



STAFF REPORT

TO: Environment & Planning Subcommittee

FROM: D C Bush-King, Environment & Planning Manager

REFERENCE: S611

SUBJECT: **MANAGER'S REPORT– REPORT EP06/02/07** - Report Prepared for 15 February 2006 Meeting

1. LEGAL PROCEEDINGS

Since our last meeting in November four appeals have been lodged,

- B and M Halstead, a subdivision in Neudorf
- Marahau Valley Farm Community, multiple dwellings consent in Marahau
- B Farley and P Rutherford, second dwelling consent, Upper Moutere
- Carter Holt Harvey, subdivision consent, Harley Rd, Mahana

Annex 1 gives a status report on current consent appeals.

The Environment Court has heard the appeal by Harris against the Motueka Autoparts consent and a decision is awaited as it is still with the declaration by Golden Bay marine Farmers consortium, with parties having been invited by the Court to respond in writing to further questions by the Court. The Court is returning to Nelson for a Pre-Hearing Conference 6 March 2006.

We have notified our insurers of two potential claims, one of which we will need to brief the Committee "In Committee".

2. BULLER RIVER WATER CONSERVATION ORDER

The Special Tribunal appointed to consider the application by MAJAC Trust for a variation to the Buller Water Conservation Order has presented its report and recommendations to the Minister for the Environment.

The report has recommended that the application for a variation be declined and has given the following reasons for its conclusion:

'The Special Tribunal concluded that the case for a variation was not made out because the provisions of the legislation required the case for a variation to extend beyond addressing just protection of the rafting amenity on the Gowan River itself and needed to also address other characteristics immediately upstream and downstream that are also currently protected by the Water Conservation Order beyond the variation application and to which the Gowan River contributes. To the extent that those other characteristics were addressed in evidence, the Special Tribunal was left in some doubt whether the protection so required could be achieved.'

Parties have the right to appeal to the Environment Court. We were neutral in our stance before the Special Tribunal and do not believe a case exist for Council to lodge an appeal. As the management agency expected to administer the WCO we would be expected to make an appearance should the matter proceed to appeal.

3. ARGENTINE ANTS

TDC Biosecurity staff completed surveillance of the ant-infested areas in Richmond in early December. Affected ratepayers in the ant-infested areas were then advised by letter and asked to arrange to complete a form and pick up the bait from Council which was to be supplied by Council following agreement at the last meeting.

Property owners were invited to share a 325 gm cartridge with an affected neighbour - each tube contains sufficient bait for two properties. Our biosecurity staff provided baiting demonstrations over successive evenings and loans of caulking guns where necessary.

The uptake of bait for the three treatment areas varied from 100% for a small infestation of Darwin's ants, nearly 100% for an established area of Darwin's ants with about 40 properties, to just under 90% for a recently-identified infestation of Argentine ants covering about 70 properties.

It is inevitable that there will be a wide variation in the effectiveness of the baiting undertaken by householders. However even at this level coverage was good and a recent inspection of a few properties indicated a very good level of control with no ants seen over most of the area. A few survivors were found in small pockets.

The ants will most likely come back. However, this control effort should provide the affected ratepayers with a very good level of control for at least the next two years.

4. DELEGATIONS

A subcommittee has been appointed to hear and decide a kennel license application on 6 March. Under the Dog Control Act and Council's Dog Control Bylaw the Environment & Planning Committee would need to delegate the appropriate powers to the Subcommittee.

Recommendation

It is recommended that in accordance with Clause 32 of Schedule 7 of the Local Government Act 2002 the Committee delegates to the Subcommittee appointed to consider a Kennel application by Cooper and Rhuthyn Hill under Council's Dog Control Bylaw, the power to hear and decide the matter.

5. ENERGY WISE COUNCIL – ANNUAL FORUM

The Energy Efficiency and Conservation Authority is conducting its Annual Energy Wise Council Forum in Nelson 9/10 March 2006. Unfortunately they chose a date which coincides with an RMPC Workshop and a full Council meeting. It also conflicts with local Sea Week programme. However Council will be represented. The theme is 'Planning for the End of an Era' and the keynote address will be given by Mr Matthew Simmons a world leading expert on peak oil.

6. FENCING OF SWIMMING POOLS

We have received advice from the Department of building Housing that it is to promote a new NZ Standard to assist Councils in administering the Fencing of Swimming Pool Act. We expect to see a draft in May 2006 and in the meantime will defer any further work on considering exemptions.

7. POST CHRISTMAS MUSING

In response to complaints and representations about why some people from time to time receive notices from Council, I prepared some thoughts to explain why it is part of Council's enforcement process that notices are served. Attached as Annex 2 is a copy of the notes to see if there is any merit in taking the matter further. I am sure that Councillors receive similar representations from aggrieved parties as do I and while it is strange to have to explain that people are responsible for their actions, there may be a germ of an idea.

8. NEW ZEALAND PLANNING INSTITUTE CONFERENCE 2006

This year's annual NZ Planning Institute Conference is to be held jointly with the Australian Planning Institute in Brisbane in April. Approval has been given for Jean Hodson to attend.

9. REGIONAL ANIMAL HEALTH BOARD

Attached as Annex 3 is a report from the Tasman Regional Animal Health Board on the Bovine Tb vector Management programme for which we are a joint funder.

10. GOVERNMENT CONSULTATION DOCUMENTS

Two Government documents that will impact on our business are currently circulating. A Marine Protected Areas discussion document has been released by the Ministers of Fisheries and Conservation. A Reference Group established by the Ministry of Economic development has released a report entitled "The Merits and Potential Scope of National Guidance on the Management of Electricity transmission Under the RMA". Staff have been asked to review the documents to see whether we should submit any comment. Are Councillors happy that any submission be discussed with the Chair and Deputy?

Ministry of Transport has also released a draft Land Transport Rule which will set a new emission performance requirement to be enforced a part of vehicle inspection – the WoF Cof. We did not submit although support the intent to reduce particulate matter from car exhausts.

11. NAVIGATION AND SAFETY BYLAW

Councillors will recall the hearing last year for a second commercial operator licence on the Buller River. The decision taken at that time was that no more than one commercial jet boat should operate on the main stem of the Buller River below the Ariki Falls down to the Council boundary. This decision was taken notwithstanding the advice from the Harbourmaster and Maritime New Zealand's Jet Boat Advisor.

To encode this decision into the Navigation Bylaw so that no more than one licence was granted at any one time, and provided the Council was satisfied that it was an appropriate and proportionate response, the Bylaw could be amended. I do not believe the Reserved Area provisions of the current Bylaw can be used to limit the number of users. A new set of clauses would be required including specifying a process whereby prospective operators could make application. Would this be by ballot, tender, or some other form of allocation? What would be the duration of any such approval – currently licenses are renewed annually?

If Council was of a mind to go through this process it would have to use the Special Consultative Procedure and announce its intention, summarising the proposed change.

The alternative to changing the Bylaw is to accept the status quo. One license is already in existence. If a second application is lodged we would refer the matter to Council for decision. This would enable the applicant to demonstrate that safety concerns could be addressed in some way and if not the application could be declined as with the Goldrush Jets application.

Direction is sought from the Committee as to which way it would like to proceed.

12. GENETICALLY MODIFIED ORGANISMS

Councillors may recall the debate had last year following the release of a report into using the RMA to control the use of genetically modified organisms. At the time the Council resolved not to take any further action, the matter being a responsibility of Central Government.

The five North Island Councils of Far North, Rodney, and Kaipara Districts and Waitakere and Whangarei City Councils have released a second report, the Executive Summary of which is attached as Annex 4. We have been approached again by local interests to investigate the use of the RMA to control GMOs.

In my view the case is still not made out and a lot more effort would be required before a case could be made to go down the RMA track. The report does not cover the practicalities of introducing a consent regime and the enforceability if one were to be introduced. It would be my recommendation that Council maintain its position not to investigate the matter further.

13. ENVIROLINK RESEARCH SUPPORT

Tasman District Council has been successful in getting assistance from Crown Research Institutes under the Envirolink programme which Councillors will recall is a Government funded research advisory service. We will receive assistance in reviewing technology options for riverbed surveys (LIDAR), and how we can assemble information on the effects of activities on the bed of the CMA.

14. DEPARTMENTAL PROGRESS REPORT AND FINANCIAL STATEMENT

Councillors are soon to receive the Half Year Report from Corporate Services which we can discuss – alternatively I will make available the financial summary to December 2005.

RECOMMENDATION

It is recommended that this report be received.

D C Bush-King
Environment and Planning Manager

ENVIRONMENT AND PLANNING COMMITTEE FOLLOW-UP LIST – FEBRUARY 2006

ACTION/REQUEST	RESPONSE
Work with Marahau community to resolve a number of issues	Meeting held 9 February
Paper on project-based consents	Jean Hodson to further discuss with Chairman
Letter to Biosecurity NZ concerning Didymo response	Overtaken by other events
Write to MNZ regarding credentialing jet boat driers	Reply awaited

This is a list of the consent appeals and their status at this point in time.

7 February 2006

1. **Challenger NN980249 and NN980223 , RMA707/99 and 706/99**
(One of these is Tasman Mussels and one is Golden Bay Mussels)

Still to be settled
2. **H Wallace and R Cosslett (Living Light Candles) RM 010147 RMA913/01**

Adjourned for pre-hearing conference on 6 March 2006 to give time for the business to relocate to Kotinga.
3. **Tom Harris v Tasman District Council (Motueka Autoparts Applicant) RM 040064 ENV C 0009/05**

Hearing completed and now awaiting Court decision.
4. **Thomas Bros Ltd V Tasman District Council RM 040946, ENVC 0143/05**

No timetable has been set at the request of the appellant. This is to enable negotiations to take place in an attempt to resolve the appeal. On list for pre-hearing conference on 6 March 2006.
5. **Newth, Griffith and Carver V Tasman District Council RM 040950 (Applicant B and A Hardie)**

Mediation expected to be set down soon.
6. **J and J Taylor (RM 050188-Parker Family Trust, applicant)**
- 6A. **Parker Family Trust V Tasman District Council RM 050188 ENV C 0222/05**

Off to mediation, no date set yet.
7. **P and M Clinton-Baker V Tasman District Council RM 040802 ENV C 0243/05**

Appeal against conditions, on list for pre-hearing conference on 6 March 2006. Looks like this will settle once a valuation of the reserve has been obtained.
8. **BE and MC Halstead Family Trust V Tasman District Council RM 050490 ENV C 0272/05**

Rural 2 subdivision declined- appealed by applicant.

**9. Carter Holt Harvey Forests Ltd V Tasman District Council RM 050281
ENV C 0283/05**

Appeal against conditions relating to lighting, roading etc. Mediation set down for 10 February 2006.

**10. Stephen Tate (Marahau Valley Farm Community) V Tasman District Council RM
040763 ENV C 0012/06**

Appeal against Council decision to decline consent for 6 additional "residential situations".

11. Farley and Rutherford V Tasman District Council RM 040996

Appeal against Council decision to decline consent for second dwelling on prop