

Report No.	20-02
Information Only - No Decision Required	

REGULATORY MANAGEMENT REPORT - OCTOBER TO DECEMBER 2019

1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period October to December 2019 and provides a summary of the compliance programme associated with the Mercury Windfarm.

2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 20-02 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. Resource consenting continues to be busy. Since 1 July 2019 Horizons has processed and made decisions on 195 applications.
- 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 performance.

12 February 2020

- ii. Horizons has informed DOC that it will be seeking an enforcement order from the court to oversee improvements to the existing plant and progress towards a new application. This order will hold DOC to an agreed process and timetable with judicial oversight. The same mechanism was used with Whanganui District Council when its wastewater treatment plant failed.
- iii. Horizons' counsel is currently working with counsel from DOC to frame the order. Iwi will also be invited to be a party to the process.

6.2.2. Tararua District Council

- i. Re-consenting of Pahiatua and Eketahuna WWTP remains the subject of a mediation process. These respective processes are confidential to the parties involved.
- ii. Regarding the Woodville WWTP, we are also awaiting a response from **Tararua District Council (TDC)** in relation to a section 92 request in relation to groundwater monitoring information. At this stage we are still 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 with HDC for review and feedback.
- 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. Submissions were received **Horizons Regional Council (Horizons)** River Management Group and landowners downstream of the proposed activity. The applicant is currently holding meetings with these parties who have submitted on the application.
- iv. For the Levin WWTP discharges (commonly known as 'The Pot'), a hearing commenced on 30 October 2019 and has been adjourned until March 2020 to allow for further engagement between HDC 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. HDC has also advised it will be providing the further information requested in June. 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.
- iii. Ohakune and Raetihi WWTP applications may be impacted by the submission of an additional **Tourism Infrastructure Fund (TIF)** application to **Ministry of Business**

12 February 2020

Innovation and Employment (MBIE). RDC is looking to provide an update on the applications and the impact growth implications may have on these applications.

- iv. The application associated with the Taumarunui water supply is currently on hold for further information, including assessing water efficiency.

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 been placed on hold as MDC progresses its centralisation project, which is aiming to have discharges from these and other WWTP centralised into the Feilding WWTP. To this end, MDC have now lodged a consent application that is seeking to amend the Feilding WWTP consents to allow for centralisation of these discharges into the Feilding WWTP.
- ii. MDC have also lodged a consent application to enable expansion to the current land disposal area for the Feilding WWTP. This application is currently being assessed.

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 February 2020.
- iii. NZTA have advised they will be requesting that the applications associated with the main consents are processed via the Direct Referral Process allowed for under the RMA.
- iv. To date, Horizons has processed two ‘enabling’ consent applications in relation to geo-technical investigations in the Manawatu River and construction of an access road into the main alignment. Another application is being considered in relation to further geo-technical investigations. There has been a delay in the lodging of additional enabling consent applications and NZTA has advised that further enabling consent applications are likely to be lodged over the January and February period. These applications will relate to the abstraction of water and construction of water reservoirs, construction of an access road on the eastern side of the project, and works associated with the establishment and operation of a quarry site.
- v. 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.

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 compliance programme associated with the construction of the Mercury Windfarm.

12 February 2020

- 7.2. Construction of the windfarm commenced in October and is now in proceeding at pace. The site effectively covers two main work areas, which are being undertaken by two different contractors. The windfarm site and associated works are being undertaken by Vestas, whilst the construction of the transmission lines is being undertaken by Electrix.
- 7.3. Horizons is undertaking weekly site inspections to assess compliance with relevant resource consents and the numerous management plans that govern the project. Given the structure of the consents and the fact the management plans form part of the General (or Schedule 1) Consent Conditions that fall under the jurisdiction of Horizons, PNCC and TDC, Horizons is effectively undertaking monitoring of these conditions for all three councils.
- 7.4. These inspections focus on ensuring the environmental controls in place are appropriate and comply with the required certified **Construction Environmental Management Plans (CEMP)** and **Site Environmental Management Plans (SEMP)**. They involve inspection of the site and various work areas within the site, assessing compliance and where appropriate providing direction to the contractor in relation corrective action. A copy of a typical compliance report is attached as **Annexure 1**.
- 7.5. Given the size and scale of works occurring, the site is being inspected on weekly basis, with the inspections taking approximately one day. The associated reporting and administration takes a further day to complete.
- 7.6. To date, approximately 25 management plans have been certified. A copy of two SEMP's are attached as **Annexures 2 and 3**. Figure 1 below shows the general management plan structure that forms part of the project. We are expecting management plan certification to be an on-going process as new SEMP are provided and existing SEMP evolve to reflect the dynamic nature of works occurring on-site.

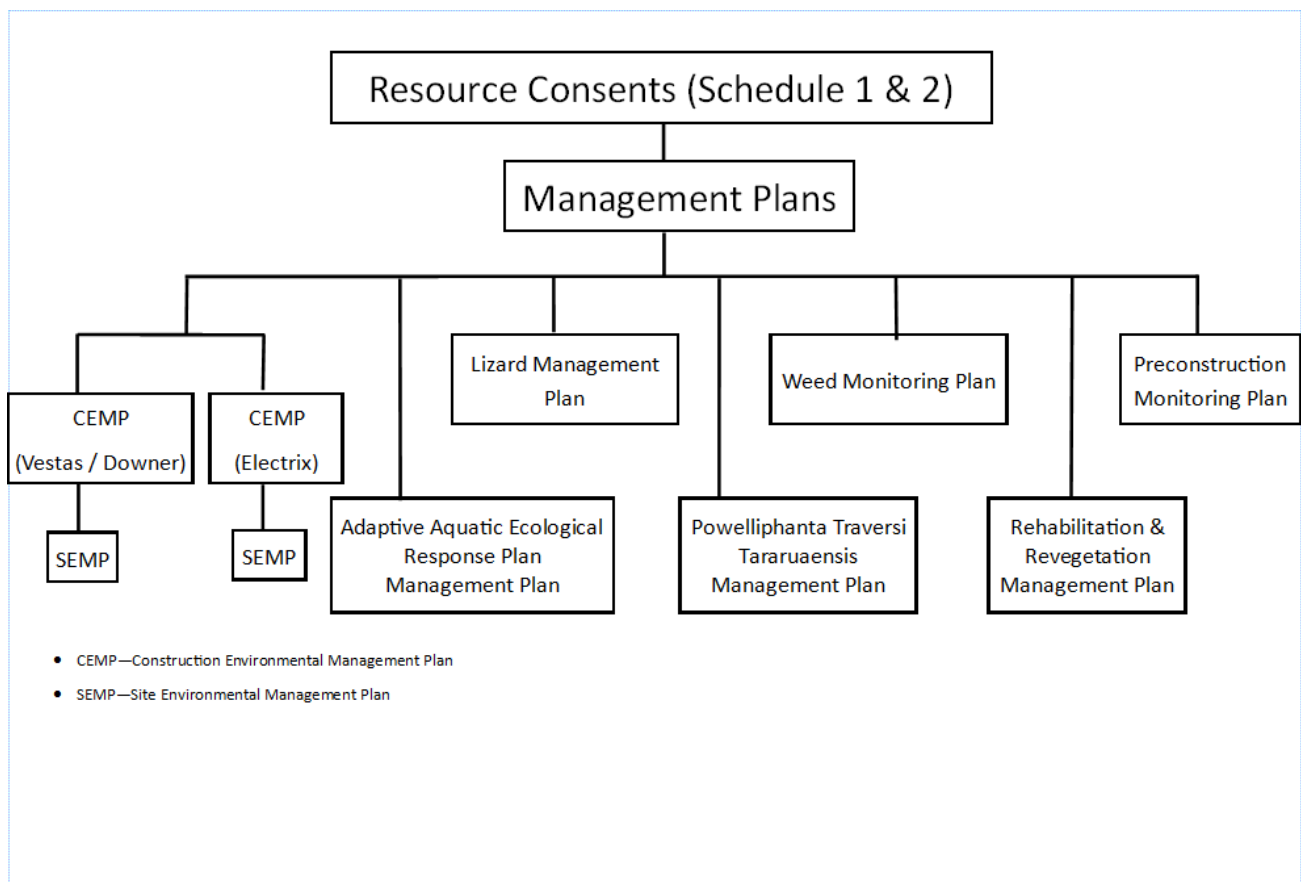


Figure 1. Mercury Energy – General Management Plan Structure

7.7. Figures 1-4 show some of the environmental controls installed on the Windfarm.



Figure 1. Decanting Earthbund



Figure 2. Sediment Retention Pond



Figure 3. Super Silt Fence controlling sediment run-off while primary control is constructed



Figure 4. Culvert installation

8. COMPLIANCE PROGRAMME SUMMARY

- 8.1. During the reporting period there were 107 compliance monitoring assessments. Of these, 56 Comply Full, 22 Comply At-Risk, eight Low Risk Non-Compliance, nine Moderate Non-Compliance and 12 Significant Non-compliance gradings were issued. Overall, this equates to a 73% 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:** Four Low risk non-compliance, three moderate non-compliance and two significant non-compliances, respectively; and
 - Rural:** Four low risk non-compliance, six moderate non-compliance and ten 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. Horizons currently has seven prosecutions before the District Court; however, three of these cannot be named at this stage. There is also one significant investigation underway. The prosecution relating to Central Demolition Limited and Mr Ian Butcher is proceeding to

12 February 2020

sentencing on 10 February 2020. Table 1 provides a summary of the prosecutions currently before the Court where the defendants can be named.

- 8.5. Also during the reporting period, LA Landscapes Limited and Mr Patrick Damien Toyne were sentenced in relation to the unlawful discharge of construction and demolition waste onto land and the burning of that material, which resulted in the discharge of contaminants to air in the vicinity of Halcombe. The Court imposed a fine of \$57,000, plus it awarded investigation costs of \$24,000.

Table 1. Summary of Court proceedings

Defendant	Summary
Huka View Dairies and Derek Berendt	Charges laid and before the Court.
Central Demolition Limited and Ian Butcher	Pleaded Guilty, proceeding to sentencing.
John Turkington Limited and Gordon John Turkington	Charges laid and before the Court.
Ray Coles Transport Limited and Mark Coles	Charges laid and before the Court

9. INCIDENTS

- 9.1. Over the reporting period, a total of 282 complaints were received, compared to 367 for the same period last year. For this reporting period, the majority of these complaints (177) related to discharges to air. The remainder of the complaints related to discharges to land (45) and water (60).
- 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, 14 abatement and 20 infringement notices were issued. Table 2 below provides a summary of the formal regulatory action taken during the reporting period.

Table 2. Regulatory action taken during reporting period.

Issued to	Regulatory Action Taken	District	Date notice Issued	Section of Act Contravened	Details
Ngaio Pastoral Ltd	Abatement Notice	Whanganui	25/11/19	9(2)(a)	Not providing nutrient budget
Moxham Milk Limited	Abatement Notice	Horowhenua	25/11/19	9(2)(a)	Not providing nutrient budget
Mountain Dairies Ltd	Abatement Notice	Tararua	25/11/19	9(2)(a)	Not providing nutrient budget
CW & MY Matthews	Abatement Notice	Manawatu	03/12/19	9(2)(a)	Not providing nutrient budget
Ross Mclean Burnett	Abatement Notice	Manawatu	03/12/19	9(2)(a)	Not providing nutrient budget
RK & M Maxwell	Abatement Notice	Manawatu	03/12/19	9(2)(a)	Not providing nutrient budget

12 February 2020

James Braddick, Stacey Death and Andrew Vallance	Abatement Notice	Tararua	03/12/19	9(2)(a)	Not providing nutrient budget
Progress Transport Limited	Abatement Notice	Region Wide	17/12/19	15(1)(b)	Discharge of effluent to ground where it may enter water
Hautapu Pine Products Limited	Abatement Notice	Rangitikei	16/12/19	15(1)(b)	Discharge of condensate and Sewage to stormwater system
Hautapu Pine Products Limited	Abatement Notice	Rangitikei	16/12/19	15(1)(b)	Discharge of condensate and Sewage to stormwater system
Aokautere Land Holdings Limited	Abatement Notice	Palmerston North	17/12/19	9(2)	Cease all unauthorised land disturbance.
Aokautere Land Holdings Limited	Abatement Notice	Palmerston North	17/12/19	15(1)(b)	Stabilise all unauthorised land disturbance.
Forest 360 Stabilise	Abatement Notice	Ruapehu	09/01/20	9(1) 15(1)(b)	Stabilise earthworks site
Chris and Linda Baines	Abatement Notice	Ruapehu	16/12/19	9(2)	Unauthorised earthworks within 5 metres of a permanently flowing river
Warren & Janice Haworth	Infringement Notice	Manawatu	22/10/19	15(1)(b)	Discharge of contaminants to land where it may enter water
Robert J Palmer	Infringement Notice	Manawatu	01/11/19	15(2A)	Discharge of a contaminant to air (smoke)
Ben Goodwin	Infringement Notice	Manawatu	1/11/201	15(2A)	Discharge of a contaminant to air (smoke)
John Arthur Morgan	Infringement Notice	Horowhenua	11/11/19	15(1)(b)	Discharge of contaminant to land where it may enter water
Phil Manderson	Infringement Notice	Palmerston North	06/11/19	15(1)(b)	Discharge of contaminant to land where it may enter water
Woodgate Gospel Trust	Infringement Notice	Palmerston North	12/11/19	338(1)(c)	Non-compliance with abatement notice
Woodgate Gospel Trust	Infringement Notice	Palmerston North	12/11/19	9(2)	Unauthorised earthworks
Woodgate Gospel Trust	Infringement Notice	Palmerston North	12/11/19	15(1)(b)	Discharge to land where may enter water
Philip Lambert Contracting Limited	Infringement Notice	Ruapehu		9(2), 15(1)(b)	Breach of abatement notice
PFDL (5) Ltd	Infringement Notice	Palmerston North	13/11/19	338(1)(c)	Non-compliance with abatement notice
Sefton Booth	Infringement Notice	Palmerston north	20/11/19	15(2A)	Burning prohibited items

12 February 2020

PFDL (5) Ltd	Infringement Notice	Palmerston North	27/11/19	9(2)	Unauthorised earthworks
PFDL (5) Ltd	Infringement Notice	Palmerston North	27/11/19	15(1)(b)	Discharge to land where may enter water
Kakariki Proteins Ltd	Infringement Notice	Horowhenua	02/12/19	15(1)(c)	Discharge of contaminate from industrial trade premise to air (objectionable odour)
Kakariki Proteins Ltd	Infringement Notice	Horowhenua	02/12/19	338(1)(c)	Breach of an abatement notice.
Alliance Group Limited	Infringement Notice	Horowhenua	11/12/19	15(1)(c)	Discharge of contaminate from industrial trade premise to air (objectionable odour)
Alliance Group Limited	Infringement Notice	Horowhenua	11/12/19	338(1)(c)	Breach of abatement notice
Progress Transport Limited	Infringement Notice	Tararua	17/12/19	15(1)(b)	Discharge of a contaminant (stock truck effluent) to land where it may enter water
Kerry Griffiths Ian	Infringement Notice	Palmerston North	19/12/19	15(2A)	Burning prohibited materials
Kerry Griffiths Ian	Infringement Notice	Palmerston North	19/12/19	338(1)(c)	Breach of abatement notice

11. SIGNIFICANCE

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

Greg Bevin
REGULATORY MANAGER

Nic Peet
GROUP MANAGER STRATEGY & REGULATION

ANNEXES

- A Compliance Report - Vestas
- B SEMP - Vestas
- C SEMP - Electrix