

Report No.	19-177
<b>Decision Required</b>	

## REGULATORY MANAGEMENT REPORT - JULY TO SEPTEMBER 2019

### 1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period July 2019 to September 2019 and summarises regulatory activities associated with the municipal **Wastewater Treatment Plant (WWTP)** programme.

### 2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 19-177 and Annexes.

### 3. FINANCIAL IMPACT

- 3.1. As with previous years, we are still anticipating that there will be significant costs associated with processing large and complex applications, which may in turn be subject to appeal. Also, on-going investigations and prosecutions within the compliance monitoring programme, are likely to have an impact on both expenditure and revenue within this programme. Regular updates will be provided to the Audit and Risk Committee throughout the year.

### 4. COMMUNITY ENGAGEMENT

- 4.1. This is a public item and therefore Council may deem this sufficient to inform the public.

### 5. SIGNIFICANT BUSINESS RISK IMPACT

- 5.1. There is no significant business risk associated with this item.

### 6. OVERVIEW

- 6.1. Regulatory activity continues to be busy. Since 1 July 2019 Horizons has processed and made decisions on 288 applications. As at 1 July 2019 there were 179 applications in the system for processing.

- 6.2. In relation to the major applications, the following provides a summary of their current status:

#### 6.2.1. Department of Conservation

- i. The **Department of Conservation (DOC)** is progressing the Whakapapa **Wastewater Treatment Plant (WWTP)** application. DOC has now moved to plan for the relocation of the wastewater treatment plant out of the Tongariro National Park to a less sensitive (both culturally and environmentally) receiving environment. This is a positive move and one Horizons has advocated. A move outside the park will take 2-4 years to go through consenting and construction. In the meantime Horizons is requiring investment into the existing plant to improve as far as possible its environmental improvement.

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Horizons has previously expressed its concern about timeframes to DOC (see **Annex A**).

- ii. Required improvements to the existing plant may well be wrapped up in an enforcement order overseen by the Environment Court in order to provide enough assurance that progress will be made.

#### 6.2.2. Tararua District Council

- i. Re-consenting of Pahiatua and Eketahuna wastewater treatment plant remains the subject of a mediation process. These respective processes are confidential to the parties involved.
- ii. Submissions closed for the Woodville WWTP on 19 April 2019, with seven submissions being received, of which six were in opposition. Tararua District Council are now consulting directly with those submitters who have opposed the application. At this stage we are anticipating a hearing in the first quarter of 2020.

#### 6.2.3. Horowhenua District Council

- i. The Tokomaru WWTP is now onto its second iteration of draft conditions. **Horowhenua District Council (HDC)** are now working with submitters on these conditions.
- ii. The application seeking to renew the Tokomaru water supply abstraction was notified, with two submissions being received. Conditions are to be drafted and circulated by the end of October.
- iii. The application seeking to discharge stormwater into Koputaroa Stream catchment has been notified in accordance with section 95 of the **Resource Management Act 1991 (RMA)**, with the submission period closing on 29 October 2019.
- iv. The applications for Levin WWTP discharges (commonly known as 'The Pot') have been notified and at the close of submissions 17 submissions had been received. Most are in opposition to the proposal. A hearing commenced on 30 October 2019 and has been adjourned until February / March 2020 to allow for further engagement between the applicant and submitters and further consideration of proposed conditions..
- v. There has been no change since the last report in relation to the application seeking to discharge stormwater from the Levin Township into Lake Horowhenua. Further information has been requested and HDC has asked for time to engage with the relevant parties. Given the values of Lake Horowhenua, this is not expected to be a simple process.
- vi. HDC is preparing a consent application seeking to discharge stormwater from the Foxton Township to the Manawatū River.

#### 6.2.4. Ruapehu District Council

- i. **Ruapehu District Council (RDC)** has lodged a consent application in relation to the National Park WWTP. RDC are currently consulting with the Wai Group in relation to the proposed activity and is considering growth implications on the existing consent. RDC is proposing to re-submit a revised set of conditions for consideration.
- ii. The Raetihi Water Supply application is progressing with conditions currently being drafted. Once these are agreed the application can proceed to be granted.

#### 6.2.5. Manawatu District Council

- i. As previously reported, the **Manawatu District Council (MDC)** have a number of WWTP whose discharges are currently authorised under the existing use rights of the RMA, including the Sanson, Cheltenham, Halcombe, Awahuri and Kimbolton WWTP. The applications relating to these WWTP have being placed on hold as MDC progresses its centralisation project, which is aiming to have discharges from these and

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other WWTP centralised into the Feilding WWTP. MDC is currently preparing the required applications to either authorise new activities and/or amend the current consent associated with the Feilding WWTP to enable this centralisation process to occur.

#### 6.2.6. Te Ahu a Turanga

- i. The Manawatu Gorge replacement project “Te Ahu a Turanga” is progressing. A decision on the **Notice of Requirement (NOR)** has been made and subsequently appealed by the three parties, including the Department of Conservation. This matter is still before the Environment Court.
- ii. Horizons staff have continued to meet with **New Zealand Transport Authority (NZTA)** in relation to the pending regional consenting process. At this stage NZTA are anticipating lodging the main resource consents with Horizons in December 2019.
- iii. To date, Horizons has processed one ‘enabling’ consent application in relation to geotechnical investigations in the Manawatu River. Another enabling consent application was lodged in July, in relation to the construction of an access road into the main alignment. NZTA have advised that further enabling consent applications are likely to be lodged prior to December 2019. These applications will relate to the abstraction of water and construction of water reservoirs, geotechnical testing, construction of an access road on the eastern side of the project, and works associated with the establishment and operation of a quarry site.
- iv. As previously reported, officers have considered the regulatory demands that such a major civil construction project will have on its business. These lie in three main areas: the large numbers of consent variations that need to be managed and processed following the main consenting process; large volumes of management reports and compliance inspections required to enable works to occur or follow up on consent conditions; and a significant administration process to manage large volumes of data and information.
- v. Over the reporting period, discussions with NZTA have continued on how the **Special Projects Team (the Team)** of at least four **Full Time Equivalent (FTE)** staff will be funded.

#### 6.2.7. Mercury Energy

- i. The primary focus over the reporting period has been on the certification of a number of management plans associated with the project, which has to occur before construction commences. The certification process has been very involved and required significant staff time and input from various internal and external experts. To date, approximately 25 management plans have been certified.
- ii. Whilst outside of the reporting period, it is important to note that during October works commenced in relation to both the construction of the Transmission Lines and the Windfarm itself. Accordingly, Horizons has commenced on-site inspections of the works occurring. It is anticipated that once construction fully commences, the compliance monitoring workload will be the equivalent of one FTE working 2-3 days per week on the project. This is due to the scale and complexity of the project that is characterised by multitude of work areas, some of which are very high risk; the numerous management plans that require assessment and the volume of compliance reporting and documentation that comes with a project of this size.

### Compliance Monitoring Policy and Enforcement Decision Guidelines

- 6.3. As reported to the previous Council, Horizons has both a Compliance Monitoring Policy and Enforcement Decision Making Guidelines. Both documents provide high level guidance as to how Horizons undertakes its compliance monitoring functions and decision

making considerations in relation to enforcement matters. Copies of these documents are attached as **Annexes B and C**, particularly to assist new councillors.

## 7. COMPLIANCE PROGRAMME

- 7.1. The intention of this section is to focus on one key part of the regulatory business and provide an overview of the compliance programme for the reporting period. The focus for this report is to provide a summary of the municipal wastewater treatment plant programme
- 7.1.1. There are 46 municipal WWTPs in the region that are consented. Nineteen of these are currently operating under the existing use provisions of the RMA, whilst the remainder are operating under current resource consents. There are two WWTP consents that are due to expire between now and 2021. As previously reported, those WWTP operating under existing use provisions are still required to comply with their resource consents. Those consents subject to existing use and where they are in the consent process is summarized in **Annex D**.
- 7.1.2. The WWTP programme is categorised, based on a number of factors that include; the potential environmental risk the site poses, its compliance history, nature of the receiving environment and the complexity and public interest of the consent. Under the present programme there are 11, 19, and 16 category 1, 2 and 3 sites, respectively.
- 7.1.3. Horizons has an active risk based compliance programme in relation to WWTP that consists of undertaking site inspections, assessing data provided by consent holders and assessing and undertaking annual audit reports of C1 and C2 sites. It is important to note that data and annual reports assessments can take some time, as the information provided by consent holders can be long, complex and require significant analysis.
- 7.1.4. Since this programme was last reported to Council in December 2018, Horizons has undertaken 32 assessments of WWTP. Of the assessments completed since December 2018, five WWTP have been graded as fully compliant, one is Comply At Risk, three are Low Risk Non – Compliant, three are Moderate Non–Compliant and 20 are Significantly Non – Compliant with their respective resource consents. A copy of the Horizons compliance assessment guidelines are attached as **Annex E**.
- 7.1.5. Of the 20 significant non-compliant WWTP
- Rangitikei DC has five WWTP which are currently significant non-compliant. The issues relating to volume exceedances at Taihape and Hunterville WWTP are being addressed via the consent renewal/variation process; however, in some cases such as Bulls WWTP and Marton enforcement action may now be required;
  - Manawatū DC has been issued an infringement notice for failure to comply with **Soluble Inorganic Nitrogen (SIN)** concentrations in its discharge, and has been issued Abatement Notices in relation to failing to comply with conditions of consent for the Sanson and Kimbolton WWTP. MDC have advised issues at the Halcombe WWTP have now been resolved.
  - Regarding the three significantly non-complying WWTP information has been requested of Ruapehu DC on what steps are being taken and when to ensure compliance. This information is currently being assessed. Enforcement action is still a distinct possibility as a result of these non-compliances and if future non-compliances occur.
  - Three Tararua DC WWTP are currently going through consent renewals with Woodville Pahiatua and Eketahuna WWTP being well through their consenting process. Enforcement action will be considered in relation to significant non-compliances with other WWTP.

- The Tokomaru WWTP significant non-compliance has been noted; however, given the re-consenting process is entering into its final stages, enforcement action is not being considered at this stage.
- Regarding the DOC Whakapapa WWTP, an Abatement Notice was issued seeking the DOC to cease the unauthorised discharge from the WWTP. Subsequently, DOC raised concerns with the practicalities of complying this timeframe and it was agreed to cancel the notice pursuant to section 325 of the RMA. Nonetheless, DOC prepared an options report for improving the performance of the existing WWTP to ensure the environmental effects of the discharge are adequately avoided and/or mitigated. Horizons will be meeting with DOC staff in early November to discuss this report; however, one likely outcome is that Horizons will seek an Enforcement Order that effectively provides an enforceable pathway and timeframe by which issues at the WWTP have to be rectified.

7.1.6. Currently 12 WWTP are being assessed and 17 are due for assessment before the end of the financial year

7.1.7. Notwithstanding the above, **Annex D** summarises the current compliance status of the WWTP in the programme and where a significant non-compliance has been identified, what action has been taken. It is important to note, the compliance status of a number of WWTP is based on assessments done previously and that a number of these sites are now being assessed. Therefore, the compliance grading for some of the WWTP may change in the next couple of months.

7.1.8. Where a significant non-compliance occurs, Horizons will consider what enforcement action is appropriate. This action can be in the form of punitive and/or directive action. The former being the in form of formal warnings, infringement notices and ultimately laying criminal charges in the district court, whilst the latter can be in the form of abatement notices or enforcement orders (including interim enforcement orders). The typical factors which are taken into consideration in determining what action is appropriate are detailed in Horizons Enforcement Decision Making Guidelines that are annexed to this report, but include the degree of adverse effects on the environment, the conduct of the person(s) involved (including their compliance history) and the significance of the offending to the community.

7.1.9. As noted above a number of WWTP are currently subject to a consent renewal process. Where a WWTP is subject to this process and there is a significant non-compliance against the operative consent, consideration of enforcement action will, in addition to the matters detailed in paragraph 7.1.7, also be balanced against how far through the re-consenting process the WWTP is.

7.1.10. In relation to Significant Non-Compliances the following enforcement action has been taken:

- In relation After continued failures to provide the required Water Balance report for the Kimbolten WWTP MDC was issued with an Abatement Notice requiring it to provide the report;
- Due to significant exceedances of key discharge parameters for the Sanson WWTP, MDC were issued an Abatement Notice requiring it to cease the unauthorised discharge; and
- Due to continued failure to comply with the Soluble Inorganic Nitrogen concentrations at the discharge point from the Feilding WWTP MDC were issued with an Infringement Notice.

**8. COMPLIANCE PROGRAMME SUMMARY**

- 8.1. During the reporting period there were 110 compliance monitoring assessments. Of these, 54 Comply Full, 18 Comply At-Risk, 14 Low Risk Non-Compliance, nine Moderate Non-Compliance and 15 Significant Non-compliance gradings were issued. Overall this equates to a 66% compliance rate across the entire programme for the reporting period.
- 8.2. Below is a breakdown of the non-compliances by consent area, for the reporting period:  
**Industry:** Seven Low risk non-compliance, three moderate non-compliance and eight significant non-compliances, respectively; and  
**Rural:** Seven low risk non-compliance, six moderate non-compliance and seven significant non-compliances, respectively.
- 8.3. The number of scheduled compliance assessments completed is slightly behind what is anticipated. However, at this stage, we are on track to meet our annual plan targets.
- 8.4. As noted above there are number of significant compliance assessments currently underway as annual reports are being reviewed and reported on for Category 1 and 2 WWTP. Undertaking these annual reviews involves reviewing and assessing large volumes of information and preparing detailed compliance reports
- 8.5. Horizons currently has three prosecutions before the District Court. There are also three significant investigations underway. Table 1 provides a summary of the prosecutions currently before the Court.

**Table 1. Summary of Court proceedings**

Defendant	Summary
Huka View Dairies and Derek Berendt	Charges laid and before the Court.
LA Landscapes, Patrick Damien Toyne, Central Demolition Limited and Ian Butcher	Charges laid and before the Court.
John Turkington Limited and Gordon John Turkington	Charges laid and before the Court.

**9. INCIDENTS**

- 9.1. Over the reporting period, a total of 255 complaints were received, compared to 244 for the same period last year. For this reporting period, the majority of these complaints (131) related to discharges to air. The remainder of the complaints related to discharges to land (68) and water (55).
- 9.2. All complaints are categorised and responded to accordingly. A response can include an immediate or planned inspection, a phone call, or being referred to another agency such as a Territorial Authority or Civil Aviation

**10. REGULATORY ACTION**

- 10.1. During the reporting period, 26 abatement and nine infringement notices were issued. Table 2 below provides a summary of the formal regulatory action taken during the reporting period.

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**Table 2. Regulatory action taken during reporting period.**

Issued to	Regulatory Action Taken	District	Date AN Issued	Section of Act Contravened	Details
ALLAN, Michelle Christine	Abatement Notice	Palmerston North	29-Jul-19	15(2A) & 22(2)(a)	Cease discharging offensive smoke beyond the property boundary.
D.L.R. Farms Limited	Abatement Notice	Rangitikei	4-Jul-19	14(2)(a)	Verify flow meter
Pacific Farms Development Limited	Abatement Notice	Palmerston North	18-Jul-19	9(2)	Cease all unauthorised land disturbance and the discharge of sediment to surface water
Hifarm Holdings	Abatement Notice	Palmerston North	23-Sep-19	15(1)(b)	Cease the discharge of refuse into a water way
Hifarm Holdings	Abatement Notice	Palmerston North	23-Sep-19	15(1)(b)	Remove general refuse from water way
NZL Forest Group	Abatement Notice	Tararua	24-Jul-19	9(2)	Stabilise forestry slash in accordance with NES-PF.
John Turkington Limited	Abatement Notice	Manawatu	1-Aug-19	9(2) & 15(1)(b)	Remove forestry slash
Rangitikei District Council	Abatement Notice	Rangitikei	31-Aug-19	15(1)(a) and (b)	Cease discharge of untreated wastewater to surface water
D.L.R. Farms Limited	Abatement Notice	Rangitikei	6-Aug-19	15(1)(b)	Cease discharge of effluent to surface water
John Turkington Limited	Abatement Notice	Manawatu	1-Aug-19	9(2) & 15(1)(b)	Stabilise forestry related earthworks.
John Turkington Limited	Abatement Notice	Manawatu	1-Aug-19	9(2) & 15(1)(b)	Cease using machinery in waterway.
D.L.R. Farms Limited	Abatement Notice	Rangitikei	6-Aug-19	15(1)(b)	Cease discharge from effluent pond.
Daniel Capper (Agrityres Limited)	Abatement Notice	Manawatu	15-Aug-19	15(2A)	Cease burning of prohibited materials
Te Ngaio Co Ltd	Abatement Notice	Horowhenua	20-Aug-19	15(1)(b)	Cease the discharge of effluent to land
BROWNE, BI & VL	Abatement Notice	Palmerston North	6-Aug-19	15(2A)	Cease the burning of prohibited items and dumping in property drain.
BROWNE, BI & VL	Abatement Notice	Palmerston North	6-Aug-19	15(2A)	Remove the remnants of the burning prohibited items.
Manawatu District Council	Abatement Notice	Manawatu	18-Sep-19	15(1)(b)	Cease the discharge of contaminants to surface water.
Rewa Valley Limited	Abatement Notice	Rangitikei	6-Sep-19	15(1)(b)	Install effluent pond
Philip John Hayward	Abatement Notice	Whanganui	19-Aug-19	15 (2)	Cease the discharge of smoke and burning prohibited items
Murray John Spiers	Abatement Notice	Horowhenua	27-Jul-19	15(2A)	Clean up non cleanfill material and dispose to an authorised facility.
Stephen Parlane	Abatement Notice	Palmerston North	2-Sep-19	15(2A)	Cease the discharge of smoke and burning prohibited items

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Vaughn Dennison	Abatement Notice	Manawatu	13-Sep-19	15(2A)	Cease burning of prohibited materials
Vaughn Dennison	Abatement Notice	Manawatu	13-Sep-19	15(2A)	To undertake clean-up of burnt prohibited materials
Kintail Properties Limited	Abatement Notice	Horowhenua	10-Sep-19	9(2) & 15(1)(b)	Cease unauthorised earthworks
Kintail Properties Limited	Abatement Notice	Horowhenua	10-Sep-19	9(2) & 15(1)(b)	Undertake stabilisation of unauthorised earthworks
Charlie Greenwood	Abatement Notice	Palmerston North	17-Sep-19	15(2A)	Cease burning offensive smoke beyond the boundary
Te Ngaio Co Ltd	Infringement notice	Horowhenua	1-Aug-19	15(1)(b)	Discharge of contaminant to land
Philip John Hayward	Infringement notice	Whanganui	10-Aug-19	15(2A)	Burning Prohibited items
Stephen Merose Parlane	Infringement notice	Palmerston North	31-Aug-19	15(2A)	Burning Prohibited items
Vaughn Robert Dennison	Infringement notice	Palmerston North	2-Sep-19	15(2A)	Burning of Prohibited Items
Charlie Greenwood	Infringement notice	Palmerston North	10-Sep-19	15(2A)	Objectionable odour and smoke
DLR Farms Ltd	Infringement notice	Rangitikei	28-Aug-19	15(1)(b)	Discharge of contaminant to land where it may enter water
Caroua Farms limited	Infringement notice	Manawatu	13-Sep-19	15(1)(b)	Discharge of contaminant to land where it may enter water
AK Buckman	Infringement notice	Manawatu	18-Sep-19	14(2)(a)	Removal of flow meter from water take
Warren & Janice Haworth	Infringement notice	Manawatu	26-Sep-19	15(1)(b)	Discharge of contaminants to land where it may enter water

## 11. SIGNIFICANCE

11.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

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Nic Peet  
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### ANNEXES

- A Whakapapa WWTP Request for Update
- B Compliance Monitoring Policy
- C Horizons Enforcement Guidelines
- D Wastewater Reporting as of 30 September 2019
- E Compliance Assessment Guideline for Individual Consents