

Regulatory Committee Agenda - 10 June 2021

Meeting will be held in the Council Chamber, Level 2, Philip Laing House
144 Rattray Street, Dunedin



Members:

Cr Gary Kelliher, Co-Chair	Cr Carmen Hope
Cr Andrew Noone, Co-Chair	Cr Michael Laws
Cr Hilary Calvert	Cr Kevin Malcolm
Cr Michael Deaker	Cr Gretchen Robertson
Cr Alexa Forbes	Cr Bryan Scott
Hon Marian Hobbs	Cr Kate Wilson

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Dianne Railton, Governance Support

10 June 2021 09:00 AM

Agenda Topic	Page
1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. 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.	
3. 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.	
4. PUBLIC FORUM Members of the public may request to speak to the Council. No requests were received prior to publication of the agenda.	
5. CONFIRMATION OF MINUTES The Committee will consider minutes of meetings a true and accurate record, with or without corrections.	3
5.1 Minutes of the 11 March 2021 Regulatory Committee Meeting	3
6. ACTIONS (STATUS OF COMMITTEE RESOLUTIONS) The Committee will be updated on its outstanding Actions.	7
7. MATTERS FOR CONSIDERATION	8
7.1 REGULATORY GROUP - QUARTERLY ACTIVITY REPORT This report is to update the Committee on activities of the Regulatory Group during the 2020/21 year to 30 April 2021, and to approve the Compliance Audit and Performance Monitoring Schedule for 2021/22.	8

7.1.1	Attachment 1: Regulatory Reporting - 1 July 2020 to 30 April 2021	17
7.1.2	Attachment 2: Deemed Permit Report - May 2021	29
7.1.3	Attachment 3: Consent Process Improvements	32
7.1.4	Attachment 4: Compliance Audit and Performance Monitoring Schedule 2021/22	34
7.2	INTENSIVE WINTER GRAZING 2021	35
	This report is to provide Councillors with an update on how Intensive Winter Grazing (IWG) is being managed by the Regulatory Group over the 2021 winter.	
7.2.1	Attachment 1: Media Release Winter Flyovers 25.05.21	40
8.	CLOSURE	



Minutes of a meeting of the
Regulatory Committee held in the Council Chamber on
Thursday 11 March 2021 at 8:30 AM

Membership

Cr Gary Kelliher (Co-Chair)
Cr Andrew Noone (Co-Chair)
Cr Hilary Calvert
Cr Michael Deaker
Cr Alexa Forbes
Hon Cr Marian Hobbs
Cr Carmen Hope
Cr Michael Laws
Cr Kevin Malcolm
Cr Gretchen Robertson
Cr Bryan Scott
Cr Kate Wilson

Welcome

Regulatory Co-Chair Kelliher welcomed Councillors, members of the public and staff to the meeting at 08:33 am.

Staff present included Sarah Gardner (Chief Executive), Richard Saunders (GM Regulatory and Communications), Nick Donnelly (GM Corporate Services), Amanda Vercoe (Executive Advisor), Dianne Railton (Governance Support Officer), Liz Spector (Governance Support), Joanna Gilroy (Manager Consents), Tami Sargeant (Manager Compliance), Steve Rushbrook (Harbourmaster), Eleanor Ross (Manager Comms Channels), Lisa Gloag (Manager Communications and Engagement), Ryan Tippet (Media Communications Lead)

For our future

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1. APOLOGIES

Resolution

That the apologies for Cr Scott and Cr Hope be accepted.

Moved: Cr Wilson

Seconded: Cr Calvert

CARRIED

2. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

3. CONFLICT OF INTEREST

No conflicts of interest were advised.

4. PUBLIC FORUM

No requests to speak to the Committee were received.

5. CONFIRMATION OF MINUTES

Resolution

That the minutes of the meeting held on 20 October 2020 be received and confirmed as a true and accurate record.

Moved: Cr Wilson

Seconded: Cr Robertson

CARRIED

6. ACTIONS

Status report on the resolutions of the Regulatory Committee

Cr Noone advised he has contacted Hon David Clarke's office and LGNZ regarding better cellular coverage in Otago but he has received no response to date. This item will remain on the Action Register until a response is received.

7. MATTERS FOR CONSIDERATION

7.1. RMA Compliance and Enforcement Policy

The report was provided to seek approval to adopt the RMA Compliance and Enforcement Policy. Tami Sargeant (Manager Compliance) and Richard Saunders (GM Regulatory and Communications) spoke to the report and responded to questions.

Ms Sargeant advised that the draft RMA Compliance and Enforcement Policy was developed based on RMA requirements, Regional Sector Strategic Compliance Framework, MfE Best Practice Guidelines and case law. She said it completes the framework for ORC's direction in compliance, monitoring and enforcement in Otago. Ms Sargeant said the plan documents what is currently proposed, and the adopted policy will be published on the ORC website. She also said an update will be included in the next Regulatory Newsletter advising the policy's adoption.

After discussion, Cr Malcolm moved:

Resolution

That the Committee:

- 1) **Receives** this report.
- 2) **Adopts** the RMA Compliance and Enforcement Policy 2021.
- 3) **Authorises** staff to make any minor editorial changes resulting from quality checks prior to the final publication of the RMA Compliance and Enforcement Policy.

Moved: Cr Malcolm

Seconded: Cr Wilson

CARRIED

7.2. Regulatory Group - Quarterly Activity Report

The report was provided to update the Committee on activities of the Regulatory Group during the current year to 28 February 2021. Tami Sargeant (Manager Compliance), Joanna Gilroy (Manager Consents) and Richard Saunders (GM Regulatory and Communications) spoke to the paper and responded to questions.

After discussion Cr Noone moved:

Resolution

That the Committee:

- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the period 1 July 2020 to 30 September 2020.

Moved: Cr Noone

Seconded: Cr Wilson

CARRIED

7.3. Harbourmaster Summer Activity Update

The report was provided to update the Committee on Harbourmaster activities and operations during the 2020/2021 summer season. Steve Rushbrook (Harbourmaster) and Richard Saunders (GM Regulatory and Communications) spoke to the paper and responded to questions. Mr Saunders stated the Harbourmaster team is at capacity with responsibility for Lake Dunstan and Coastal Otago and plans are in place to purchase a second boat to avoid towing the Dunedin-based boat, Kaitiaki, to Central Otago.

After discussion Cr Robertson moved:

Resolution

That the Committee:

- 1) **Receives** this report.

Moved: Cr Robertson
Seconded: Cr Laws
CARRIED

9. CLOSURE

There was no further business and Co-Chair Kelliher declared the meeting closed at 09:26 am.

Chairperson

Date

REGULATORY COMMITTEE OUTSTANDING ACTIONS OF RESOLUTIONS AT 10 JUNE 2021

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date	Completed (Overdue)
14/10/2020	GOV1945 Regulatory Group - Quarterly Activity Report	In Progress	Request the Chair and CEO to actively pursue better cellular coverage in Otago with Central Government and LGNZ to ensure staff and residents can fully engage in online data, monitoring and information opportunities and requirements.	Chairperson, Chief Executive		11/03/2021	

7.1. Regulatory Group - Quarterly Activity Report

Prepared for: Regulatory Committee
Report No. GOV2122
Activity: Regulatory: Consents and Compliance
Author: Richard Saunders, General Manager Regulatory
Endorsed by: Richard Saunders, General Manager Regulatory
Date: 13 June 2021

PURPOSE

- [1] To update the Committee on activities of the Regulatory Group during the 2020/21 year to 30 April 2021, and to approved the Compliance Audit and Performance Monitoring Schedule for 2021-22.

EXECUTIVE SUMMARY

- [2] This report summarises the activity of the Regulatory Group which includes Consents, Compliance, Harbourmaster and the Regulatory Data and Systems teams.

RECOMMENDATION

That the Committee:

- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the period 1 March 2021 to 31 May 2021.
- 3) **Approves** the Compliance Audit and Performance Monitoring Schedule for the 2021/2022 year.
- 4) **Notes** that activity against the approved Compliance Audit and Performance Monitoring Schedule will be measured as part of the 2021/2022 Long Term Plan Community Outcomes.

DISCUSSION

- [3] The following report provides a summary of the activity of each team within the Regulatory Group.
- [4] Attachment 1 contains statistics on Regulatory Group activity for the 2020/2021 year to 30 April 2021. This report covers activities between this period. At the time the report was due for the agenda the data for May 2021 was not available.

CONSENTS

Consent Processing

- [5] In the reporting period decisions were made on 121 individual consents, up on 110 in the previous period. Despite a very high workload all decisions in this reporting period were made within Resource Management Act timeframes. Timeframe extensions were
-

used in this period in most cases to enable the applicant to review the proposed conditions. A number of applications to replace deemed and water permits have also been placed on timeframe extension until the release of the decision on Plan Change 7.

- [6] At the end of the reporting period there were 355 applications in the system, which is an increase from 269 in July last year. The number in the system increased as expected, in part due to applications relating to deemed and water permits coming during February and March 2021. For context, 32 applications were received in January 2021, 54 in February 2021 and 92 in March 2021. With this number of consents in the system staff workloads remain very high, but statutory timeframes are being met.
- [7] Applications relating to residential earthworks, effluent storage and the discharge of effluent to land have also been received. These are new consent types which are required under PC8. Staff have made process improvements to support the smooth processing of these new consent types. All staff have also undertaken additional training.
- [8] No applications were publicly notified in the reporting period. A hearing date has yet to be set for the application that was notified in the previous reporting period. This notification related to an application for a new water permit to replace an existing water permit for the Arrow Irrigation Company.
- [9] Two consent hearings were held during the reporting period, one in person and one 'on the papers'. These were for limited notified applications relating to new water permits to replace existing permits. One limited notified application relating to deemed permits will have a hearing in Queenstown in June 2021.
- [10] Three applications were limited notified during this period. Some of these applications may need to go to a hearing, but if matters raised in submissions can be resolved or there are no submissions, then these can be signed off under existing staff delegations. The type of applications limited notified included water permits to take surface water, land use consents and discharge to land permits.
- [11] A summary of consents statistics for the period are included in Figures 1 to 5 of Attachment 1.

Deemed Permit Replacements

- [12] Statistics on the number of deemed permits and their location are shown in Attachment 2. If the deemed permit is not replaced, it will only remain current until 1 October 2021.
- [13] During the reporting period a number of applications relating to the replacement of deemed and water permits in the Manuherekia area have been lodged with Council. An internal project team has been set up to manage the processing of these applications and to ensure consistent communication with stakeholders and applicants. Positive feedback has been received about this approach to date. These applications have been accepted for processing. They are now on timeframe extensions at the request of the applicants until staff have a decision on Plan Change 7 from the Court.
- [14] Applications have been lodged during the reporting period for water permits under Plan Change 7, specifically seeking a consent term of 6 years. These have typically been from

people preparing their own applications, with some coming in prepared by consultants. Whilst Plan Change 7 applies to these applications, Consents staff must also still consider the rules and policies in the operative plan. Once a decision has been made on Plan Change 7 in the Environment Court, this requirement to consider both plans is removed. Whilst potential changes to PC7 haven been discussed in Court, these do not have any legal effect and have no effect on how current applications are processed.

- [15] The key date of 1 July 2021 is approaching for applications relating to deemed permits. After this date Council is unable to use its discretion to allow permit holders to continue to operate if a new permit has not been granted. Applications need to be lodged and accepted by this date.
- [16] Letters reminding people to apply for their permits have been going out regularly and several advertising campaigns have been run in local papers and ORC communications such as Waterlines. Work will continue to ensure that people are aware of the need to reapply and are aware of the risks associated with applications made after 1 July 2021. Staff have started to call deemed permit holders who do not have an application in yet, to see if they will be applying or not.
- [17] No appeals on decisions have been received. The ones already with the Environment Court, which all relate to water permits, will not be heard until a decision has been released on Plan Change 7.

Public Enquiries

- [18] Responding to public enquiries remains a significant part of the workload of the Consents Team. 1,985 enquiries were received this year to 30 April 2021. That is a total of 679 for this 3 month period. The team now have two dedicated staff allocated to public enquiries. They are able to provide advice regardless of the location in the region the query relates to.
- [19] The high number of enquiries can be attributed to both the significant change to the legislative framework and a more robust recording system to track enquiries. Pre-application advice has been provided about consents being required under Plan Change 8 to the Water Plan and the legislation relating to the Action Plan for Healthy Waterways.
- [20] The Public Enquiries team have been responding to requests for comments on applications that are seeking to use the 'Fast Track' process provided by the COVID-19 Recovery (Fast-Track Consenting). To date Council has provided comments back on 8 applications. This process is run by the EPA. One decision on a 'Fast-Track' consent has been provided, which relates to the Queenstown Arterials Project. This project was included in the legislation and all consents have been approved. Council is now responsible for the monitoring of these consents.
- [21] In order to enhance the public enquiries service, staff are now ensuring that anyone who seeks advice about activities relating to the NES-FW or Plan Change 8 is offered a site visit. Additionally, staff are asking if they are providing information to a catchment or community group to ensure the right level of support is provided. Staff have found that this will be one of the best ways to support those who have not been through the consents process before. Resources on the ORC website are being developed further, so

that more information about the consents process is available. New resources in development include:

- An infographic that shows the consent process. This is in the design stage and will be available soon.
- A consent information page specific to community and catchment groups. This will pull all existing information into one spot for them. Staff also intend to include examples of common consent types they may need to apply for.

NES-FW and Plan Change 8 work

[22] The Consents team and wider Regulatory Group remain heavily involved in the implementation work on the NES-FW and Plan Change 8. Key work that has carried on from the last reporting period includes:

- Attendance at catchment group meetings when invited.
- Site visits for applications that relate to wetlands and works in streams. These are areas covered by the NES-FW.
- Developing more responses to frequently asked questions and practice notes on key topics. These are on Council's website.
- Discussions with stakeholder and industry groups about implementation and interpretation of the new regulations.
- Participating in the internal cross-Council working group for the implementation of the NES-FW and Plan Change 8.

[23] Staff have also been involved in the development of conditions, reports and application forms for intensive winter grazing under Plan Change 8. It is likely that most farmers will have existing use rights for this season, but in case they do not staff have an application form available for them to use. To date no consent applications have been received, but a number of enquiries about consent requirements have been received. Staff are encouraging people to ring us if they are unsure about the rules.

[24] Staff remain involved in the regional sector group providing input into the development of Freshwater Farm Plans and feedback on the IWG requirements under the NES-FW. This work is being led by the Ministry of the Environment and will introduce the regulations that guide the preparation, certification and audit process for these plans. As farm plans will be a new tool for Otago it is important that staff remain closely connected to this work so they can understand the impact it may have on our business.

Building Consent Authority (BCA) Administration

[25] In the 2020/21 year to date very little activity has occurred in the building consent area. Three Certificate of Compliance applications were received and one approved. No applications for Building Consent were received in the reporting period, but one has been granted.

[26] The transfer of the BCA function to Environment Canterbury has now been approved by Council. Staff are currently working on handover requirements and training with Environment Canterbury staff. Accreditation as a Building Consent Authority ceased on 1 June 2021 when the transfer commenced.

Flood Protection Management Bylaw 2012

- [27] The Consents team is currently responsible for co-ordinating the approval of applications under the Flood Protection Management Bylaw 2012. From 1 July 2021 this function will be carried out by Council's Engineering Team. During the reporting period 15 decisions on Bylaws were issued. This is up from decisions being made on 10 Bylaws in the preceding reporting period.

Process Improvements

- [28] In 2019 the findings into the review of the Consents Team were released and work has occurred over the last 18 months to implement these findings. Key recommendations related to the quality of decision making, increasing staffing levels, cost recovery and chargeable time. Whilst the findings of the review have been implemented, work has continued to improve processes.
- [29] The key focus for staff over the last six months has been on how service is provided and ensuring staff have the tools to support them. This is an ongoing process, which is driven by staff and customer feedback. Changes that have been implemented in the last six months are listed in Attachment 3. This is not an exhaustive list, but it shows the level of change and commitment to improving how the team operates. The focus for the team over the next six months will continue to be on how staff interact with customers and the level of information staff provide them, as well as identifying areas for efficiency gains.

COMPLIANCE

Performance Monitoring

- [30] In the 10 months to 30 April 2021 the Regulatory Data and Systems and Compliance teams have graded 4,512 Performance Monitoring returns. This is up from 4,105 Performance Monitoring returns graded over the same time period last financial year.
- [31] A summary of performance monitoring data is set out in Figures 7 and 8 of Attachment 1.
- [32] A major focus of the Regulatory Data and Systems team is the replacement of Hilltop, the Council's current timeseries database. This included a moratorium on entering performance monitoring returns into the Hilltop database which has impacted the completed returns in this financial year.
- [33] Another major focus of the team has been the Plan Change 7 Environment Court Case, with two staff appearing as expert witnesses for the Council.

RMA Consent Audits

- [34] In this reporting period 504 on site consent audits have been completed. Generally, compliance with consents can be considered high with most consent conditions being considered either fully compliant (184 consents) or low risk non-compliance (159 consents). All moderate non-compliances (96 consents) or significant non-compliances (52 consents) have been followed up by staff and either appropriate action has been taken, or investigations are continuing.

- [35] A summary of RMA consent audit data is set out in Figures 9, 10 and 11 of Attachment 1.
- [36] Planning for consent audits in the 2021/2022 year has been completed. Attachment 4 shows the planned performance monitoring audits and compliance audits. These will be measured and reported on as part of the Long-Term Plan Community outcome measures which require that 85% of the planned compliance audits and 90% of planned performance monitoring audits are completed.
- [37] Additional staff for compliance monitoring in Oamaru and Balclutha have been recruited. Having dedicated compliance staff in Oamaru and Balclutha will support monitoring activity under the NES-FW and improve incident response across the Coastal Otago area.

Forestry

- [38] In this reporting period 33 forestry site inspections were completed. Generally, forestry activities have been conducted to a high standard. 28 sites were considered fully compliant, three sites were considered low risk non-compliance, one site was considered moderate non-compliance and one site was considered significant non-compliance. The moderate and significant non-compliances were due to a non-compliant temporary crossing and slash near a waterway. Both matters were followed up by compliance staff to ensure appropriate remedial action was taken.
- [39] Further details on enforcement action can be found in Figures 18 and 19 of Attachment 1.

Dairy programme

- [40] The 2020/21 Dairy Inspection Compliance Project commenced in September 2020, and to 30 April 2021 compliance staff had completed 351 dairy inspections. All high-risk farms have been inspected, with follow-up visits undertaken. Overall compliance can be considered high with most farms being considered either fully compliant or low risk non-compliance. Nine farms were moderately non-compliant, and four farms were significantly non-compliant. The four significantly non-compliant inspections related to an effluent discharge that resulted in ponding, a silage leachate discharge that resulted in ponding and a case where inappropriate effluent pond infrastructure was being used. These matters have been followed up by staff and either appropriate action has been taken, or investigations are continuing.
- [41] The 2020/21 dairy project has had a particular focus on the storage of effluent pond solids and stone trap clearings, the distances that these have been kept away from waterways and monitoring their potential to discharge to the environment through ponding and overland flow. Emphasis has also been placed on the monitoring of silage leachate ponding and the lack of silage leachate collection facilities on many farms. There has also been a strong focus on providing awareness and engaging with farmers on the new requirements with the NES for Freshwater, the Stock Exclusion Regulations, Water Measuring Regulations and Plan Changes 8. Dairy inspections will continue until the end of May 2021.

[42] A summary of dairy inspection data is set out in Figures 16 and 17 of Attachment 1.

Investigations

[43] 1,281 service requests were received on the pollution response line in this reporting period. The most common reasons for requests were water pollution (322), outdoor burning (273), odour (207) and air discharge/spray (141).

[44] Further details on service requests can be found in Figures 12 and 13 of Attachment 1.

[45] In the year to 30 April 2021, ORC issued 25 formal warnings, 21 infringement notices, 11 abatement notices and initiated one prosecution.

[46] Further details on enforcement action can be found in Figures 14 and 15 of Attachment 1.

Contaminated Sites

[47] In the year to 30 April, 173 complaints and enquiries were responded to, 90 HAIL sites were registered or updated, and 43 audits of contaminated sites were undertaken. Compliance monitoring of landfill consent conditions is also ongoing.

[48] ORC administers the Ministry for Environment Contaminated Sites Remediation Fund for the remediation of contaminated sites and staff are currently working with two applicants on remediation projects.

Harbourmaster

[49] A significant milestone completed recently by the Otago Regional Council Harbourmaster was the Port and Harbour Marine Safety Code 3 yearly external review. This was carried out on 21 May 2021. Both the ORC and Port Otago Limited's Safety Management Systems were reviewed for compliance with the code. The panel have agreed that Otago are compliant in this respect and a full report is due soon.

[50] There are two significant incidents to report on in this period.

- The first was a fatality at Taieri Mouth Bar. The Deputy Harbourmaster assisted Police on the day of the incident and the Harbourmaster has responded to requests for information from the coroner as part of the ongoing investigation.
- The second incident involved a ship losing power in the Otago Harbour. The ship remained in the channel until power was restored and continued as planned. This is recorded as a near miss and reported to Maritime New Zealand.

[51] The Harbourmaster has been engaged in the working group with Aurora for the replacement of power cables being laid across Otago Harbour. Cables are being laid 24, 25 and 26 May 2021, with Harbourmaster attendance onsite to manage recreation users as required.

- [52] As part of our ongoing training for maritime response an oil spill exercise was held at Macandrew Bay on 27 April 2021. Twenty ORC staff attended along with businesses in Otago who hold Tier 1 oil spill response plans. Maritime New Zealand revalidated staff as required for ongoing training. Over the 2020/2021 year staff have been refreshing our staff capability in this area with several staff attending training courses with Maritime New Zealand recently. This includes staff from Central Otago.
- [53] The final Oil Spill Plan for Otago Harbour and coast is being finalised with Maritime New Zealand. This plan has been out of date for some time and has undergone a significant refresh. It will be circulated once agreed.
- [54] Improved permanent maritime signage solutions have been placed at Henley, with further improvements planned for Taieri Mouth, Outram and Waihola. Maritime safety signage has also been added at Vauxhall, Macandrew Bay and Back Beach with further additions planned at Broad Bay and Careys Bay.
- [55] The Harbourmaster responded to recent protest action on Lake Dunstan following a call from a member of the community. Protest action is permitted, however in this instance obstructions were placed in the water in breach of the ORC Navigational Safety Bylaw. Permission was given for a third party to remove the obstructions to ensure safe navigation for anyone using the area. Contact has been made with the group undertaking the protest to encourage them to make contact ahead of any future action to avoid a similar situation occurring.

OPTIONS

- [56] As this is a report for noting there are no options.

CONSIDERATIONS

Policy Considerations

- [57] There are no policy considerations.

Financial Considerations

- [58] There are no financial considerations.

Significance and Engagement

- [59] As this is a report for noting consideration of the Significance and Engagement Policy is not required.

Legislative Considerations

- [60] A number of legislative requirements govern the activities of the Regulatory Group.

Risk Considerations

- [61] There are no risk considerations.

Climate Change Considerations

[62] There are no climate change considerations associated with this report.

Communications Considerations

[63] Communication with the Otago community occurs on a regular basis as a way to educate and inform people on regulatory matters. This includes a quarterly regulatory newsletter which is aimed at informing RMA professionals on technical matters and relevant updates.

NEXT STEPS

[64] Regulatory activity will continue and will be reported to the Regulatory Committee on a quarterly basis.

ATTACHMENTS

1. Regulatory Reporting - 1 July 2020 to 30 April 2021 [7.1.1 - 12 pages]
2. Deemed Permit Report - May 2021 [7.1.2 - 3 pages]
3. Consent Process Improvements [7.1.3 - 2 pages]
4. Compliance Audit and Performance Monitoring Schedule 2021/22 [7.1.4 - 1 page]

APPENDIX 1: REGULATORY REPORTING FOR THE PERIOD 1 JULY 2020 TO 30 April 2021

Consents

Figure 1: Resource Consent Applications Received

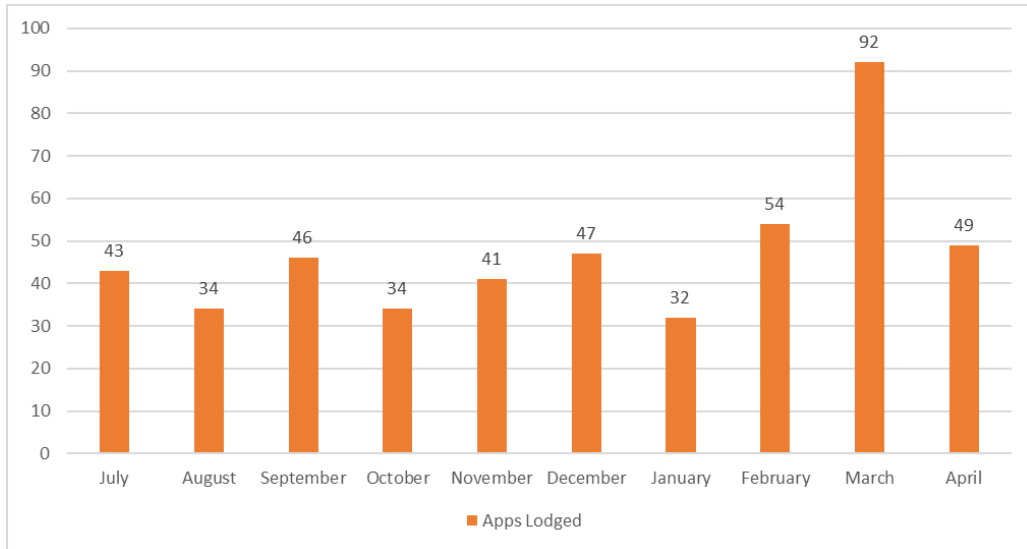


Figure 2: Notified Applications

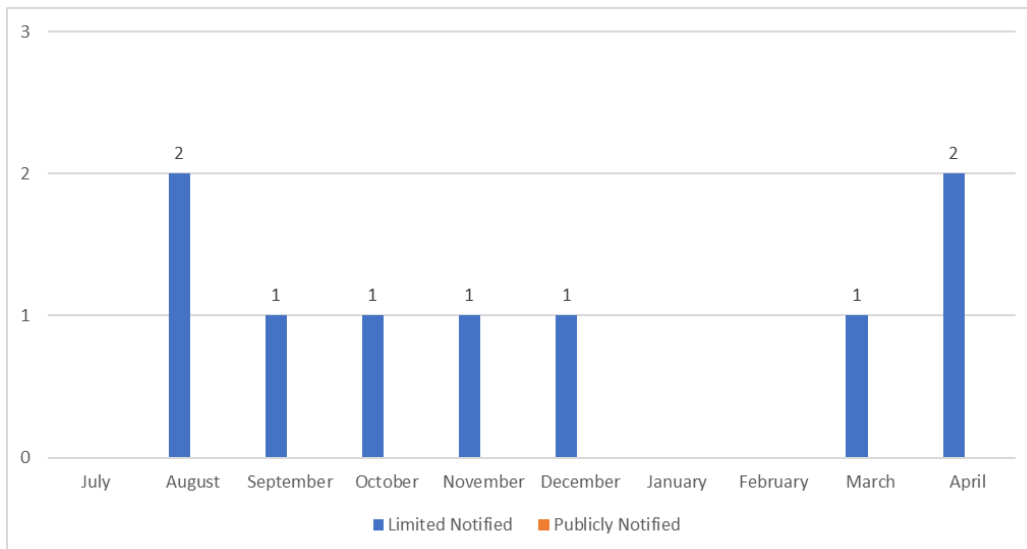


Figure 3: Resource Consents Issued

Activity	July	August	September	October	November	December	January	February	March	April	Total	
Bore	4	5	10	8	9		5	4	10	22	15	92
CMA Use	2	3				1	1		2			9
Compliance Certificate		1					1		2	2		6
Dam		2	1	1			1	1		1		7
Discharge to Air	1		1	3	3			1				9
Discharge to Land	6	6	5	13	5		8	1	6	4	1	55
Discharge to Water	2	1	3	2	1		1	1	3	1		15
Divert		1	2	1			1	1	1		1	8
Earthworks							1	1	2	1	1	6
Effluent Storage									1			1
General	5	4	7	6	4		9	5	5	7	5	57
Gravel	1	1				1				2		5
Groundwater Take	1	4	3	4	4		1			2	1	20
Surface Take		12	2	4	4		3	1	1	1	3	35
Vegetation Clearance			1						1			2
Total		34	30	37	42		31	15	34	42	30	327

Figure 4: Other Applications Received

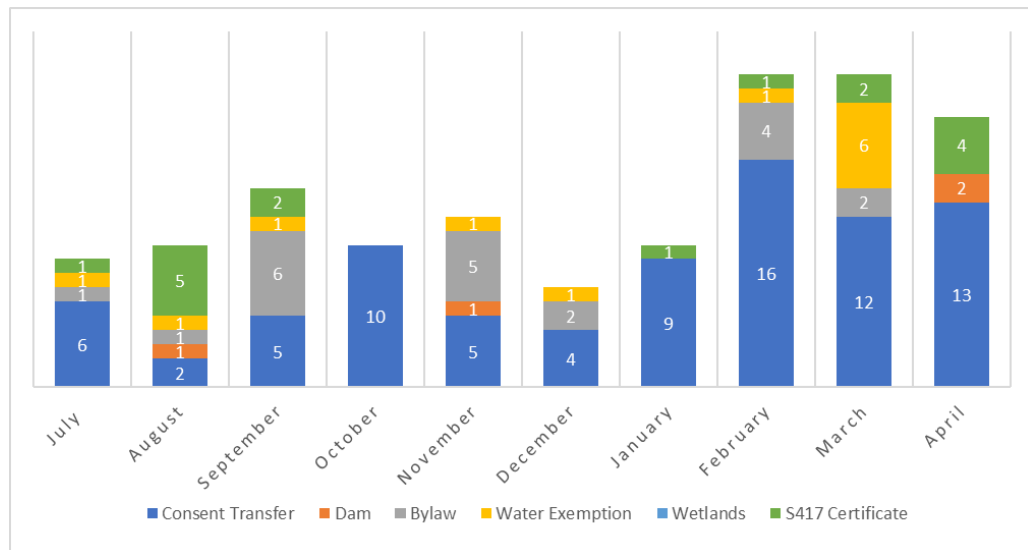


Figure 5: Other Applications Processed

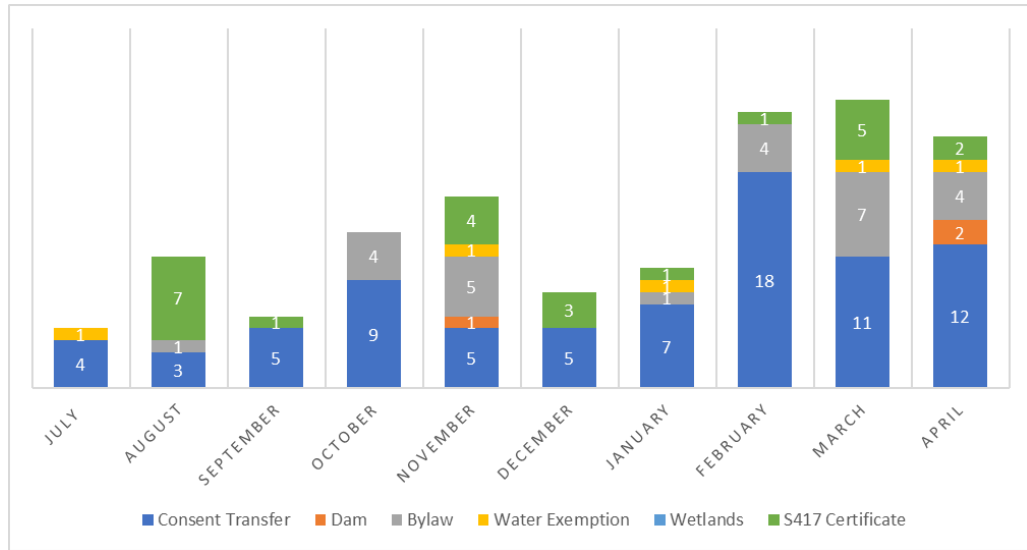


Figure 6: Consent Public Enquiries

Total 1985

Type of Enquiry	No.	% of Total
Air Quality	74	3.72
Boat Sheds & Jettys	17	.86
Bores	53	2.68
Coastal Other	29	1.46
Contaminated Site	8	.40
Current Consents	221	11.13
Deemed Permits	63	3.17
Discharge to Land	57	2.87
Dust Suppressants	4	.20
Farming Activities	85	4.28
Grave Extraction	5	.25
Historic - Current Consents	6	.30
Historic - Mining Privileges	3	.16
Historic Other	3	.16
Land Use - Other	27	1.37
Mining Privileges	12	.60
Moorings	14	.70
Other	91	4.58
Permitted Activity	210	10.57
Plantation Forestry	5	.25
Pre-application	139	7

Property Enquiries	38	1.91
Residential Earthworks	13	.66
Specific Consent Enquiry	484	24.39
Transfers	6	.30
Water Other	67	3.37
Water Quality	15	.76
Water Take	173	8.72
Wetlands	6	.30
Working in a Waterway	57	2.88

Method of Enquiry	No.	% of Total
Counter	249	12.54
E-mail	1339	67.45
Internet	47	2.37
Telephone	350	17.64

Enquiry Location	No.	% of Total
Central Otago DC	503	25.34
Clutha DC	149	7.5
Dunedin CC	388	19.55
Outside Otago	2	.10
Queenstown Lakes DC	374	18.85
Throughout Otago	113	5.69
Unspecified	299	15.07
Waitaki DC	157	7.9

Compliance

Figure 7: Performance Monitoring Returns Completed

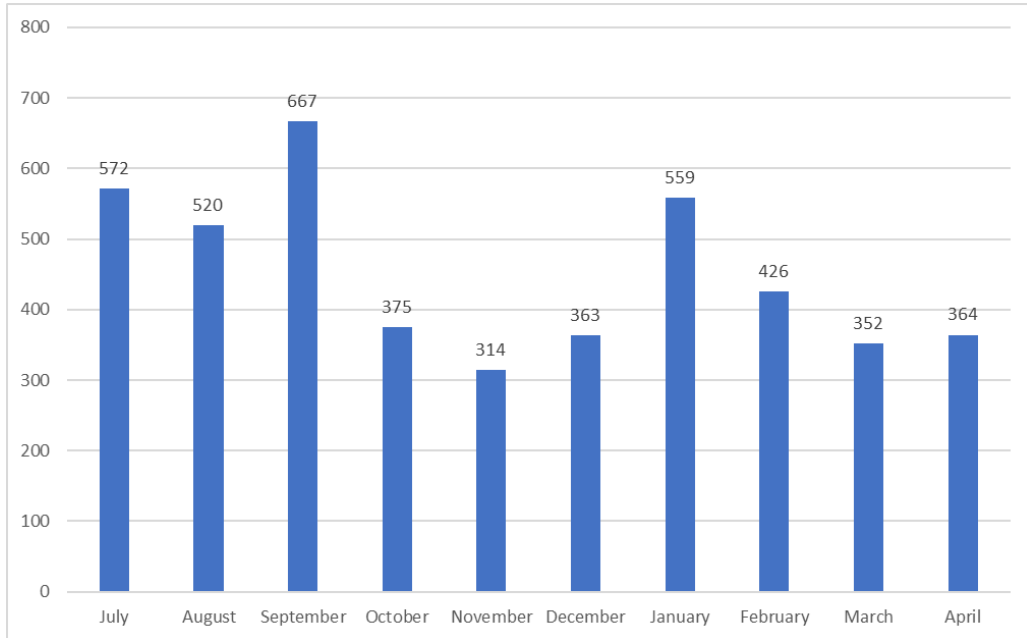


Figure 8: Performance Monitoring Grades Year to Date

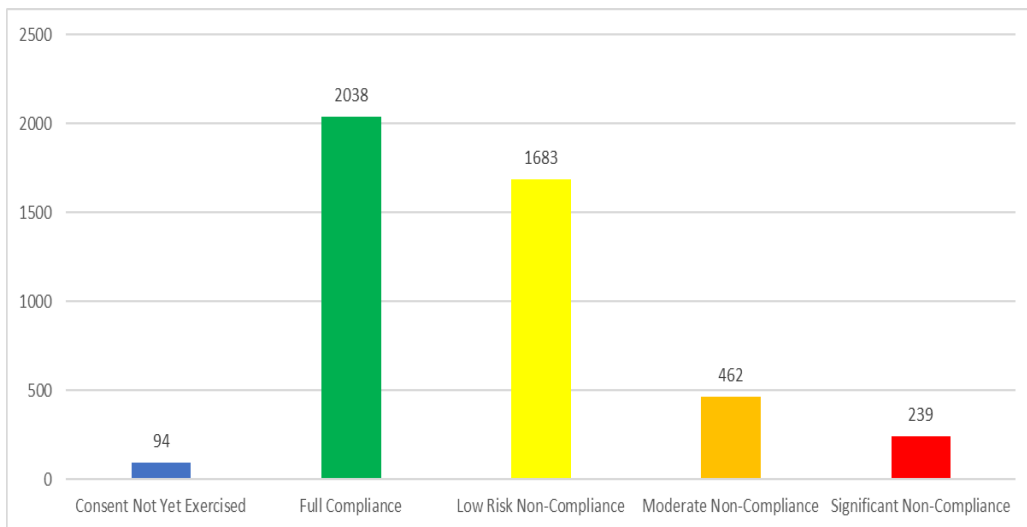


Figure 9: RMA Consent Audits Completed

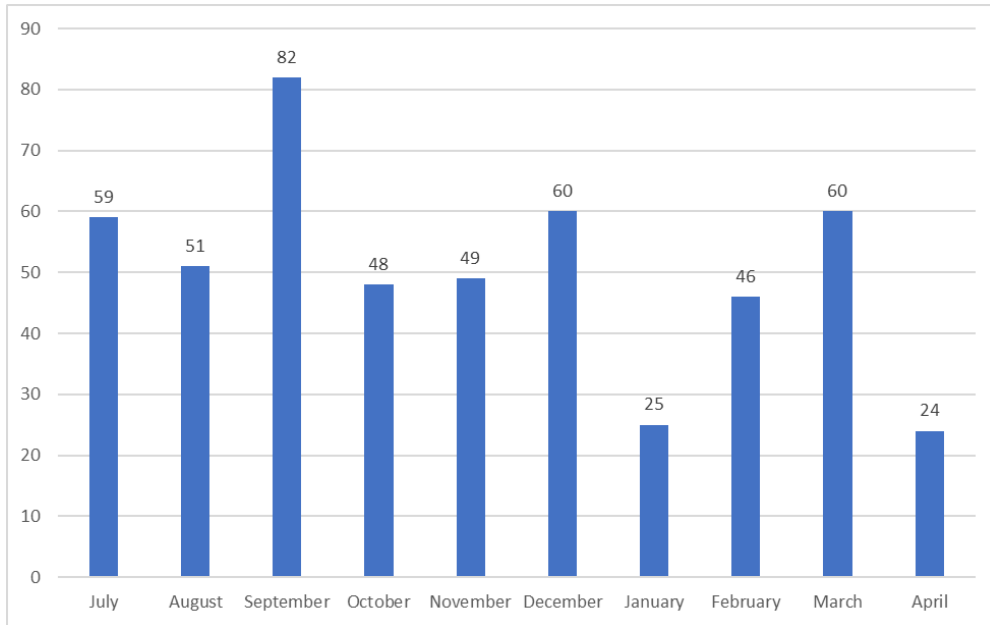


Figure 10: Audit Grades Year to Date

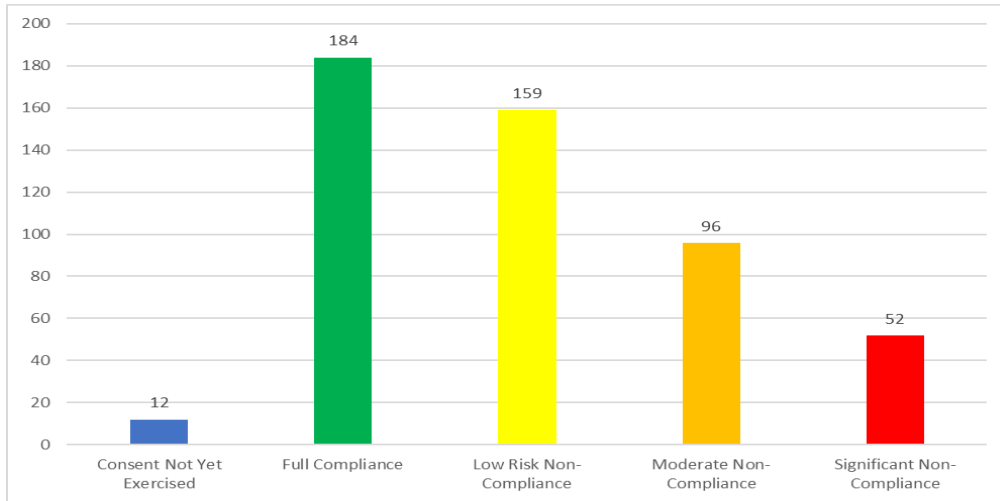


Figure 11: Types of Significant Non-Compliance

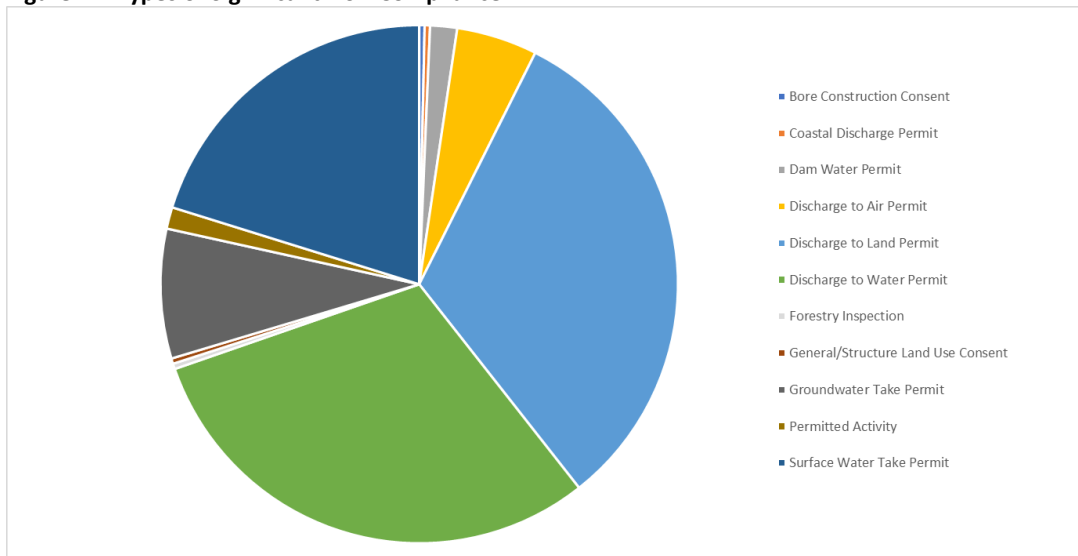


Figure 12: Service Requests

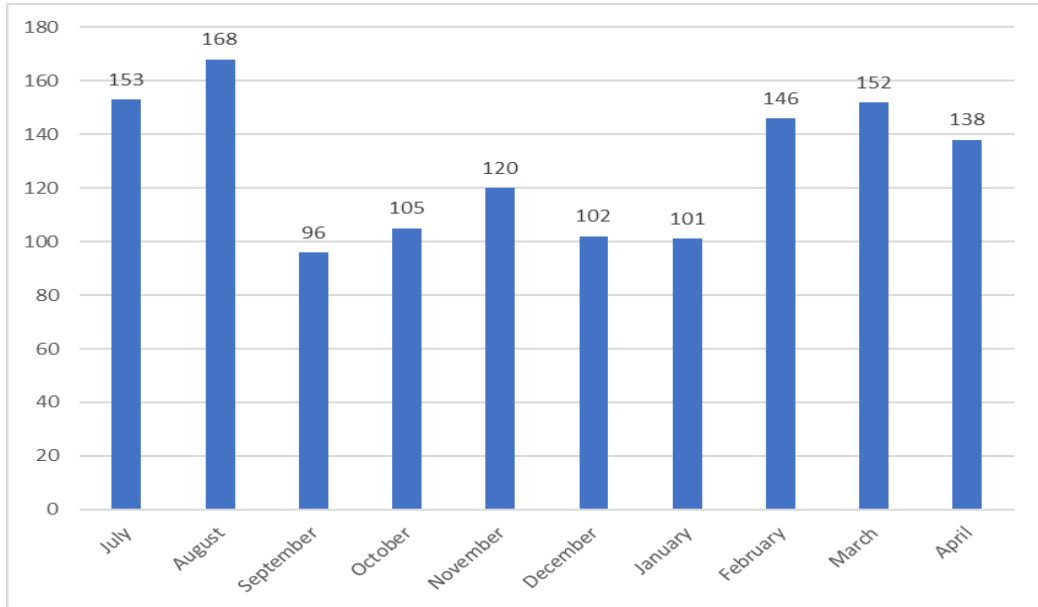


Figure 13: Service Requests by Type

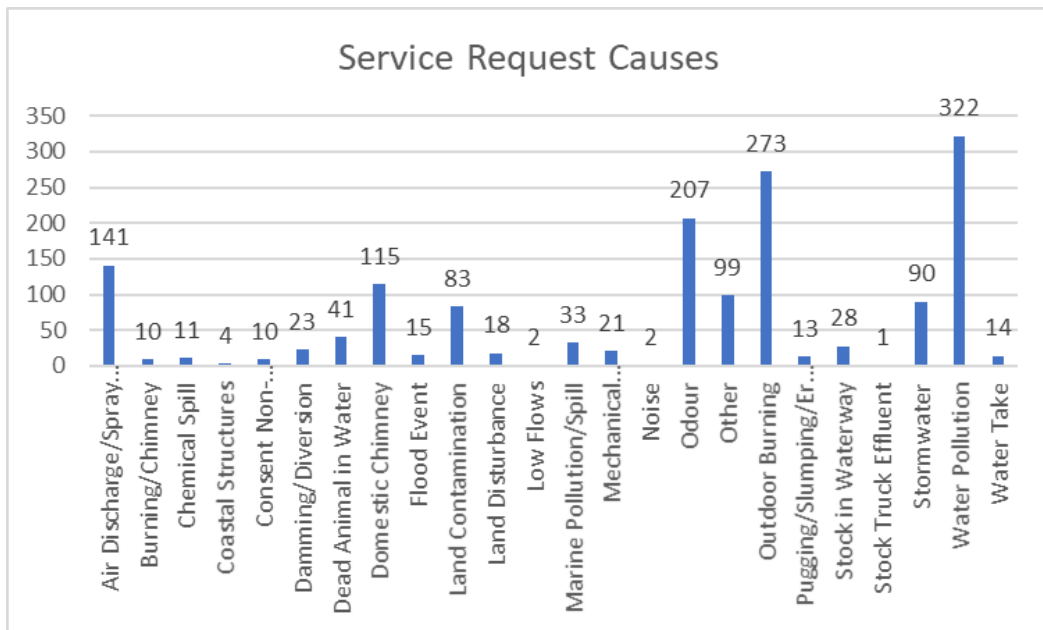


Figure 14: Enforcement Action

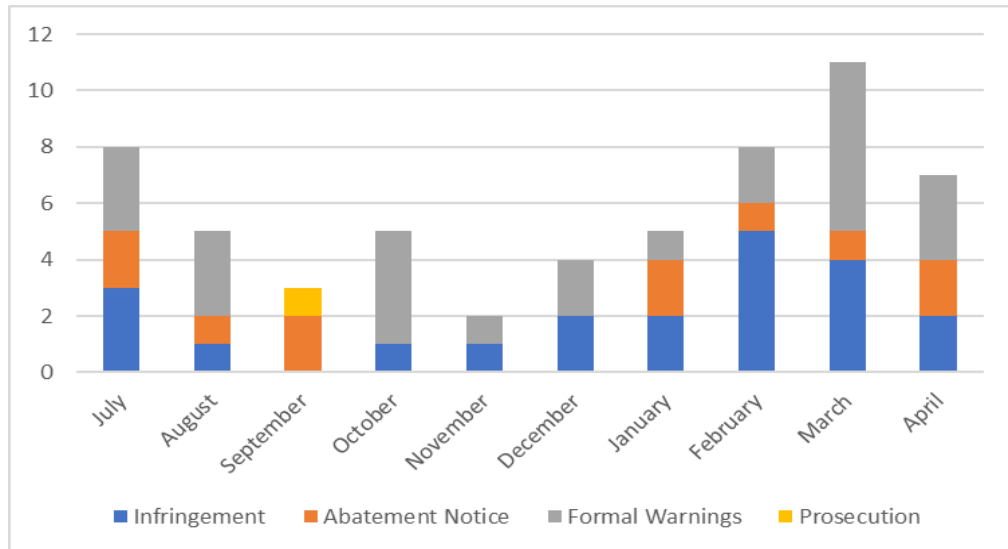


Figure 15: Enforcement Causes

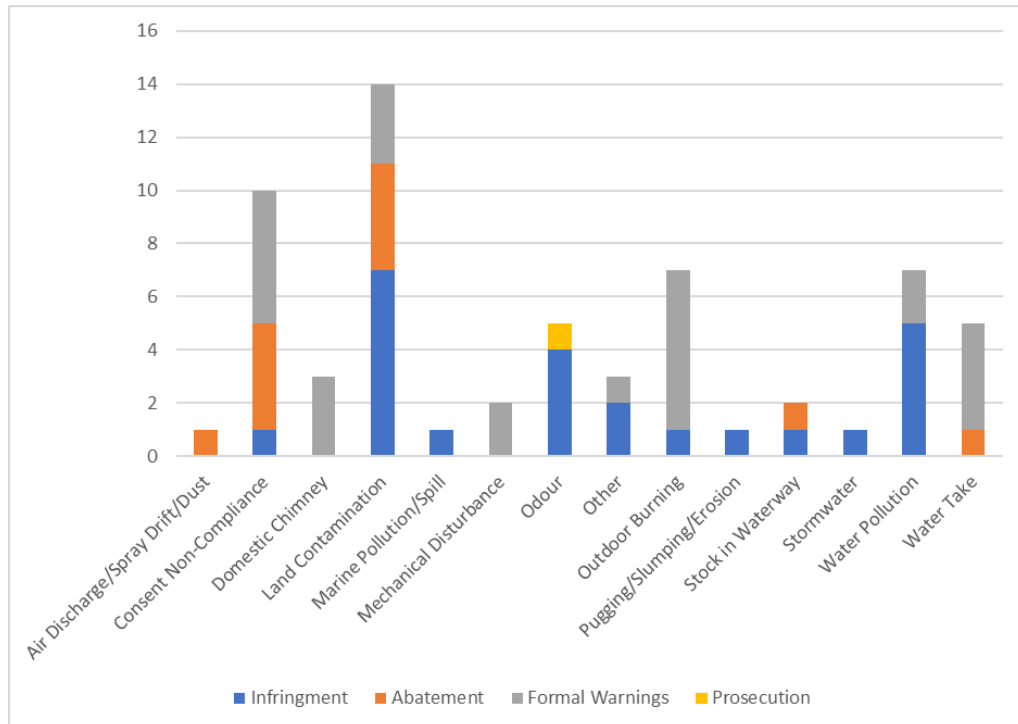


Figure 16: Diary Inspections

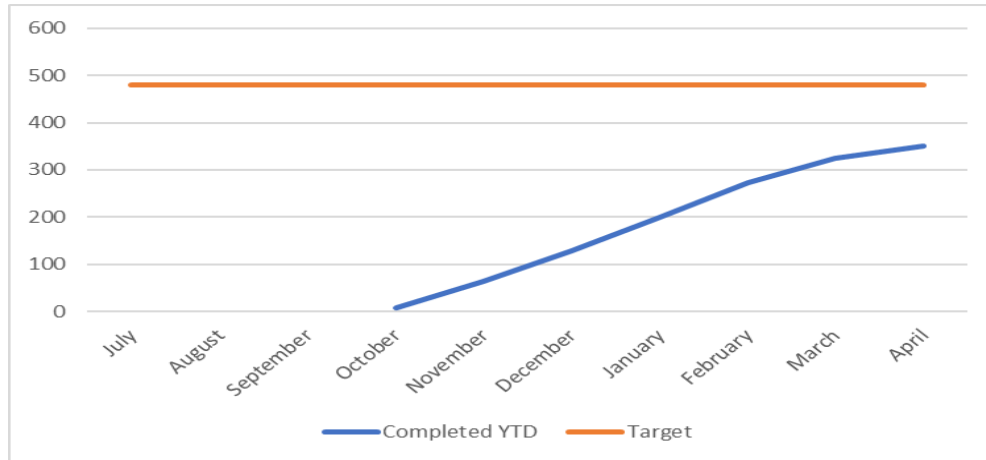


Figure 17: Diary Inspection Grades

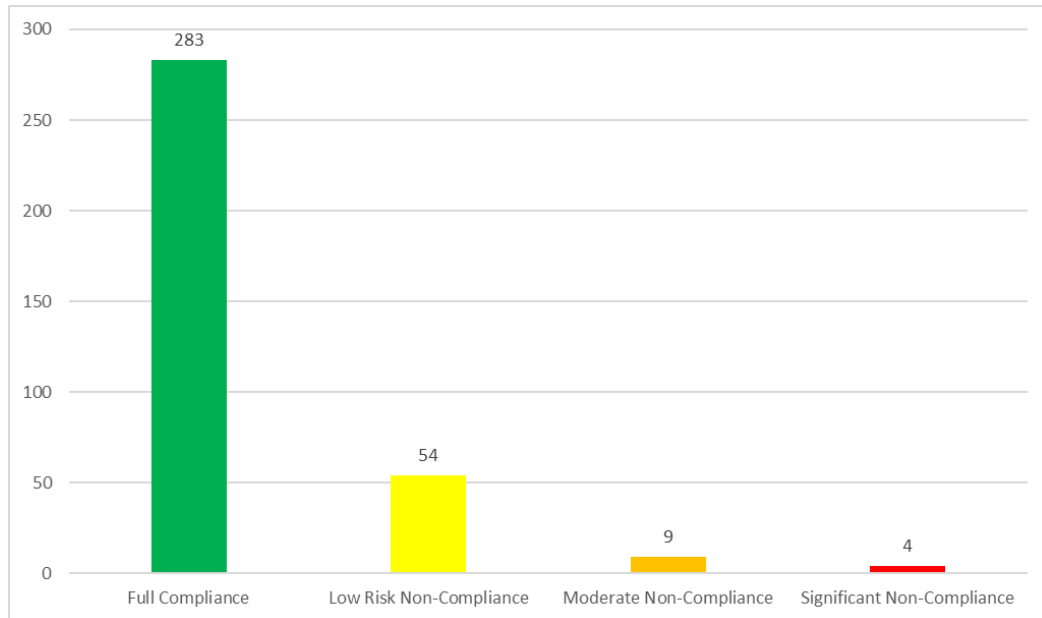


Figure 18: Forestry

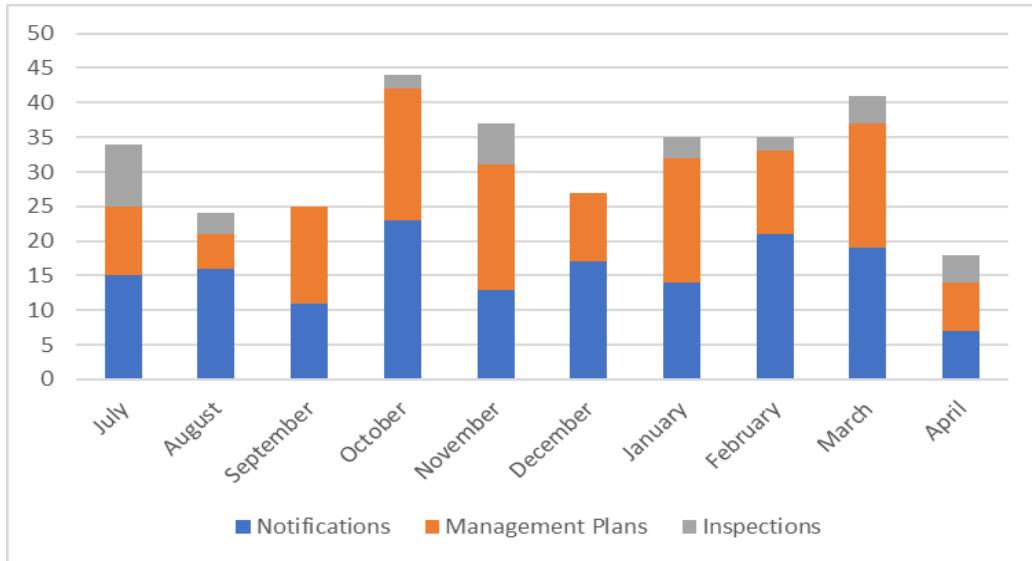
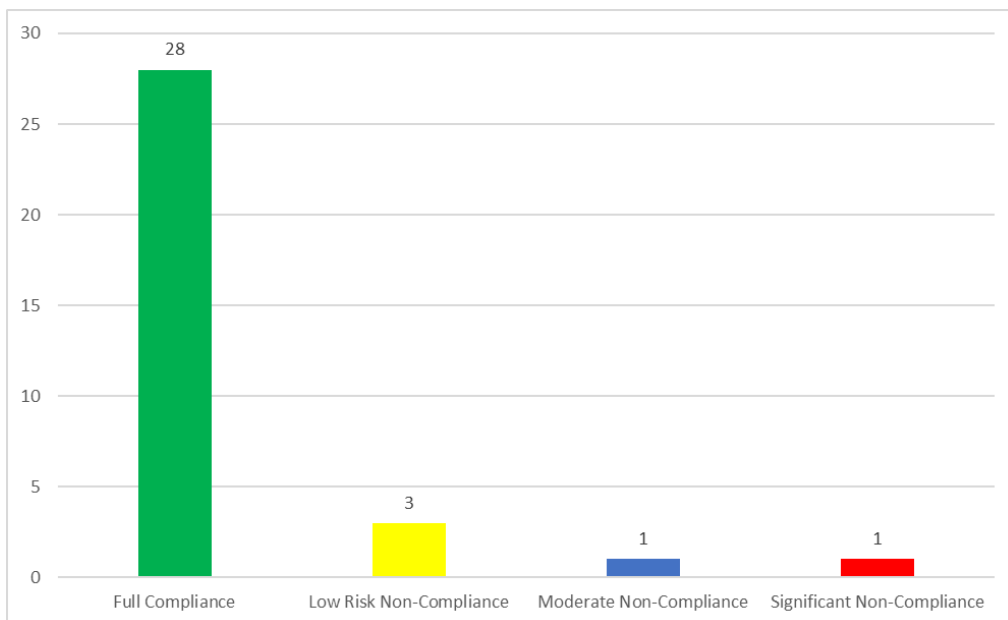


Figure 19: Forestry Inspection Grades



Deemed Permit Status

The Otago Regional Council's consent database currently contains data for 585 Deemed Permits. Their current status is:

- Cancelled: 23
- Current: 330
- Expired: 46
- Surrendered: 186
- Total: 585

Note: Of the 330 Current Deemed Permits 22 have been replaced by 15 Resource Consents but have not yet been surrendered. Therefore they maintain a status of current.

Since 1 January 2016 the Otago Regional Council has granted 31 Resource Consents to replace 79 Deemed Permits. 36 of these Deemed Permits have been surrendered. The terms for the Resource Consents replacing these Deemed Permits are:

- 1 have been granted for a term of six years or less.
- 4 have been granted for a term of more than six years, and up to fifteen years
- 26 have been granted for a term of more than fifteen years.

A further 213 Deemed Permits currently have applications underway to replace them with 160 Resource Consents. The applicants have applied for:

- 5 consents with a term of six years or less.
- 0 consents with a term of more than six years, and up to fifteen years
- 66 consents with a term of more than fifteen years.
- 89 consents with no expiry date currently recorded in the Otago Regional Council's consent database

There are currently 95 Deemed Permits for which no application has been lodged. Those deemed permits include 0 Permits to take and use Groundwater, 12 Permits to Dam Water, and 0 Permits to discharge to water. In addition to these Deemed Permits a further 60 Resource Consents are due to expire between 27 September 2021 and 8 October 2021.

Please note that these numbers present a snapshot of the Otago Regional Council's Resource Consent database on the day that this report was produced. As such, any of these numbers may vary up or down as new applications are received or granted, Deemed Permits are cancelled or surrendered, or applicants are able to prove they can meet the provisions of section 413 of the Resource Management Act (1991).

A summary of deemed permit replacement process in each catchment with current deemed permits is presented below:

Catchment.	Deemed Permits Awaiting Application	Deemed Permit Applications in Progress
Albert Burn (1)	0	1
Amisfield Burn	1	2
Arrow River	1	6
Bannock Burn	0	8
Basin Burn	0	4
Beaumont River	1	0
Bendigo Creek	0	1
Benger Burn	0	0
Black Jacks Creek	1	0
Burn Cottage Creek	2	2
Butchers Creek (1)	2	0
Cambells Creek	1	0
Camp Creek (1)	0	2
Cardrona River	5	8
Chapmans Gully	1	0
Coal Creek	6	0
Crook Burn (2)	0	1
Donaldsons Creek	0	0
Elbow Creek	0	0
Five Mile Creek (1)	1	0
Franks Creek	0	2
Fraser River	3	2
Kidd Creek	1	0
Lindis River	2	9
Long Gully (1)	0	0
Long Gully (2)	0	0
Lowburn Creek	4	10
Luggate Catchment	1	3
Manuherikia Catchment	10	44
Nevis River	1	1
No Catchment Recorded	14	6
Park Burn	1	1
Pipeclay Gully	0	1

Poison Creek	0	1
Pomahaka River	0	1
Quartz Creek	0	0
Quartz Reef Creek	0	1
Queensberry Hills	0	0
Rees River	0	1
Ripponvale Road	0	0
Roaring Meg	1	1
Schoolhouse Creek	0	1
Shingle Creek	9	0
Shotover River	1	0
Taieri Catchment	8	31
Teviot River	2	0
Tinwald Burn	0	2
Toms Creek	2	0
Unnamed Trib's of Clutha River above Lake Dunstan	2	1
Unnamed Trib's of Clutha River above Lake Roxburgh	0	1
Unnamed Trib's of Clutha River above Tuapeka Mouth	7	1
Unnamed Trib's of Kawarau River	1	1
Unnamed Trib's of Lake Hawea	1	0
Waikerikeri Creek	0	2
Waitahuna Catchment	1	0
Wanaka Township	1	1
Washpool Creek (1)	0	3

Consenting Process Improvements

Communication of costs

- Development of a factsheet of frequently asked questions about consent costs. This is to be available on our website. The topics covered in these FAQs include:
 - Use of consultants, when people will be invoiced, what costs are involved for a hearing and others
- New text for the website explaining consent costs. This will be live within the next few weeks. The focus for this text has been on:
 - Explaining how we charge our time on consents
 - What tasks we complete when we process a consent
 - How we try and reduce costs of applications
 - Directing people to contact as early as possible for pre-application advice
 - When we will let people know about the costs of their applications
- New emails have been developed for use that will go to all applicants. The emails will include:
 - Providing an indication of costs for the consent. This will only happen when an application has been accepted.
 - Emailing people if we are going to get either an internal or external expert to audit the technical components of their application. This will include what they will look at and why. People will be provided copies of any comments.
 - In our email advising them of the decision on their consent letting them know that they will get an invoice from our Finance Team in due course.
- Advising people that we will let them know about the costs of their application at key stages of processing.
- When an application goes to hearing, providing an estimate of costs and seeking payment before the hearing. This approach reduces the risk of large invoices post a hearing process.

Use of consultants

- When an application is assigned to an external consultant to process, letting the applicant know and giving them the choice to wait for an internal staff member to have capacity to take on the application.
- Including an option on our application forms for people to ask for their application to only go to an internal consents officer for processing.
- Undertaking a full procurement process to secure suppliers. This process has been completed. The focus was on securing high quality suppliers who can do the work as efficiently and effectively as possible for us and the applicant.
- Having access to the internal science team for audits of consent applications. Since early 2019 the consents team has had limited to no access to the internal science team. This has meant that a lot of work had to be completed by consultants. Whilst we will still need to use consultants, due to the continued high workloads across Council we now have a process in place for them to be our first port of call for this work.

Invoicing improvements

- Avoiding delays with invoicing where at all possible. This has involved working with other Council Team's to speed up the time between a consent being approved and the invoice being issued.
- Changing the level of information included in the invoices issued. This has included adding in additional categories to timesheets and invoices from suppliers, to people get a better breakdown on how time on their application was spent.

- Any work completed by a consultant, if invoiced after changes to our invoicing system should now show up on the invoice to the applicant with a clear breakdown of time.
- Asking our consultants to invoice us within seven days of them completing work on a project instead of monthly.
- Issuing interim invoices for large scale projects, or ones that have been limited or publicly notified.

Cost tracking

- The way Council's timesheet system has worked to date is that the timesheets are approved weekly and then the information is pulled over into our Finance System and Acclea (the programme we use to track consent processing). We have since worked to secure the ability to enter and approve timesheets daily for the Consents Team. This will enable up to date costs information to be available to the officer for better project and time management and to enable us to provide this to applicants.
- Development of a report that pulls all costs of all applications. This report will enable Team Leaders to have oversight of costs and to discuss these weekly with their team members.

Internal process changes

- Reviewing templates to ensure that there is as much hard wired/ standard text as possible. This reduces the work the officer must complete for each application.
- Adopting parts of the application as our assessment. Again, this reduces the potential for duplication of effort.
- Encouraging pre application meetings where possible and going out on site to see applicants.
- Development of a triage system for applications. This means that the work undertaken on the application is in line with the level of risk. The triage assessment is undertaken by an experienced officer. This triage assessment includes making a recommendation on if a technical audit is needed for an application.
- Having template emails to use for when we are asking internal and external experts to audit applications for us. This ensures a consistency of engagement, a narrow scope and that we are directing our experts.
- Development of practice notes on key interpretations and having these on the website. These are mainly of use for practitioners, but should help them to know our position on a matter before an application comes in.
- Encouraging staff to pick up the phone and talk to consultants about issues with applications and letting them know about potential 'red flags' as soon as possible.
- Where at all possible copying in the applicant to all communication with their consultant. This is to ensure they are aware of the work being undertaken on their application.

Compliance Audit and Performance Monitoring Schedule 2021/22

	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Total
Planned performance monitoring grades	500	500	500	500	500	500	500	500	500	500	500	500	6,000
Audits/inspections	65	65	95	130	130	130	130	130	90	95	65	65	1,190
Type of audits/inspections by priority as identified in the Compliance Plan 2020-22													
Priority 1: Permitted activity dairy programme and forestry, discharges to water	5	5	40	40	40	40	40	40	40	40	5	5	340
Priority 2: District council consents, landfills, power generation and other large-scale activities	40	40	40	40	40	40	40	40	40	40	40	40	480
Priority 3: Water take consents and water flows during dry periods	10	10	10	10	10	10	10	10	10	10	10	10	120
Priority 4: Monitoring regionally significant wetlands and dams/other structures	5	5	5							5	5	5	30
Priority 5: Monitoring industrial air discharges	5	5									5	5	20
Priority 6: Monitoring coastal structures.				40	40	40	40	40					200

7.2. Intensive Winter Grazing 2021

Prepared for: Regulatory Committee
Report No. REG2104
Activity: Regulatory: Consents and Compliance
Author: Richard Saunders, General Manager Regulatory and Communications
Endorsed by: Richard Saunders, General Manager Regulatory and Communications
Date: 10 June 2021

PURPOSE

- [1] The purpose of this report is to provide Councillors with an update on how Intensive Winter Grazing (IWG) is being managed by the Regulatory Group over the 2021 winter.

EXECUTIVE SUMMARY

- [2] Regulations within the National Environmental Standards on Freshwater (NES-FW) and Otago Regional Council's (ORC) Plan Change 8 introduce new rules to manage the effects of intensive winter grazing. These rules have required changes to the way ORC carries out its consenting and monitoring of the IWG activity over the 2021 winter.
- [3] The Regulatory teams have been working to implement the NES-FW and Plan Change 8 as it relates to IWG. This includes development of a consent application form; provision of advice and information; a clear approach to compliance and participation in national work programmes on IWG.

RECOMMENDATION

That the Committee:

- 1) **Receives** this report.
- 2) **Notes** the work underway by staff to implement the new Intensive Winter Grazing rules in the National Environmental Standards – Freshwater and Otago Regional Council Plan Change 8, and to meet central government expectations around monitoring and reporting for the 2021 winter.

BACKGROUND

- [4] In 2020 the National Environmental Standards on Freshwater (NES-FW) were introduced by the Government. These standards introduced regulations on how new and existing IWG is to be managed. As well as these regulations, Council's Plan Change 8 contains rules on Intensive Grazing (IG), (collectively called IWG for the purpose of this paper), and how it is to be managed in Otago.
- [5] Based on feedback from groups, in particular the Southland Advisory Group (SAG), the Ministers responsible for IWG and the NES-FW deferred the commencement of the provisions in the NES-FW that relate to existing IWG. This means that resource consent is not currently required under the NES-FW for anyone who has grazed before. However, consent is still required if they want to graze more land than previously grazed

in the specified reference period in the NES-FW or have never carried out IWG on their land.

- [6] The intervention arrived at in deferring the regulations is an Intensive Winter Grazing (IWG Module) for farm plans. The Ministers have also set clear expectations for the regional sector regarding monitoring and reporting on IWG activities over the 2021 winter to ensure the appropriate level of regulatory oversight of this activity.
- [7] As well as the regulations in the NES-FW Council has a rule in Plan Change 8 about intensive grazing. The rule covers slightly different aspects to the NES-FW and covers intensive grazing all year round, not just in winter. As this rule relates to water quality and is in a notified plan change it has immediate legal effect. Until such time as a decision is made by the Courts on Plan Change 8 and the rule becomes operative, the version of the rule that is in the notified plan applies and must be given effect to. This means that some people may need consent under Plan Change 8 for intensive grazing now even if they do not under the NES-FW.

DISCUSSION

Consent process

- [8] Those who may need consent under the rule in Plan Change 8 and also the NES-FW once the regulation applies may have 'existing use rights'. This means that while some people may not meet the permitted criteria in the rule, they can continue grazing on the same scale with the same effects as they have previously. They then have six months after the rule in the plan becomes operative to apply for consent. This means for this season, that if people are doing the same as last season, they should have existing use rights and should not need to apply for a consent.
- [9] However, those who cannot meet the permitted criteria of the rule, need consent, and do not have existing use rights, Council has developed a new consent application form. The aim of this form was to make it as quick and easy to complete, to meet the legislative requirements for a complete application under the RMA, and to get people to think about how they are managing the potential effects of the activity on their farm as they fill in the form.
- [10] The cost for a consent is \$200. This is reflective of two hours of staff time. All steps have been taken to ensure that these applications can be processed as quickly as possible while still meeting the statutory requirements for resource consents.
- [11] To date, no applications have been accepted, processed and approved. This is because most people have existing use rights. If they have applied, staff have advised them of this and returned their application and the full fee. The focus is on encouraging people to contact the team for advice before filling in the form.

IWG Compliance project

- [12] Monitoring compliance with IWG regulations and the NES-FW falls within priority one of the ORC Compliance Plan 2020-22 to "reduce non-compliant discharges to improve freshwater quality".

- [13] A targeted IWG compliance project has been planned to achieve the following objectives:
- a. To undertake proactive monitoring of IWG practices across the Otago region.
 - b. To promote compliance of IWG rules and requirements to ensure that environmental effects are minimised as much as possible.
 - c. To ensure the farming sector are well informed of the new rules and what they need to do.
 - d. To deliver on the Ministers' expectation for increased IWG monitoring and reporting to ensure measurable improvements in IWG practices during the year.
- [14] A key component of the IWG compliance project are flyovers. The Compliance team are planning to complete three sets of three flights this year across the Otago region:
- a. North Otago – From Dunedin, north to the Waitaki River and inland to include the Maniototo.
 - b. South Otago – From Dunedin, south to the Catlins and inland to include Southwest Otago.
 - c. Central Otago – To cover Beaumont through to Queenstown, and north to the Lakes, including Makarora and down through the Ida Valley.
- [15] The first set of flyovers was undertaken in late May 2021, and a high-level update from the flights will be provided verbally at the meeting. The second set of flyovers is planned in late June 2021 and the third set of flyovers in late July 2021. A copy of the media release relating to the May 2021 flyovers is included as attachment 1.
- [16] Although the flyovers are undertaken primarily to determine the effects of IWG throughout the Otago region, compliance of other land uses including forestry, regionally significant wetlands, significant discharges and major incident investigations will also be monitored. The Compliance team assesses and evaluates property features that are often hard to identify from the ground, such as:
- a. Proximity of disturbances to waterways and drains.
 - b. Mobilised sediment.
 - c. Plumes of sediment in waterways.
 - d. Location of swales that run over pasture.
 - e. Distance of fencing from waterways and size of riparian margins.
 - f. Stock in waterway and wetlands.
- [17] Following each of the flyovers, staff will complete an assessment of the issues identified. Site inspections and follow-ups for on-ground information gathering will be undertaken by the Compliance team and Rural Liaison team, where appropriate. This will include providing advice on IWG regulations to the farmer. Appropriate action will be taken for any non-compliance or breaches identified in accordance with the RMA Compliance and Enforcement Policy.
- [18] The Compliance team will forward areas of concern with management practice on to an 'intervention group' of local representatives from Federated Farmers, Dairy NZ and Beef & Lamb NZ. The intervention group will identify the most appropriate industry representative to work with the sector to talk through the concerns raised and, where necessary, identify appropriate strategies to mitigate the issues.

Advice and information

- [19] As well as the specific work being undertaken by the Compliance and Consents teams, Regulatory staff have been providing advice and information and speaking at events when invited. This advice and information included speaking at catchment group sessions, workshops on IWG and field days; meetings with industry groups, stakeholders and other Regional Councils; responding to phone call and email questions and providing as much information on our website as possible. Work across ORC continues through the Council wide NES-FW and Plan Change 8 staff working group that discuss interpretation issues and resource needs.

National sector work on IWG

- [20] In deferring the commencement of rules controlling existing IWG, the Minister for the Environment and the Minister for Agriculture outlined their expectations to see 'immediate improvements in IWG practices' and 'increased monitoring and reporting by Councils' over the 2021 winter.
- [21] The regional sector is now working collaboratively to ensure that the expectations around monitoring and reporting can be met. This involves the development of a national template for reporting to the Ministry for the Environment. ORC will collect data through flyovers, onsite inspections and in collaboration with industry groups.
- [22] The Ministry for Primary Industries has developed an IWG module to support the uptake of good management practices. The module includes a template for an IWG farm plan module for those farmers who do not already have a plan through an industry group, catchment group or established council system. The intent is that these IWG farm plan modules will be incorporated into the freshwater farm plans which are expected to be introduced in the first half of 2022.

OPTIONS

- [23] As this is a report for noting there are no options.

CONSIDERATIONS

Strategic Framework and Policy Considerations

- [24] There is no strategic framework and policy considerations associated with this report.

Financial Considerations

- [25] The work implementing the NES-FW and Plan Change 8 provisions on IWG was not budgeted work and has contributed to an overspend in the 2020/2021 Regulatory budgets. The majority of the work associated with the implementation of the new rules is not complete.

Significance and Engagement Considerations

- [26] As this is a report for noting, consideration of the Significance and Engagement Policy is not required.

Legislative and Risk Considerations

[27] There is legal and reputation risk to Council if staff do not implement the provisions of both the NES-FW and Plan Change 8.

Climate Change Considerations

[28] There are no considerations under this policy.

Communications Considerations

[29] A significant amount of communication has been undertaken through a range of mediums. In addition, staff are working closely with industry groups to share key messages.

NEXT STEPS

[30] The Regulatory Group will continue to implement new rules associated with IWG. This includes a monitoring programme to enable us to meet the Minister's expectations for the 2021 winter.

ATTACHMENTS

1. Media Release Winter Flyovers 21.05.2021 [7.2.1 - 2 pages]



MEDIA ADVISORY

25 May 2021

ORC stepping up its monitoring of intensive winter grazing this year, beginning with flyovers across the region this week

The Otago Regional Council (ORC) undertakes flights every year to gain a bird's eye view on land use in the region and identify water quality risks.

While the government has deferred introducing some of the new regulations around intensive winter grazing, rules preventing the expansion of intensive winter grazing still apply.

Ministers David Parker and Damian O'Connor have set expectations for measurable improvements in winter grazing practices over the next 12 months.

Manager Compliance Tami Sargeant said it was as important as ever to prioritise good practice.

"It is crucial that winter grazing practices are undertaken with consideration for the environment. Good management practices, like leaving a buffer zone between stock and waterways, are important for preventing sediment loss and protecting our rivers and streams."

After the flights, ORC staff will follow up on any issues identified from the air, Ms Sargeant said.

"We'll be taking note of any high-risk sites and visiting the area to inspect issues on the ground. Possible responses to non-compliance range from education and advice, through to enforcement notices and prosecution."

If you'd like advice about winter grazing, contact the ORC Rural Liaison Team on 0800 474 082 or email rural@orc.govt.nz.

Anyone who sees pollution of a waterway is encouraged to call our 24/7 pollution hotline on 0800 800 033.

People can also raise concerns about winter grazing practices through Federated Farmers' Early Intervention program, by calling 0800 FARMING (0800 327 646).

ENDS

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