

REGULATORY COMMITTEE AGENDA

Wednesday 17 October 2018

9:00am, Council Chamber,
Level 2 Philip Laing House, 144 Rattray Street, Dunedin

Membership

Cr Bryan Scott *(Chairperson)*
Cr Sam Neill *(Deputy Chairperson)*
Cr Graeme Bell
Cr Doug Brown
Cr Michael Deaker
Cr Carmen Hope
Cr Trevor Kempton
Cr Michael Laws
Cr Ella Lawton
Cr Andrew Noone
Cr Gretchen Robertson
Cr Stephen Woodhead

Disclaimer

Please note that there is an embargo on agenda items until 48 hours prior to the meeting. Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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RECOMMENDATIONS FOR COUNCIL DECISION

10.1. Review of Council's Consents Function

Recommendation:

1. *That the Committee approves the brief attached as Appendix 1 for the Review of Council's Resource Consents Function.*

11.1. Compliance Activity for 2017/18

Recommendation:

2. *That this report be noted.*

11.4. Consents and Building Control

Recommendation:

- a) *That this report is noted.*

1. **APOLOGIES**
2. **LEAVE OF ABSENCE**
3. **ATTENDANCE**
4. **CONFIRMATION OF AGENDA**

Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

5. **CONFLICT OF INTEREST**

Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.

6. **PUBLIC FORUM**

7. **PRESENTATIONS**

8. **CONFIRMATION OF MINUTES**

Recommendation

That the minutes of the meeting held on 13 September 2018 be received and confirmed as a true and accurate record.

Attachments

3. Regulatory Minutes 12 Sep 2018 **[8.1.1]**



Minutes of a meeting of the
Regulatory Committee held in the Council Chamber
at Philip Laing House, Dunedin on
Wednesday 12 September 2018, commencing at 3:55 pm

Membership

Cr Bryan Scott	<i>(Chairperson)</i>
Cr Sam Neill	<i>(Deputy Chairperson)</i>
Cr Graeme Bell	
Cr Doug Brown	
Cr Michael Deaker	
Cr Carmen Hope	
Cr Trevor Kempton	
Cr Michael Laws	
Cr Ella Lawton	
Cr Andrew Noone	
Cr Gretchen Robertson	
Cr Stephen Woodhead	

Welcome

Cr Scott welcomed Councillors, members of the public and staff to the meeting.

1. APOLOGIES

The apologies for Crs Neill, Brown, Hope and Kempton were noted.

2. LEAVE OF ABSENCE

No leave of absence advised.

For our future

3. ATTENDANCE

Sarah Gardner	<i>(Chief Executive)</i>
Nick Donnelly	<i>(Director Corporate Services)</i>
Tanya Winter	<i>(Director Policy, Planning and Resource Management)</i>
Sian Sutton	<i>(Director Stakeholder Engagement)</i>
Gavin Palmer	<i>(Director Engineering, Hazards and Science)</i>
Scott MacLean	<i>(Director Environmental Monitoring and Operations)</i>
Sally Giddens	<i>(Director People and Safety)</i>
Ian McCabe	<i>(Executive Officer)</i>
Lauren McDonald	<i>(Committee Secretary)</i>

4. CONFIRMATION OF AGENDA

The agenda was confirmed as tabled.

5. CONFLICT OF INTEREST

No conflicts of interest were advised.

6. PUBLIC FORUM

No public forum was held.

7. PRESENTATIONS

No presentations were held.

8. CONFIRMATION OF MINUTES

Resolution

That the minutes of the meeting held on 1 August 2018 be received and confirmed as a true and accurate record.

Moved: Cr Scott
Seconded: Cr Robertson
CARRIED

9. ACTIONS

Status report on the resolutions of the Regulatory Committee

Wallaby control at the Otago boundary
It was noted a meeting scheduled with Environment Canterbury on 3 October 2018.

10. MATTERS FOR COUNCIL DECISION

Nil

11. MATTERS FOR NOTING

11.1. Director's Report on Progress

The report described regulatory activity during the period 6 July 2018 – 17 August 2018, including compliance, enforcement processes and considerations, navigational safety activities and biosecurity.

Discussion was held in regard to a pollution hotline response to an outdoor burning complaint lodged by Cr Laws. Concerned was expressed on staff response, process in place to communicate with the complainant on the incident investigation and action taken (outcome). Mr MacLean, Director Environmental Monitoring and Operations acknowledged the complaint had not been acted on and had subsequently investigated the matter with staff, including review of processes.

It was noted that education/communication of outdoor burning rules would be included in Air Strategy implementation plan coming to Council in October which would allow discussion of the impact of outdoor burning on urban areas.

Resolution

a) *That this report is received and noted.*

Moved: Cr Noone
Seconded: Cr Lawton
CARRIED

11.2. Enforcement Activities from 7 July to 19 August 2018

The report detailed the Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 enforcement activities undertaken by the Otago Regional Council during the period 1 July 2018 to 19 August 2018.

A request was made for a review of complaint response and enforcement actions undertaken in regard to the complaints received. Mr MacLean to action.

Resolution

a) *That this report be received and noted.*

Moved: Cr Scott
Seconded: Cr Robertson
CARRIED

11.3. Consents and Building Control

The report detailed the consents and building control and deemed permit replacement progress for the period 1 July 2018 to 17 August 2018.

Resolution

a) *That this report is noted.*

Moved: Cr Scott
Seconded: Cr Woodhead
CARRIED

12. RESOLUTION TO EXCLUDE THE PUBLIC

Resolution

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

Item Enforcement – Current Matters

Section 6 (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial

Also move that staff be permitted to remain at this meeting, after the public has been excluded, because of their knowledge of current enforcement matters. This knowledge, will be of assistance in relation to the matter to be discussed.

Moved: Cr Scott
Seconded: Cr Noone
CARRIED

The meeting resumed in public session on the motion for Crs Scott and Noone.

13. NOTICES OF MOTION

No Notices of Motion were advised.

14. CLOSURE

The meeting was declared closed at 4:35 pm.

Chairperson

9. ACTIONS

Status report on the resolutions of the Regulatory Committee

11.3 Managing the use of coal for domestic heating in Otago and New Zealand (Technical Committee)	31/1/2018	<i>That the matter of the ability to enforce the current Regional Air Plan AirZone 1 provisions be considered by the Regulatory Committee</i>	In process
Director's Report Wallaby Control		<i>Arrange a meeting with governance and staff of Environment Canterbury re wallaby control issues</i>	CLOSED Meeting held with EC on 3/10/18

Attachments

Nil

10. MATTERS FOR COUNCIL DECISION

10.1. Review of Council's Consents Function

Prepared for: Regulatory Committee
Report No. PPRM1836
Activity: Regulatory: Policy Development
Prepared by: Tanya Winter, Director Policy, Planning & Resource Management
Date: 28 September 2018

1. Précis

The purpose of this report is to seek Council approval for the brief for the Review of Council's Resource Consents Function.

2. Background

At their meeting of 27 June 2018 Council adopted the following resolutions:

1. *(That) An independent review of the Council's consenting functions be undertaken.*
2. *That the Chief Executive prepares a brief on the requirements of the review for Council consideration.*

It was agreed that the brief that guides the review be brought back to the relevant Committee for approval. The draft brief is attached as **Appendix 1**.

3. Proposal

Resource consenting is one of Council's most important functions. It spans multiple directorates and departments of Council, and brings our own statutory plans to life. It is one of the ways we directly interface with our community.

With that in mind, this review is comprehensive. It is a review of the way Council undertakes this function, not a review of one particular department. It is important that the brief is clear and achieves the purpose intended.

4. Significance and Engagement

In accordance with Council's Significance and Engagement Policy this decision is assessed as being of low significance. The decision at this stage is to approve a brief to release to consultants in order for them to provide proposals back to Council for undertaking the review. The decision is reversible and has no effect on Council's ability to provide a consenting service to the community.

Community engagement is not required on this decision. Internal engagement has taken place with appropriate staff to assist with drafting the brief.

5. Financial Considerations

This review has not been budgeted for in the 2018-19 Annual Plan. It is difficult to put an exact cost on a review of this nature, but staff with experience with reviews similar to this expect it to be in the range of \$30-50,000.

6. Options

Council may choose to approve, amend or not approve the attached brief. If the brief is approved as it is drafted, or minor amendments are made, the review can commence immediately, and an appropriate consultant will be sought. If the brief is amended significantly this may delay the review commencement. If the brief is not adopted staff will be seeking guidance from elected members on next steps.

7. Preferred Option

The preferred option is for Council to adopt the brief as it is drafted (or with minor amendments). This would allow the review to commence immediately.

8. Recommendation

- a) *That the Committee approves the brief attached as Appendix 1 for the Review of Council's Resource Consents Function.*

Endorsed by: Tanya Winter
Director Policy, Planning & Resource Management

Attachments

1. Otago Regional Council - Review of Consents Function [10.1.1]

Attachment 1: Appendix 1 for the Review of Council's Resource Consents Function.



REVIEW
OF THE
RESOURCE CONSENTS FUNCTION
OF THE
OTAGO REGIONAL COUNCIL
REVIEW BRIEF

17 October 2018

BACKGROUND

This review has been requested by Council and the Chief Executive at Otago Regional Council in order to provide reassurance that Council is utilising current best practice in providing an efficient and cost-effective resource consenting service to the Otago region. It also aims to identify any areas of risk in order to prepare Council for the future, including consideration of any potential legislative changes, changes to Council's own RMA plans, and managing the volume of consents into the future. This includes (but is not limited to) the expiry of the deemed permits in October 2021, s417 certificates, and implementing Plan Change 6A by 2020.

It is expected that an independent review will examine current practice, confirm areas of good practice that we will continue or build on, identify areas of risk, and recommend any changes we might need to make in order to prepare ourselves for future challenges.

In undertaking the review, it is expected that trends will be examined to determine what, if anything, has changed over time that has affected the resource consenting function. A period of five years is suggested as a possible timeframe (from 1 July 2013 – 30 June 2018).

SCOPE

This review is of Council's resource consents function and the way in which Council's staff across a range of departments participate in this process to deliver a service to our community. The goal is to determine:

- Whether Council's resource consent function is aligned with regional council best practice
- Whether we have the capacity and capability to deliver this service effectively and efficiently now and into the future
- Potential areas of risk in delivering the service
- Recommended areas for improvement

With regard to the areas of focus below, the review should compare Council's function to regional council resource consenting best practice, as well as any industry or government guidance information on resource consenting.

KEY FOCUS AREAS

The review will focus on:

1. **Systems and processes:**

- Are these fit for purpose, efficient, integrated, and in line with industry best practice?
- Are we making the most of electronic systems and are these customer focused and easy to use?
- Is Accela (consent management system) serving us well?
- How are Objective (EDRMS) and our GIS mapping system supporting the consents function?
- How are the ISO and Telarc systems being used? How are they adding value to consents processing?
- Are there effective systems in place to guide a person through the process to ensure decisions are made with the right information being considered?
- What is the process for identifying critical issues for each consent and resolving them correctly? Is this best practice?

2. **Outcomes:**

- Are we focused on the right things, ie. the potential effects of activities and efficient/effective/relevant consent conditions?
- Are our consent conditions legally enforceable and in line with best practice?

3. **Application of planning instruments:**

- How are we using national and regional policies and plans to inform our consent processing and decision-making?
- When and how are we using legal advice?
- How are we addressing consents with regard to deemed permits - unique to Otago - and the policies and practices applied, and are they are fit for purpose?
- Is Council able to diligently deliver water quality consents post 2020? If no what actions are required?

4. **Delegations:**

- Do we have the right delegations in place to ensure efficient processing of consents that also manages risk appropriately?
- Almost no consents now go to the governance hearing panel for publicly notified consents. Is this best practice?

5. Fees and Charges:

- How do our fees and charges for this activity compare with regional council best practice?
- Do the fees charged reflect the actual chargeable time spent on consents?
- How do our charge out rates compare with other regional councils?
- Are our median costs of consents comparable with other regional councils?
- How are we applying the public enquiry chargeable time operational policy?
- Is our consenting process cost effective for both ORC and applicants?

6. Budget:

- Does the budget for this activity accurately reflect actual expenditure?
- What is the trend of budget vs actual expenditure over time (say the last 5 years)?
- If we had a clean slate what would a best practice budget look like for this activity?
- How should we budget for:
 - General enquiries from the public
 - Enquiries from other Council departments
 - Advice to the Planning & Policy team for plan changes/policy/strategy development
 - Policy interpretation and discussion with colleagues regarding consents
 - Training for staff
- How is the “homebase” overhead budget currently used and how does this align with what it should be used for?

7. Capacity and capability:

This area of focus should consider both the Consents team and the wider Council team who input into the consenting process.

- Do we have the right number of Council staff (Consents, Science, Engineering etc) to provide the range of consenting services we offer (including public enquiries)?
- What resource gaps do we have (if any)?

- Do we have the right skills/experience across Council delivering the consenting function?
- Is the staff structure right?
- What is the capacity of other teams in the organisation who input into the consenting function?
- How are administration/support staff supporting the consenting function?
- How are we using contractors/consultants in times of peak workload?
- How are we managing any potential conflict between the expert witness code of conduct versus work required of staff?
- Less Councillors receive RMA consent hearing training. Is this good practice?

8. Communication:

- What is our communication like both internally and externally?
- How are we responding to applicants? Is it timely and accurate?
- Are we using Section 92 of the RMA appropriately?
- Are we reporting the right level of information to our elected members?

9. Customer focus:

- How are we deciding when to undertake a site visit?
- What is our relationship with key stakeholders like?
- What is compliance with statutory timeframes like?
- How are we using s37 time waivers and the calculation of compliance with RMA statutory timeframes?
- What is the impact of other teams on meeting the statutory timeframe?
- Can the typical consent format be better simplified and use more easily read English?

10. The future consenting landscape:

- What is on the horizon short, medium, long term internally and externally that might affect the way we provide the consenting service?
- How is this responsibility for scanning the external environment allocated within the team?
- What impact will changes to legislation or our own policies and plans have on the key focus areas above?

- What resourcing is required to manage the volume of deemed permit replacements that are due to expire in October 2021, s417 certificates and implementing Plan Change 6A by 2020?

OUTSIDE THE SCOPE OF THE REVIEW

A review of Council's RMA plans and policies is outside the scope of the review.

EXPERIENCE/ATTRIBUTES/SKILLS

Council is open to a consortium approach to this review which may include an RMA Planner along with an RMA lawyer.

The RMA Planner is expected to have the following experience/attributes/skills:

Essential:

- Strong RMA background
- Proven track record and experience with resource consents processing and a good understanding of policy and plan development
- Familiar with local government resource consenting, preferably with experience in regional councils
- A high level of respect and name recognition within the New Zealand planning community
- The ability to objectively but compassionately undertake the review, in a way that balances the objectivity required while providing Council staff with respect. The review should be undertaken in a non-disruptive a manner as possible.

Desirable:

- Full membership of the New Zealand Planning Institute (NZPI)
- Experience with applying for resource consents or advising applicants

If an RMA Lawyer is included in the proposal they are expected to:

- Have a high level of respect and name recognition with the New Zealand law community
- Be a registered RMA lawyer that is a member of the New Zealand Law Society

METHODOLOGY

Reviewer to propose a methodology. As a guideline, this should include (but is not limited to) the following:

- Observation and discussion with the Consents team, including the Alexandra staff members
- Discussion/interviews with other key Council managers/staff
- Discussion/interviews with some elected members (including some who are qualified RMA commissioners)
- Discussion/interviews with a random selection of applicants/consultants
- Review of written documentation, emails, reports, Accela database, ISO classification etc

DELIVERABLES

A written report outlining:

- Reviewer's understanding of the rationale for the review
- Outline of methodology used
- A summary of the work undertaken
- The findings of discussion/interviews based on the key focus areas, including key themes
- Best practice comparison with other regional councils (including the criteria used to determine what "best practice" looks like)
- A future environment scan to identify any challenges
- Confirmation of current good practice being used
- Recommended changes

BUDGET

Reviewer to provide an estimate of the number of hours to undertake the work and an estimate of cost.

TIMEFRAME

Reviewer to propose detailed timetable, within the following parameters:

1. Project to begin: mid November 2018
2. Final report provided: late February 2019

If an alternative timeframe is proposed an explanation is required.

KEY CONTACT PERSON

Tanya Winter

Director Policy, Planning & Resource Management

Otago Regional Council

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DRAFT

11. MATTERS FOR NOTING

11.1. Compliance Activity for 2017/18

Prepared for: Regulatory Committee
Report No. EMO1828
Activity: Regulatory: Compliance
Prepared by: Martin King, Manager Environmental Services
Date: September 2018

1. Précis

This report summarises the compliance activities and consent conditions for the 2017/18 year for all major consent holders and prohibited activity monitoring. Council staff undertook a total of 1008 audits and inspections relating to 727 activities and reviewed 6896 consent conditions for performance monitoring during the year, which related to 1768 consents.

2. Background

Consent compliance monitoring involves performance monitoring (assessing data related to consent conditions) and physical auditing of consents.

Performance Monitoring

This is reporting provided by the consent holder to Council. Depending on the activity, reporting requirements in consents range from supply of information (e.g. bore logs, site photographs or operation manuals) through to periodic supply of environmental data (e.g. water take amounts, biological studies, water quality data relating to discharges and upstream and downstream receiving waters).

The frequency and complexity of the reporting varies widely depending on the activity and the potential impacts of the activity on the receiving environment. When reporting is received it is reviewed by Environmental Data officers against the consent conditions and a compliance grade applied.

Auditing

The purpose of the audit inspection is to undertake a detailed assessment of compliance against all conditions of the consent. The audit monitoring involves a site inspection, sampling where necessary, assessment of consent holder technical reports, and a discussion of the consent requirements with the consent holder.

Once all data and photographs relating to the audit are collated, an audit report is prepared, and an overall compliance grade is applied. The frequency of auditing varies depending on the intensity of the activity and the potential environmental risk.

The grades that may be awarded include:

- Grade I Compliant
- Grade II Non Compliant - Minor (no actual or potential adverse effects)
- Grade III Non Compliant - Significant (no actual or potential adverse effects)
- Grade IV Non Compliant - Minor (actual or potential adverse effects)
- Grade V Non Compliant - Significant (actual or potential adverse effects more than minor)

The key consent holders are the Territorial Local Authorities (TLAs) (primarily for water takes, wastewater discharges and landfills), and major industrial activities (including contaminated sites).

3. Summary of Compliance 17/18

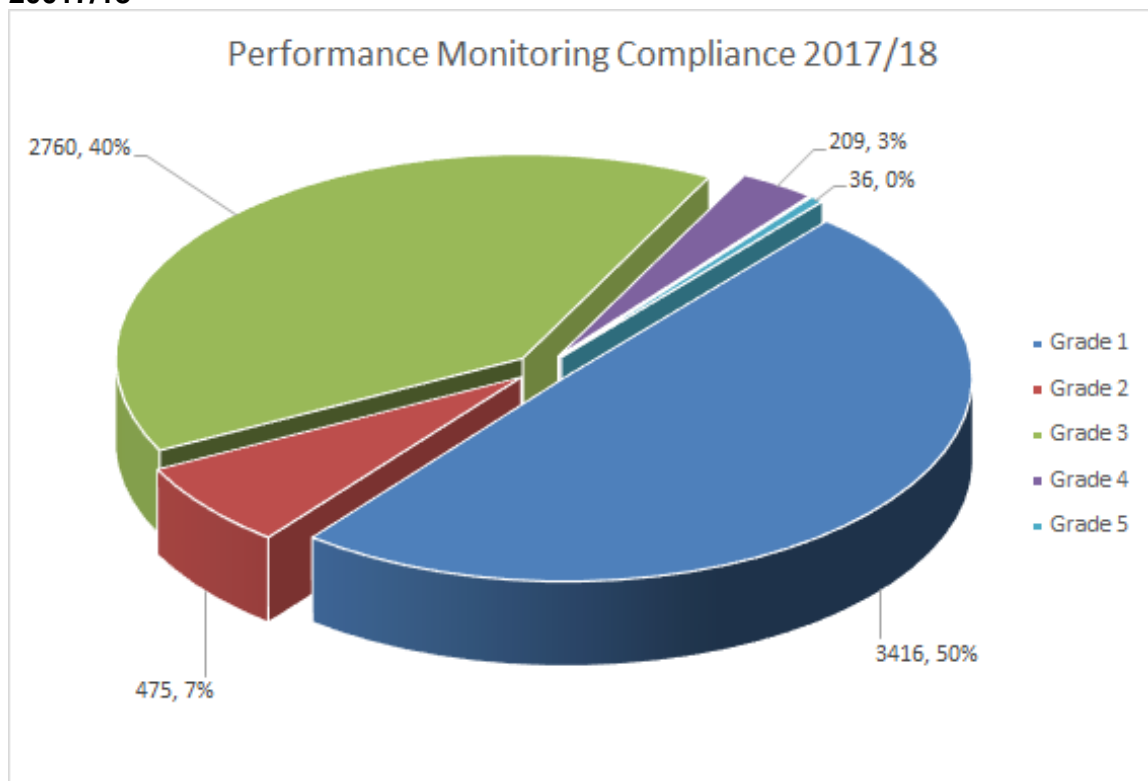
Performance Monitoring

During the 2017/18 year, performance monitoring information relating to 6896 conditions was received. This is the highest amount of information the Council has ever received from consent holders. Of these, 3416 (50%) were fully compliant and awarded grade 1. A further 3235 (47%) had non-compliances but were not expected to have any actual environmental effects as the non-compliance related to return data not being received on time or some data was missing (grade 2 and 3).

There were 209 (2.5%) occurrences of non-compliance where minor environmental effects were encountered (grade 4) and 36 (0.5%) occurrences where grade 5 was given, where effects on the environment either were, or had the potential to be significant.

Figure 1 outlines the overall compliance grading for self-monitoring return data.

Figure 1. Breakdown of Performance Monitoring Compliance Grading 20017/18



Where grade 4 and 5 non-compliance has been found, staff in the first instance have required written explanations from the consent holder explaining the breach of consent conditions, including how they propose to comply in the future or has requested that an Environmental Officer either review the information or undertake a full audit of the consent. The Environmental Officer will then make a recommendation as to an appropriate level of enforcement action.

The level of compliance and compliance percentage was variable compared to the previous year. Table 1 shows a breakdown of compliance history. Of note is the

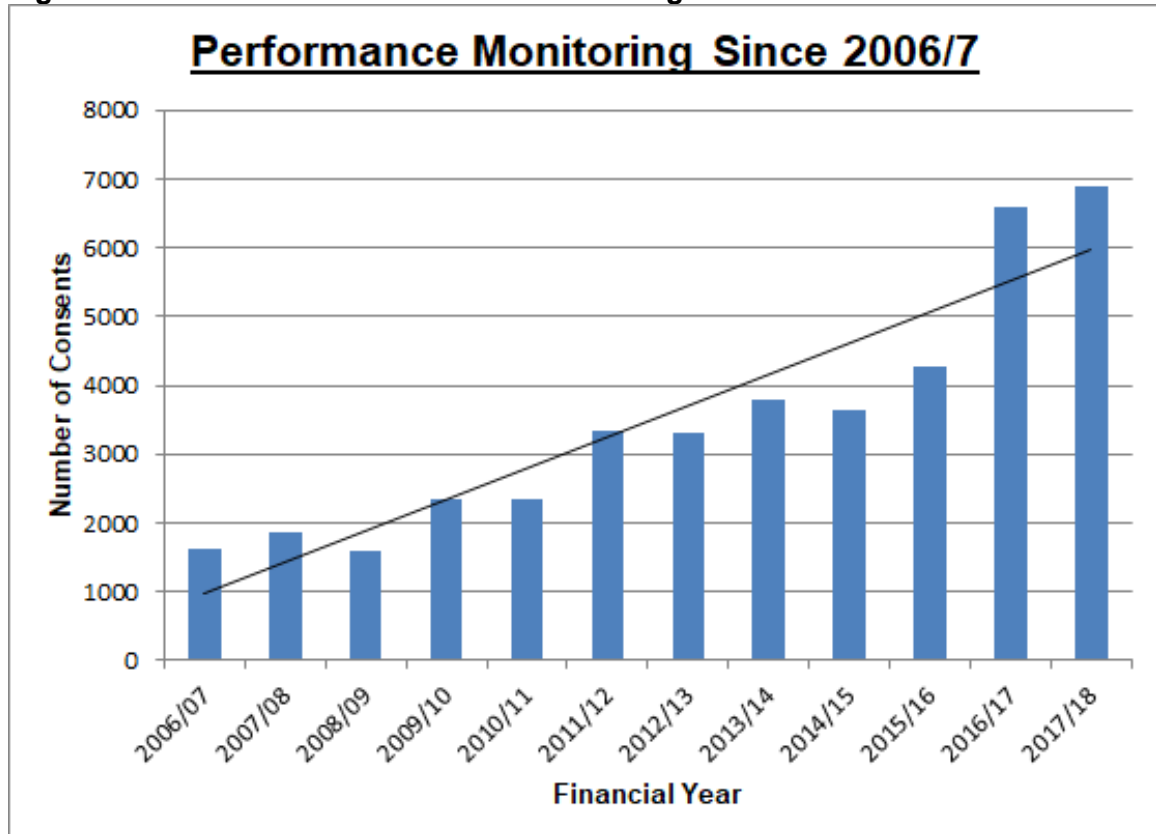
significant increase in grade 3 non-compliance for the late return of performance monitoring information which resulted in staff undertaking significant follow-up actions with consent holders.

Table 1. Performance Monitoring History

Year	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5
2006/7	1067	416	51	54	18
2007/8	1286	384	65	88	49
2008/9	1012	380	50	93	42
2009/10	1496	701	111	23	2
2010/11	1723	404	176	27	5
2011/12	1831	791	278	436	10
2012/13	2149	604	210	332	22
2013/14	2657	627	271	228	19
2014/15	2416	560	523	117	34
2015/16	2760	496	267	510	21
2016/17	3450	1029	1297	714	99
2017/18	3416	475	2760	209	36

The increase in performance monitoring returns in recent years is in part due to the requirement to provide water take data, associated with the water measuring regulations.

Figure 2. Trends in Performance Monitoring since 2007/08



Auditing

Auditing of sites has been prioritised, based on environmental risk.

Over the 2017/18 year, a total of 855 activities, involving 1008 consents and prohibited activities (relating to animal waste collection systems and forestry operations), were audited. Of these, 575 consents/prohibited activities (57%) were awarded with grade 1, fully compliant. A further 211 consents/prohibited activities (21%) were awarded grades 2 and 3 due to performance monitoring being late, or not received at all and/or requests for information were not received on time.

A total of 152 consents/prohibited activities (15%) were graded 4, and minor effects were either noted, or had the potential to have adverse effects on the receiving environment. A further 70 consents/prohibited activities (7%) were graded 5 due to significant non-compliance with consent or permitted activity conditions.

Where grade 5 has been awarded, Council staff in the first instance have contacted the consent holder advising them of the non-compliance. Many discussions have been held with consent holders to work through the issues and explanations have been sought for the non-compliance. In these instances, compliance staff have formally written to consent holders requiring compliance by a due date. Where warranted, enforcement action has occurred and been reported to the Regulatory Committee throughout the year.

Figure 3 outlines the overall audit grades awarded and Figure 4 details auditing by activity type.

Figure 3. Breakdown of Total Audit Monitoring Compliance Grades 2017/18

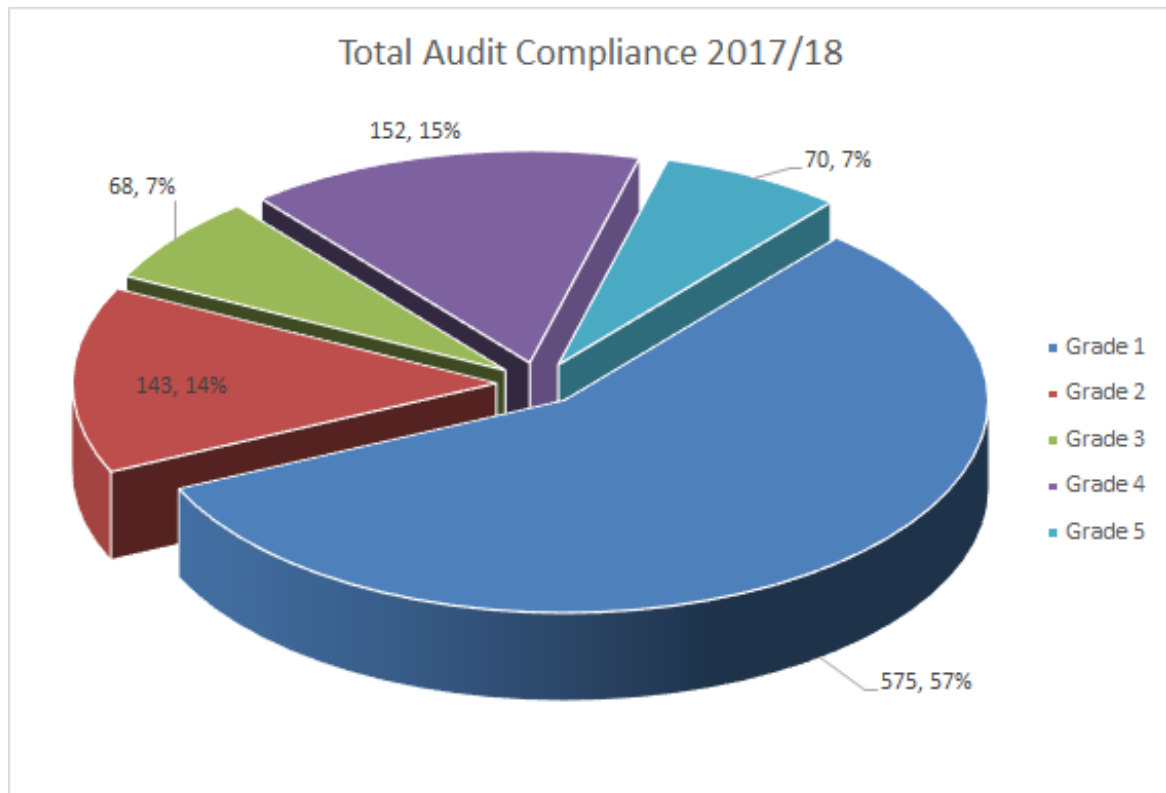


Figure 4. Breakdown by Audit Type

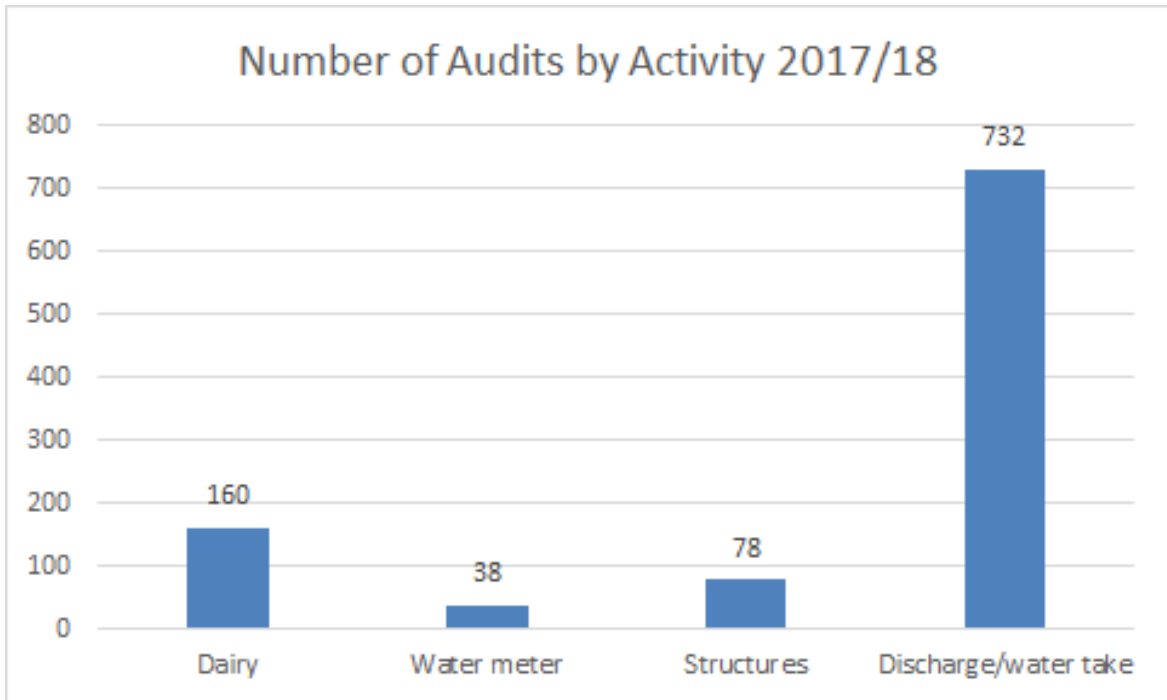


Table 2 shows that grade 4 and 5 non-compliance is relatively steady (and consistent with previous years) at 19% for 2015/16 year compared to 16% the previous year.

Table 2 shows the breakdown of compliance grading and percentage.

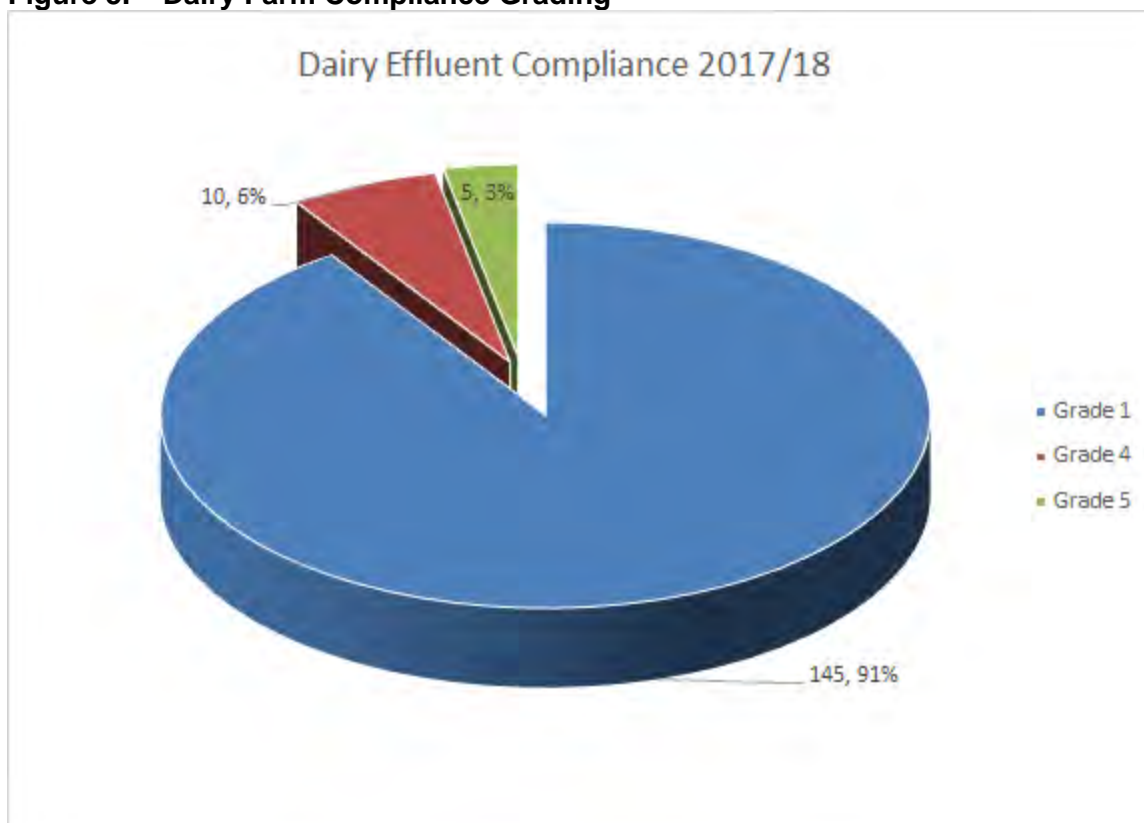
Table 2. Audit Monitoring History

Year	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5
2006/7	957 72%	32 2%	20 1%	181 14%	150 11%
2007/8	747 74%	51 5%	13 1%	126 12%	82 8%
2008/9	668 71%	45 5%	22 2%	140 15%	65 7%
2009/10	752 70%	62 6%	81 7%	147 14%	33 3%
2010/11	544 67%	79 10%	59 7%	109 14%	19 2%
2011/12	856 67%	114 9%	69 6%	193 15%	43 3%
2012/13	756 62%	181 15%	42 3%	113 9%	133 11%
2013/14	652 72%	112 12%	28 3%	64 7%	53 6%
2014/15	669 70%	102 10%	35 4%	106 11%	49 5%
2015/16	698 61%	119 10%	29 2%	133 12%	81 7%
2016/17	1042 76%	92 7%	35 2%	150 11%	54 4%
2017/18	575 57%	143 14%	68 7%	144 14%	70 8%

Summary of Audit Compliance by Activity

Figure 5 shows a summary of compliance grading for the dairy permitted activity monitoring.

Figure 5. Dairy Farm Compliance Grading



The Council has adopted a risk framework for the monitoring of dairy farms. The risk matrix is based on a range of parameters including; adequate infrastructure (eg effluent storage, fail-safe effluent irrigators, land drainage risks and at-risk catchments).

A total of 160 dairy sheds were monitored during the 2017/18 season. Some dairy farms that were deemed to be of a higher risk within the risk matrix, were visited multiple times. During the summer milking season, it was found that 145 (representing 91%) of the farms were compliant with the prohibited rules.

A total of 15 dairy farms (9%) were found to have one or more breaches of the rules that were considered to have the potential to result in adverse effects on the environment. A total of 5 out of the 15 non-compliant dairy farms were identified to have serious non-compliance with the rules. This resulted in the Council issuing of 11 infringement notices.

Reasons for the non-compliance can be attributed to:

- Stalled and failed travelling irrigators;
- Discharges on saturated soils;
- Overflowing ponds and sumps;
- Ponding; and
- Discharge to a river.

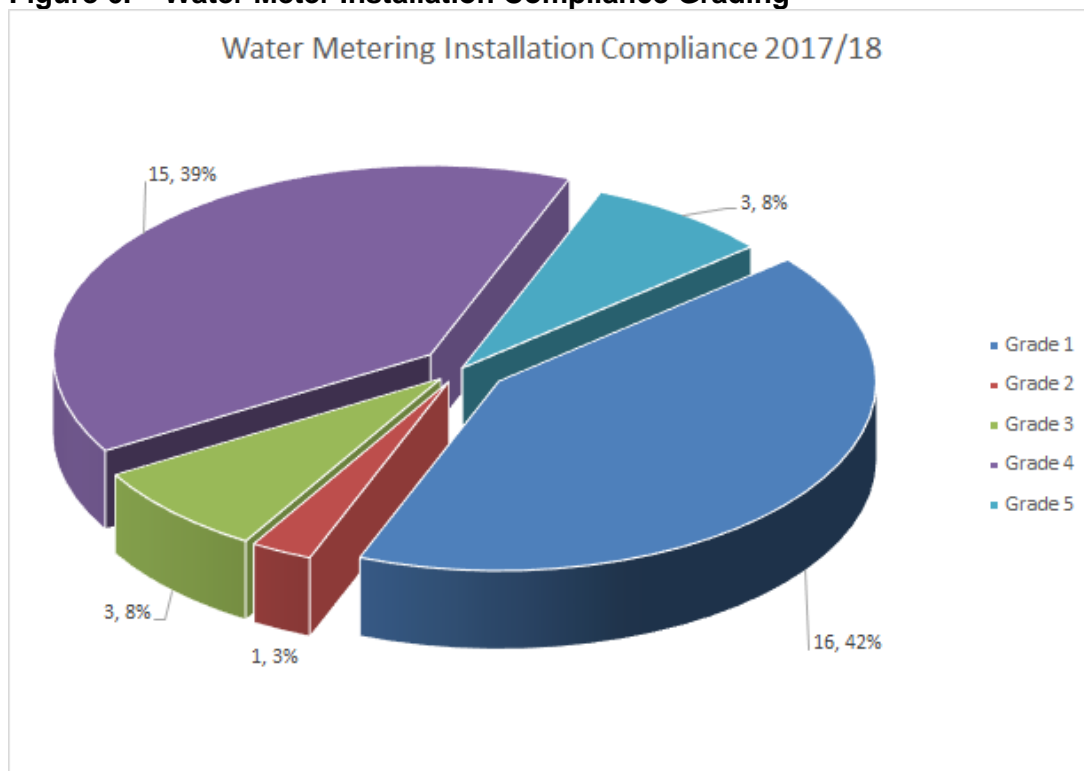
Failure of infrastructure is not limited to old infrastructure, it relates to all types of infrastructure. Unfortunately, the common element with most of the failures was related to human intervention, or the lack of it. All too often, when warranted staff enter a property, if non-compliance is found, it is within 10 minutes of their inspection

commencing. Training of dairy farm staff in best practice effluent and environmental management needs to be a high priority for dairy operators.

Water metering

Figure 6 shows the compliance levels found for our water metering compliance programme. It was of some concern that staff found that some meters had not been installed correctly therefore they had the potential to record the volume of water taken incorrectly, or in the wrong location. In addition, some consent holders did not send in their water metering installation certification on time. The consent holders were advised of the findings and asked to rectify the matter with their installer. Consent holders are reminded that regardless of them outsourcing their water measuring management to a third-party provider, the consent holder is responsible for the provision of accurate and timely data.

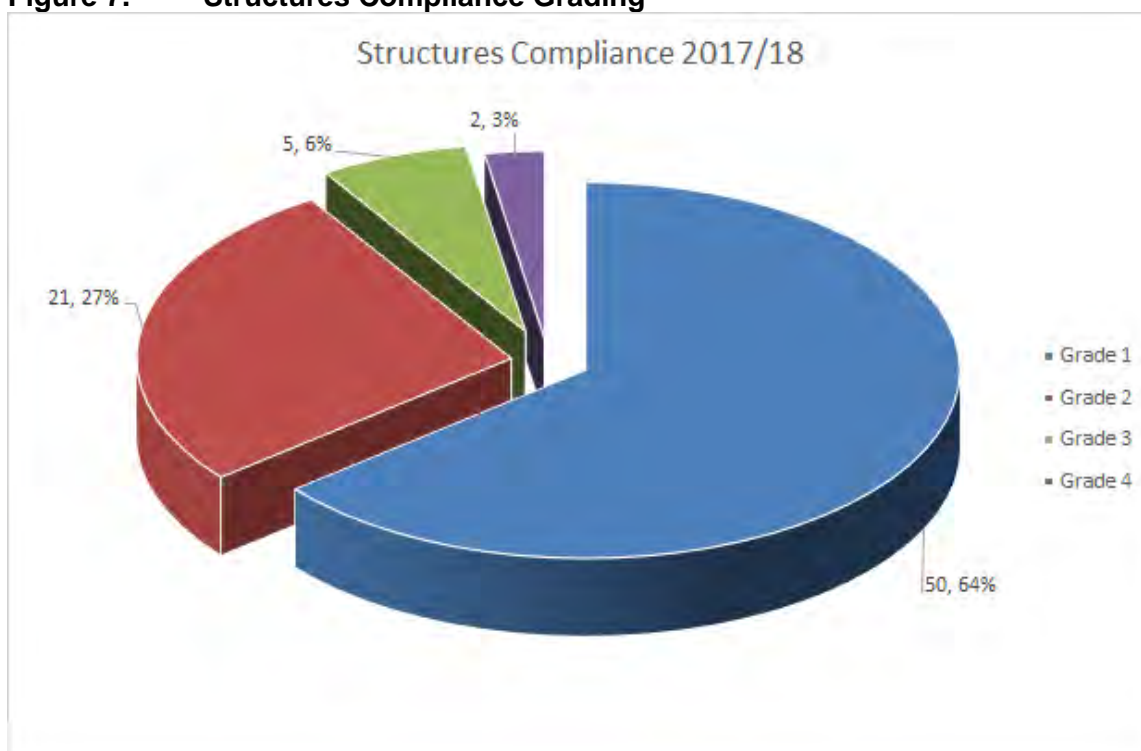
Figure 6. Water Meter Installation Compliance Grading



Structures

A variable level of compliance has been found with the structures monitoring project. Structures include bridges, culverts, bores, etc. On 26 occasions non-compliance was observed because of very late performance monitoring being received. On 2 occasions non-compliance with minor environmental effect was observed.

Figure 7. Structures Compliance Grading



Discharge and water take compliance

Figure 8 shows the compliance levels found for activities that relate to discharges and water takes. Discharge activities include discharges to land, air and water, including private septic tanks to large industrial type activities.

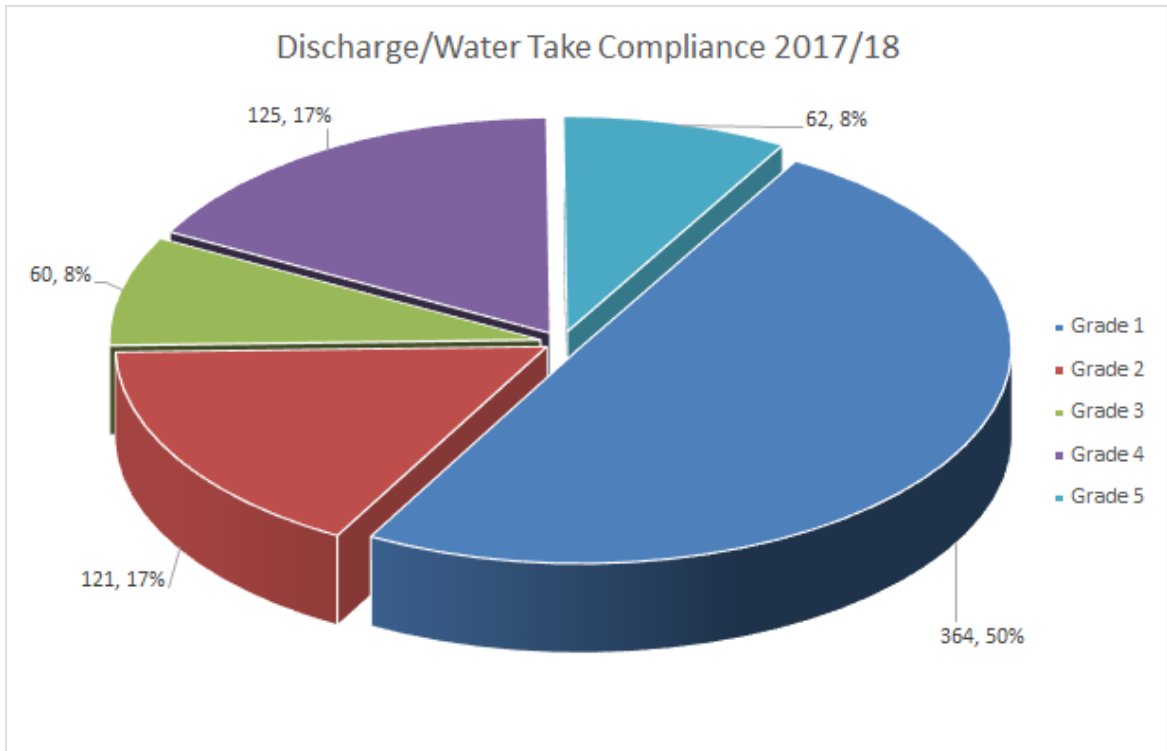
A total of 732 consents were monitored and the level of full compliance found was 50%, or 364 consents. A total of 181 (25%) consents were awarded either grade 2 or 3 due to performance monitoring information being sent into the Council late. A total of 187 consents (25%) received grade 4 and 5 non-compliance and environmental effects observed.

Non-compliance observed in the field related to:

- Poor performance of effluent systems e.g. disposal bed failures
- Poor effluent quality from commercial wastewater system
- Poor effluent quality into the receiving environment from Industrial discharges
- Air discharge quality parameters not being met
- Offensive and objectionable odour beyond the boundary
- Water take data not being received and devices not installed correctly
- Residual flows not being complied with
- Minor non-compliance with taking water during minimum low flows

In all situations where grades 4 and 5 have been awarded either written explanations or phone conversations have been sought from the consent holder, including remedial action plans where appropriate, or enforcement action taken.

Figure 8. Discharge and Water Take Compliance Grading



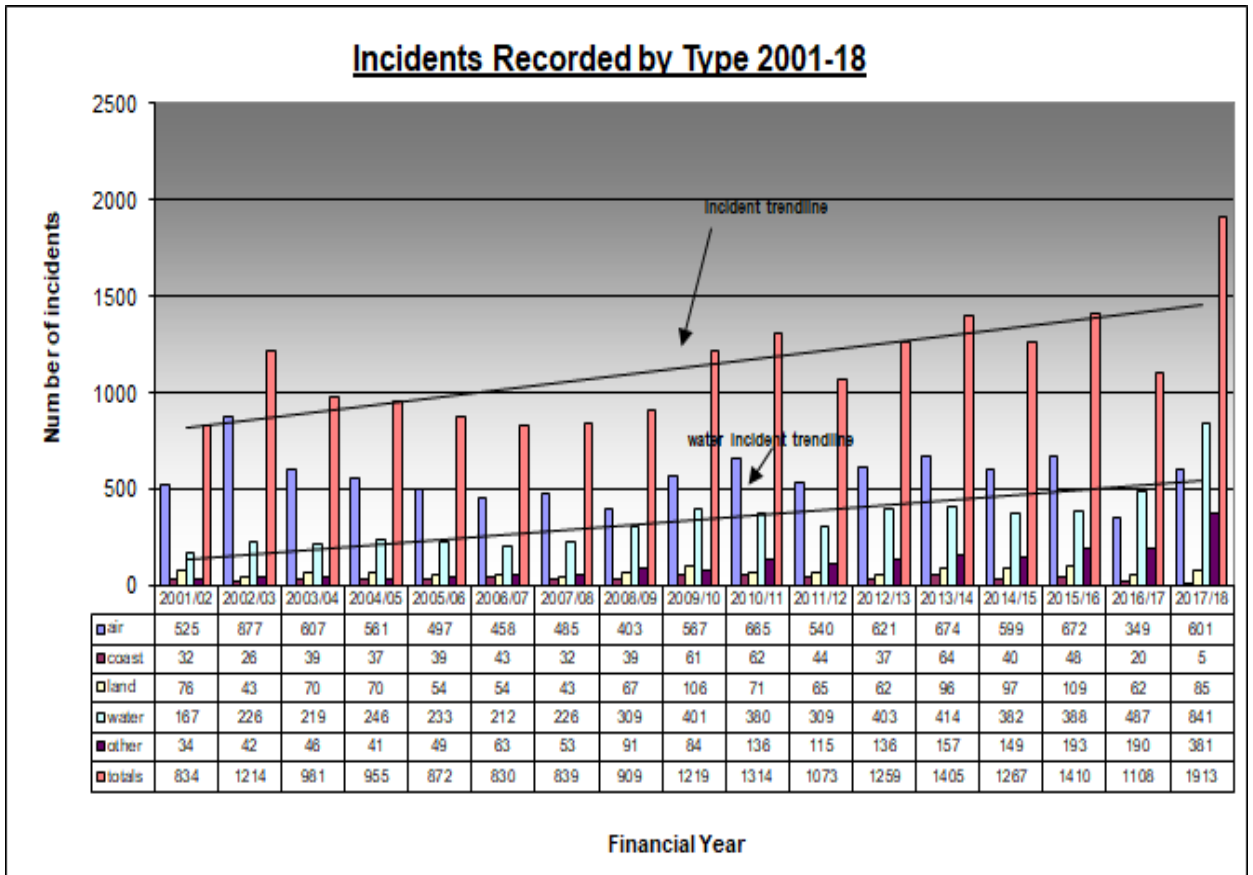
4. Summary of Environmental Incidents

For the 2017/18 year, the Council received a record total of 1913 incidents. Approximately 31.5% of the incidents related to air issues and 44% relating to fresh water pollution complaints.

The number of incidents staff responded to was a record number, and was approximately 600 more than the average for previous years.

Figure 9 provides a trend analysis of the incidents that Council received during the period 1 July 2001 to 30 June 2018.

Figure 9. Environmental Incidents between 1 July 2001 and 30 June 2018



Enforcement Actions taken.

During the year the Council undertook the following formal enforcement actions

- 3 Prosecutions
- 25 Infringement Fines
- 9 Abatement Notices

Recommendation

a) *That this report be noted.*

Endorsed by: Scott
Director Environmental Monitoring & Operations

MacLean

Attachments

Nil

11.2. Director's Report on Progress

Prepared for: Regulatory Committee
Report No. EMO1829
Activity: Governance Report
Prepared by: Scott MacLean, Director Environmental Monitoring, and Operations
Date: 25 September 2018

1. Précis

This report describes regulatory activity during the period 30 August 2018 – 3 October 2018

2. Compliance

2.1 Consent Inspection Audits

46 Consent Inspections have been conducted over this period with the majority showing compliance with consent conditions. A total of 12 consents were graded as minor non-compliant (Grade 2), which relates to late consent performance data returns. While these are still breaches of consent conditions, there were no adverse environmental effects associated. Staff continue to work with consent holders when there is minor non-compliance to develop a plan with specific timeframes with which to achieve compliance. Where non-compliance continues beyond these timeframes, an appropriate level of enforcement action is progressed.

2.2 Forestry

Requirements of the NES for Plantation Forestry include notification to be given to the ORC for planned activities and the provision of a Management Plan specific to the activity planned to be undertaken. The ORC has received notification of work to be conducted at 168 forestry sites in Otago since the NES-PF was introduced in April 2018. Major forestry operators generally provide notification and a plan for the entire year, with smaller operators submitting notification on a site by site basis. Staff have also reviewed 42 Management Plans the majority of which complied with the NES, however staff continue to work with smaller operators to ensure their plans are consistent with the requirements of the NES. Staff are also working on online tools for foresters that can be made available via the ORC website to assist with this.

2.3 Regionally Significant Wetlands

The Regionally Significant Wetland monitoring programme continued this reporting period with eleven wetlands being inspected. The inspections look for boundary encroachments, disturbance (mechanical or from stock grazing), unauthorised drainage and pest plants.

Of the eleven inspected this period, no major issues were identified however some pest plant growth was identified and the landowners instructed to undertake control measures.

Each of these wetlands are scheduled and mapped in the Regional Plan: Water for Otago. Landowners have been requested to undertake control measures.

2.4 Dairy

Dairy Inspections for the 18/19 milking season commenced this reporting period. Inspections take a risk-based approach giving priority to those properties located in catchments with poor or declining water quality, those that have insufficient effluent

storage, those with travelling irrigators (or similar high rate application systems), or properties which have inadequate systems in place to prevent over-application or ponding of effluent. Progress reports will be made to this Committee each reporting period throughout the season.

2.5 Contaminated Land

2.5.1 – Council’s contaminated land management process

The Resource Management Act 1991 and the Regional Plan: Waste for Otago (1997) provide a basis for the management of contaminated sites for the council. The Regional Plan: Waste outlines the issues, objectives, policies, methods and rules associated with contaminated sites. It facilitates the development of methods for investigating, assessing, and mitigating adverse effects from contaminated land, maintaining a register of contaminated sites, and protocols for transferring information to Territorial Authorities (TAs), who are responsible for controlling the use of contaminated land.

A paper that describes in detail Council’s processes for the management of contaminated land and data is attached to this report.

2.5.2 – Contaminated land activity

During the reporting period, staff reviewed and provided guidance and technical advice on 7 site investigation reports and responded to 48 public enquires about contaminated land. The information provided to the public relates to data held by the ORC pertaining to the specific property being enquired about. The range of contaminants can vary widely depending on the historical land use.

In conjunction with Waitaki District Council, staff have prepared and submitted an application to the Ministry for the Environment’s Contaminated Sites Remediation Fund to plan for the remediation of two historic coastal landfills, located south of Oamaru. The landfills have been exposed by coastal erosion. Last year, Waitaki District Council, which owns the land, removed approximately 60 tonnes of material from the sites which slipped onto the beach.



FIGURE 1 – LOCATION OF TWO HISTORIC COASTAL LANDFILLS NEAR OAMARU



FIGURE 2 – AERIAL PHOTOGRAPH OF TWO HISTORIC COASTAL LANDFILLS NEAR OAMARU

2.6 Incident Response

Between 1 July and 25 September 2018, Council staff have received 571 environmental incident complaints through the Pollution Hotline, or an average of 41 incidents per week. This is a sharp increase on the same period last year. The majority of the complaints relate water pollution and air pollution (domestic chimneys and outdoor burning). To note, multiple complaints are often received for a single incident, so the number of complaints does not necessarily correlate into the number of environmental incidents.

Incident response for the 2017/18 year is further detailed in the 2017/18 Annual Compliance report, attached to this paper.

3. Harbour Master activity

3.1 Navigational Safety Bylaws

Despite a relatively high number (400+) of online interactions with the draft navigational safety bylaws, only 38 submissions were received during the consultation period.

The key issue raised by submitters relates to lifejackets. Currently, in most other regions, lifejackets must be worn on all vessels 6 metres and under. ORC proposed through the draft Bylaws, lifting the vessel size limit on which life jackets must be worn to 9 metres in length and under. Submitters feel this is inconsistent with other regions and have requested a change to 6 metres. There was also some concern that the 9-metre vessel rule would capture some small commercial vessels, however this could be avoided with bylaw wording that excludes vessels under commercial survey.

Submitters also raised concern over the proposed bylaw pertaining to jumping off wharves and jetties. A minor wording change to the proposed bylaw will alleviate the concern raised by submitters while still achieving the safety outcomes desired.

A detailed review of the submissions is being prepared and the proposed bylaws and will be brought back to Council for further discussion prior to a final draft being prepared.

3.2 Harbour safety

Further updating of navigational marks on the Eastern Channel have been actioned this period. The Harbourmaster is also engaged with the local fishers to better locate fishing pots left in or near navigational channels.

The national 'No Excuses' campaign commences 20th October 2018. The 'No Excuses' campaign will see a maritime officer from Maritime New Zealand spend 5 days alongside the Harbourmaster at designated locations to interact with recreational users on our waterways. This is an educational and enforcement campaign targeting boat operators that do not have a sufficient number of lifejackets aboard their vessel and those that speed in excess of any speed restriction.

The Maritime NZ officer will have the ability to issue infringement fines through the common maritime compliance tool. The 'No Excuses' campaign will last over the summer months.

Safer Boating Week is scheduled for October 12th -19th 2018. This is a targeted national safety campaign aimed at raising awareness of and encouraging, safer boating practices. The theme for this year's campaign is "Prep, Check and Know".

Prep: get your boat serviced, replace fuel, check batteries, give your boat a really good once over and check for damage or corrosion.

Check: check your lifejackets regularly and make sure they fit well, check gas canisters on inflatable jackets and expiry dates on distress beacons and flares, check batteries, and make sure you have two reliable ways to call for help (including a VHF radio) that will work when wet.

Know: as well as making sure skippers know the rules of the road on the water, check the bylaws for the region you are in. Bylaw information is available on regional council websites, or smartphone users can access it via the MarineMate app.

ORC has registered to take an active part in the campaign reinforcing the key themes and messages.

3.3 Harbourmaster General

The tender process for the purchase of a vessel has been completed and the tender reviewed. This has been uplifted for budget approval.

The Port and Harbour Safety Code (PHSC) is a voluntary national standard. It supports national and local legislation, including safety management systems and navigational bylaws. The objective of the code is to ensure the safe management of ships navigating in New Zealand ports and harbours.

The ORC Harbourmaster led the Port and Harbour Safety Code review panel undertaking an audit at Auckland in September and is now working toward our own

independent review and audit of the PHSC to ensure Otago is compliant by the end of 2018.

- **Biosecurity**

4.1 Freshwater Biosecurity

Lagarosiphon Control work - Lake Dunstan

Lagarosiphon spraying has been completed by LINZ / Boffa Miskell and their contactors during September 2018 in Lake Dunstan at the following locations;

- Champagne Gully - Ramp and Ski Lane
- Jackson's
- South of Brewery Creek
- Weatherall Creek and Burton Creek
- Lowburn Boat Harbour
- McNulty Inlet
- Bendigo boat ramp and approaches
- Champagne Gully - Ramp and Ski Lane
- Cromwell Swimming Beach
- Dairy Creek
- Devils Creek
- Jackson's
- Northburn Ski Lane
- Old Cromwell Town and Boat Ramps
- South of Brewery Creek
- Weatherall Creek and Burton Creek

4.2 National Wilding Conifer Programme.

The ORC administers the central government funding for wilding conifer control operations in Otago that make up part of the national control programme. ORC also holds the operational contracts that oversee the delivery of the control works within the agreed Management Units in Otago.

The current financial year is the final year of central government funding for Phase 1 of the national wilding conifer control programme. The partnership of Ministry for Primary Industries, Regional Councils and other agencies are currently preparing a business case to seek future Crown funding for the next 10 years.

A presentation to Council on the programme is scheduled for 23rd October. This will include presenters from MPI, Central Otago Wilding Conifer Control Group, Wakatipu Wilding Conifer Control Group and ORC staff.

4.3 Winter Poisoning Season for Rabbits

The winter poison season has now concluded. Several primary control poison operations have been undertaken in central and coastal Otago, which have involved landowner coordination to ensure work is completed both on and between properties. These operations have shown positive results in the reduction of rabbit numbers.

ORC staff have been involved in the planning and coordination of a number of these operations in Central and Coastal Otago with both the landowners and the contractors.

This collaborative approach has proven successful this season and is developing as an important tool in integrated rabbit management. Collaboration, education and community support are key themes in the Draft Biosecurity Strategy. Through assisting with the coordination of control operations, providing support and advice on best practice rabbit control, ORC is assisting the community in taking ownership of rabbit problems on their properties.

ORC has also assisted the landowners / contractors in Central Otago by preparing and distributing approximately 100 tonnes of carrot bait out of the Cromwell depot. The carrot cutting, and screening equipment are highly specialised pieces of machinery, essential for large scale rabbit poisoning operations that use carrot as the primary bait. ORC operational staff undertake this work on a cost-recovery basis.

4.4 Rook Monitoring

The annual rook monitoring programme is underway with all known and historical sites being checked in the Maniototo, Strath Taieri and South Otago areas. A rook publicity campaign over the last month encouraging the community to report any rook sightings has not resulted in any sightings being reported to Council to date this season. This is likely to be due to only a small number of birds remaining in Otago.

A full report on our findings will be prepared and brought back to this Committee at the culmination of the annual programme.

4.5 Community Meetings

Staff have attended two separate community meetings on the Otago Peninsula, assisted by Stakeholder Engagement staff. One meeting was to discuss rabbit control and the range of techniques available to landowners. A further meeting was held to discuss the Draft Regional Pest Management Plan. Both meetings were positive with good engagement from the audience.

Attachments

1. 2017/18 Compliance Report
2. Estuarine Pest Plant Spartina update.
3. Contaminated land management process

• Recommendations

- a) *That this report is received and noted.*

Endorsed by: Scott MacLean
Director Environmental Monitoring & Operations

1. Introduction

The past use and storage of hazardous substances has left a legacy of soil contamination in New Zealand. This contamination has been largely caused by historic practices in which chemicals were manufactured, used, stored and disposed in ways that are considered unacceptable by today's standards. Contaminated sites are often associated with industrial activities, but commercial, agricultural and residential land-uses or activities can also result in soil contamination.

In Otago, common land-uses that have the potential to cause soil contamination include timber treatment, tanning, sheep dipping, pesticide manufacture and use, petroleum storage and handling, and waste disposal to land.

Contaminants in soil can cause adverse effects on both human health and the environment through both short-term and long-term exposure. The value of land and its potential for rural, residential, or recreational uses can also be reduced by elevated concentrations of contaminants. Migration of contaminants may result in contamination of other land, sediment, air, groundwater or surface water, both at the source of contamination and at locations remote from the source.

It is therefore necessary to identify, prioritise, investigate, and remediate or manage any land in Otago where such adverse effects occur.

The Resource Management Act 1991 and the Regional Plan: Waste for Otago (1997) provide a basis for the management of contaminated sites for the council. The Regional Plan: Waste outlines the issues, objectives, policies, methods and rules associated with contaminated sites. It facilitates the development of methods for investigating, assessing, and mitigating adverse effects from contaminated land, maintaining a register of contaminated sites, and protocols for transferring information to Territorial Authorities (TAs), who are responsible for controlling the use of contaminated land.

Although the Regional Plan: Waste is still operative, several legislative, technological, and best practice changes have occurred since 1997, and updated detailed operational procedures are described in a separate Contaminated Sites Management Strategy for Otago Regional Council which was first developed in October 2000 with subsequent updates in 2013 and 2016.

This paper explains and summarises the activities that the Otago Regional Council undertakes with respect to contaminated land management and provides illustrative case-studies of real-world examples.

2. RMA Framework for Contaminated Land

The Resource Management Act's hierarchy of policy statements and plans provide the primary basis for the management of contaminated land in New Zealand. Other relevant legislation is summarised in Appendix 2.

Resource Management Act 1991

The primary legislation relevant to contaminated land management by local government is the [Resource Management Act 1991](#) (RMA 1991).

Contaminated land is defined in section 2 of the RMA as land that:

- has a hazardous substance¹ in or on it that:
 - (i) Has significant adverse effect on the environment; or
 - (ii) Is reasonably likely to have significant adverse effects on the environment.

Regional councils have a function under [section 30\(1\)\(ca\)](#) to investigate land for the purposes of identifying and monitoring contaminated land.

Regional councils have a function under [section 30\(1\)\(f\)](#) to control discharges of contaminants into or onto land, air or water. At some contaminated sites, hazardous substance may be emanating into groundwater, running off to surface water, or escaping into air. The Otago Regional Council has a responsibility to control these types of 'passive discharges' of contaminants into or onto land, air, or water if they exist.

Territorial Authorities (TAs) in Otago have a function under [section 31\(b\)\(iia\)](#) to prevent or mitigate any adverse effects of the development, subdivision, or use of contaminated land.

It is therefore important that Regional Councils and Territorial Authorities work closely together when undertaking their respective functions relating to contaminated land.

Regional Policy Statement for Otago (1998)

Section 13 of the [Regional Policy Statement for Otago](#) (RPS) discusses contaminated sites. The policy statement provides the following objective:

- 13.4.4. To minimise the risks to people and the wider environment arising from existing contaminated sites.

To achieve that goal, the statement provides the following policy:

- 13.5.7 To address the adverse effect of past waste disposal practices through:

¹ "Hazardous substance" is defined in section 2 of the RMA as including, "but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance".

- a) Identifying sites of old landfills, hazardous substance dumps, or contamination within Otago; and
- b) Determining any adverse effects arising from those sites and requiring the remedying or mitigation of any adverse effects.

The Proposed Regional Policy Statement (2016)

[The Proposed Regional Policy Statement](#) is currently under appeal. Several appeals do relate to soil contamination and contaminated land. Once these appeals are resolved, a review of the Otago Regional Council's contaminated land work programme will take place to ensure it remains consistent with the RPS.

The Regional Plan: Waste for Otago (1997)

[The Regional Plan: Waste](#) gives effect to the policy statement by outlining the issues, objectives, policies, methods, and rules associated with contaminated sites.

There is one rule in the Regional Plan: Waste regarding contaminated sites which states that disturbance of or discharge from a contaminated site requires consent. This rule applies to both long-term passive discharges from contaminated sites, and short-term discharges associated with the disturbance or remediation of contaminated sites.

NES for Assessing and Managing Contaminants in Soil (2011)

[The Resource Management \(National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health\) Regulations 2011](#) (the NES) took effect on 1 January 2012. Each Territorial Authority implements the NES in accordance with their section 31 functions. The NES is intended to ensure that contaminated land is identified at the time of development and remediated or managed to protect human health if necessary.

The NES creates a nationwide set of planning controls when contaminated or potentially contaminated land is subject to sampling, soil disturbance, land-use change or subdivision. It also sets out a methodology for deriving soil contaminant standards to protect human health. It does not consider ecological or other environmental receptors.

The NES applies to a piece of land if it is more likely than not to have had a land use history associated with the use, storage or disposal of hazardous substances. While Regional Council functions are not explicitly affected by the NES, any information available to the TA from a Regional Council is one method for determining whether the NES applies to a piece of land under [Regulation 6\(2\)\(b\)](#).

3. The HAIL Register

ORC takes a broad view of its function of investigating land - encompassing both direct investigation of sites, but also by using methods that will facilitate the identification of contaminated land by other parties and supporting TAs to give effect to the NES. To identify contaminated land, it is first necessary to identify and record land where activities have occurred that could have caused contamination.

The Ministry for the Environment's [Hazardous Activities and Industries List](#) (HAIL) is a compilation of 53 types of activities and industries that are considered to have some potential to cause land contamination resulting from hazardous substance use, storage or disposal. The HAIL is intended to identify most situations in New Zealand where inappropriate use and storage of hazardous substances could cause, and in some cases have caused, land contamination.

Since 1999, the Otago Regional Council has maintained a database containing information on land where hazardous substances have been stored or used, and which are considered to have potential to be contaminated. In 2016-2017, work was undertaken as part of the annual plan programme to systematically review existing council-held information and reformat the information into a geospatial database compatible with internal and external GIS systems. The structure of the database was developed in consultation with the Otago TAs, who are key users of the information, and in a manner that is consistent with Ministry for the Environment guidance, as well as the recommendations from a national working group on contaminated land data consistency.

Site Classifications

Each site is recorded on the database with attributes for its HAIL Status and Contamination Status. This specificity allows the database to be used effectively to help determine whether the NES would apply to a given site, as well to identifying land as contaminated or otherwise.

HAIL Status: The database includes sites with information regarding the land-use history of the piece of land, based on the Ministry for the Environment's Hazardous Activities and Industries List (revised 2011). A record of HAIL activities provides the basis for implementing the NES and is a key component for the usefulness of this register to TAs.

Although the HAIL has no specific regulatory significance for the Regional Council, it is important to maintain a record of sites where ORC holds information that indicates a HAIL activity has occurred. Identification of HAIL sites is an initial step in identifying contaminated sites. Regional Council also receives approximately 400-500 requests per year for information on HAIL activities at specific properties. Maintaining a register with this information allows these enquiries to be handled quickly and efficiently.

Contamination Status: In addition to recording information about current or past land uses, the register also provides an indication of the level of investigation at the site and the concentrations of soil contaminants, if known, relative to the use of land or sensitivity of the environment.

The Regional Plan: Waste for Otago specifies that the Otago Regional Council will maintain a database called the “Otago Regional Contaminated Sites Register” outlining the details of sites that are contaminated. Those sites on the HAIL register with a status of ‘contaminated’ can be considered to comprise the ‘contaminated sites register,’ as mandated in the Regional Plan: Waste.

There are currently 38 identified ‘contaminated sites’ in Otago, covering an area of 72 hectares. 174 sites, covering 484 hectares were previously considered contaminated, but have now been remediated or managed to date. This figure is a key statistic for gauging the effectiveness of contaminated land management in Otago.

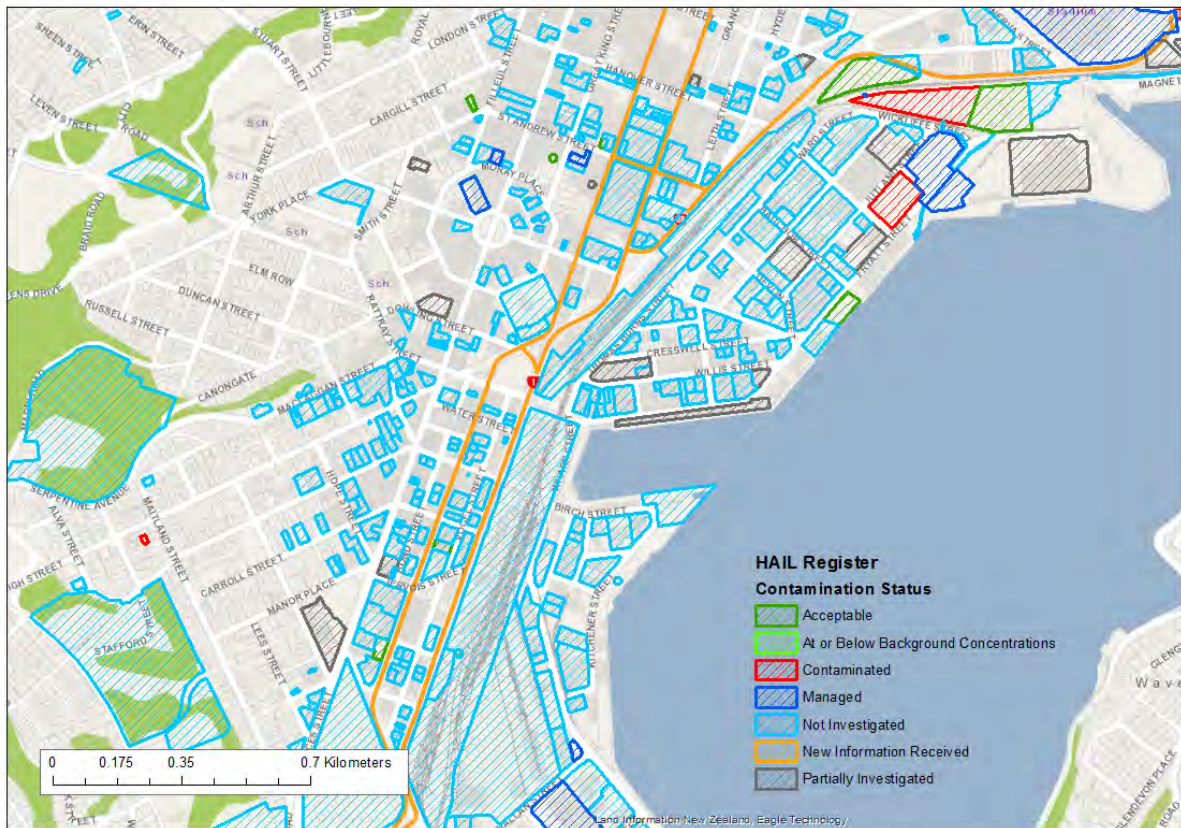


Figure 1: Screen shot from the HAIL register

The HAIL register was developed in-house, and provides a simple, but usable GIS interface. Several other fields for each site in the database store additional information such as information date, relevant HAIL categories, information source, whether remediation has taken place and a brief summary.

Information Sharing

Currently, the database is shared via a GIS server directly with the Otago territorial authorities. Territorial authorities do not have edit access but can provide additional information under a templated cover sheet for assessment by ORC staff and inclusion on the database.

Information on the HAIL register is available to members of the public upon request in accordance with the Local Government Official Information and Meetings Act 1987. ORC’s contaminated land

webpage directs requesters to a dedicated contaminated land email address to submit enquiries. Typically, no charge is levied for information requests, and requests are responded to within 1 to 5 working days.

Typical requesters include:

- Property owners
- Prospective purchasers or lawyers completing due diligence
- Property developers
- Contaminated Land consultants
- Territorial Authorities
- Property valuers
- Utility operators
- Central government agencies

Since the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health came into effect in 2012, the demand for contaminated land data by the end-users above has increased considerably (figure 2).

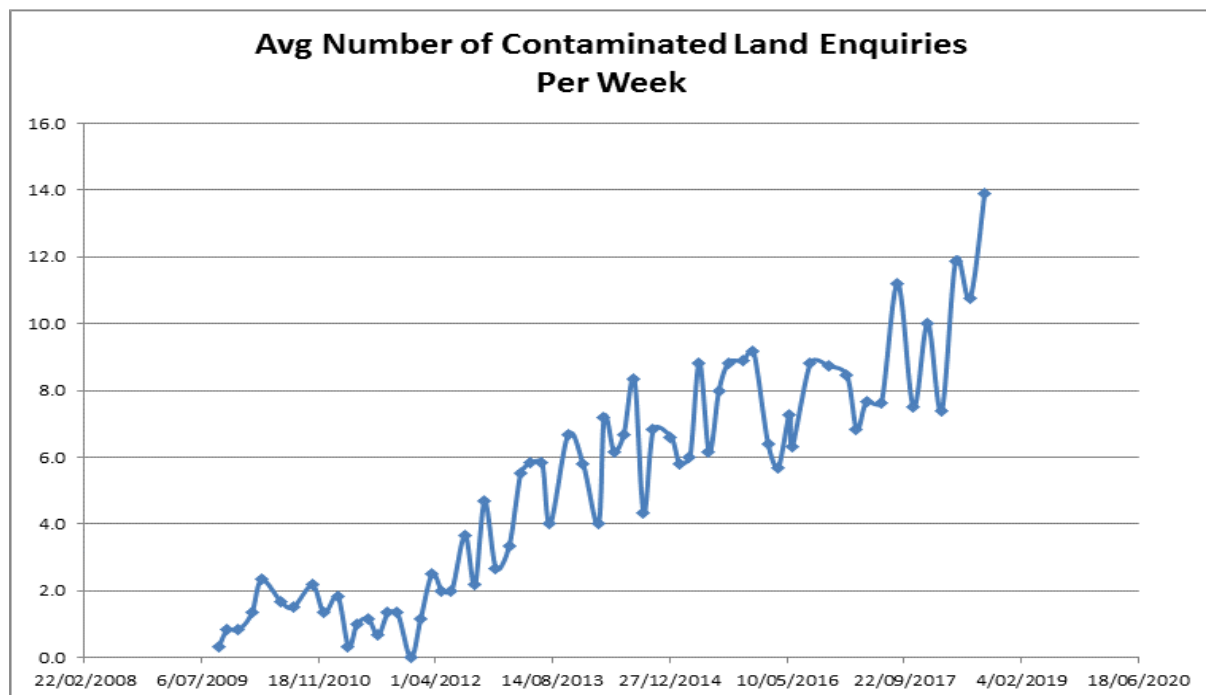


Figure 2: average number of contaminated land enquiries received per week- 2009 to 2018

Given the high demand for HAIL data, and signals of increasing public interest, it may be appropriate to consider providing ORC-held HAIL information on our webpage in a format similar to the Natural Hazards Database.

4. Prioritisation and Investigation of Sites

The fact that a site has been identified as having had a land use history that includes a HAIL activity or industry does not mean that hazardous substances were used or stored on it, nor that it will have

hazardous substances present in the land. The list merely indicates that such activities and industries are more likely to use or store hazardous substances and therefore there is a greater probability of site contamination occurring than other uses or activities.

To use resources efficiently, sites that are suspected to be contaminated are prioritised for further investigation by the Otago Regional Council or the landowner. High investigation priority is given to sites where the likelihood of contamination is highest, or the potential effects of contamination are significant. One method for prioritisation of sites for further investigation is using the Ministry for the Environment's risk screening system (Contaminated Land Management Guideline #3). Sites may also be prioritised in as part of wider Council work programmes or initiatives, e.g., investigation of specific activities throughout Otago, investigation of HAIL activities within a specific catchment or groundwater protection zone, or through complaints or incidents suggesting an immediate risk.

Methods used by the Otago Regional Council to investigate sites to identify contaminated land include both direct and indirect approaches.

Direct investigation of contaminated sites is undertaken on sites that are considered to have the highest priority and risk. These investigations may include preliminary or detailed site investigations (see Beach Road Landfills case study).

Indirectly, land is investigated by identifying and recording of HAIL sites through desk-top investigation. By accurately recording identified HAIL sites, it is expected that risks from these sites will also be assessed when activities occur that trigger the NES. Potential sources of information include:

- Resource Management or Hazardous substances incidents.
- Consent applications to ORC.
- Search of ORC records in response to public enquiries.
- Information provided by TA's from their property files or dangerous goods records.
- Active review of historic aerial photographs or other external information sources.

Lastly, ORC staff assess and review site investigation reports that are prepared by third party consultants and submitted to regulatory authorities. Landowner's often engage contaminated land consultants to prepare Preliminary and/or Detailed Site Investigations to support consent applications for site development. Once submitted to the relevant regulatory authority, ORC staff review these reports for quality and update the HAIL register accordingly. If requested, feedback is also provided to the relevant territorial authority regarding the adequacy of the investigation and its conclusions. In the 2017-2018 financial year, 79 site investigation reports were reviewed and assessed.

Case Study: Beach Road Landfills

In July 2017, the Otago Regional Council received a complaint from a member of the public regarding two historic landfill sites eroding onto a beach south of Oamaru.

The two sites are located along an eroding cliff face above the beach. Coastal erosion as resulted in the contents of the landfills spilling down the face of the cliff and onto the beach below. Following

the identification of the landfills in 2017, each site was added to the Otago Regional Council's HAIL Register as verified HAIL sites, with a contamination status of not investigated.

As an initial response, approximately 60 tonnes of landfilled material were removed from the sites in October 2017 by the Waitaki District Council. An unquantified amount of landfilled material remains at both sites. As coastal erosion progresses, it is anticipated additional refuse may be progressively exposed and deposited onto the beach.

Otago Regional Council staff completed a preliminary site investigation to provide a summary of the site conditions, a preliminary assessment of risk to human health and the environment, and recommendations to assist Waitaki District Council in the management of the sites. The preliminary site investigation is currently being used to support an application for central government funding for remediation (see section 6 on the Contaminated Sites Remediation Fund below).

5. Management, Remediation, and Monitoring of Sites

Where contaminated land is identified, the Otago Regional Council will take practicable steps to ensure that appropriate management or remediation is achieved. A process flow chart detailing the work flow is included in Appendix 1.

Site remediation and management includes the methods used to reduce or manage risks to human health and the environment from contaminated land. Some options for site remediation or management include:

- Removal of contaminated soil and disposal or treatment offsite;
- On-site treatment or stabilization of contaminated soil.
- On-site encapsulation of contaminated soil.
- Capping or paving of contaminated soil to prevent direct exposure.
- Pumping and/or treatment of contaminated groundwater.
- Natural attenuation and monitoring.
- Behavior control through a site management plan.

Liability for remediation or management

Liability for site remediation or management must be determined on a site by site basis with advice from ORC solicitors. In general, under liability regimes in New Zealand, the current owner/occupier of the site is responsible for implementing any remediation or site management practices to prevent or mitigate any adverse effects from contaminated land. This is supported by section 5.4.3 of the Regional Plan: Waste and [section 314\(1\)\(da\)](#) and [322\(1\)\(b\(ii\)\)](#) of the RMA 1991.

Where non-compliance with the RMA 1991 or a resource consent is identified, resulting in contamination of land, enforcement action can be utilised to require investigation and appropriate mitigation. Those responsible for the non-compliance have an obligation to investigate the site in accordance with their duty under [section 17](#) of the RMA 1991. The Otago Regional Council may elect to investigate the land and seek cost recovery if possible.

If the responsible party sold the contaminated land prior to 1 October 1991, they cannot be subject to RMA enforcement action.

Remediation or management of sites without discharges

If contamination is found on a site but there is no evidence of active or ongoing discharges as described in Rule 5.6.1 of the Regional Plan: Waste, the Otago Regional Council has limited authority to require immediate action. In such cases, it is the responsibility of the relevant TA to ensure that adverse effects from the development, subdivision, or use of contaminated land are prevented or mitigated in accordance with their Section 31(1)(b)(iia) function.

Remediation or management of sites with discharges

Once land has been contaminated, a discharge of contaminants from the source of contamination can occur as a result of natural processes. This can be described as a 'passive discharge.' Rules in the Regional Plan: Water for Otago and Regional Plan: Waste for Otago, provide that such discharges are unlawful unless authorized by a discharge permit.

Where the effects of such a discharge are minor, their authorization by a discharge permit may be appropriate, subject to a satisfactory consent application process. Sites with consents for passive discharges can be considered managed, provided compliance with consent conditions is maintained (see Rosebank Sawmill case study).

Where a valid discharge permit is not held, enforcement procedures may be initiated to address the non-compliance and to ensure that any adverse effects are controlled. Enforcement procedures under the RMA 1991 could include infringement notices, abatement notices, enforcement orders or prosecution. Under the provisions of [section 314](#), the Environment Court may require the owner or occupier of any land to take action, that in the opinion of the Court, is necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment. This may include site remediation or management methods to cease discharges to the environment.

Case Study: Rosebank Sawmill

The Rosebank sawmill and timber treatment facility operated on a site outside Balclutha from 1968 to 2014. A variety of timber treatment chemicals were used on the site over time, including CCA (copper, chromium, arsenic), boron, and PCP. Soil contamination was identified on site in 1994, and the sawmill operator obtained resource consents to discharge stormwater and sediment containing these chemicals off site. The consents require site management practices to reduce and control stormwater run-off and regular monitoring. Regular stormwater monitoring had shown that contaminant concentrations were acceptably low.

When the sawmill closed in 2014, Clutha District Council purchased the site to provide industrial land for development. The discharge permits were transferred to CDC and they assumed responsibility for the site.

Sampling in March and May 2018 showed an increase in contaminants concentrations in sediment and stormwater, and consent trigger values for arsenic were exceeded at three locations off site. The consent requires that in this event 'the consent holder and consent authority shall mutually agree on the mitigation approach to be adopted for the pond sediments. Mitigation may include removal and disposal of the sediments in accordance with guideline procedures.'

Clutha District Council is working with the Otago Regional Council and the affected landowner to stabilise the site and develop a remediation action plan for sediment on the neighbouring property.

Site remediation and management

Remediation of contaminated sites which involve the disturbance of land will require resource consent under Rule 5.6.1 of the Regional Plan: Waste. Short term consents for the discharge of contaminants to air, land or water may also be required. Once site remediation is completed, an assessment of the site validation report may result in a change of contamination status.

Monitoring of sites

Contaminated and Managed Sites require on-going monitoring. Monitoring involves maintaining up to date records as new information becomes available and periodically contacting site owners and/or inspecting sites to ensure that conditions have not deteriorated or changed. The type and frequency of monitoring is determined on a site by site basis depending on the level of risk posed by each site. For sites with the passive discharge consents, monitoring takes place through council's routine consent monitoring programme.

6. Contaminated Sites Remediation Fund

The Ministry for the Environment's Contaminated Sites Remediation Fund provides funding to regional councils and unitary authorities for the investigation and remediation of high priority contaminated sites.

The contestable fund is designed to encourage willing parties to remediate sites where there is a risk to human health or the environment. The CSRF will only cover a portion of the costs, and it is Regional Council policy that where possible, landowners pay the balance of costs. To date, Otago has received approximately \$800,000 in funding (table 1) for projects.

Year	Project	Site	CSRF Funding
2007	Groundwater Remediation and Planning	Blue Mountain Lumber	\$278,707
2007	Detailed Site Investigation	Barrow Box Sawmill	\$28,350
2008	Remediation Planning	Barrow Box Sawmill	\$12,600
2008	Groundwater Investigation	Blue Mountain Lumber	\$57,000
2009	Remediation	Barrow Box Sawmill	\$105,000

2009	Detailed Site Investigation	Oamaru Timber Treatment Site	\$38,000
2011	Remediation	Barrow Box Sawmill	\$160,409
2011	Remediation Planning	Oamaru Timber Treatment Site	\$11,257
2013	Remediation	Oamaru Timber Treatment Site	\$76,000
2017	Remediation Planning	Dunedin City Gasworks	\$17,087

Case Study: Oamaru Timber Treatment Site

The former Fletcher Placemakers site on the Oamaru Foreshore was used for timber treatment from the 1960's until 1985. Timber treatment processes involved applying copper, chromium arsenic (CCA) solution under pressure to wood. Freshly treated timber was then stacked across the site, resulting in soil contamination.

CSRF funded investigation in 2011 and 2012 documented that elevated concentrations of arsenic were present in the shallow surface soil across much of the site. Following an assessment of remedial options, stakeholders agreed to remediate the site by capping with 0.4m of clean imported soils to eliminate recreational site user's exposure to arsenic contamination. A remediation action plan for this approach was prepared and formed part of the CSRF application for the remediation of the site.

Physical site works were completed between April and September 2013. Approximately 2,200m³ of marine sediment and 700m³ of topsoil were placed at the site. During the site works, laser levels, measuring rods, and static markers were used to guide the placement of material. A comparison of high-accuracy topographic surveys was used to ensure sufficient depth had been achieved over the site. A Site Management Plan documents the nature and extent of residual contamination on site and methods to control and manage these risks during future site use.

The end result is functional, usable space near the Oamaru Harbour that supports the development of an emerging community, recreation and tourism asset.

7 Working closely with Territorial Authorities

Due to the shared responsibilities for managing contaminated land, Otago Regional Council and our territorial authority counter parts work closely together.

This work includes:

- Regular and comprehensive sharing of information held on the HAIL Register
- Communication with TAs to ensure that classification of sites on the HAIL Register are consistent with/cognisant of NES decisions for the benefit of landowners;
- Sharing of report interpretations in response to requests for advice in the context of our specific functions;
- Ongoing communication with central government agencies to ensure that best practice guidance is up-to-date and encourages that the separate but related functions of regional and territorial authorities operate consistently; and

- Ongoing participation in the Otago Contaminated Land Liaison Group to ensure effective and close working relationships and information sharing practices with our TA partners.

The Otago Contaminated Land Liaison Group consists of representatives of the Regional Council and Otago TLA's. The group was established in 2016 to provide a forum for discussion, information sharing, and group decision making on contaminated land matters that are relevant to the region. Under the current terms of reference, the group meets twice a year.

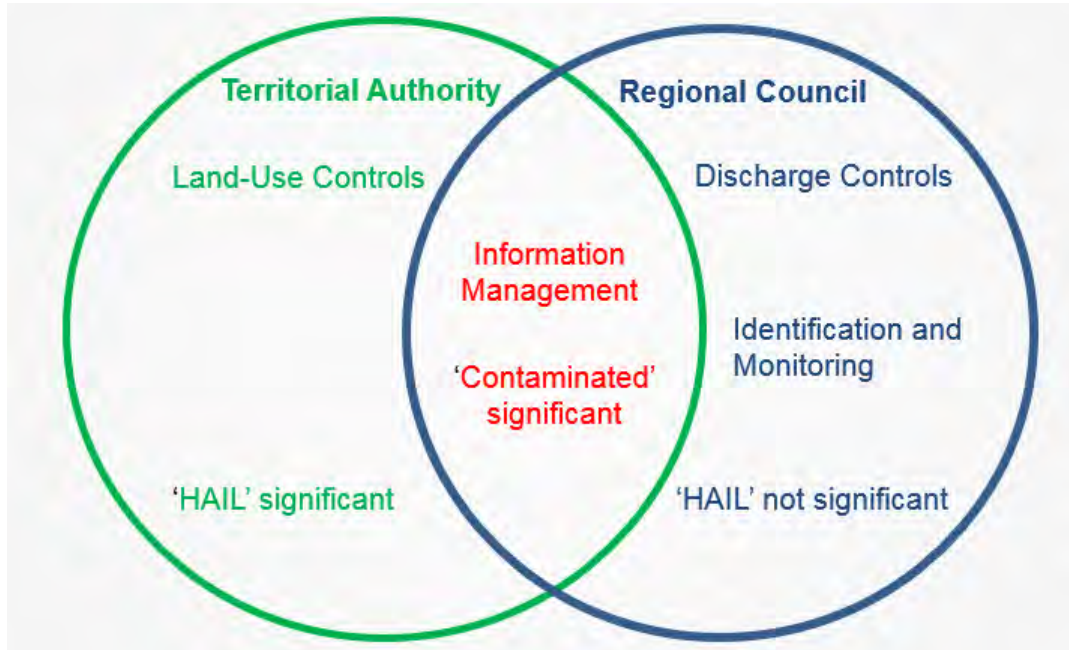


Figure 3: Overlap of contaminated land responsibilities between regional councils and territorial authorities.

8.0 Supporting the contaminated land sector

In addition to fulfilling its regulatory functions, there are several other ways in which the Otago Regional Council supports the wider contaminated land sector. This sector includes other regulatory authorities, developers, contaminated land and planning consultants, public health professionals, and landowners. These methods help to achieve the broader aims of the Waste Plan and Regional Policy Statement.

Improving public access to historic aerial imagery

Historic aerial photographs are often a key component of the site history research that underlies contaminated land investigation. ORC has supported the Crown Aerial Scanning project and the publication of historic imagery on the website retrolens.nz which run by the Local Government Geospatial Alliance.

Undertaking or commissioning research

Periodically, issues emerge for which a body of research is required to help inform decisions and management practices. The Otago Regional Council undertakes to identify issues pertinent to the region, and in partnership with other councils, Crown Research Institutes, and universities, undertake or support research. Recent examples include contributions to research projects involving emerging contaminants (see Non-foam sources of PFAS case study) and risk characterization of arsenic leaching from treated timber vineyard posts.

Case Study: Non-Foam Sources of PFAS

Per- and Polyfluoroalkyl Substances (PFAS) associated with Class B fire-fighting foams have recently emerged as a contaminant of concern in New Zealand. As a result, the Defense Force, Fire and Emergency NZ, and commercial airport operators have initiated investigations at several facilities. There are other known sources of PFAS contamination, including, but not limited to: closed landfills, wastewater treatment plants and some industrial/manufacturing processes; however, the scale of use and likelihood of contamination from these non-firefighting-foam sources is not well understood. A need was identified to produce a reference document exploring the relative significance of these non-foam PFAS sources. A consortium of regional councils including Otago, the Ministry for the Environment, and consultancy firm Tonkin and Taylor Limited funded an international literature review to provide commentary on non-foam sources of PFAS that are relevant to NZ. This work will help support regional councils in identifying and prioritizing sites where PFAS is likely to have been used.

Regional Waste and Contaminated Land Forum

The Regional Waste and Contaminated Land Forum (RWCLF) is a special interest group under the umbrella of the Resource Manager Group. The purpose of the forum is to achieve better management of waste and contaminated land in New Zealand through the sharing of information and experiences between regional officers, and to coordinate activities between Regional Councils where appropriate and external organizations such as Ministry for the Environment.

The RWCLF provides a key link to other councils and central government, and the Otago Regional Council seeks to be an active and contributing member of the forum.

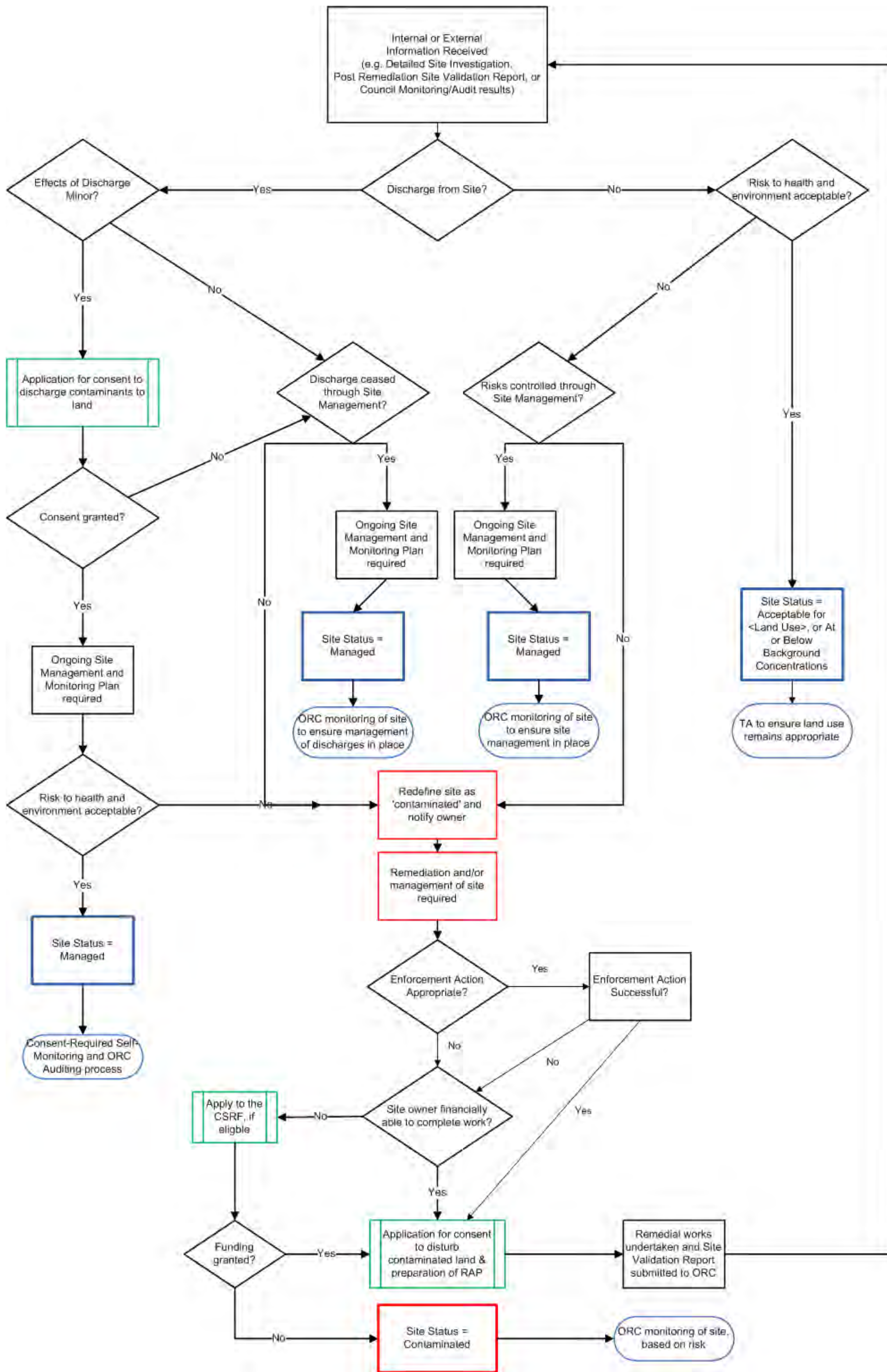
9.0 Conclusion

Regional councils have specific functions with respect to contaminated land prescribed in the Resource Management Act 1991. The Otago Regional Council undertakes these functions in accordance with the policies and methods outlined in the Regional Policy Statement and Regional Plan: Waste.

Activities in the current programme include maintaining a regional register of HAIL sites, investigating land, and assisting with any active CSRF projects. As with many other areas of council business,

there is a desire 'to do more' in the contaminated sites work programme, and the 2018-2028 Long Term Plan indicates a 90% increase in budget available for contaminated site work for the 2019/20 and 2020/21 financial years. Staff are currently reviewing the work programme to identify how these additional resources can be best used to support ORC's vision for a prosperous and sustainable future for Otago.

Appendix 1: Process Flow Chart



Appendix 2: Other relevant legislation

While the primary drivers for Regional Council's role in the contaminated land area are the RMA 1991 and the Regional Plan: Waste, there are several other legislative instruments that also provide context to the contaminated land framework. It is important that the Regional Council is cognisant of these and their implications for other stakeholders.

Local Government Official Information and Meetings Act 1987

[The Local Government Official Information and Meetings Act 1987](#) (LGOIMA 1987) regulates the management and release of official information from Regional Councils. The guiding principle for access to official information is that information shall be made available, unless there is a good reason for withholding it.

Under LGOIMA 1987 any person may apply in writing to a territorial authority for an issue of a LIM to disclose everything that is known about a parcel of land, including the "likely presence of hazardous contaminants."

The release of contaminated sites information by the Regional Council is bound by the provisions of LGOIMA 1987.

Building Act 2004

[The Building Act 2004](#) requires TA's, upon request, to provide project information memoranda (PIM) which includes information on the "likely presence of hazardous contaminants" In addition to the PIM requirements, clause F1 of the Building Code specifically requires building sites be assessed to determine the presence and potential threat of any hazardous agents or contaminants.

Health Act 1956

[The Health Act 1956](#) is relevant to contaminated land where it provides powers and sets up a duty for TAs to abate health nuisances. Health nuisances are defined by the Act as conditions that are "offensive or likely to be injurious to health". It is understood that the use of these powers for contaminated land is unusual and that they are only likely to be applied if there is a possibility of immediate harm.

Health and Safety at Work Act 2015

The object of the [Health and Safety at Work Act 2015](#) (HSW 2015) is to secure the health and safety of works and workplaces. It places emphasis on employees, employers, and visitors to take responsibility for the well-being of themselves and others at work. The act requires that hazards at work are identified and steps are taken to manage and control them in the work place.

A health, safety and environment plan should be prepared as part of the planning for site work. Worksafe New Zealand has prepared a position statement on managing occupational health on potentially contaminated sites, which references a number of guidelines including the Department of Labour Health and Safety Guidelines on the Cleanup of Contaminated Sites (1994).

Hazardous Substances and New Organisms Act 1996

The purpose of the [Hazardous Substances and New Organisms Act 1996](#) (HSNO 1996) is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms (including genetically modified organisms) in New

Zealand. The primary role of local government under the HSNO 1996 is the prevention of new contaminated sites arising from the use, storage or manufacture of hazardous substances.

TAs must enforce the provisions of HSNO 1996 on any premises not covered by the other HSNO enforcement agencies, which include for example WorkSafe at places of work. The chief executive of a Regional Council may enforce the provisions of HSNO in or on specified premises if the Regional Council is in or on those premises for the purposes of enforcing the provisions of the RMA 1991.

Income Tax Act 2007

Under the [Income Tax Act 2007](#), a taxpayer may be eligible for tax deductions when they have incurred expenditure to investigate, monitor or rectify discharges of contaminants.

Common Law

The common law torts of negligence, nuisance and the rule of Rylands v Fletcher may be applicable in some instances. These are generally outside the scope of Regional Council involvement.

REPORT

Document Id: A1161104

Report Number: 2018/1072

Prepared For: Regulatory Committee

Prepared By: Environmental Officer, Kirk Robertson and Team Leader- Biosecurity Compliance, Richard Lord

Date: 24/09/2018

Subject: Spartina Report

1. History

Spartina is a vigorous perennial estuarine sward grass that was introduced into New Zealand in the 1920's to aid foreshore protection and to reclaim marshes and tidal flats due to its ability to trap sediment. Spartina grows to a metre in height. It forms a massive underground rhizomatous root system which can be difficult to control. Spartina may grow from seed, or root fragments and over a period of time can spread out to cover entire estuarine areas. Studies have shown that vegetative spread is as much as 0.6 metres per annum. Spartina spp. is particularly quick to spread in muddy substrates alongside streams, creeks and open mangrove swamps (Bascand, 1970), these areas share common features with upper arms of an estuary that is fed with fresh water as well as salty.

The first control operations for Spartina commenced in 1979 by helicopter spraying in the Merton Arm of the Karitane estuary at a time when this estuary was completely infested and dominated by Spartina. The two areas where effort is still required is the Waikouaiti River / Karitane Estuary, and the Pleasant River Estuary near Goodwood. Control has always been challenging with having to work around tides, ensuring the weather is suitable and the plants are in a clean state, and accessing the soft tidal beds of the estuaries by foot, four-wheel motorcycle, or four wheel drive vehicle where possible in a safe manner.



Previously, Spartina has been found in the Otago Harbour at Harwood, and in Blueskin Bay near Evansdale. There have been no sightings at these sites for over 5 years and it is reasonable to suggest that eradication has been achieved in those two areas.

Spartina is known to have existed in the estuarine areas of the Hawksbury Lagoon, (Waikouaiti), Taieri River, (Henley to Taieri Mouth) and Catlins Lake. Annual inspections are still undertaken and although eradication cannot be yet claimed. The incidence of Spartina within these areas ranges from being extremely low to non-existent with eradication likely in the coming years.



The above photo shows a small patch of Spartina growing amongst other coastal grasses.



The above photo shows a large patch of Spartina that was sprayed in early 2018, has significantly reduced in size.



The above map of the Waikouaiti Estuary shows sites controlled in 2017 (green) compared to sites identified back in 2008 (blue)

2. University Report - Department of Marine Science

The Marine Science department at Otago University have been monitoring the *Spartina* in the Waikouaiti Estuary for a number of years. Their results have found that when surveying the Waikouaiti River Estuary, it was found that where spraying had occurred, the spread of *Spartina* spp. had reduced. Overall, there has been a trend of decrease in the total number of medium and large patches of *Spartina* spp. from 2015 to 2018. The total number of small patches did increase from 2015 to 2018, which indicates that some plants are still seeding and young plants are beginning to re-establish and spread.

The Hawkesbury lagoon has been modified greatly with the development of the Waikouaiti township (Hepburn et al., 2010) and therefore can no longer support the original species found in the area so now boasts a variation of wading bird species. Hawkesbury Lagoon is not the only inland area to be modified in order to reclaim land. The Waikouaiti river estuary has been reduced in size dramatically as people reclaimed land for primarily farming purposes. Many methods were employed to aid in reclaiming the land including the use of tidal gates and introducing species to trap sediments.

For the areas checked in the Waitati Inlet and Purakanui Inlet, no *Spartina* spp. was observed to have established which is a very good sign that it is still contained within the Waikouaiti River Estuary and hasn't spread further south.

3. ORC Control Programme

Control is undertaken during the summer and autumn months by accessing the mudflats and estuaries by walking or using quad bikes to spray the plants. Monitoring and control must be worked around tides and good weather conditions and is often made more difficult with the plants being covered in silt or other debris from high flows. When spraying it is essential to use an adjuvant in combination with the herbicide to ensure that the spray sticks to the plants, especially with the short period in which the plants are visible around low tide. More recently, another adjuvant has been used with the herbicide and it is believed we are having superior results when compared with years gone by when some results have been rather sporadic for no apparent reason.



The above photos show isolated patches of Spartina which have been sprayed using a blue dye

The Waikouaiti and Pleasant River Estuaries are the two main areas of concern, with both being controlled using a combination of spray truck (where accessible), quad, and backpack spraying of the outlying smaller patches. This work was carried out by contractors and ORC staff. All sites (at 10m intervals) were recorded on GPS to measure the spread and density of the Spartina over time.

The Council carries out control of Spartina in conjunction with the Department of Conservation and Kiwi Rail (narrow corridor of land running through both estuaries).



Figure 1 – Waikouaiti Estuary Spartina Sites from 2017 (yellow) and 2018 (red)

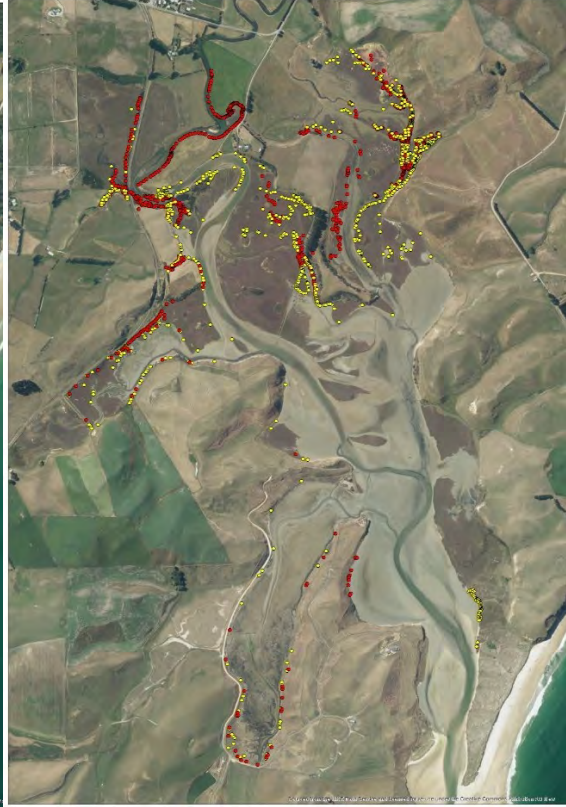


Figure 2 – Pleasant Estuary Spartina Sites from 2017 (yellow) and 2018 (red)



Figure 3 – Spartina controlled in 2018 by DOC (yellow) and ORC (red)



Figure 1 – Area of Spartina sprayed in the Pleasant River Estuary



Figure 2 – Area of Spartina sprayed in the Waikouaiti River Estuary

4. Summary

It appears that although the overall density of the Spartina is decreasing with the yearly control programme, but the distribution of seedling plants has increased over a wider geographical area. This has been identified and confirmed by DOC and Council staff, as well as by marine science students from the University. However, both estuaries were inspected in May and revealed a very successful result been achieved during the 2018 control program.

One explanation for the increased spread of smaller plants in the Waikouaiti Estuary could be the increasing size of the estuary itself. A large proportion of the estuary was developed farmland until the mid-1990's, when a stop bank was destroyed in a large flood, allowing the estuary to reclaim the farmland over time.

The impact of control over the last few years has shown a visible decrease in the large patches of Spartina. Ongoing control of these patches is essential, as well as continued surveillance and control of the smaller, more isolated patches.

Further follow up control of re-growth /Spartina seedlings from both estuaries will be required for some years into the future.

Scott MacLean
Director Environmental Monitoring and Operations

11.3. Enforcement Activities from 20 August to 5 October 2018

Prepared for: Regulatory Committee
Report No. EMO1830
Activity: Environmental - Investigations and Enforcement Action
Prepared by: Peter Kelliher, Legal Counsel
Date: 28 September 2018

1. Précis

This report details Resource Management Act 1991, Biosecurity Act 1993 and Building Act 2004 enforcement activities undertaken by the Otago Regional Council during the period 20 August 2018 to 28 September 2018.

2. Resource Management Act 1991

a) Complaint Response

Table 1. Infringement Notices

Details	Period – 20 August 2018 to 28 September 2018	Total – from 1 July 2018	Complaints Received ¹
Discharge of contaminants to land in a manner where it may enter water - sediment	0	3	4
Discharge of contaminants to air in breach of a regional rule – burning prohibited material	0	3	2
Discharge of contaminants to air in breach of a regional rule – odour	0	3	7
Disturbing the bed of a river - pugging	2	2	4
TOTAL	2	11	17

Table 2. Abatement Notices

Details	Period – 20 August 2018 to 28 September 2018	Total – from 1 July 2018	Complaints Received
To cease discharging contaminants to air from a domestic heating appliance in breach of a regional rule	0	1	1
To cease discharging contaminants in breach of a regional rule - sediment	0	1	3
To remove a dead animal from a	0	1	1

¹ Number of complaints received by Council for the matters subject to enforcement action.

river			
To cease discharging contaminants from a farm landfill in breach of a regional rule	0	1	1
To remove debris / slash from the bed of a river	0	2	2
To cease diverting water in breach of a regional rule	1	1	2
To cease diverting/discharging water which is likely to cause an adverse effect on the environment.	1	1	6
TOTAL	2	8	16

Table 3. Authorised Legal Proceedings

Details	Period – 20 August 2018 to 28 September 2018	Total – from 1 July 2018	Complaints Received
Discharge of contaminants to land in a manner where it may enter water - sediment	1	1	3
TOTAL	1	1	3

b) Inspections

Table 4. Authorised Legal Proceedings

Details	Period – 20 August 2018 to 28 September 2018	Total – from 1 July 2018
Discharge of contaminants to land in breach of a regional rule – effluent	0	1
TOTAL	0	1

3. Infringement Fees

Resource Management Act (“RMA”) infringement fees are set by the Resource Management (Infringement Offences) Regulations 1999. Under the Regulations, infringement fees range from \$300 to \$1,000, depending on which section of the RMA has been contravened.

From 1 July 2018, Council has issued 11 infringement notices totalling \$7,150 in infringement fees.

4. Recommendation

a) *That this report be received and noted.*

Endorsed by: Scott MacLean

Director Environmental Monitoring & Operations

Attachments

Nil

11.4. Consents and Building Control

Prepared for: Regulatory Committee
Report No. PPRM1835
Activity: Resource Consent, Deemed Permits and Building Act Activity
Prepared by: Kylie Galbraith, Acting Manager Consents
Date: 25 September 2018

1. Précis

This report covers consents and building control and deemed permit replacement progress for the period 18 August 2018 to 14 September 2018.

2. Consent Processing

2.1. Public Notification

There have been no publicly notified consents during this period.

2.2. Limited Notification

There have been no limited notified consents during this period.

2.3. Objections

There is one objection to consent conditions and costs, and it is being processed. Correspondence with the objector is underway. A hearing may be required by the Objections Committee.

2.4. Appeals

RM17.229 – Peter Ronald Graham – an application to occupy the coastal marine area with a pontoon for operating a ‘Hole in one’ golf challenge.

The appellant is an unincorporated society comprised of submitters on the application. They are appealing the decision to grant the consent for a wide variety of reasons.

The applicant and appellant have been corresponding prior to any formal mediation process. They have reached agreement and are currently preparing a Consents Order for the Environment Court to uphold the decision with the agreed changes. A copy of the Consents Order will be circulated to the Council for agreement prior to sending it off to the Environment Court. The Director Policy Planning and Resource Management has the delegation to agree to the suggested changes, ensuring they do not impact on Council’s functions and jurisdiction.

RM17.084 - Kyeburn Catchment Limited – an application to take and use surface water from various locations on the Swinburn and Kyeburn for the purposes of irrigation, storage, stock water, firefighting, curling and hydro-electricity generation.

The appellant is appealing the decision to grant the consents for a wide variety of reasons.

Mediation has occurred, and the applicant and appellant have been corresponding since to reach agreement. They are currently preparing a Consents Order for the

Environment Court to uphold the decision with the agreed changes. A copy of the Consents Order will be circulated to the Council for agreement prior to sending it off to the Environment Court. The Director Policy Planning and Resource Management has the delegation to agree to the suggested changes, ensuring they do not impact on Council's functions and jurisdiction.

2.5. Consent Statistics

Table 1. Consents Statistics Summary

Reporting Period	Lodged			Rejected	Decision Given		
	Consents	Variations			Consents	Variations	
		Regular	Water reporting date*			Regular	Water reporting date*
18/8to 14/9 2018	43	6	0	2	21	7	1
18/19 YTD	112	6	0	2	86	11	1

* Means the date water metre and/or flow records are to be provided to the Council.

All decisions on consents were given within RMA mandated timeframes. One Certificate of Compliance was also issued during this time period.

A breakdown (by type) of the consents lodged and decisions given will be provided to the Regulatory Committee on 28 November 2018.

3. Deemed Permit Replacement

There were originally 754 deemed permits that included 'paper' or unexercised permits. There are currently 347 deemed permits that are current or possibly live. This figure includes:

- deemed permits that are likely to be replaced;
- deemed permits that are not likely to be replaced; and
- deemed permits that have obtained a replacement consent but have not yet surrendered their deemed permit. If the deemed permit is not expired, it will remain current until 1 October 2021.

It is estimated that approximately 2/3 (i.e. approx. 230) of the current deemed permits are yet to apply for a replacement consent.

During the period 18 August 2018 to 14 September 2018 no replacement applications for deemed permits were received or granted. Furthermore, no deemed permits were surrendered, cancelled or expired during this period.

The breakdown of deemed permits per catchment are set out in Appendix 1 to this report.

A report that will discuss how deemed permits are processed will be provided to the Regulatory Committee on 28 November 2018.

4. Consent Administration

Table 2. Consent Administration Statistics

Reporting Period	Transfers Received	Transfers Issued	s417 Certs Received	s417 Certs Issued
18/8 – 14/9 2018	14	12	1	0
18/19 YTD	35	35	1	0

5. Building Consent Authority (BCA) Administration

Table 3: Building Act Statistics

Reporting Period	Building Permits		Certificate of Acceptance		Code Compliance Certificate	
	Received	Issued	Received	Issued	Received	Issued
18/8 – 14/9 2018	0	0	0	0	0	0
18/19 YTD	1	0	0	0	0	0

6. Public Enquiries

218 enquiries were received during the seven-week reporting period.

Details are set out in Appendix 2 to this report.

Table 4. Public Enquiries Statistics

Period	Number of Enquiries
17/18	2415
1/7 – 17/8 2018	218
18/19 YTD	550

7. Recommendation

- a) *That this report is noted.*

Endorsed by: Tanya Winter
Director Policy Planning and Resource Management

Appendix 1 – Deemed Permits Breakdown Per Catchment up to 14 September 2018

Catchment	Original Number of Deemed Permits	Number of Current or Possibly Live Deemed Permits
Unnamed Trib's of Kawarau River	3	2
Quartz Creek	1	1
Manuherikia Catchment	189	71
Crook Burn (2)	4	2
Camp Creek (1)	3	2
Taieri Catchment	209	76
Long Gully (1)	4	1
Unnamed Trib's of Clutha River above Tuapeka Mouth	20	8
Lowburn Creek	18	13
Waikerikeri Creek	6	3
Arrow River	16	12
Bendigo Creek	3	2
Five Mile Creek (1)	3	1
Coal Creek	8	7
Toms Creek	3	2
Lindis River	41	19
Luggate Catchment	13	12
Teviot River	2	2
Unnamed Trib's of Lake Hawea	5	2
Shingle Creek	13	10
Unnamed Trib's of Clutha River above Lake Dunstan	6	3
Cardrona River	40	14
Tima Burn	3	0
Albert Burn (1)	5	4
Schoolhouse Creek	1	1
Kidd Creek	1	1
Nevis River	2	2
Bannock Burn	23	9
Pipeclay Gully	4	1
Basin Burn	4	4
Tinwald Burn	4	3
Roaring Meg	6	4
Outside catchment areas	0	0
Butchers Creek (1)	2	2
Chapmans Gully	1	1
Fraser River	10	8
Rees River	2	1

Catchment	Original Number of Deemed Permits	Number of Current or Possibly Live Deemed Permits
Devils Creek	2	0
Amisfield Burn	9	5
Park Burn	7	3
Quartz Reef Creek	4	3
Goat Camp Creek	2	0
Kakanui Catchment	2	0
Unnamed Trib's of Lake Whakatipu	1	0
Donaldsons Creek	4	0
Unnamed Trib's of Lake Dunstan	3	1
Pomahaka River	3	3
Lake Hayes Catchment	2	0
Black Jacks Creek	2	1
Wanaka Township	3	2
Shotover River	1	1
Frankton Arm	1	0
Burn Cottage Creek	5	5
Unnamed Trib's of Clutha River above Lake Roxburgh	2	2
Franks Creek	2	2
Washpool Creek (1)	5	4
John Bull Creek	2	2
Leaning Rock Creek	1	0
Elbow Creek	1	1
Poison Creek	1	1
School Creek	1	0
Beaumont River	1	1
Stony Burn	2	0
Mt Pisa	1	0
Wye Creek	1	0
Ripponvale Road	2	2
Unnamed Trib's of Lake Wanaka	1	0
Waitahuna Catchment	1	1
Cambells Creek	1	1
Totals:	754	347

Appendix 2 – Resource Consent Public Enquiries Report for Period 18 August 2018 to 14 September 2018

Type of Enquiry	No.	% of Total
Row Labels	Count of Id	
Current Consents	81	37%
Mining Privileges	2	1%
Other	11	5%
Permitted Activities	53	24%
Pre-application	41	19%
Property Enquiries	19	9%
Transfers	11	5%
Grand Total	218	

Type of Enquiry	No.	% of Total
Row Labels	Count of Id	
⊕ Central Otago District Council	59	27%
⊕ Clutha District Council	11	5%
⊕ Dunedin City Council	28	13%
⊕ Outside Otago	2	1%
⊕ Queenstown Lakes District Council	46	21%
⊕ Throughout Otago	5	2%
⊕ Unspecified	59	27%
⊕ Waitaki District Council	8	4%
Grand Total	218	

Type of Enquiry	No.	% of Total
Row Labels	Count of Id	
Counter	5	2%
Email	136	62%
Telephone	77	35%
Grand Total	218	

12. RESOLUTION TO EXCLUDE THE PUBLIC

12.1. Public Excluded Recommendation

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

Item Enforcement – Current Matters

13. 12.99. PUBLIC EXCLUDED POSTAMBLE

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

This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act or section 6 or section 7 or section 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as follows:

Enforcement – Current Matters.

Section 6 (a)

to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial;

I also move that Mr MacLean be permitted to remain at this meeting after the public has been excluded, because of his knowledge of the matters subject to the recommendations.

15. NOTICES OF MOTION

16. CLOSURE