



STAFF REPORT

TO: Environment & Planning Committee

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

REFERENCE: S611

SUBJECT: **MANAGER'S REPORT- REPORT EP07/02/09** - Report Prepared for 7 February 2007 Meeting

1. LEGAL PROCEEDINGS

Since my last report in December we have received one appeal by P Lavery against the grant of consent to erect a dwelling at Totara Ave, Pakawau. Annex 1 gives an update on other s 120 appeals. The Committee will receive a separate briefing at this meeting on plan references.

We are still waiting to hear from the Chief Executive of the Ministry of Fisheries in regard to our 19 January 2006 application to have our Aquaculture Management Areas approved.

3. DANGEROUS DAMS POLICY

A copy of the Minister of Building and Construction's reply following the Committee letting the dangerous Dam Policy "lie on the table" pending the release of regulations is attached as Annex 2.

4. 1080 REASSESSMENT

Submissions on the use of 1080 closed 31 January 2007. A submission was prepared along previous lines adopted by Council. A copy of the submission is attached as Annex 3.

Recommendation

That the Committee approve the submission on 1080 for forwarding to ERMA

5. DELEGATIONS

For every application for resource consent the Council must decide whether the application:

- is to be notified pursuant to Section 94 of the Resource Management Act 1991 ("the Act");
- is to be limited notified pursuant to Section 94(1) of the Act; or
- whether the provisions of Section 94(2) have been met and the application can be processed on a non-notified basis.

This decision is based on a number of matters including determining whether the adverse effects of the proposed activity are "more than minor" or not as well as identification of adversely affected parties (for non-notified consents).

Currently this decision making process is delegated to the Environment and Planning Manager, the Manager Consents, and the Coordinator Resource Consents. Currently, the Coordinator Resource Consents makes the decision for all applications (unless he is on leave or in special circumstances). Last year the Council established three new positions within the Resource Consents group, these being the Senior Consent Planner positions, one each for the Subdivision sub-group, the Land Use sub-group, and the Natural Resources sub-group.

It is considered that the Senior Planners are appropriately qualified and experienced to make determinations on notification versus non-notification for applications for resource consent within each of their respective groups. The only limitation which is recommended is that the Senior Planner should not make the notification/non-notification decision for the applications which they themselves are processing. These determinations should be undertaken by the Coordinator Resource Consents (or alternatively the Environment and Planning Manager or the Manager Consents) to ensure an independent determination is made.

A few tidy-ups to RMA delegations are also suggested to the Delegations Register which have become apparent through recent usage. Currently s 357 objection which receive a favourable staff report can be signed off by the Environment & Planning Manager. It is suggested that this delegation be extended to the Manager Consents, Co-Ordinator, Resource Consents and Senior Planners. Section 114 relates to notification of decisions. For the sake of completeness and to align with the powers to grant consent, the delegation to notify a decision should also cover Senior Planners, Consent Planners and Subdivision Officers. Signing off covenants under section 204, 241, and 243 should also cover the Senior Planner – Subdivision. Already extended to the Subdivision Officer. The description of the power delegated under section 127 now needs to be changed as it is not now a precondition to an application to change conditions that there changed circumstances. The power to instigate a review under section 128 should also be extended to the Manager, Environmental Information and Co-Ordinator Compliance Monitoring.

Recommendation

It is recommended that the Committee agree to the following changes to the Council's delegation be made:

Section 94, 94A, 94B, 94C, 94D

The power to decide on when an application for resource consent need not be notified and to determine which parties (if any) may be adversely affected by an application and whether their written approval has been obtained and provided that any relevant statutory criteria can be satisfactorily met.

Delegated to:

E&P Mgr, MC, CRC, SP (for recommendations from staff in their respective sub-group only and not including decision making on applications being processed by the SP themselves)

Section 114, Resource Management Act

Powers in relation to notification of decision

Extend to SP, CP, SO

Section 127 Resource Management Act

Power to decide who is adversely affected by a change or cancellation of consent condition

Section 128-132, Resource Management Act

Extend to MEI, CCM

Section 240, 241, 243, Resource Management Act

Cancellation of covenants and conditions

Extend delegation to SP

Section 357, Resource Management Act

Extend to MC, CRC, SP

6. NZ PLANNING INSTITUTE CONFERENCE 27-30 MARCH 2007

This year's annual conference is in Palmerston North and is entitled "The Politics of Planning – do you know the rules of the game?". Opportunity has been given in the past, subject to the mayor's approval for Councillor Attendance. I will circulate the programme at the meeting to see if there is any interest.

7. VARROA BEE MITE

Since the discovery of Varroa outside the control area in Brightwater, the Sherry River Valley, and in Havelock during the last two months, eradication or intensive control is no longer considered a feasible course of action and the focus has moved to management of the incursion with the objective of slowing the rate of spread throughout the South Island.

As a result of this, it is expected that within two years, horticultural costs will rise for pollination services to reflect higher labour costs; within five years, beekeepers will find that Varroa is becoming resistant to Apistan (the preferred miticide) and they will need to look at other miticides; within ten years, farmers will find that they need to look at alternative methods of clover pollination (bringing in managed bees, building up bumble bee populations) or spreading clover seed or using urea or other N fertilisers.

Biosecurity NZ are proposing to have beekeeper education programmes running in Nelson, Blenheim and Greymouth (and elsewhere when need arises). They will continue surveillance along the Control Area boundary, and maintain surveillance of apiarists who are operating on both sides of the boundary. They will continue with their annual surveillance programme in the South Island for Varroa and other exotic disease.

This Council, along with other South Island regional councils and beekeepers, have been funding the Varroa Agency to undertake an intensive surveillance programme to provide early detection of Varroa. It has been successful in achieving this. It now needs to review its future role and function, given that it was set up to keep Varroa out of the South Island. Local beekeepers have paid their 2006/07 levy but Council has not yet been invoiced. Council staff will be looking closely at the invoice to identify how this money will be used and what benefit will accrue to its local stakeholders. If it continues with a different objective, council will have to reconsider its membership, along with adjoining councils. .

8. PUBLIC HEALTH BILL

The Government has released a summary of the new Public Health Bill designed to replace among other statutes the Health Act 1956. The following extract pertains to territorial authorities (TAs)

“The Bill will continue the Health Act’s mandate for a significant role for TAs, principally in relation to environmental health (that is, public health matters related primarily to the physical environment). TAs will have duties and discretionary powers to improve, promote and protect public health within their districts. As with the current Health Act, the TA’s role will span nuisances, bylaws, sanitary works and, subject to regulations, activity consents and assessor/verification functions. For example, as at present under the Health Act, TAs would have a duty to employ or otherwise provide for employment of one or more environmental health officers. TAs would also be required to inspect their districts for ‘nuisances’ and to take steps to manage them. In addition, as now, TAs would be required to comply with any direction by the Minister of Health relating to provision for sanitary works.”¹

Other sections of the report indicate a move to clarify central government’s powers but this could well equate to more TA accountability, reporting, and oversight. Shades of the Building Act reforms come to mind!! For example, the Bill proposes to introduce a new consenting framework ("activity consents"), a role for third party assessors, and specific links to other council planning processes (e.g. under the RMA and LGA). The implications for councils will become clearer once the Bill drafting proceeds and the detail is determined. The Ministry hope to introduce the Bill to Parliament by April 2007 but this is another one to keep an eye on.

9. BUILDING ACCREDITATION STANDARDS

The Government released regulations which come in to force 1 February and which outline the expectations that Councils will have to achieve for accreditation. At a very literal level the regulations should not present any problem for Tasman District Council but as with most regulation, the interpretation applied by the Building Consent Accreditation Board will be what counts. A verbal update on measures we are putting in place will be given at the meeting.

¹ Extract from Ministry of Health, (2006), Public Health Bill Summary,.Wellington: Ministry of Health.

10. FOOD SAFETY REVIEW

The new Zealand Food Safety Authority has released another discussion document which seeks to redesign New Zealand's domestic food regulatory system. The changes will cover government involvement in all aspects of the safety and suitability of food produced, processed, manufactured, transported and traded in New Zealand. All food sold in New Zealand is included, whatever its source and however it reaches the point of sale, and whether for profit or for charity.

In practical terms, this means NZFSA will: develop a new Food Bill, clarify the roles and responsibilities of the regulators; introduce a range of risk-based tools designed to help food operators manage food safety and suitability; and develop education and training requirements for food operators.

Government has given approval to drafting the changes to the law and the transition to the new regime is expected to begin in July 2008 and take about five years.

The current discussion paper describes the proposals to implement the changes, including when each food sector is expected to be brought into the new system, and the transition proposals. The Executive Summary is attached as Annex 4.

Submissions on the discussion document close 9 February 2007. At the time of writing nothing has been received from LGNZ and staff have not been able to digest the proposal fully. If time and inclination permits, a submission will be tabled.

11. TARAKOHE CLIFFS

Following publicity about the resolution of the enforcement proceedings at Stades Bay, we received letters from people challenging the outcome which was to be expected. However one of the issues to arise is that the limestone cliffs which do form an iconic landscape in the Tarakohe area do not have any special protection in the TRMP. Obviously to contemplate this would require consultation with land owner and other interests and would be another area of work to add to the list if it were to be dealt with separately. It is a matter that could be addressed through the Eastern Golden Bay Development Study. However, I did undertake to raise the matter and seek direction from Councillors.

12. NATIONAL ENVIRONMENTAL STANDARD ON WATER METERING DEVICES

The Government has released a discussion document on a proposed National Environmental Standard on water metering devices. Submissions close 16 February and a staff response will be circulated under separate cover prior to the meeting if possible.

13. DEPARTMENTAL PERFORMANCE AND PROGRESS

I will report to the meeting the December statement of accounts.

14. RECOMMENDATION

It is recommended that this report be received.

D C Bush-King
Environment and Planning Manager

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

16 January 2007

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

Awaiting decision of the Environment Court following hearing held week commencing on 24 October 2006

3. **J and J Taylor (RM 050188-Parker Family Trust, applicant)**

- 3A. **Parker Family Trust V Tasman District Council RM 050188 ENV C 0222/05**

This matter had been resolved but still waiting for the Consent Order to be presented to the Court.

4. **G and C Petry V Tasman District Council RM 040782 and RM 060092**

Matter resolved by mediation, consent order to be sent to Environment Court..

5. **CRT Limited V Tasman District Council RM 060524 RM 060553**
5A **Metlifecare Ltd V Tasman District Council RM 060524 RM 060553**

Awaiting direction of the Court

6. **Lavery V Tasman District Council (Shuttleworth applicant) RM 060465, ENVC C 0450/06**

Appeal just lodged