

11.2. Consents and Building Control

Prepared for:	Regulatory Committee
Report No.	PPRM1893
Activity:	Governance Report
Author:	Joanna Gilroy, Manager Consents
Endorsed by:	Peter Winder, Acting General Manager Regulatory
Date:	29 May 2019

PURPOSE

- [1] The purpose of this report is to give Committee a high-level overview of the consents and building control activity of Council and the deemed permit replacement progress for the period 30 March 2019 to 17 May 2019.

EXECUTIVE SUMMARY

- [2] This report aims to summarise the regulatory activity of the Consents Team.

RECOMMENDATION

That the Committee:

- 1) **Receives** this report.
- 2) **Recommends** to Council to agree to extend the transfer of Building Act functions with the Southland Regional Council and the West Coast Regional Council for a period of two years.

CONSENT PROCESSING

Public Notification

- [3] One application was publicly notified during this period. This was an application from the Clutha District Council to intermittently discharge untreated wastewater mixed with stormwater to the Tokomairiro River for the disposal of untreated wastewater and stormwater from Milton Sewage Treatment Plant during heavy rainfall events. No submissions were received in relation to this application. Because no submissions were received, delegation to decide on this application sits with Council staff. A Recommending Report with proposed conditions will be put to the Decision-Making Panel.

Limited Notification

- [4] One application was limited notified during this period.

OBJECTIONS

- [5] Objections to processing costs or consent conditions can be made under the RMA. Where an objection is made to processing costs, it is only the costs above the deposit that can be objected to. If a condition is objected to, then that the specific condition is the one looked at.

- [6] No objections to consent conditions were received in this reporting period.
- [7] One objection to consent processing costs was received during the reporting period. This was for an application where consent was not actually required. The objection has been resolved.
- [8] A hearing for an objection to the processing costs for a land use consent to disturb the bed of a stream has been set up for the 30th of May. This objection will be heard by the Objections Committee.
- [9] Council has 19 objections to processing costs in the system, one of which dates to 2009. This is down from 27 at the start of this calendar year. Consistent progress is being made in dealing with these objections, including fine tuning processes for how these are dealt with.

APPEALS

RM17.084 - Kyeburn Catchment Limited

- [10] An application to take and use surface water from various locations on the Swinburn and Kyeburn for the purposes of irrigation, storage, stock water, firefighting, curling and hydro-electricity generation is the subject of an appeal.
- [11] The appellant is appealing the decision to grant the consents for a wide variety of reasons.
- [12] Mediation has occurred, and the applicant and appellant have been corresponding since to reach agreement. A draft Consent Order and revised consent conditions have been circulated to the Council for agreement prior to sending it off to the Environment Court. Council has agreed to these changes and has addressed all matters that it needs to. The appeal will be finalised once all other parties sign off on the Consent Order and it is filed with the Court.

CONSENT STATISTICS

- [13] For the reporting period, all 54 decisions made were given within Resource Management Act 1991 (the Act) mandated timeframes. 68% of the decisions made during the reporting period utilised a timeframe extension; in most cases this was to enable the applicant to review the proposed conditions.
- [14] For the reporting period the average number of statutory processing days taken to process an application was 5. This is a quicker timeframe than the previous reporting period, where it was 6 working days. Making robust decisions in a timely manner is a key focus for the team.
- [15] For the year to date all decisions on consents, except two applications with two consents, each granted, were given within the Act mandated timeframes.
- [16] The current number of consent applications in the system for processing is 172. With this number of consents in the system staff workloads remain high, but statutory timeframes are being met.

- [17] The number of applications lodged during this reporting period is 59, which is an increase from the 44 lodged in the previous reporting period. A breakdown of the activity types of these new applications is shown in Appendix 1.
- [18] The median number of consents lodged per week for during this reporting period is 8.7.
- [19] The summary of consents statistics is set out in Appendix 1 to this report.

DEEMED PERMIT REPLACEMENT

- [20] There were originally 795 deemed permits that included 'paper' or unexercised permits. There are currently 347 deemed permits that are current or possibly live. This figure includes:
- deemed permits that are likely to be replaced;
 - deemed permits that are not likely to be replaced; and
 - deemed permits that have obtained a replacement consent but have not yet surrendered their deemed permit. If the deemed permit is not expired, it will remain current until 1 October 2021.
- [21] It is estimated that approximately 2/3 (i.e. approx. 230) of the current deemed permits are yet to apply for a replacement consent.
- [22] During the reporting period one replacement application for deemed permits was received. This was to replace four deemed permits. No deemed permits were surrendered, cancelled or expired during this reporting period. Overall, fifteen applications, for 22 consents are in the system to replace a total of 60 deemed permits.
- [23] In this reporting period staff have attended two site visits for deemed permit replacement applications. This was for pending applications to replace 6 deemed permits in the Luggate Creek catchment and for Trustpower who are looking at replacing some of their permits and surrendering the rest of them.
- [24] The breakdown of deemed permits per catchment are set out in Appendix 2 to this report.

CONSENT ADMINISTRATION

- [25] 13 transfers (to transfer ownership of a resource consent) were received, with 8 issued during this reporting period. This is less than the 17 received in the previous reporting period. The median number of transfers per week for the year to date is 3.4.
- [26] The summary of consents administration statistics is set out in Appendix 3 to this report.

BUILDING CONSENT AUTHORITY (BCA) ADMINISTRATION

- [27] In the year to date very little activity has occurred in the building consent application arena. Council has only received one application for a new permit and one application for a minor variation to an existing permit.

- [28] Staff have attended several pre-application meetings about potential applications, so there may be a slight increase in work in the next several months. The summary of BCA statistics is set out in Appendix 4 to this report

BUILDING CONSENT AUTHORITY (BCA) TRANSFER OF FUNCTIONS

- [29] In 2008 Council accepted the transfer of some Building Act functions from both Environment Southland and the West Coast Regional Council. On 1 November 2018 the transfer agreements were extended for a further seven months and are due to expire on 30 June 2019.
- [30] Discussions have been underway to find a more cost-effective delivery arrangement, ideally involving either a single regional council exercising Building Act functions nationally, or only one South Island Council undertaking this work. At this stage no new arrangements have been agreed. It is likely that negotiations over the potential roles and detailed transfer arrangements may take some time. In large part this is because not all functions can be transferred and there are complex scope and liability issues to be addressed if the function was to be transferred to another Council.
- [31] Before a regional council can transfer Building Act functions to another regional council it must formally consult its community using the Special Consultative Procedure (SCP) as set out in the Local Government Act 2002. Engagement using the SCP takes around three months to complete from the point at which the Council has a Statement of Proposal to consult on. Neither Environment Southland nor West Coast Regional Council would be able to complete engagement with their communities using the SPC before the current transfer arrangements come to an end.
- [32] There is no realistic possibility of Environment Southland or West Coast Regional Council establishing alternative arrangements before the current transfer of functions expires on 30 June 2019. Not only would it be impossible to consult their communities in that time frame, it would be impossible for them to develop and implement the systems necessary for them to become accredited Building Consent Authorities in that time. If the current transfer was to expire both Councils would face considerable and costly issues.
- [33] A further complication is that changes to the national framework for managing dams have also been proposed. It is possible that the scope of regional council Building Act roles could change. It would be helpful to have some clarity on this before the decisions are made in relation to the transfer of responsibilities.
- [34] Given the current situation it is considered that the best course of action would be to extend the current transfer arrangements so that orderly negotiations over possible replacements can continue. In the context of possible national level changes, it is recommended that the current transfer provisions be extended for a further two years (to 30 June 2021). The Deed of Transfer provides for early termination, so if negotiations and consultation can be completed before 30 June 2021 the current arrangements can be terminated.
- [35] Extending the current transfer of functions does not expose the Council to any new risks, legislative compliance issues, or new costs.

[36] The recommended Deed of Transfer is attached to this report.

PUBLIC ENQUIRIES

[37] 263 enquiries were received during this reporting period. This is an increase from 229 in the previous reporting period.

[38] Over this reporting period most of the enquiries were about current consents and came in via email.

[39] Details are set out in Appendix 5 to this report.

REVIEW OF COUNCIL'S RESOURCE CONSENTING FUNCTION

[40] Since the completion of the function review work has started on prioritising the recommendations, which includes setting timeframes and implementing some of the recommendations. As well as the completed, or underway actions listed in Appendix 6 the following has been completed over the last reporting period:

- Interviews have been completed for the vacant Senior Consents Officer position and for the recommended additional Consents Officer position.
- The ISO accreditation has been allowed to lapse.
- Discussions about getting consent documents available on line have progressed, with the aim of having copies of permits issued in 2019 available first and then undertaking a project to back capture the 'older' permits.
- Work has recommenced on finalising the consent application forms for 6A activities. The second part to this project will be working across Council on implementation programmes.
- Meetings have been set up to discuss consent application fees and to analyse how much certain consent applications cost to process.
- New report templates for deciding on notification and making a final recommendation on an application are in draft format and will be in use by the end of June.
- Work on updating Council's standard consent conditions has progressed, with the project expected to be finished by the end of June/start of July. This will include workshops with staff on these conditions to gain feedback and to provide training.
- Regular catch up meetings are now being held with IT, Science and Compliance.
- Work on the Consents and Compliance Strategy is progressing, with this document to be finalised by end of June/start of July.
- Significant external legal and professional planning advice has been sought in relation to the processing of deemed permit renewals and the application of the NPSFM, the RPS, and Regional Plans under a range of scenarios relating to different types of application, from different parts of the region. External support has been engaged to assist with the workload of processing expected deemed permit replacements, a new guidance notes on deemed permit replacement has been developed and work is almost complete of a strategy to deal with the processing of deemed permits.

[41] Addressing the recommendations from the review of the consenting function is a high priority. Some of the recommendations will take longer to address than others. Specifically, recommendations that require changes to computer systems will be more time consuming than the immediate changes which have been made already.

CONSIDERATIONS

Policy Considerations

[42] There are no policy considerations.

Financial Considerations

[43] There is budget in the 2018/19 Annual plan for the Consent Department Functions.

[44] For the reporting period 46.1% of staff time was cost recoverable. This is lower than the 56% for the previous reporting period. However, it is up from the corresponding time in 2018 where it was 40.9%.

[45] For the 18/19 financial year (1 July 2018-17 May 2019) 42.6% of staff time has been cost recoverable.

[46] Other time during the reporting period will have been spent on: responding to public enquiries which is not cost recoverable unless the enquiry takes longer than half an hour; training and development; attending Council wide training session and assisting other Council teams.

[47] Work has started on being able to better account for and report on non-cost recoverable time. This includes providing more sub-codes for staff to record their time against in their timesheets, so that we can analyse which parts of the consents process take the most time, provide more information on our invoices and focus on increasing efficiency in these areas. The Finance team is involved in this process.

Significance and Engagement

[48] The Council's Significance and Engagement Policy is not relevant to this item.

Legislative Considerations

[49] The Consents Department is following the Resource Management Act 1991 and Building Act 2004 statutory requirements

NEXT STEPS

[50] The next steps are to continue the regulatory functions as required.

[51] Work will continue prioritising and implementing the findings of the Consent Function report.

Appendix 1: Consents Statistics

Table 1: Number of applications lodged by activity type 30/3/2019 to 17/5/2019

Activity	Certificate of Compliance	Coastal Permit	Discharge Permit	Land Use Permit	Water Permit	Total
----------	---------------------------	----------------	------------------	-----------------	--------------	-------

Air			2			2
Bore				10		10
CMA Use		1				1
Compliance Certificate	2					2
Dam					2	2
Divert					2	2
General				14		14
Groundwater Take					6	6
Land			11			11
Surface Take					6	6
Water			3			3
Total	2	1	16	24	16	59

Table 2: Consents Statistics Summary

Reporting Period	Lodged			Rejected	Decision Given		
	Consents	Variations			Consents	Variations	
		Regular	Water reporting date*			Regular	Water reporting date*
30/3/2019 to 17/5/2019	52	5	0	2	54	3	0
18/19 YTD	403	31	1	12	328	32	2

* Means the date water metre and/or flow records are to be provided to the Council.

Table 3: Breakdown of Granted Consent Type for 30/3/2019 to 17/5/2019

Notification Group	Consent Type	Without Hearing			Total
		S37 Extension	Within Timeframe	Total	
Non Notified	☐ Certificate	-	1	1	1
	☐ Discharge Permit	11	4	15	15
	☐ Land Use Permit	4	20	24	24
	☐ Water Permit	9	5	14	14
	Total	24	30	54	54
Total		24	30	54	54

Appendix 2: Deemed Permits Breakdown Per Catchment

Catchment	Original number of DP	Number of current replacement applications	Number of current or possibly live DP	Total Number of current consents
Arrow River	16	4	12	8
Basin Burn	4	0	4	1

Benger Burn	0	0	0	3
Cambells Creek	1	0	1	1
Camp Creek (1)	3	0	2	2
Elbow Creek	1	0	0	3
Fraser River	10	0	8	13
Kakanui Catchment	2	0	0	34
Lake Hayes Catchment	2	0	0	12
Lime Creek	0	0	0	1
Lindis River	41	18	19	14
Long Gully (2)	0	0	0	1
Manuherikia Catchment	189	5	71	123
Mt Benger	0	0	0	1
Pomahaka River	3	0	3	32
Roxburgh East	0	0	0	1
Seven Mile Creek	0	0	0	1
Shag Catchment	0	0	0	21
Shotover River	1	0	1	5
Taieri Catchment	209	24	75	154
Teviot River	2	0	2	10
Tokomairiro River	0	0	0	3
Unnamed Trib's of Clutha River above Clutha Mouth	0	0	0	11
Unnamed Trib's of Clutha River above Lake Roxburgh	2	0	1	6
Unnamed Trib's of Clutha River above Tuapeka Mouth	20	0	8	18
Unnamed Trib's of Lake Dunstan	3	0	1	9
Unnamed Trib's of Lake Hawea	5	0	2	16
Waiareka Creek	0	0	0	9
Waikerikeri Creek	6	0	3	3
Waitati River	0	0	0	4
Water of Leith Catchment	0	0	0	6
Welcome Creek Catchment	0	0	0	5
	0	0	18	15
Matukituki River	0	0	0	4
Stoker Road	0	0	0	1
Pipeclay Gully	4	0	1	2
Makarora River	0	0	0	2
Bannock Burn	23	0	9	8

Unnamed Trib's of Lake Whakatipu	1	0	0	8
Unnamed Trib's of Clutha River above Lake Dunstan	6	0	3	13
Locky River	0	0	0	1
Bow Alley Creek	0	0	0	1
Unnamed Trib's of Kawarau River	3	0	2	11
Dairy Creek	0	0	0	2
Georges Creek	0	0	0	1
Unnamed Trib's of Lake Wanaka	1	0	0	4
Waianakarua Catchment	0	0	0	8
Awamoa Creek	0	0	0	6
Albert Burn (1)	5	0	4	1
Alpha Burn	0	0	0	2
Waiwera River	0	0	0	5
Lochar Burn	0	0	0	2
Long Gully (1)	4	1	1	2
Waitahuna Catchment	1	0	1	5
Butchers Creek (2)	0	0	0	1
Landon Creek	0	0	0	2
Nevis River	2	0	2	4
Cardrona River	40	0	14	21
Waikouaiti River	0	0	0	9
Thomson Creek	0	0	0	3
Dingle Burn	0	0	0	2
Washpool Creek (1)	5	0	3	1
Roaring Meg	6	0	4	3
Flynn Road	0	0	0	1
Fruid Burn	0	0	0	1
Stoney Creek	0	0	0	3
Pleasant River	0	0	0	3
Orokonui Creek	0	0	0	1
Chapmans Gully	1	0	1	3
Rees River	2	0	1	3
One Mile Creek	0	0	0	1
Lake Dispute	0	0	0	1
Wye Creek	1	0	0	2
Awamoko Stream	0	0	0	4
Wanaka Township	3	0	2	5
Luggate Catchment	13	6	12	3
Burn Cottage Creek	5	0	5	3

Island Stream	0	0	0	5
Trotters Catchment	0	0	0	1
Catlins River	0	0	0	2
Kaikorai Stream	0	0	0	2
Queensberry Hills	0	0	0	1
Five Mile Creek (2)	0	0	0	1
Walkers Creek	0	0	0	2
Park Burn	7	0	3	2
Franks Creek	2	0	2	1
Kaihiku Stream	0	0	0	1
Rough Burn	0	0	0	1
Gentle Annie	0	0	0	1
Lowburn Creek	18	1	13	1
Donaldsons Creek	4	0	0	1
Rastus Burn	0	0	0	2
Kakaho Creek	0	0	0	1
Tuapeka River	0	0	0	2
Buckler Burn	0	0	0	1
Allangrange	0	0	0	1
Mokoreta River	0	0	0	1
Unnamed Catchments to Sea South of Waitaki Mouth	0	0	0	1
Puerua River	0	0	0	2
Dead Horse Creek	0	0	0	1
Pannetts Road	0	0	0	1
McPherson Rd	0	0	0	1
Dinner Creek	0	0	0	1
Quartz Reef Creek	4	1	1	1
John Bull Creek	2	0	0	1
Tinwald Burn	4	0	3	1
Unnamed Trib's of Clutha River above Tuapeka Mouth	0	0	0	1
Unnamed Trib's of Clutha River above Lake Roxburgh	0	0	0	1
Oamaru Creek	0	0	0	1
Unnamed Trib's of Lake Hawea	0	0	0	1
Beaumont River	1	0	1	1
Amisfield Burn	9	0	5	0
Crook Burn (2)	4	1	2	0

Appendix 3: Consent Administration

Table 3: Consent Administration Statistics

Reporting Period	Transfers Received	Transfers Issued	s417 Certs Received	s417 Certs Issued
30/3/2019 to 17/5/2019	13	8	0	3
18/19 YTD	177	116	3	5

Appendix 4: Building Consent Authority (BCA) Administration

Table 4: Building Act Statistics

Reporting Period	Building Permits		Certificate of Acceptance		Code Compliance Certificate	
	Received	Issued	Received	Issued	Received	Issued
30/3/2019 to 17/5/2019	0	0	0	0	0	0
18/19 YTD	2	1	0	0	0	0

Appendix 5: Public Enquiries

Table 5: Public Enquiries Statistics

Period	Number of Enquiries
17/18	2,415
30/3/2019 to 17/5/2019	263
18/19 YTD	1,827

Table 6: Resource Consent Public Enquiries Report for Period 30 March 2019 to 17 May 2019

Type of Enquiry	No.	% of Total
Current Consents	71	27
Other	25	10
Permitted Activity	59	22
Pre-application	52	20
Property Enquiries	44	17
Mining Privileges	2	1
Transfers	10	3

Method of Enquiry	No.	% of Total
Counter	7	3
E-mail	143	53
Internet	5	3
Letter	1	1
Telephone	107	40

Enquiry Location	No.	% of Total
Central Otago DC	79	30
Clutha DC	22	8
Dunedin CC	47	18
Queenstown Lakes DC	49	19
Throughout Otago	5	2
Unspecified	37	14
Waitaki DC	24	9

Appendix 6 – Consents Function Review Recommendations Completed or underway

- The default position for service of consent documents is now electronic, with an 'opt in' to get paper copies added to application forms.
- An email address has been set up specifically to receive consent applications electronically.
- Work has commenced to scope what would be required to get copies of consents available online (probably using Otago Maps).
- The consents procedure manual and standard conditions are being reviewed and updated to ensure they are current; this work is being assisted by an external consultant with considerable experience.
- The consents team now has a critical issue meeting every Monday.
- Training on how to identify affected parties has been undertaken.
- A new template is being developed for making a recommendation on affected parties, or non-notification. It is expected that this will be in use within the next two or three weeks.
- Three monthly meetings with stakeholder groups to discuss affected party process and consent processing have been initiated.
- A training session run on factors to consider when determining consent duration has been run. A new report template which will prompt consideration of these factors is under development.
- A new protocol for requesting legal advice is in place – only Managers can now request this advice.
- Significant external legal and professional planning advice has been sought in relation to the processing of deemed permit renewals and the application of the NPSFM, the RPS, and Regional Plans under a range of scenarios relating to different types of application, from different parts of the region. External support has been engaged to assist with the workload of processing expected deemed permit replacements, a new guidance notes on deemed permit replacement has been developed and work is almost complete of a strategy to deal with the processing of deemed permits.
- A decision has been made to move establish two Team leader roles (one in Dunedin and one in Alexandra) rather than the Principal Planner roles recommended in the review and recruitment for these roles is underway.
- Discussions about what to do with the processing of Building Act permits have started with other Councils.
- A more rigorous s88 assessment of the completeness of applications has been implemented. This includes using a checklist to ensure that s88 requirements of the Act are being met and only complete applications are being accepted.

ATTACHMENTS

Nil

