

Report No.	18-100
Information Only - No Decision Required	

## REGULATORY MANAGEMENT REPORT - APRIL TO MAY 2018

### 1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period April to May 2018. This report follows the revised format that was detailed to Council at previous meetings and focuses on the municipal wastewater treatment plant programme.

### 2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 18-100.

### 3. FINANCIAL IMPACT

- 3.1. We are currently forecasting an overall budget position of \$45k unfavourable for the regulatory business. Significant costs are still anticipated, with the processing of 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 expenditure and revenue within this programme. Regular updates have been provided to the Audit and Risk Committee

### 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. Since the commencement of this financial year, Horizons has received 306 applications and granted 281 resource consents. This does not take into account that at the start of this financial year we already had approximately 36 applications still in process. These applications cover a wide range of activities, of varying complexity.
- 6.2. Horizons is continuing to progress a number of significant applications, including the Whakapapa, Pahiatua, Eketahuna and Foxton **Wastewater Treatment Plants (WWTPs)**. As previously discussed, whilst the volume of these larger applications is comparatively low, the time taken to process them is significant.
- 6.3. In relation to the major applications, the following provides a summary of their current status:
  - i. As previously reported, the **Department of Conservation (DOC)** Whakapapa WWTP applications have been notified. Since the last meeting DOC have been engaging with Iwi in relation to the long term options for the WWTP. DOC have been providing regular updates and are near to a position to confirm their final design and application. Once this is confirmed the consent will continue to proceed through the consenting process.

- ii. The hearing for the Foxton direct referral reconvened in December last year. The Court is still considering the issue regarding the intensive land use component of the application. A decision from the Court is still pending
- iii. In relation to the Pahiatua WWTP, the commissioners released their decision on 5 March 2018. The Commissioners granted a resource consent for just over 12 years. In making its decision, the Commissioners noted that the environmental effects of the proposal would not be significant and that TDC had made some upgrades to the WWTP. The Commissioners also recognised tangata whenua concerns over the proposal. At the time of writing this report, two appeals have been made and a number of parties have joined the proceedings as section 274 parties. The next step in the process is for the all parties to attend mediation at a date to be set in the near future.
- iv. The hearing for the Eketahuna WWTP has been deferred. The applicant is seeking additional consent applications, which need to be lodged for the wetland design. This will include consents for earthworks and seepage from the base of the wetland. The further applications were to be lodged by 2 February 2018; however, **Tararua District Council (TDC)** sought and has been granted an extension to June. The hearing is expected to re-convene during the second half of 2018.
- v. Since the last report TDC have provided an amended timeframe for the re-consenting of the Woodville WWTP, which is attached as **Annex A**. This revised timeframe has been done in consultation with both Rangitane Tamaki Nui a Rua and Ngati Kahungunu. The revised timeframe will result in an application being lodged by 15 August 2018.
- vi. As previously reported, a modest application for some legal costs, associated with this process has been made by Council in relation to the NZE Appeal. The costs decision has yet to be released by the Court.
- vii. The AFFCO Feilding processing plant appeal is still before the Environment Court. The appeal results from the granting of consents, by Commissioners, for discharge to land and water from the Feilding plant. As previously discussed, the substantive issue relates to the term of consent granted by the Commissioners, with AFFCO seeking a term of 32 years, as opposed to 12 years granted by the Commissioners. The hearing date before the Environment Court has been delayed while additional monitoring data is collected and analysed. It is expected that a hearing will be later in 2018, subject to the Courts availability.
- viii. During the reporting period, Rangitikei District Council (RDC) lodged a consenting strategy associated with the Marton and Bulls WWTP centralisation project. In summary, the strategy will result in an application being lodged for the Marton WWTP between 1 October and 1 December 2018, so existing use rights are secured. Another application will be lodged in May 2019 that will cover the centralisation project for Bulls and Marton and effectively supersede the earlier Marton WWTP application. A copy of this strategy is attached as **Annex B**.
- ix. An application has been received in relation to the Ratana WWTP that discharges into an unnamed tributary of Lake Waipu. In summary, the application is seeking a short term consent to continue discharging treated wastewater to an unnamed tributary of the Waipu Stream; to discharge seepage from the base of the oxidation ponds, where it may enter groundwater and discharge contaminants, namely odour, to air. A short-term consent is being sought on the basis that within 5 years there will be land based discharge system, which will remove the direct discharge to Lake Waipu, as per the successful Freshwater Improvement Fund (FIF) application. RDC intend to lodge an application for the new land based treatment system subject to the FIF application on or before December 2019.

- 6.4. As previously reported, staff are also part of the Statutory Approvals Working Group in relation to the Manawatu Gorge alternate route project. This group currently consists of representatives from **New Zealand Transport Authority (NZTA)**, Palmerston North City Council, Tararua District Council, Manawatu District Council and Horizons. At the time of writing this report, no applications have been lodged in relation to the by-pass road for Ashhurst.
- 6.5. As previously reported a decision has been made on the alternate Gorge route. The decision provided indicative timeframes on when NZTA hope to commence works and complete the project.
- 6.6. The report on **Compliance and Enforcement Activities (CME)** commissioned by the **Regional Sector** was completed during the reporting period. The purpose of this report was to review the nature and extent of CME activities, with a particular focus on how CME processes and procedures have developed over recent years. The report concluded that CME processes and procedures have improved, decision making is free from political interference and there has been training and upskilling in the sector. The report also notes how non-compliances are dealt with, via the 4Es Model and then makes recommendations regarding legislative changes to increase CME effectiveness, which include extending the current six month statute of limitation and increasing infringement fines and penalties. A copy of this report is attached as **Annex C**.

## 7. COMPLIANCE PROGRAMME

The intention of this section is to focus on one key part of the regulatory business. The focus for this report is on providing an update on the compliance activities associated with the Municipal WWTP Programme.

### 7.1. Municipal Wastewater Treatment Plants

- 7.1.1. As discussed in previous Environment Committee reports, this programme assesses the compliance of the municipal WWTP in the Horizons region against their respective resource consents.
- 7.1.2. There are 46 municipal WWTPs in the region that are consented. Nineteen of these are currently operating under the existing use provisions of the Resource Management Act 1991 (RMA), whilst the remainder are operating under current resource consents. There are seven WWTP consents that are due to expire between now and 2020. As previously reported, those WWTP operating under existing use provisions are still required to comply with their resource consents.
- 7.1.3. 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, 16 category 1, 2 and 3 sites, respectively.
- 7.1.4. Since 1 July 2017, Horizons has undertaken 126 assessments of WWTP, whilst during the reporting period, 38 assessments have been undertaken. These assessments are a combination of both site inspections and data assessments. The latter effectively assesses information provided by the consent holder, as required by their resource consent. It is important to note that data assessments can take some time, as the information provided by consent holders can be long, complex and require significant analysis.
- 7.1.5. Of the 126 assessments undertaken to date, 52 were complying assessments, 47 non-complying and 27 significantly non-complying.
- 7.1.6. To date, 16 WWTP are complying whilst eight and 22 are non-complying and significant non-complying, respectively. This equates to a compliance rate of 34% across this programme. When last reported on in December 2017 there were 12 and 17 non-complying and significantly non-complying WWTP, respectively.

- 7.1.7. Of the significant non-compliances identified, two are related to the receiving environment, being Halcombe and Sanson, whilst the others relate to discharge volumes (14) and/or effluent quality at the point of discharge (12). **Annex D** provides detail as to the current compliance status of the municipal WWTP in the programme and where a significant non-compliance has been identified, what action has been taken. The following summarises the actions taken in relation to the reported significant non-compliances:
- 17 are addressing issues via the consent renewal, or variation process;
  - Further action is being considered in relation to the Feilding WWTP on-going failure to comply with Soluble Inorganic Nitrogen (SIN) concentrations. An infringement notice has already been issued for significant non-compliance;
  - One is to be addressed via the MDC centralisation programme;
  - Danniverke WWTP is focusing on installing its tephra bed by 1 September 2018 which should address their significant non-compliances; and
  - Ormondville and Pongaroa relate to failure to comply with discharge volumes and *E.coli* concentrations in the discharge, respectively. Once the tephra bed is operational at Danniverke, TDC will address the issues at Ormondville and Pongaroa.
- 7.1.8. As reported previously, it is disappointing that some of the non-compliances have occurred, despite some WWTP being upgraded. Horizons has signaled to those consent holders that if significant non-compliances persist, then formal enforcement action will be considered, particularly if there are no plans to resolve the non-compliances within a reasonable timeframe.
- 7.1.9. Non-compliances generally relate to issues associated with reporting and maintenance, whilst significant non-compliances typically relate to non-compliance with those conditions of consent that directly control adverse environmental effects, such as discharge standards; or there has been a repeated non-compliance, such as a continued failure to provide information.
- 7.1.10. Where a significant non-compliance occurs, Horizons will in the first instance typically seek an explanation for the significant non-compliance and a timeframe by which the non-compliance will be resolved. If the significant non-compliance continues, and/or is having an actual or potential adverse effect, which is more than minor on the environment, Horizons would typically consider taking more formal enforcement action, such as issuing Abatement and Infringement Notices.

## 8. COMPLIANCE AND NON-COMPLIANCE

- 8.1. There were 245 compliance monitoring interactions during the reporting period. Of these, 12 non-compliances and 27 significant non-compliances were detected. This equates to an 85% compliance rate across the entire programme.
- 8.2. Below is a breakdown of the non-compliances by consent area, for the reporting period:
- Industry:** Eight non-compliances and 25 significant non-compliances; and
- Rural:** Four non-compliances and two significant non-compliances.
- 8.3. In addition to the significant non-compliances summarised above for WWTP, the remaining significant non-compliances related to two earthwork sites and an industrial operation. In relation to the earthworks sites, Abatement Notices and infringement were issued due to the repeated nature of the issues identified, whilst enforcement action is being considered in relation to the industrial operation.
- 8.4. In addition to the above, Horizons currently has five prosecutions before the District Court and two significant investigations underway.
- 8.5. A programme will be commenced in the next 6-8 weeks that will proactively monitor how growers in the Horowhenua district are complying with the cultivation rules in the Regional

Plan. This will involve staff inspecting operations with growers and assessing compliance. The focus of the programme is to engage with the industry to explain and provide education on the rules around cultivation. However, it is important to note that undertaking this programme will impact on other compliance programmes, notably the Rural Programme.

## 9. INCIDENTS

9.1. Over the reporting period, a total of 142 complaints were received. The majority of these complaints (85) related to discharges to air. The remainder of the complaints related to discharges to land (26) and water (47).

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. Table 2 below, provides details of the regulatory action taken during the reporting period.

Table 1. Regulatory action taken during reporting period.

Person	Regulatory Action Taken	District	Date Issued	Section of RMA Contravened	Actions
PNIRDL	Infringement notice	Palmerston North	10/04/2018	9(2)	Unauthorised use of land
PNIRDL	Infringement notice	Palmerston North	10/04/2018	15(1)(b)	Discharge of contaminants (sediment) to land where it may enter water.
Woodgate Gospel Trust	Infringement notice	Palmerston North	10/04/2018	9(2)	Unauthorised use of land
Woodgate Gospel Trust	Infringement notice	Palmerston North	10/04/2018	15(1)(b)	Discharge of contaminants (sediment) to land where it may enter water.
Whanganui District Council	Infringement notice	Whanganui	11/05/2018	9(2)	Unauthorised use of land in relation to earthworks
PNIRDL	Abatement notice	Palmerston North	10 April 2018	9(2) & 15(1)(b)	Cease all unauthorised earthworks.
PNIRDL	Abatement notice	Palmerston North	10 April 2018	9(2) & 15(1)(b)	Stabilise all unauthorised earthworks.
Woodgate Gospel Trust	Abatement notice	Palmerston North	10 April 2018	9(2) & 15(1)(b)	Cease all unauthorised earthworks.
Woodgate Gospel Trust	Abatement notice	Palmerston North	10 April 2018	9(2) & 15(1)(b)	Stabilise all unauthorised earthworks.

## 11. SIGNIFICANCE

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

Greg Bevin

Nic Peet

**REGULATORY MANAGER**

**GROUP MANAGER STRATEGY & REGULATION**

**ANNEXES**

- A Woodville WWTP Timeline for Lodging Consent
- B Marton and Bulls WWTP Centralisation Project consenting strategy
- C Compliance, Monitoring and Enforcement Report
- D Wastewater reporting as at 30 May 2018