



STAFF REPORT

TO: Environment & Planning Committee

FROM: Rob Lieffering - Resource Consents Manager

REFERENCE: C651

SUBJECT: **RESOURCE CONSENTS MANAGER'S REPORT - REPORT EP08/03/03 – Report prepared for 4 March Meeting**

1. INTRODUCTION

An introductory report was prepared for the Environment & Planning Committee meeting held on 15 November 2007 which gave an overview of the work which the Resource Consents section undertakes and presented statistics of how the section is performing in respect of processing timeframes for non-notified decisions issued under delegated authority. The report also presented a status report on appeals which had been lodged with the Environment Court on decisions issued by the Hearings Committee.

It was agreed at that meeting that follow up reports would be prepared quarterly to provide updates on the performance of the Resource Consents section, the status of appeals, and any other relevant information on significant resource consent matters. This report is the first such update.

2. CURRENT RESOURCE CONSENT WORKLOADS

The Resource Consents section currently has **638** resource consent applications lodged (cf. 738 in previous report) of which 378 applications are “on hold” either for further information or at the request of the applicant, and 260 applications are “in process” whereby the processing clock is ticking (cf. 334 applications in previous report).

3. SUMMARY OF DECISIONS MADE UNDER DELEGATED AUTHORITY

Council staff have issued 547 non-notified resource consents and 5 Certificates of Compliance under delegated authority during the period 1 July 2007 - 1 February 2008 (i.e. first seven months of the current financial year). The following table presents a summary of the various types of consents issued, average processing days, and compliance with statutory timeframes.

Consent Type	Number Issued	Average Processing Time*	% Processed Within Statutory Time*
District Land Use	282	14 working days	99%
Subdivision	106	33 working days	81%
Coastal Permit	3	13 working days	67%
Discharge Permit	39	50 working days	95%
Regional Land Use	73	28 working days	95%
Water Permit	45	35 working days	91%
Certificate of Compliance	5	17 working days	100%
TOTAL	553	24 working days	94%

* The Resource Management Act 1991 specifies that non-notified resource consents be processed in 20 working days or less, however the Council can extend timeframes (up to double) and in some cases the applicant requests an extension of time.

4. CURRENT APPEALS

Council staff are dealing (or have dealt with) with the following appeals on resource consent decisions, all of which relate to decisions made by various Hearings Committees:

Appellant	Matter	Status
Stephen Tate	Appeal against Council's decision to decline consent for Marahau Valley Farms.	Environment Court has issued its final decision (granting consent) including conditions of consent.
CRT Ltd	Appeal against conditions of consent to establish a commercial activity at Lower Queen Street.	Still awaiting Environment Court decision.
Baigent	Appeal against conditions associated with Mt Heslington water sharing.	Environment Court interlocutory hearing held 26 November 2007, awaiting decision from Court.
Weingut Seifried	Appeal against conditions associated with Mt Heslington water sharing.	Environment Court interlocutory hearing held 26 November 2007. Awaiting decision from Court.
Transit NZ	Subdivision at Stringer Valley (Applicant: Tasman Ltd).	Agreement reached. Draft Consent Order sent to Environment Court. Awaiting confirmation from Court.

Appellant	Matter	Status
Richmond West Group	Subdivision of land at Richmond West.	On hold due to Variation to TRMP.
Riwaka Fruit and Viticultural Services Ltd	Subdivision at Flett Road, Moutere.	Mediation successful and draft Consent Order sent to Environment Court. Awaiting confirmation from Court.
Jones	Subdivision at Park Drive, Richmond. Appellant was a submitter.	Advised Environment Court that mediation may be possible. Awaiting Court to advise mediation date.
Kearney	Subdivision at Park Drive, Richmond. Appellant is the applicant.	Advised Environment Court that mediation may be possible. Awaiting Court to advise mediation date. Meeting held (outside of formal mediation) with appellant and matters have been resolved.
Tidswell	Subdivision at Mapua.	New appeal. Mediation likely.
Reilly	Development at Pupu Springs (Applicant: Reilly).	New appeal. Mediation likely.
Transit NZ		New appeal. Mediation likely.
Rose		New appeal. Mediation likely.
Earle and others		New appeal. Mediation likely.
Fleming		New appeal. Mediation likely.
Tiakina te Taiao	Subdivision at Marahau (Applicant: Syndicate). Newhaven	New appeal. Mediation likely.

5. JUDICIAL REVIEW

Mr H Seifried and Mrs A M Seifried, through their solicitor Mr G Downing, have sought a Judicial Review (in the High Court) on the decision I made under delegated authority to allow an application for resource consent lodged by Katania Limited to be processed on a non-notified basis and without the written approval of the Seifrieds.

The resource consent issued to Katania Limited is for a residential subdivision on the hill to the south of Brightwater commonly referred to as "Water Tank Hill". The Seifrieds consider that they were adversely affected by the subdivision by virtue of additional stormwater generated by the subdivision flowing onto land which they own between the State Highway and the Wai-iti River.

The applicant (now consent holder) had provided calculations and stormwater mitigation designs to show that post-development stormwater flows would be no greater than pre-development flows and it was because of this that the Seifrieds were not considered to be adversely affected.

Council staff have prepared Affidavits and these have been submitted to the Court, however it is likely that the matter will be settled without the need for the Court to make a decision.

6. SIGNIFICANT HEARINGS AND APPLICATIONS

The Council has held a number of resource consent hearings before Christmas and in the first two months of this year. Some of the more significant hearings have included:

- B R Reilly: A commercial activity near Puppu Springs. The Committee granted consent but the decision has been appealed by both the applicant and some submitters (see table above).
- Aranui Road Trust: A 103 lot residential subdivision at Mapua. The site is zoned Rural 1 but it also has a deferred residential status. There were issues regarding servicing, in particular stormwater, water supply, and wastewater. A decision is yet to be issued.
- Sunnycroft Limited: A 22 lot residential subdivision on land zoned rural residential on Champion Road, Richmond. Granted by Committee.
- Sebastien Vineyard Limited: A 12 lot rural residential subdivision within the Rural 3 zone adjacent to the Coastal Highway near Tasman village. Granted by Committee.
- Nelson Free Kindergarten Association Incorporated: Establish and operate a child care centre on Warren Kelly Street, Richmond. A decision is yet to be issued.

A number of hearings have already been scheduled for March and April and there are also a number of applications which have been publicly notified for which hearings are likely to be required in the next few months. Some of the more significant applications include:

- Port Motueka Users Group Limited: A proposal to reconstruct/repair the training wall at the entrance of Motueka Harbour. This hearing is scheduled for 25 and 26 March 2008. The activity was considered to be (and was notified as) a Restricted Coastal Activity (RCA) but recent advice from the Department of Conservation is that it is their view that it is not an RCA. We are seeking confirmation of this as it has implications in respect of the make up of the

Hearings Committee and whether a decision is to be made by the Committee or a recommendation to the Minister of Conservation (required if it is an RCA);

- A Baigent: A proposal to extract gravel to create water storage reservoirs (and associated consents) at Brightwater. A hearing is scheduled for 7 April 2008.
- Arohanui Resort Limited: An 18 lot residential subdivision at Martin Farm Road, Kaiteriteri. Submission period closes soon.
- Ireland Developments Limited: Proposal to establish and operate an education and child care centre at Edward Street, Richmond. Submission period closes soon.

7. OTHER RESOURCE CONSENT MATTERS

McDonald's Resource Consent, Motueka

There have been articles recently in the media regarding the issuing of a resource consent which will allow a McDonald's restaurant to be built and operate at the corner of High Street and Whakarewa Street, Motueka. Council staff issued a non-notified resource consent under delegated authority to Polden Developments Limited on 21 September 2007. Some members of the public who are opposed to having a McDonald's restaurant in Motueka have taken issue with the fact that the Council did not publicly notify this application. Myself, together with Cr Higgins and Cr Wilkins, attended a public meeting in Motueka on 20 February 2007 and explained to those at the meeting that the subject land is zoned Commercial and as such, the establishment and operation of such a restaurant is a permitted activity and these types of activities are anticipated by the PTRMP.

It was explained that resource consent was required only in respect of four matters which did not meet permitted activity criteria, namely:

- The hours of operation – McDonald's wishes to open one hour before and stay open one hour later than the permitted activity times;
- An over-height and oversize sign;
- The entry/exit does not quite comply with the permitted activity criteria – accesses are meant to abut the property boundary but in McDonald's case it will be 2.6 metres from the boundary; and
- The amenity planting proposed does not exactly meet the permitted activity criteria.

With some minor changes the proposal could have entirely met the permitted activity criteria and no resource consent would have been required. It was because of this "*permitted baseline*" that Council staff were satisfied that the adverse effects on the environment were no more than minor. The applicant obtained the written approval of two landowners who live on the opposite side of Whakarewa Street as well as Transit New Zealand, and only these three parties were considered to be adversely affected by the four matters which required resource consent. I was therefore

satisfied that the application could be processed without notification and be issued under delegated authority.

The only avenue open to members of the public who feel that the Council has been in error in processing the application on a non-notified basis is a Judicial Review through the High Court. I am extremely confident with the decision making process which was followed and that this would be confirmed by any Court.

Staffing

We have recently had three new staff commence work within the Resource Consent section. Mr Leif Piggot and Ms Megan Kennedy have started as Consents Planners (Natural Resources) and will help process our "regional" type consents (discharge permits, regional land use, and water permits). Mrs Carol Davidson has joined us as a part-time Resource Consent Administration Officer.

We are currently advertising for a new Consent Planner (Subdivisions) who would be based in the Motueka Service Centre. This person will process subdivision applications as well as provide customer advice on a wide range of resource consent inquiries.

8. RECOMMENDATION

That this report be received.

Rob Lieffering
Resource Consents Manager