

Report No:	REP12-02-04
File No:	C651
Date:	7 February 2012
Information Only – no decision required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 16 February 2012
Report Author: Phil Doole, Resource Consents Manager
Subject: **Resource Consents Manager's Report**

REPORT SUMMARY

This report presents a summary of the performance of the Resource Consent Section regarding compliance with statutory timeframes for the first six months of the 2011-2012 financial year. It also summarises current workloads and issues, and the status of appeals to the Environment Court on decisions made by Hearing Panels

RECOMMENDATION/S

That the report REP12-02-04 be received.

DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the Resource Consents Manager's Report REP12-02-04.

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1. INTRODUCTION

1.1 This report presents a summary of the performance of the Resource Consent Section regarding compliance with statutory timeframes for the first six months of the 2011-2012 financial year. It also summarises current workloads and issues, and the status of appeals to the Environment Court on decisions made by Hearing Panels.

2. SUMMARY OF RESOURCE CONSENT PROCESSING FOR 2010-11 YEAR

2.1 Tables 1 and 2 following present summaries of the various types of consent applications for which processing was completed (ie, decisions made) during the six months July-December 2011, showing average processing days, and degree of compliance with statutory timeframes.

Table 1: Timeliness Results (July-December 2011) Non-notified Applications

Type of Application	Number Completed	Number Within Time (includes s37)	Percentage Within Time (includes s37)	Average Processing Days	Median Processing Days
Non-notified Applications (No Hearing)					
District Land	244	243	99.6%	13	13
Subdivisions	62	59	95%	22	19
Coastal	8	8	100%	19	11
Discharge	102	98	96%	23	17
Region Land	24	23	96%	16	12
Water	40	39	97.5%	7	6
Others*	15	15	100%	10	10
Total:	495	485	98%	16	15
Non-Notified Applications (With Hearing)					
All	0	n/a	n/a	n/a	n/a
*Note: the “Others” category includes Designations, Outline Plans and Certificates of Compliance					

Table 2: Timeliness Results (July-December 2011) Notified Applications

Type of Application	Number Completed	Number Within Time (includes s37)	Percentage Within Time (includes s37)	Average Processing Days*	Median Processing Days*
Publicly Notified Applications (No Hearing)					
All	9	9	100%	103	112
Publicly Notified Applications (With Hearing)					
All	20	18	90%	110	109
Limited Notified Applications (No Hearing)					
All	5	2	40%	57	53
Limited Notified Applications (With Hearing)					
All	5	5	100%	136	115
Totals:	39	34	87%	n/a	n/a
*Note: processing days include time extensions sought or agreed by applicants.					

Applications to change conditions of existing resource consents are included in the above figures (9% of total consents processed). Forty-six percent of all consents required further information requests; twenty-eight percent had Section 37 time extensions.

Table 3: Summary of Decisions

Type of Decision	Number
Declined by Committee	1
Granted by Committee	6
Declined by Independent Commissioners	3
Granted by Independent Commissioners	12
Granted by Mixed Panel	2
Declined under Delegated Authority	2
Granted under Delegated Authority	502
Requiring Authority Decision	6

3. DISCOUNT REGULATIONS

- 3.1 The discount regulations that now apply to Council's charges for processing resource consent applications took effect for all applications lodged from 1 August 2010. The discount is a "sliding scale percentage discount" of 1% for each day over time, rising to a maximum 50% discount at 50 days over time.
- 3.2 Five applications involving 11 of the 15 consents completed out of time in the six month period (see Tables 1 and 2 above) attracted a discount. The other applications involving four consents were lodged prior to the regulations taking effect.
- 3.3 The five jobs completed out of time required fee discounts of 7%, 10%, 11%, 11% and 24%, totalling \$5268.32. Three of these jobs were lodged in the previous financial year. They illustrate the difficulties that can be encountered with the statutory time constraints when dealing with complex and/or technical

applications, and managing staff workloads when responses to further information requests are received at times when staff are committed to scheduled hearings or other work, or on leave. We have taken steps to improve monitoring of workloads so that any problems achieving timeliness can be better anticipated, although it is not usually time or cost-effective to re-assign jobs that are part way through the process.

4. CURRENT APPEALS

4.1 Over the past six months we have been dealing with the appeals listed in Table 6 below. There are currently **seven** live appeals, two of which are being heard by the Environment Court. Four of the others relate to the Richmond West Development Area.

Table 4: Current Appeals

Appellant	Matter	Status
Richmond West Group	Subdivision at Richmond West	On hold until completion of Richmond West Plan Change
Punt	Poutama Drain Notice of Requirement Richmond West Development Area (TDC Engineering Dept)	On hold until completion of Richmond West Plan Change and other appeals
Wakatu Inc	Water take for Motueka & Coastal Community Water Supply, Parker Rd, Motueka (TDC Engineering Dept)	Court hearing scheduled for 27 February 2012. Related Appeals on Plan Change
Sustainable Ventures Ltd Other parties: Friends of Golden Bay Gunn Sissons Glover	Coastal development proposal at Pakawau. The appeal is against several of the conditions imposed, notably the coastal protection works.	Court hearing held in August 2011 Subsequently the Judge has asked for various further items of information. A further hearing may be required.
McShane Holdings Ltd AE Field & Son Ltd	Borck Creek Greenway Notice of Requirement Richmond West Development Area (TDC Engineering Dept)	Negotiations are continuing.
Cresswell Farms Ltd	Subdivision in Rural 1 Zone, Moutere. Issues with condition requiring fencing of stream bank.	Resolved by Consent Order
Carter Holt Harvey HBU Limited Other parties: David Mitchell Judith Mitchell NZHPT Friends of Nelson Haven and Tasman Bay Inc Tiakina Te Taiao	Rural-residential subdivision for 8 allotments on Kina Peninsula declined by Independent Commissioners	Court Mediation scheduled for March 2012 An alternative proposal that would allow 3 allotments has been rejected by the applicant/appellant.

5. RECENT HEARINGS AND OTHER NOTABLE APPLICATIONS

5.1 Notable applications that have been completed over the past six months are:

- **Atamai Trust:** to create two additional lots in the Rural-Residential zone at Pangatotara, and also to shift the access for six other previously authorised allotments from the Motueka Valley Highway to the Mytton Heights private way. This application was limited notified to other owners/users of the private way, attracting three submissions. An Independent Commissioner was appointed to hear and determine this application because of a potential conflict with regard to Council's involvement with the future of the private way possibly being vested as road. Consent was granted.
- **Norton Family Trust:** to subdivide a property on Pigeon Valley Road into four rural residential titles. The principal issue with this application was the safety of the road access point. This access was opposed by local road users. The Committee preferred the evidence of the Roding Engineer and granted consent as it was proposed.
- **CBH Ltd:** To create add additional lots to the Appleby Hills subdivision beyond what was originally granted, and to also change the layout of many of the existing lots. The application as initially lodged was not supported by Council staff on the bases of effects on land productivity and landscape values. The applicant substantially amended the application at the hearing to reduce the effects and this revised application was largely (although not entirely) accepted by Council staff. The amended form of the application, with fewer new allotments, was granted by the Committee.
- **Pentewan Farms Ltd:** to subdivide a 45 hectare Rural 2 block beside the Ruby Bay Bypass on SH60 into two allotments, one of 8 hectares. This application was not supported by Council staff on the basis of loss of productivity associated with dividing the block. Also there was a precedent issue: with nothing in particular to differentiate the land from other Rural 2 blocks the subdivision could have been replicated by other landowners causing an adverse effect on the integrity of the TRMP. The Committee agreed with that position and declined the application.

This decision is consistent with a number of recent decisions pertaining to rural land (Rural 1 or 2 zones in particular) where there has been nothing to differentiate the subject land from other blocks and therefore the rural land resource could be incrementally depleted by subdivision. Unless there are positive effects to offset the reduction in productivity then the proposals are considered to be inconsistent with the objectives and policies of the TRMP.

- **Tasman District Council (for Tasman Cycle Trails Trust):** to construct parts of the Great Taste Cycle Trail from Lower Queen Street to Neimans Creek, including boardwalks and reclamations in the coastal marine area of Waimea Inlet. Council officers generally supported this proposal, except for one area of proposed reclamation. The application was heard by independent Commissioners. Evidence of the applicant and officers was preferred over that of submitters who opposed on the bases of effects on the airport, effects on recreational shooting, and effects on bird habitat. Consents were granted including the proposed reclamations.
 - **JS Ewers Ltd:** to amend a (volunteered) condition of an existing discharge consent that required greenhouse heating systems to convert from coal to wood burning. The amendment cancels the requirement to convert and instead allows the consent holder to retain the use of coal for heating of greenhouses. This proposal was heard by an independent Commissioner. As the effects of an activity on climate change matters cannot be considered under the RMA and the actual effects on the environment were found to be minor, the Commissioner found that it was appropriate that this change to the consent be granted. Movement to wood fuel was left up to market forces and any national legislation that may be forthcoming.
 - **P & M Hill:** to subdivide a small Rural 1 land block on Paton Road that is to be physically divided by drainage works and a walkway as part of the Borck Creek designations. This application was heard by an independent Commissioner, whose decision to grant consent was based on the lower productivity of the subject land and the particular circumstances of the site which set it apart from other applications that may arise in Rural 1 zones.
 - **Department of Conservation:** to construct a public toilet at the Wainui Falls Road carpark. This application was publicly notified because of potential public interest in the Golden bay community, and heard by an independent Commissioner. A local submitter was opposed on the basis of a long standing grievance with the Council and also that it may encourage freedom camping. The Commissioner found that those concerns were not sufficient to outweigh the issues of fouling of both the car park and the track edges and other such effects that can be addressed by the provision of the toilet.
- 5.2 An application by BH Beuke for a three lot subdivision of rural land on Kelling Road, Upper Moutere attracted 10 submissions. This application was scheduled for hearing in December 2011, but was withdrawn after the Officer reports were circulated.
- 5.3 An application by Adcock & Donaldson Properties Ltd to establish a motorsport park near Tapawera has been scheduled for hearing by independent Commissioners beginning on 19 March 2012. This application attracted 257 submissions when publicly notified in December 2011. The hearing was deferred to give the applicant time to address access issues.

- 5.4 An application by Nelson Pine Industries to “renew” their discharge permits for the MDF plant on Lower Queen Street in Richmond, was publicly notified in November 2011, and attracted 10 submissions. The applicant is addressing issues with submitters.
- 5.5 Applications for river protection works have tested our implementation of the new rules in Part 4 of the Tasman Resource Management Plan, particularly the **controlled activity** rules for which applications must be granted. A set of conditions was developed in liaison with interested parties including Fish & Game Council staff.

6. COST ESTIMATES AND DEPOSITS FOR NOTIFIED APPLICATIONS

- 6.1 Over the past 18 months we have developed a procedure for providing cost estimates to applicants for the hearing and decision-making stages of processing their resource consent applications. This has been done because of concerns we had that applicants were not being well advised of the likely Council costs, which in some cases have exceeded \$30,000, before committing themselves to that expenditure.
- 6.2 Acceptance of the estimates by applicants has generally avoided the need to require additional deposits to be paid before proceeding with the hearing stages of the process which include the officer reports and decision-making time costs. Provision of estimates provides applicants with an opportunity to question the reasonableness of the proposed work that will be done on their behalf before it is done, rather than after.

7. URBAN DESIGN PANEL

- 7.1 Three Richmond projects have gone before the Nelson/Tasman Urban Design Panel in the last six months:
- A new two storey building is planned to replace the Cambridge Street doctors’ clinic. The building design received generally favourable comments from the Panel. Recommendations were provided to improve the building’s relationship to the ANZAC memorial park which is immediately adjoining. Techniques were also proposed to better integrate the building into the park rather than being associated with the Council car-park which it also adjoins.
 - A new Network Tasman building is proposed on Oxford Street. The building design itself received favourable comments, but the panel encouraged more consideration of the parking space, open space and landscaping. Significant improvements were subsequently made - the revised plans now include a pocket park, covered cycle storage and more trees in the car-park.
 - A new two storey building is proposed for the western half of the site that currently has the Autoworld car yard on Queen Street. The building has space for two retail tenants downstairs and two apartments upstairs. Again

the building design received favourable comments with a number of suggested improvements, particularly for the rear of the building to improve its design and connection to the Warring carpark. The provision of upstairs apartments on Queen Street was supported.

8. CURRENT STAFFING AND WORKLOAD

- 8.1 Staffing of the Resource Consents Section has been stable since my last report in August 2011. We have had one staff vacancy since Godwell Mahowa's departure in November 2010, and we have continued to gauge our likely forward workload to determine whether the vacancy needs to be filled.
- 8.2 Our overall workload may be increasing compared to the past two-three years, with 10% more resource consent applications completed in the last six month period compared to the same period in 2010. The Consent Planners spend a significant portion of their work time fielding public and internal enquiries and advising prospective applicants on resource consent requirements. Consents staff also handle other matters such as accretion claims, and assisting with compliance actions. As noted in Section 3 of this report, there are instances when multiple competing demands on staff time make it difficult to achieve the resource consent processing time frames.
- 8.3 Over recent months several staff have assisted with local CDEM operations, with others "holding the fort", and Jeremy Butler has assisted with the response to the Rena oil spill at Tauranga.
- 8.4 Over this summer we have been ably assisted by Shannon Cogan, who is a student at Lincoln University.
- 8.5 I would like to thank the staff in the Resource Consents Section and all those in other Council Sections who assist us with enquiries and processing work, for their contribution to achieving the good timeliness results over the past six months.

9. DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the Resource Consent Manager's Report REP11-02-04.



Phil Doole
Resource Consents Manager