide a cost objection for APP-20222055.

**Carried**

## 9.5 Resource Management Team Report

Ms Donna Ferguson spoke to this report, where the purpose was to note the compliance division report for the 1 April to 30 June 2024 period.

**Resolved:**

**Moved Chairman Horrell, seconded Cr Rodway that Council:**

- 1 Receive the report - Resource Management Team Report.

**Carried**

## 9.6 Regulatory work programme

Ms Donna Ferguson spoke to this report, where the purpose was to update the Regulatory Committee on the Integrated Catchment Management Group Work Programme.

**Resolved:**

**Moved Cr McPhail, seconded Cr McDonald that Council:**

- 1 Receive the report - Regulatory work programme

**Carried**

Regulatory Committee - Whakaretea - Minutes - 6 August 2024



## 9.7 Compliance priorities for 2024/2025

Ms Donna Ferguson spoke to this report, where the purpose was to note the annual priorities for the resource management team for the 2024/2025 year.

**Resolved:**

**Moved Chairman Horrell, seconded Cr McDonald that Council:**

- 1 Receive the report - Compliance priorities for 2024/2025.

Carried

## 9.8 Mataura Water Conservation Order Update 1 August

Don Rule and Bianca Sullivan joined the meeting via Zoom and spoke to this report, where the purpose was to note that the consent over-allocation under the Mataura Water Conservation Order (WCO) above the Gore bridge is on track to being resolved.

**Resolved:**

**Moved Cr Cook, seconded Cr McPhail that Council:**

- 1 Receive the report - Mataura Water Conservation Order Update 1 August.

Carried

## 10 Extraordinary/urgent business | Panui autia hei totoia pakihi

No extraordinary or urgent business was notified at this meeting.

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

No public excluded items were received for this meeting.

## 12 Termination

There being no further business, the chairman closed the meeting at 2.33pm.

## **6 Notification of extraordinary items/urgent business I He panui autaiā hei totoia pakihi**

At the time of the agenda closing, no notifications of extraordinary or urgent business had been received for this meeting.

## **7 Questions I Patai**

At the time of the agenda closing, no questions had been received for this meeting.

## **8 Chairman and councillors reports I Ngā purongo-a-tumuaki me ngā kaunihera**

At the time of the agenda closing, no Councillor Reports were received for the meeting.

## 9 Reports

### 9.1 Biosecurity Regulatory Report Q1 24.25

**Report by:** Ali Meade, Biosecurity and Biodiversity Manager

**Approved by:** Bruce Halligan, Acting General Manager Regulatory

**Report Date:** 16 September 2024

#### Purpose

The purpose of this report is to inform the Regulatory Committee of the regulatory activities carried out under the Biosecurity Act 1993 during the quarter 1 July – 16 September 2024.

#### 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. There has been limited regulatory activity this quarter.

#### Recommendation

**It is recommended that the Regulatory Committee resolve to:**

- 1 Receive the report - Biosecurity Regulatory Report Q1 24.25.

#### Background

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.

#### 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.

One *Undaria* exemption has expired and the application renewal is being processed. The 383 annual rabbit exemptions expired at the end of June 2024; these will be reissued once the Southern Pest Eradication area contract for 24/25 has been finalised.

Below is a summary of the current exemptions for the quarter 1 July – 16 September 2024:

Species	Total current	New approved this quarter	In progress
Bengal cat	25	0	0
Wallaby	1	0	0
Rabbits	0	0	0
<i>Undaria</i>	2	0	1
Contorta pine	1	0	0
<i>Spartina</i>	2	0	0
<b>Total</b>	<b>31</b>	<b>0</b>	<b>1</b>

### Fiordland Marine Regional Pathway Management Plan – clean vessel passes

All vessels entering the Fiordland Marine Area must have a current clean vessel pass (CVP). Numbers are similar to 2023, with applications slowing down over the winter months as expected. The large difference between August 2023 and August 2024 number of applications is due to the 2023 Southland Boat Show.

	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)	▼
April	22 (16 online)	36 (28 online)	▲
May	40 (30 online)	37 (29 online)	▼
June	15 (12 online)	13 (11 online)	▼
July	30 (20 online)	14 (13 online)	▼
August	55 (22 online)	28 (19 online)	▼
September	18 (14 online)	26 (23 online)	▲
October	24 (13 online)		
November	45 (30 online)		
December	55 (46 online)		
<b>Total</b>	<b>498 (345 online)</b>	<b>464 (332 online)</b>	▼

### 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 1 July – 16 September 2024 quarter.

The marine inspection was for the reported discharge of pests into the marine environment. No compliance matters were identified during the inspection. Eight pest plant inspections were completed but no issues were identified.

Work Programme	Notice of Intent to Enter	Inspections under Section 109	New Notice of Direction	Active Notice of Direction	Completed Notice of Direction	Liens	Prosecution
Pest animals	0	0	0	0	0	0	0
Pest plants	0	6	0	0	0	0	0
National Pest Plant Accord	0	2	0	0	0	0	0
Marine pests	0	1	0	0	0	N/A	0

### 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

### Attachments

Nil

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## 9.2 Regulatory Committee Activity Plan

**Report by:** Donna Ferguson, Resource Management Manager

**Approved by:** Bruce Halligan, Acting GM Regulatory

**Report Date:** 13 September 2024

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### Purpose

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

### Summary

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.

### Recommendation

**It is recommended that the Regulatory Committee resolves to:**

- 1 Receive the report - Regulatory Committee Activity Plan.



## 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
<b>REGULATORY REPORTS</b>	Regular agenda item from consents, compliance and biosecurity. Activity specific updates from harbourmaster and catchment operations to be undertaken when relevant	In progress	Ongoing
<b>OPERATIONAL REGULATORY FRAMEWORK</b>	Update provided to committee on the framework. Secondment of the Strategic Regulatory Advisor to the Acting GM Role has limited the capacity to progress workstreams within this framework in the last quarter.	In progress	June 2025
<b>ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT REPORT</b>	Presentation of the annual CME report for 2023/2024 to the committee for endorsement.	In progress	November 2024
<b>ANNUAL COMPLIANCE, MONITORING AND ENFORCEMENT PRIORITIES</b>	Endorsement of annual CME priorities for 2023/2024 by the committee	Complete	
<b>ANNUAL NATIONAL REPORTING</b>	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	In progress	Reports are due for release late 2024

## 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 associated with this report.

### **Legal implications**

There are no financial implications associated with this report.

## Attachments

Nil

## 9.3 Resource management team report – Q1

**Report by:** Donna Ferguson, Resource Management Manager

**Approved by:** Bruce Halligan, Acting GM Regulatory

**Report Date:** 17 October 2024

### Purpose

For the Regulatory Committee to note the resource management/compliance division report for the 1 July to 6 September 2024 period.

### Summary

The purpose of this report is to inform the Regulatory Committee of the activities within the resource management/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

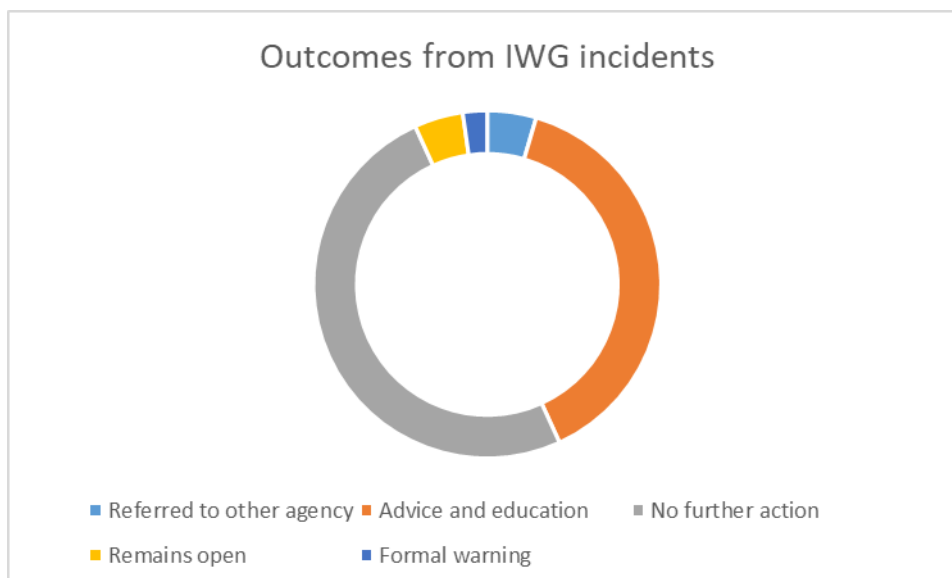
**It is recommended that the Regulatory Committee resolve to:**

- 1 Receive the report - Resource management team report – Q1.

### Current topical issues

#### Winter grazing

The winter grazing season was mixed, with the weather making life challenging for some farmers. However, most farmers seen through our aerial inspections, had appropriate buffers in place and critical source areas fenced off. We logged several incidents during this period with a range of outcomes, from advice and education through to being sent for further investigation. Staff undertook significant in field education with farmers relating to the changes in rules for the 2025 season.



### **Winter air quality**

Outdoor burning continues to be an issue during the winter period, both within the airsheds where it is prohibited and outside the airsheds, when complaints largely relate to smoke nuisance. We received 31 complaints relating to outdoor burning, 11 of which resulted in confirmed breaches. While a small number related to burning prohibited materials, the majority were people burning green waste. Many of those who were found burning within the airsheds claimed to be completely unaware of the prohibited season, suggesting that despite ongoing communications, we are not reaching them and we need to review our communications approach prior to next winter.

### **High-rate abstraction consents**

During the first quarter we finished off our high-rate water take monitoring for 2023/2024. We monitored each of these consents at least once for the year, this has involved quality assessing the data we have received and providing feedback to consent holders on their performance against the various consented abstraction limits. This work was prioritised ahead of low rate takes. Those low-rate abstraction submissions that weren't assessed shortly after we received them in May 2024 will be reviewed during September/October 2024.

As part of our water abstraction monitoring, we have continued our fish screen inspection programme in the fourth quarter of 2023/2024 with responses going out to consent holders this past quarter. Seventeen were inspected last year, 12 were compliant, five were non-complaint. The non-compliant screens are being followed up on.

### **Synthetic nitrogen reporting**

Synthetic nitrogen data was due to be submitted via one of the three central portals by 31 July 2024. Following this date, we had 109 consent holders who we had not received data for, so they were sent reminder letters with a further couple of weeks to get their data in.

In mid-August 2024, 63 consent holders received communication that they were non-compliant and were subsequently issued a non-supply fee. To date four have been found to be non-compliant with the limit of 190 kg/h, the highest non-compliance was 205kg/h. All four of these consent holders have been contacted and we have discussed how they plan to reduce for the next season. These consent holders will be checked next year to ensure their synthetic nitrogen use has come down to below the national limit.

As at 21 August 2024, Environment Southland was the top council in the country for supply with national figures showing 89% of those required supplied their data (our own statistics show us at 96%, this includes those who have submitted manually to us rather than go through national tools).

### **Dairy top performer**

We have 119 confirmed in the dairy top performer programme this season. Four more were eligible but declined and preferred to maintain on-site inspections.

To be eligible for the dairy top performer programme, a consent holder must have five years' full compliance with all resource consents, have no health and safety warnings and no unreasonable outstanding debt with Environment Southland.

We will be making direct contact with everyone eligible in the coming few weeks.

### **Policy review**

The resource management/compliance monitoring, enforcement and diversion scheme policies are scheduled to be reviewed in the 2024/2025 financial year.

These are public documents, available on the Environment Southland website to assist the community in understanding the work that the resource management team does and how we do it. These policies were initially written and approved in 2017 and a lot has changed about how we do our work since then.

The review of these documents has now started and we are looking at options to ensure these are fit for purpose for the staff who use them as part of their daily functions as well as customers who wish to review them and encompassing feedback from recent workshops.

## Key challenges

### **Risk based monitoring**

After the full review last year of the compliance annual charges and fees which have now been adopted in the 2024/2025 fees and charges schedule by Council, we are turning our attention to a review of how we monitor.

Over the next couple of years, we aim to move some of our monitoring programmes to a more risk-based approach. This may see some of our low-risk activities receive fewer but more thorough visits while high-risk activities receive more frequent assessments.

The first step in developing the new risk-based approach is for us to further work with our Science team to understand the environmental impacts of some activities. These conversations have started and will continue during the discovery phase of this project.

In transitioning to a new way of monitoring we aim to maintain all of the efficiencies we have gained with the use of data and technology to ensure high levels of customer service as well as meeting our regulatory obligations.

## Activity of the Division

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

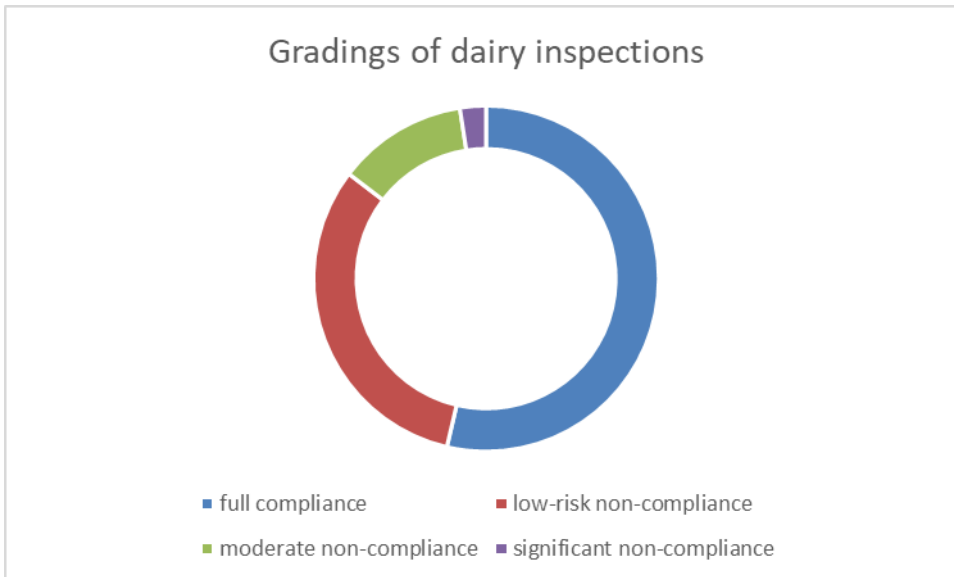
### **Dairy inspections**

41 dairy discharge permit site inspections for this quarter:

- 22 full compliance;
- 13 low-risk non-compliance;
- 5 moderate non-compliance;
- 1 significant non-compliance.

These inspections include winter grazing consents were inspected with the following gradings:

- full compliance – 16;
- low-risk non-compliance – 4;
- moderate non-compliance 4;
- significant non-compliance – 1.



*This graph shows all inspections completed during this reporting period*

### Industry monitoring

228 technical reviews were undertaken during this reporting period:

- 4 site inspections;
- 224 report assessments.

### Enforcement

There were 30 completed enforcement outcomes for this reporting period.

ENFORCEMENT OUTCOME	NUMBER ISSUED	SUMMARY
Letter of advice	8	Includes several winter grazing incidents with minor issues but no stock on crop at the time
Letter of direction	2	Non-supply of water take data
Formal warning	11	A number of these were for outdoor burning and unlawful moorings within Fiordland
Abatement notice	7	Operating without a resource consent, discharge of stormwater containing pig effluent onto an adjoining property
Infringement	2	Breach of consent conditions

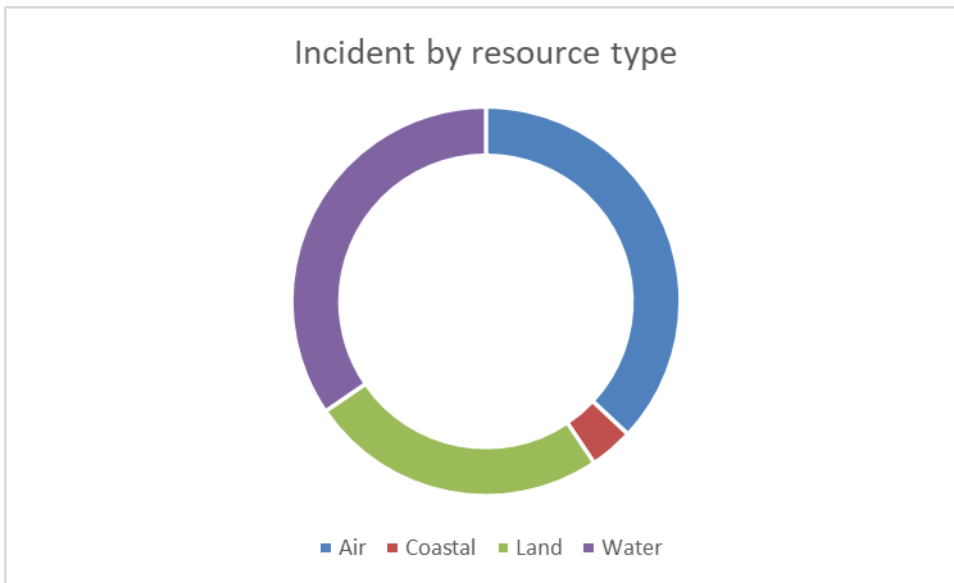
**Permitted activities**

During this reporting period the following permitted activities were identified:

- 17 silage pads;
- 2 offal hole/farm landfill;
- 0 calving pads;
- 27 moorings.

**Incident response**

165 incidents have been recorded for the reporting period - 140 external notifications and 25 internal notifications.



*This graph includes external and internally reported incidents*

**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 with this report.

**Legal implications**

There are no legal implications with this report.

**Attachments**

Nil



## 9.4 Consents Division Report (first quarter to September 2024)

**Report by:** Lacey Bragg, Consents Manager

**Approved by:** Bruce Halligan, Acting General Manager Regulatory Services

**Report Date:** 17 October 2024

### Purpose

For the Regulatory Committee to note the Consents division report for the **1 July 2024 to 30 September 2024** period (first quarter 2024/2025).

### Summary

The purpose of this report is to inform the Regulatory Committee of the activities within the consents division during the past (first quarter 2024/25 year) reporting period (**1 July 2024 to 30 September 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 resolve to:**

- 1 Receive the report - Consents Division Report (first quarter to September 2024).

### Background

#### Current and emerging issues

Following notification of the proposed Southland and Water and Land Plan being made operative in part, the consents team has been focused on undertaking a review and seeking to update available forms and website content related to consenting. The policy and planning team has provided an updated version of the proposed Southland Water and Land Plan which is available online.

On 30 May 2024, the government introduced the Extended Duration of Coastal Permits for Marine Farms Bill that proposes to extend existing marine farming permits by 20 years (but not beyond 2050). The National Environment Standards for Marine Aquaculture were introduced in 2020 in anticipation of replacement consenting nationally. The new Act received Royal Assent on 2 September 2024 and is now in force. The marine farm operators in Big Glory Bay have formed a group and lodged applications concerning 38 marine farm sites that are due to expiry on 1 January 2025. The consents team are working with consent holders on updating permits to align with the new legislation. A consents representative will attend a site visit in Big Glory Bay in late September 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 before progressing to becoming operative.

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. 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. The panel has recently

visited the area in early June 2024. The appointed expert consenting panel has made five additional information requests to date, which can be viewed at this link: <https://www.epa.govt.nz/fast-track-consenting/referred-projects/southland-wind-farm/reports-and-advice/>

Processing of the application has been suspended by the Applicant on 29 August 2024 to address matters raised to date. The panel has directed expert conferencing of ecological matters take place on 13 September 2024, Environment Southland's science and biodiversity teams will participate in conferencing.

A hearing was held 30 June 2024 for the Environment Southland catchment operations division consent application for the Titiroa tide gates. The commissioner adjourned the hearing to allow provision of the further information and expert caucusing. The commissioner has directed that a timetable for this information be developed by 11 September 2024.

A cost objection hearing is scheduled before commissioner Jayne MacDonald, for 26 September 2024 in relation to the processing of the consent application to establish a dairy farm by Capil Grove Limited in late 2023.

An application by Te Rūnanga o Awarua, Department of Conservation, and Environment Southland for the periodic opening of the Waituna Lagoon was publicly notified at the applicants' request on 6 August 2024. Submissions on the application closed on 3 September 2024. Summary of submissions lodged is being collated at the time of writing.

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 appellant's request.

### **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://mailchi.mp/mfe/rm-reform-update-september2024?e=d0bf3a3362>

This update includes the proposed changes to the Fast-Track Approvals Bill and the introduction of a second bill to make targeted amendment to the Resource Management Act (RMA).

Proposed changes in the bill relate to topics such as cabinet's recommended changes to the Environment Select Committee for the Fast-Track Approvals Bill, the changes affecting consent application considerations through the second bill proposal on the RMA.

Consents staff are feeding into Environment Southland's responses to the proposed changes at the relevant stages.

As noted above on page one, the extended duration of Coastal Permits for Marine Farms Bill was introduced in late May 2024 and has recently received Royal Assent.

The Act extends existing marine farming permits by 20 years (but not beyond 2050). The legislation can be found here:

<https://www.legislation.govt.nz/bill/government/2024/0056/latest/whole.html>

### Co-ordination initiatives

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

- a regular focus on internally joined up approaches to planning for intensive winter grazing for 2024, involving members from policy, communications, resource management and catchment integration;
- participating in work streams related to the rollout of farm planning;
- regular fortnightly leadership catchups with resource management;
- 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 resource management staff charged with their enforcement in the field;
- cross-divisional field visits and training opportunities;
- focus on collaboration for implementation of pSWLP provisions;
- engaging in initiatives to share and receive 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 consents officer was successful with a new member joining the team in July 2024.

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.

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 July 2024 to 30 September 2024 are summarised as follows:

### General

- 107 applications lodged;
- 94 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 Maitara 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 separately for consents affected by the Maitara over-allocation. The solution to the over-allocation will be applied through the replacement consent process. This matter is tracking to be concluded before the end of 2024.

### Team matters

- the consents team has supported Fiordland Marine Guardians meetings and has provided regular reporting on consents activities. The occupation of mooring structures was a matter of discussion at the recent meeting. The next meeting is scheduled for November 2024;
- the regular Consents Consultants' Working Group meetings have continued via Teams in this quarter on a bimonthly 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 NES-F regulations relating to farming that currently apply;
- the ongoing progression of the review of the Maitara 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 continued to receive enquiries and work on the details of applying rules related to implementing provisions from the latest pSWLP operative in part version.

### Applications lodged and in progress

Processing of consents has kept pace with the number of applications lodged. The volume of applications lodged is very similar (107 vs 113 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 ten different activities per single application).

**Table 1: Summary of current and recent consent processing activity**

Applications lodged 1 April 2024 to 30 June 2024	113
Applications in progress	196
Applications currently publicly notified	8
Applications currently limited notified	3
Applications limited or publicly notified under S.91A suspension	3
Applications on hold for >15 working days	99
Applications awaiting written approvals	45

**Table 2: Summary of consent decisions made on applications 1 April 2024 to 30 June 2024**

Non-notified decisions made	123
Limited notified decisions made	1
Publicly notified decisions made	0
Total applications withdrawn within date range	2
Total applications declined within date range	0
Incomplete applications returned	2

In addition to applications received and processed, the Consents division received 316 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.
Blue Sky Meats	Industrial related activities	Publicly notified 20 January 2023. Submissions closed 20 February 2023. Three submissions received. Technical expert caucusing occurred early May 2024. Staff liaising with applicant on next steps.
C Harpur for Southwest Marine Services	Commercial surface water activity	Publicly notified. Submissions closed 17 August 2023. Two submissions received. Application suspended under s91A, staff have followed up with the applicant and are awaiting response.
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	Coastal Structure/Occupy CMA	Publicly notified. Submissions closed 11 September 2023. Eight submissions received.

Division (Titiroa tide gates)		Hearing held and adjourned on 30 August 2024 pending further information.
Meridian Energy Limited	River control	Publicly notified. Submissions closed 17 April 2024. Prehearing meeting held 19 June 2024 and 24 June 2024. Hearing scheduled to commence 17 and 18 September 2024.
Te Rūnanga o Awarua, Department of Conservation, and Environment Southland (APP-20242456)	Coastal	Publicly notified. Submissions closed 3 September 2024. 50 Submissions received.
Southern Discoveries Limited	Coastal Structure/Occupy CMA	Limited notified. Submissions closed on 10 April 2024. One submission received. Application suspended under s91A. The applicant has requested for the suspension to be extended.
Fiordland Charters Limited	Coastal Structure/Occupy CMA	Limited notified. Submissions will close on 24 September 2024.

### 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. An optional, short customer satisfaction survey link is sent out to customers when consent decisions are issued, for this period eleven responses recorded an average rating of service score of 4.81/5. (5= very high quality).

### 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 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

Nil

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## 9.5 Update on Review of Navigation Safety Bylaws 2009 (revised 2015)

**Report by:** Lyndon Cleaver, Regional Harbourmaster & Maritime Manager

**Approved by:** Don Rule, Acting General Manager Regulatory Services

**Report Date:** 12 September 2024

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### Purpose

To provide an update to the Regulatory Committee on the review of the Environment Southland Navigation Safety Bylaws 2009 (revised 2015) and associated infringement fees schedule.

### Summary

The Environment Southland Navigation Safety Bylaws and associated infringement regime are nearing the stage where a full review is required to commence prior to December 2025.

Starting the review early will provide a good amount of time to consider all aspects such as ensuring infringement fees are fit for purpose and the required legislative processes are followed.

### Recommendation

**It is recommended that the Regulatory Committee resolve to:**

- 1 Receive the report - Update on Review of Navigation Safety Bylaws 2009 (revised 2015).

### Background

In July 2022, a recreational boating incident occurred in Riverton harbour where a powered recreational vessel collided with a rowing skiff resulting in minor to moderate injuries to the occupants of the rowing skiff.

An Environment Southland investigation into the incident resulted in enforcement action being taken by the resource management team. After having received legal advice, the offending skipper was infringed \$200 for his actions; being the maximum penalty available under the current bylaws.

One of the families affected by the incident expressed disappointment at the level of the infringement and as a result felt let down by the system as a whole.

Maximum fees under the current infringement regime are only up to \$200, which is not a significant amount in the context of the types of offences that can occur.

There are options for improving the infringement fee regime, which are somewhat inadequate at present. Infringement fees are set by regulations, promulgated by the Governor-General under the Maritime Transport Act 1994 (MTA). These regulations are managed by the Te Manātu Waka (Ministry of Transport).

The current infringement regime (phase 1) would be reviewed concurrently with the Navigation Safety Bylaws.

This review of Environment Southland's Navigation Safety Bylaws infringement schedule (Phase 1) is also about benchmarking against other regional councils and the Maritime Transport Act 1994 to ensure our infringement schedule is as current and effective as possible.



## Review timeframes

- 1 The Local Government Act 2002 (LGA) provides timeframes for the review of bylaws. The LGA provides that a local authority must review a bylaw no later than five years after it was made or no later than 10 years after it was last reviewed.
- 2 In this case, the bylaw was adopted and came into force on 1 July 2009. The bylaw records that it was reviewed and amended under section 158 of the LGA and confirmed by resolution of Council dated 16 December 2015. This means that the next review must take place before 10 years after 16 December 2015, being 16 December 2025 and two years after that to complete the review.
- 3 Phase 1 of the Navigation Safety Bylaws Infringement Schedule review and alignment with other regions is well under way and due for completion 31 October 2024, and then the stakeholder and public consultation phase will commence towards the end of 2024.

## Implications/risks

There are no direct implications or risks to Environment Southland for reviewing the Navigation Safety Bylaws and associated Infringement Schedule.

## Next steps

Continue the staged review of the bylaws and infringement regime in accordance with the LGA and following review process:

1. initial review of the bylaws and infringement schedule in their entirety;
2. a consultation process for Phase 1 infringement schedule review and Phase 2 bylaws review.

## 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

A review of the bylaws will assist with ensuring that communities can undertake safer water-based activities on our lakes, rivers and harbours in the Southland region, whilst also providing effective management of natural resources and assisting with more effective enforcement.

## Views of affected parties

The consultation of this is to be delivered alongside the 2024 – 2034 LTP considerations.

## Compliance with Significance and Engagement Policy

Any review of the Navigation Safety Bylaws and associated Infringement Schedule will affect the Southland region and in particular those operators engaging in water based commercial or recreational activities. As referred to above, engagement will occur in due course to provide feedback to be obtained.

## Considerations

### **Financial implications**

The review process has been factored into the Maritime and Policy and Planning work programmes.

### **Legal implications**

Legal advice including a review of the Navigation Safety Bylaws has been received and a comparison with other regional bylaws has been undertaken.

## Attachments

Nil

There was no notification of extraordinary or urgent business received for this meeting.

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

There were no public excluded items.