

File Ref: C135-E01

Ask For: Mr Porter

13 March 2009

Notice of Committee Meeting - Thursday 19 March 2009

A meeting of the Environment Committee will be held in the Council Chambers, District Council Administration Building, Seymour Street, Blenheim on **Thursday 19 March 2009 commencing at 1.30 pm.**

B U S I N E S S

As per Agenda attached.

ANDREW BESLEY
CHIEF EXECUTIVE

Marlborough District Council

Meeting of the ENVIRONMENT COMMITTEE
to be held in the Council Chambers, District Administration Building, Seymour Street,
on THURSDAY 19 MARCH 2009 commencing at 1.30 pm

Committee

Clr G Taylor (Chairman)
Clr J L Andrews (Deputy)
Clr A D Barker
Clr G S Barsanti
Clr C R Bowers
Clr E I Davidson
Clr T Harrison
Ms T Williams
Mr C Bowron

Departmental Head

Mr H Versteegh (Manager, Regulatory Department)

Staff

Kathy Payne (Committee Secretary)

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PUBLIC EXCLUDED

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1. Confirmation of Sub-Committee Business

RECOMMENDED

That the following approvals granted by the Swimming Pools Sub-Committee under delegated authority (Environment Committee Minute R.07/08.263) be confirmed:

- **J F & C P Lowe, 21A Lakings Road, Blenheim - exemption to install a “Coverstar” automatic pool cover in lieu of a fence (exemption pursuant to section 6 of the Fencing of Swimming Pools Act 1987).**
- **A J Graham & K M Gordon, 20A Roseneath Lane, Blenheim - exemption to install a “Coverstar” automatic pool cover in lieu of a fence (exemption pursuant to section 6 of the Fencing of Swimming Pools Act 1987).**
- **M F & R M L Doherty, 172 Wither Road, Blenheim - approval to use a lockable cover on an unfenced spa pool (exemption pursuant to section 6 of the Fencing of Swimming Pools Act 1987).**

2. RPMS - Cost Recovery - Fees (R405-00)

(Report prepared by Dave Grueber)

Purpose

1. The purpose of this report is to provide the Committee with relevant background to enable a review and decision to be made of fees to be charged for the provision of carrying out compliance obligations under the Regional Pest Management Strategy for Marlborough 2007 (RPMS).

Background

2. The RPMS is promulgated under the Biosecurity Act 1993, which provides the RPMS with powers and the ability to impose legal obligations (Rules) on occupiers for pest control purposes.
3. Rules in Part Three of the RPMS require land occupiers to carry out the control of certain pests, e.g. Nassella Tussock and Rabbits
4. As a way to assist land occupiers to achieve the objectives and rules set out in the RPMS, the Council prepares and sends out programmes which set out target dates by which various pest animal and pest plant work has to be completed.
5. In the event that an occupier fails to meet the rules set out in the RPMS, the Council has the ability to use powers set out in the Act requiring land occupiers to comply with RPMS rules or to take remedial action. In circumstances of continued non-compliance, the Council uses the enforcement provisions of the Act. Those provisions allow Council to recover the costs of administering and carrying out those actions. The overriding principal is that the non complier should be responsible for the cost of their in action.
6. The following is a summary of the process undertaken in the implementation of the RPMS in relation to enforcement:
 - (a) Occupiers, at various times of the year, are issued with pest plant (e.g. Nassella Tussock or Chilean needlegrass) or pest animal (e.g. rabbit) control programmes to meet the rules for those pests as set out in the RPMS.
 - (b) Council inspects occupier's land, after the end date of programmes, to determine that the standard specified in the control programme, issued by Council, is in compliance with RPMS rules.
 - (c) The initial programme inspections and coordination of pest control programmes are carried out without direct charge to the occupier as the activity is provided for under the general rate.
 - (d) If an occupier does not meet the provisions of the rules, that lack of compliance invokes the issue of a Notice of Direction (NoD), to comply by a future date, and a further inspection is carried out after that date. The NoD attracts an administration fee as does the further inspection at an hourly rate.
 - (e) If the occupier fails to comply (at inspection) with the NoD a Notice of Intention to do Work on Default (WoD) is issued, which attracts a further administration fee, and any further inspection is charged along with any time involved in default work, at an hourly rate.

- (f) A schedule of current fees is set out below:

RPMS - Schedule of Current Fees

RPMS Activity	Current Fee
Notice of Direction	\$100 + GST
Notice of Intention to Work on Default	\$250 + GST
Inspection fee (as result of issue of both NoD or WoD)	\$48.00 + GST per hour

Comments

7. The recovery cost associated with the preparation of a NoD and WoD were recent initiatives and were promulgated by Council in 2007.
8. Staff have completed a review of the current costs associated with the preparation of legal notices which are estimated to take approximately 1.5 hours of staff time to check legal tenure / verification and production of each notice, along with other administration tasks. Furthermore, an analysis has been completed on the actual costs (based on proposed 2009/10 budget) to recover staff costs on an hourly rate basis.
9. Future compliance costs (based on proposed 2009/10 budgets), are indicated to be \$96.99 + GST per hour.
10. The Committee will also be aware that the scale of non compliance, attracting cost recovery, is less than 10% of all occupiers who receive a pest control programme from Council.
11. It is proposed that recoverable fees be increased to recover the actual costs incurred and that the schedule of proposed fees is set out below:

RPMS - Schedule of Proposed Fees

RPMS Activity	Proposed Fee	Comment
Notice of Direction	\$160 + GST	An increase in the current fee. Most of the work in collating the notice structure for both the NoD and the WoD is done at the NoD stage.
Notice of Intention to Work on Default	\$160 + GST	A decrease in fee from \$250 + GST. See comment above.
Inspection fee (as result of issue of both NoD or WoD)	\$95.00 + GST per hour	An increase to the actual cost of delivery.

Summary

12. RPMS activity cost recovery is discretionary on Council but is enabled by the Biosecurity Act 1993.
13. The fees currently recovered for some RPMS activities reflect less than 50% of the actual cost of delivery.
14. The fees are only levied on occupiers being in current and on going non compliance determined after inspection at the end of their non chargeable pest control programme.
15. The proposed schedule of fees is based on the costs associated with Council's 2009-2010 budgets.

RECOMMENDED

1. That the information be received.
2. That the following proposed fees are publicly notified and the special consultative process commence as set out in 3. below:

Notice of Direction	\$160 + GST
Notice of Intention to Work on Default	\$160 + GST
Inspection Fee	\$95 + GST per hour

3. That the proposed fees are publicly notified and the special consultative process commence as below:

19 March 2009	Environment Committee considers the proposed fee
2 April 2009	Full Council
6 April 2009	Special Consultative Procedure begins <ul style="list-style-type: none"> - Proposed fees published on the Council website - Information published in the Marlborough Express and the Christchurch Press - Information sent to stakeholders by means of newsletter
8 May 2009	Special consultative procedure ends <ul style="list-style-type: none"> - Submissions analysed and summarised into a report for the Environment Committee to consider
11 June 2009	Environment Committee considers submissions <ul style="list-style-type: none"> - Fees amended if necessary
25 June 2009	Full Council
1 July 2009	New fees commence

3. Soil Quality Monitoring - Technical Report (E225-07)

(Report prepared by Colin Gray)

Purpose

1. The purpose of this report is to present the findings of soil quality monitoring undertaken in the Marlborough region in 2008.

Background

2. Council has a duty under the Resource Management Act 1991 to monitor the “life supporting capacity of soil” and determine whether current practices will meet the “foreseeable needs of future generations”.
3. To help meet these goals Council undertakes a soil quality monitoring program that involves collecting soil samples from sites that represent the main land use activities and soil types in the Marlborough region and analysing samples for a suite of soil physical, biological and chemical properties that have been shown to be robust indicators of soil quality. It is hoped that periodic monitoring of these sites would provide an early warning to identify the effects of primary land use on long term soil quality and also provide an opportunity to track and identify issues relating to the effects of land use on long term soil quality.
4. Up until 2007, only 25 soil quality sites had been established and monitored. The results of the monitoring were reported to the Environment Committee early in 2008. However, to provide a more accurate picture of soil quality in the Marlborough region, a larger number of soils need to be sampled from a greater number of sites.
5. In 2008, soils were sampled from 19 new soil quality monitoring sites. The sites included five different land use activities including vineyards (5), pasture (5), cropping (4), dairying (4) and exotic forestry (1) representing 11 different soil types from 4 soil orders. The resulting ‘Soil Quality in the Marlborough Region in 2008’ report is **separately attached**.

Summary

6. Monitoring results indicate that 9 out of 19 sites meet all their soil quality targets and 4 others have 1 indicator out of the target range. However, monitoring has highlighted that there are some soil quality issues under some land use activities in Marlborough.
7. All four of the cropping sites sampled showed signs of soil physical deterioration, be it compaction, low macro-porosity or low aggregate stability. Furthermore, three of the four cropping soils also had depleted soil carbon contents and one had an elevated Olsen Phosphorus value. These results put cropping soils at risk of poor aeration, poor drainage and structural degradation and will likely result in poor crop performance. In addition the elevated Olsen Phosphorus coupled with soil compaction increases the possibility of phosphorus loss from soil via overland flow into waterways.
8. Two of the dairy pasture sites sampled had elevated anaerobically mineralisable nitrogen concentrations. This potentially poses a risk of nitrogen losses via nitrate leaching from soils into ground and surface water if the volume of irrigation applied is greater than the water-holding capacity of these soils.
9. Trace element concentrations in Marlborough agricultural soils were generally low and were similar to concentrations found in earlier studies in the Marlborough region and other parts of New Zealand.
10. **A 15 minutes PowerPoint presentation will be made to the Committee by Colin Gray.**

RECOMMENDED

That the Committee receive the Soil Quality in the Marlborough Region report.

4. The Significant Natural Areas Project - Where are We and Where to Next? (E225-W02)

(Report prepared by Nicky Eade and Alan Johnson)

Purpose

1. The purpose of this report is to provide an overview of the progress of the Significant Natural Areas Project (SNA project) and to set out a possible direction for the future of the project.

Background

2. The SNA project has been underway since 2001. Ecological field survey work to identify and assess natural areas has recently been completed, with a good proportion of privately owned land in the Marlborough region included. A biodiversity protection programme has been running alongside the survey work since 2003. This provides practical advice and funding assistance to landowners who want to protect areas on their properties.
3. Along with direct assistance to landowners for fencing, weed control and restoration planting, some associated indirect support projects are also in place and are integral to the overall programme. These include ecological pest and weed studies, a publicity/communications programme and a seed collection project to ensure plants are available for restoration work.
4. A team effort has been central to the implementing of the SNA project. A working group, including Council, Department of Conservation and landowner representatives, has provided ongoing management input and guidance. Contract staff, including two experienced ecologists and other locally based specialist consultants, have worked closely with the Council and the working group to implement the project.
5. Now that the identification and assessment phase is complete, the focus will be on the related protection programme of work. The Resource Management Act 1991 requires that local authorities take appropriate steps to ensure the protection of significant indigenous flora and fauna in order to meet the requirements of Section 6(c) of the Act which sets out "Matters of national importance". Case law has found that while some regulation is necessary, voluntary non-regulatory methods can be appropriate in particular circumstances (*Minister of Conservation v Hutt CC Env Court W013/03* and *Royal Forest and Bird Protection Society Inc v Central Otago DC EnvCourt A128/04*).
6. The Marlborough District Council has chosen to take a largely non-regulatory, voluntary approach to protecting significant natural areas, with a proactive programme emphasising relationship building, information sharing and practical incentives to encourage increased knowledge and protection of significant natural areas on private land. In addition to the normal operating budget allocations from the Environmental Policy and Information Group, and more recently the Environment Science and Monitoring Group, an annual budget of \$100,000.00 has been allocated specifically for the total protection programme since 2006. This has been regularly supplemented by additional funding from the central government Biodiversity Fund and also funding from the QEII National Trust, along with contributions from landowners. So far the Council has contributed to about 50 protection projects in the region.
7. Council does, however, also have some general regulation in place relating to the clearance of indigenous vegetation. Both the Wairau/Awatere and Marlborough Sounds Resource Management Plans allow the clearance of indigenous vegetation as a permitted activity, however, there are restrictions based on the area allowed to be cleared and, in some cases, vegetation or habitat type.

NOTE: A summary report presented to Councillors in 2008 provided an overview of all of the work carried out over the seven year period from 2001 to 2008 (Summary Report on the Results of the Significant Natural Areas (SNA) Project, Nicky Eade, September 2008).

Comments

8. The \$100,000.00 protection programme budget is split between direct protection projects (approximately \$70,000.00 going into fencing, weed control and restoration planting) and associated support projects (approximately \$30,000.00). This split seems to be about right. It allows for momentum to be maintained and internal project management by staff to keep pace of project implementation (liaising with landowners, preparing formal landowner agreements, funding applications, invoicing, reporting, etc).
9. In terms of ongoing direct protection work, all of the identified significant natural areas are being systematically assessed and stored in a database using both the ecological criteria used throughout the project and the new set of four National Priorities announced by central government in 2007. This will allow them to be ranked and prioritised into the future when making decisions about where to invest Council funding. A Restoration Strategy has been developed which provides an overview of the principles and methods underlying the protection programme.
10. Importantly, a 2-3 yearly monitoring programme has also been established to re-visit sites where protection work has been carried out so that the effects of the protection can be assessed and measured over time. This will provide accountability in relation to the investment of public funds into biodiversity on private land and enable relationships with landowners to be maintained.
11. In regard to the associated support projects, both the publicity and seed collection are seen as central to the overall programme. Seed collection is crucial as the success of restoration efforts relies on the availability of locally sourced species for planting. For some species in South Marlborough in particular there are only a few remaining remnant plants in a natural setting and a sustainable supply is needed for regeneration.
12. Communication with landowners has always underpinned the non-regulatory and voluntary approach of the SNA project, building awareness and providing access to information and connections with other agencies and individuals. This has been developed and maintained through the working group, an annual newsletter, the "Tui to Town" initiative, media stories, the web page, workshops and so on.
13. Many other regions with active biodiversity related programmes facilitate a regular public "Biodiversity Forum" where agencies, scientists, landowners, landcare group members and so on can come together to share information and learn about local initiatives. Funding to help with the costs of such a forum may be available from the central government Biodiversity Advice Fund.
14. It is suggested that the time is right to establish a Biodiversity Forum in Marlborough to continue the momentum of the SNA project and broaden the emphasis to include other biodiversity related initiatives in the region. If external funding was available a facilitator could be employed to organise these events and the support for a collaborative approach with other relevant groups and agencies, such as the Department of Conservation, iwi and Fish and Game, could be sought.

Summary

15. The SNA project has been in place in Marlborough since 2001.
16. The ecological field survey component of the project is now complete with over 650 sites having been identified and assessed on about 250 properties in the region.
17. The focus will now turn to the protection and monitoring components of the programme. The protection programme began as a pilot in 2003 and is now well established with a total of 50 sites having been protected in some way. The monitoring programme was established in 2007 and is designed to ensure that protected sites are revisited every two years to measure biodiversity changes and maintain relationships with landowners.

18. The working group (including Council and Department of Conservation representatives, contract staff and landowner representatives), which assisted the Council to manage the significant natural areas project, will continue to play a role in providing management input and expertise into aspects of the ongoing programme.
19. Establishment of a Marlborough Biodiversity Forum would provide a method to ensure that:
 - The Council provides a leadership role in the management and protection of biodiversity resources in Marlborough.
 - Momentum and interest generated by the SNA project is maintained.
 - There is integration with other agencies and groups with a role in biodiversity management in Marlborough (for example, landcare groups, the Department of Conservation, Marlborough District Council reserves management, The Royal Forest and Bird Society, etc).
 - There is a forum for ongoing local and national networking.
 - Information and knowledge is shared (for example, workshops, newsletters and so on).

RECOMMENDED

That the Council continues to provide leadership by proactively implementing a voluntary approach to recognising and providing for the protection of significant natural areas in Marlborough, including the establishment of a Marlborough Biodiversity Forum to promote awareness, information sharing and networking in relation to indigenous biodiversity.

5. Marlborough Landscape Group (E225-R03-08)

(Report prepared by Nicky Eade)

Purpose

1. The purpose of this report is to provide an update on the Marlborough Landscape Group which continues to meet regularly under the chairmanship of Ian Mitchell.

Background

2. The Marlborough Landscape Group has been established since 2001. In late 2007 the separate private land and public land group components were combined to streamline the management of the group and increase efficiencies. This has worked reasonably well, although there has been a marked decrease in attendance by some public group members.

Comments

3. The group has a \$100,000.00 budget which is allocated out of the Assets and Services budget and is directed primarily on landscape related spending by the Rivers and Reserves sections of the Council on publicly administered land on the Wairau Plain. Staff have reported to the group on this spending for the 2008/2009 financial year and the amount has been almost fully utilised on a variety of native planting projects (report **attached**).
4. The group is well placed to have input into the Council planning reviews and has been kept briefed as to the progress of these reviews. The group has begun to focus on various issues around which it could develop formal or informal submissions.
5. A workshop and a field trip looking at landscape issues as they relate to commercial forestry were held in 2008 and a discussion on issues relating to wind farm proposals has taken place.
6. The first meeting for 2009 was held on 6 March 2009 and it is envisaged that the group continues to focus on various landscape related issues so that it can provide useful comment and input into the plan development processes.

RECOMMENDED

That the report be received.

File Ref: R505-02
Date: 15 October 2008

Memo To: Landscape Committee Members

From: Robin Dunn and Steve Bezar

Subject: C135-E01

1. The Landscape Committee of the Environment Committee has authorised Assets and Services Department staff to plant largely native trees and shrubs for ecological and/or amenity purposes on a variety of predominantly Council owned land.
2. Executive Management has indicated a preference for the Landscape Sub-committee of the Environment Committee to annually endorse a budget and forward it to the Assets and Services Committee. A budget for the 2008/09 financial year has recently been prepared and is attached below.
3. The landscape group budget was initially introduced in 2004/05 and this year's budget has again been set at \$100,000. Several River Reserve riparian plantings are planned or underway as well as the Kahikatea Reserve restoration project, Fulton Stream enhancement, Marchburn Historic Layby Upgrade, Spring Creek fence replacement on SH 1 and additional native grove planting at Beach Road Reserve, Waikawa.
4. An allocation of \$10,000 is necessary to fund the Landscape Group's administration cost, which leaves \$90,000 for planting projects. Of this \$90,000 it is proposed that \$45,000 will fund Rivers projects, with the other \$45,000 to be used for Reserves projects as detailed below. This funding will primarily be used for new plantings, (seed collection, site preparation and planting), or for establishment costs ie; release spraying/mulching and competing weed control for the initial three years. It is acknowledged that after this three year establishment period, further maintenance expenditure required on these plants will be funded from the Reserves or Rivers Sections' maintenance budgets.
5. Over the last four years since the creation of this Landscape Group and budget, establishment of some 20,000 + plants has been possible at no less than 40 different sites within Marlborough, along with planting designs prepared for several sites including Seddon, Renwick, and Blenheim's main roads and SH 1 enhancement. Planting sites include: SH 1 at Grovetown, Dillons Point Road, Aerodrome Road, SH 63 and Anglesea Street, Renwick, Johannesof Layby and Para Passing Lane, SH 1 to name a few.
6. Some level of planting would be achieved through the Rivers and Reserves sections' operations if this budget did not exist, however the budget has enabled significantly more plantings and planning to be undertaken on primarily Council land. This enables Council to lead by example through these planting initiatives and further enhance the district both ecologically and aesthetically.
7. A budget of \$100,000 for the July 08/June 09 year is set out indicatively on a site by site basis below for the Landscape Committee's approval.

Indicative Costing 2008/09

Planting Area	\$000s		Total
	Design Prepare/Plant	Establishment (Weed Control for 3 years)	
Reserves			
Kahikatea Reserve - Spring Creek (Reserve 12, fencing, planting and maintenance).	12	3	15

Marchburn Historic Layby Upgrade – SH 63, Wairau Valley.	13	2	15
Design and Landscape construction work.			
Beach Road Reserve - native grove planting (stage 2), Waikawa Road	5	0	5
Fulton Stream enhancement – Riparian planting beside Kingwell Drive.	5	0	5
Spring Creek, SH 1- fence replacement with timber lifestyle fence to compliment recent corner planting.	5		5
Sub total			45
River Reserves			
Upper Opawa – (O’Dwyers Road, Jacksons Road, Caseys Creek, Roses Overflow).	6,776		
Lower Opawa.	4,872		
Lower Wairau (Ferry Bridge, Diversion split, Bothams), Kanuka block.	10,024		
Spring Creek (Junction Hotel, control gates) Blind Creek.	6,704		
Roses overflow	2,128		
Miscellaneous (School Creek, Renwick, other).		13,976	
Sub total			45
Administration			
Landscape Group Administration			10
		55,000	100,000

6. Annual Air Quality Report 2008 (E225-A02)

(Report prepared by Fleur Tiernan)

Purpose

1. The purpose of this report is to present the annual air quality report for 2008 (**separately attached**).

Background

2. In 2008, PM₁₀ monitoring was carried out at two sites in Blenheim; the Redwoodtown Bowling Club and the historical PM₁₀ monitoring site in Middle Renwick Road (MRR) in Blenheim. In addition, a new air quality monitoring site was established in Picton in May 2008.
3. Three breaches of the NES for PM₁₀ of 50 µg m⁻³ (24-hour average) were measured at the bowling club site during 2008. The maximum concentration was 56 µg m⁻³ and this occurred on two days (figure 1). The maximum concentration recorded at the MRR site was 51 µg m⁻³. This exceedance coincided with one of the exceedances at Redwoodtown Bowling Club. High PM₁₀ concentrations at this site are unusual. In Picton, there was one exceedance of the air quality standard with a concentration of 53 µg m⁻³.

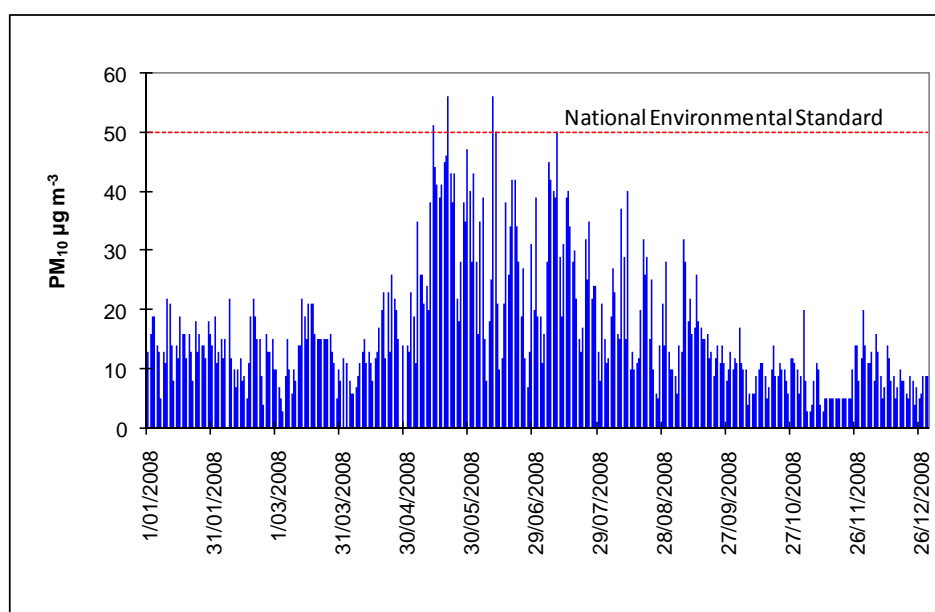


Figure 1: Daily PM₁₀ concentrations at Redwoodtown.

4. Concentrations of PM₁₀ measured during 2008 were within the straight line path towards compliance with the NES.
5. In 2008 the annual average PM₁₀ concentration for the bowling club site was estimated as 17 µg m⁻³. Annual average concentrations for the MMR and Picton sites were 16 µg m⁻³ and 10 µg m⁻³ respectively. All annual average concentrations were lower than the MfE guideline of 20 µg m⁻³ (annual average).

Comments

6. Monitoring at Picton is limited to every 1 day in 3, therefore it is possible that the NES for PM₁₀ was exceeded on more than one occasion in Picton. The current method of monitoring will continue for now, however should there be more exceedances this winter then daily monitoring of PM₁₀ will be required. This will involve updating the current equipment used to monitor PM₁₀ at Picton.

7. PM₁₀ concentrations for Blenheim are currently within the straight line path towards compliance with the NES. To date no management options have been implemented to reduce PM₁₀ concentrations within the airshed. It is likely that the very small decrease in concentrations recorded is due to a gradual attrition of PM₁₀ loads; from e.g. improvements in industry practices, the use of cleaner woodburners and clean methods of heating etc. However the rate of this decrease is unlikely to be enough to achieve compliance with the NES by 2013.

Summary

8. The air quality monitoring site in Redwoodtown continues to be in breach of the NES for PM₁₀.

RECOMMENDED

That the report be received.

7. Mooring Survey (M180-01)

(Report prepared by Anna Priddle)

Purpose

1. To inform the Committee that all moorings in Anakiwa Bay, Little Ngakuta Bay and West Bay are to be surveyed in follow up to the findings of an earlier mooring survey undertaken in 2008. The aim of the survey is to determine compliance with resource consents and the Marlborough Sounds Resource Management Plan.

Background

2. Councillors will recall an earlier item regarding a mooring survey conducted in April 2008 in which it was reported that a high level of moorings are non compliant with their resource consents and the Marlborough Sounds Resource Management Plan. Approximately 10% of moorings were surveyed. Of the moorings surveyed, 57.8% were found to be off-site, 46% could not be identified on site (no mooring tags were attached to the buoys or names inscribed), 18% required maintenance and 16.6% were unable to be matched to a consented mooring and are likely to be unauthorised.
3. Subsequent to the survey, much consideration has gone into how to best tackle the reported findings. It has been decided to take a bay by bay approach. The survey will start with bays that showed high levels of non compliance, overcrowding and mooring complaints received. The bays identified are Anakiwa, Little Ngakuta and West Bay.

Survey Process

4. All mooring owners in the respective bays will be written to advising that a survey will be conducted. This letter will outline the survey process and the follow up action for any problem moorings identified. Mooring owners will be asked to ensure that their mooring is easily identifiable.
5. The survey will be undertaken by an appropriate mooring provider with a suitable winch and differential GPS. Quotes will be obtained from the mooring providers and an appropriate provider selected. For each mooring, the GPS coordinates, tackle length, mooring condition and vessel length (if present) will be noted. Overcrowding and potential conflicts will also be noted.
6. The survey data will then be checked against Council's records and analysed.
7. Council will follow up with the consent holder if the mooring is not in accordance with the resource consent. If the mooring is off-site from its consented location, the consent holder will be required to relocate the mooring. If the mooring requires maintenance, the consent holder will be asked to service the mooring to ensure it is safe and secure. If the mooring has a longer tackle length or larger vessel using the mooring, than that approved, the consent holder will be asked to reduce the tackle length accordingly, apply for a variation or a new consent.
8. If the mooring is determined to be unconsented, the mooring removal process will be implemented. If the mooring owner is identified, they will be asked to remove the mooring or obtain a consent. If the mooring owner is unknown, Council will remove the mooring.
9. Further matters such as conflicting moorings and/or navigational safety issues will be addressed if necessary once all moorings are complying with their resource consents.
10. The project will be funded out of the existing budget.

RECOMMENDED

That the information be received.

8. Dog Fees (D135-01-01 & D135-05-02)

(Report prepared by Joanne Smart)

Purpose

1. This report sets out the proposed fee structure and fees for the 2009/10 dog registration year.

Background

2. Various members of the public made submissions to the 2007/08 Annual Plan suggesting a graduated fee system be introduced. At the time it was determined that a graduated fee system would not be introduced. Since then a Dog Fee Liaison Group has been set up involving representatives from dog related organisations/groups, federated farmers, Council staff and Councillors. There has been a review of the current fee structure and a discussion document produced (copy **attached**). The Dog Fee Liaison Group met on 16 February 2009 to consider issues raised from the discussion document. It was agreed that the proposed fee structure, set out below, be put to the Environment Committee for consideration.

Proposed Fee Structure

3. For the purpose of registration there are currently three classes of dogs, being working dogs, non-working dogs and dangerous dogs. The only change proposed is to split non-working dogs into Category "1" and "2", as defined below, with Category 1 dogs being subject to a reduced registration fee. No changes to working or dangerous dogs are proposed.
4. Below sets out the definition for the categories of non-working dog.
 - **Non-working dog (Category 1)**
Any non-working dog that meets all of the criteria below:
 - **Microchipped**
The dog has been implanted with a functioning microchip transponder of the prescribed type and in the prescribed location.
 - **Neutered**
The dog has been neutered.
 - **Classification**
The dog has not been classified as dangerous or menacing. The owner has not within the previous seven years been classified as probationary or been disqualified from owning a dog.
 - **Enforcement Action**
The owner of the dog has not within the previous seven years been convicted of an offence under the Dog Control Act 1996, or under Part 1 or Part 2 of the Animal Welfare Act 1999 in respect of a dog or any offence against section 26ZZP of the Conservation Act 1987 or section 56I of the National Parks Act 1980.

The owner of the dog has not, within the previous three years, committed three or more infringement offences.
 - **Non-working dog (Category 2)**
Any non-working dog that does not meet the criteria of a Category 1 dog.

Proposed Policy to Determine if a Dog Fits the Definition of Non-Working (Category 1) Dog

5. Below sets out a policy for determining if a dog fits the definition of a non-working (Category 1) dog:
- The owner of the dog must provide to Animal Control a certificate from a registered veterinary surgeon, veterinary nurse, Animal Control or SPCA certifying that the dog has been implanted with a functioning microchip transponder of the prescribed type.
 - The owner of the dog must provide Animal Control with a certificate from a registered veterinary surgeon or veterinary nurse certifying that the dog has been neutered. The owner of a dog does not have to provide Animal Control with a certificate from a registered veterinary surgeon if the dog was recorded on Animal Control records as being neutered on 1 May 2009.
 - A person will be considered to have committed an infringement offence if:
 - a) That person has been ordered to pay a fine and costs under Section 78A(1) of the Summary Proceedings Act 1957, or is deemed to have been so ordered under Section 21(5) of that Act, in respect of that offence; or
 - b) The infringement fee specified on an infringement notice in respect of that offence and issued to that person under Section 66 of this Act has been paid.

Proposed Registration Fees

6. The fee structure below proposes registration fees for the 2009/10 registration year for each class of dog:

Class of Dog	Registration Fee
Working Dog	\$20
Non-working Dog - Category 1	\$48
Non-working Dog - Category 2	\$72
Dangerous Dog	150% of the fee that would normally apply to that dog

7. As a reminder, as part of the 2008/09 Annual Plan Process it was determined that there would be an increase in fees for the 2009/10 registration year.
8. The table below shows the anticipated revenue stream from each class of dog.

	No.	Fee GST Incl	Total GST Incl	Total GST Excl
Working Dogs	2223	\$20.00	\$44,460.00	\$39,520.00
Non Working Category 1	500	\$48.00	\$24,000.00	\$21,333.33
Category 2	6832	\$72.00	\$491,904.00	\$437,248.00
	7332		\$515,904.00	\$458,581.33
Dangerous	5	\$108.00	\$540.00	\$480.00
TOTAL REVENUE			\$560,904.00	\$498,581.33

RECOMMENDED

1. That the proposed fee structure be adopted so that non-working dogs are split into Category 1 and 2.

2. That the proposed policy for determining if a dog fits the definition of a non-working (Category 1) dog be adopted.
3. That the registration fees which are set out below are adopted for the 2009/10 registration year:

Class of Dog	Registration Fee
Working Dog	\$20
Non-working dog – Category 1	\$48
Non-working dog – Category 2	\$72
Dangerous dog	150% of the fee that would normally apply to that dog

Dog Registration Fee Structure Discussion Document

Report Prepared by
Joanne Smart
February 2009

Section 1 - Introduction

Background

Various members of the public made submissions to the 2007/08 Annual Plan suggesting a graduated fee system is introduced for dog registration fees. The Council at that time determined that a graduated fee system would not be introduced and to continue with the status quo.

Subsequently a member of the public organised a petition supporting the introduction of a graduated dog registration fees. Council has been advised that 300 people have signed this petition to date.

A meeting was held on 4 December 2008 to discuss the concept of graduated fees and the fee structure in more detail. Representatives from Canine Obedience, Marlborough Kennel Club, NZ Kennel Club, a vet nurse, SPCA, Animal Control, Council staff and Councillors were Present at the meeting.

As an outcome of this meeting it was agreed that a further meeting including a wider range of people and Councillors was needed. It was also requested that Council research the practicality and fairness of the options discussed.

Purpose of Report

The purpose of this report is to outline the options discussed at the meeting of the 4 December 2008 for re-structuring the dog control fee system and provide comments on the practicality and fairness of each option.

Limitations of this Report

This report is a discussion document to facilitate consultation with dog related organisations. It is not the vehicle for changing the system of dog registration fees. Dog fees can be changed by Council resolution only.

The statistics provided in this report are from 2008.

The complaint statistics outlined in the “evaluation” section of to this report should be used as guide only as not all complaints are the fault of the dog or dog owner, investigations can find complaints to be unjustified.

Current Fee Structure

The current fee structure provides for:

- A flat fee for working and non-working dogs;
- An elevated fee for owners of dogs classified as dangerous;
- A rebate for owners of more than 6 dogs that have no recent recorded breaches of the Dog Control Act 1996 (“DCA”).
- A penalty fee for late payment of registration, which is 50% of the standard fee, in additional to the standard fee.

- A fee for replacement tags.

The dog control function is entirely funded from dog registration fees, there is no rate funding.

Setting of Fees – Dog Control Act 1996

Section 37 of the Dog Control Act 1996 allows Council to prescribe, by resolution, fees for the registration and control of dogs.

In summary, section 37 sets out that the following can be imposed:

- lower fees for neutered dogs than for dogs that have not been neutered;
- lower fees for working than for other dogs. A limit can be placed on the number of dogs per owner that receive a lower fee;
- different fees for different classes of working dogs;
- lower fees for dogs less than 12 months old;
- lower fee for any dog registered to a person who demonstrates to Council a specified level of competency in terms of responsible dog ownership;
- a penalty fee, in addition to the standard fee, of up 50% of the standard fee for that dog, for all late registrations (ie after 31 July annually).
- impose a fee for replacement tags.

Section 37 requires that when setting fees the Council shall have regard to the relative cost to dog control in dealing with these various categories of dogs, as well as other matters the Council considers relevant.

Section 2 – Evaluation

Graduated Fee System

As set out above, the DCA allows Council to have a graduated fee system by specifying that lower fees can be set for various categories of dogs. Council must have regard to the relative cost of registration and control of dogs in those various categories.

Approximately 80% of New Zealand Councils have some form of graduated fees.

The advantage of the graduated system is that the fees can more fairly represent the resources Dog Control put into dealing with particular groups of dogs. Furthermore, a graduated fee system may encourage preferred behaviours in dog owners which could ultimately reduce workload for Dog Control.

The disadvantage of the graduated fee system is that it can be more complicated to understand and administer. Increases in administration could increase the overall cost in running the Dog Control function, the cost of which is recovered in dog registration fees. There would also need to be more detailed financial planning to ensure fees recovered are adequate to cover discounts available through the graduated fee system. When implementing the system there is no certainty with regard to how many owners might qualify for the discounts, which results in less certainty for financial planning for Council and possibly registration fees.

As dog control is entirely funded by dog fees a discount for one group of dog owners will increase the fees of dogs not meeting that criteria.

Options for Graduated Fee System

During the dog fee meeting which was held in December 2008 various options of a graduated fee system were discussed, as set out below:

Neutering

The DCA specifically allows for lower fees for dogs that have been neutered.

74% of complaints are about dogs which have not been neutered, only 26% of complaints are about neutered dogs.

Should there be doubt, a veterinarian certificate could be required confirming the dog has been neutered.

Fencing of Property

Statistics on the offences committed by dogs that are kept on a well fenced property, compared to a poorly or non-fenced property are not available. However experience suggests a well fenced property significantly decreases the chance of a dog coming to the attention of Dog Control by roaming, fighting, attacking, becoming lost etc.

To be certain about eligibility for a fencing discount, ideally site inspections would be undertaken. The issues associated with a site visit could include:

- Time involved in visiting all properties would be considerable;
- Difficulties associated with evaluating if a fence is appropriate as there is a considerable difference between an individual dogs ability to escape;
- Issues should a dog escape from a fence approved by Dog Control.

An alternative option of determining the fence standard would be to require the dog owner to supply photographs or certification that their fence is able to contain their dog. However, this relies on a dog owner's honesty and knowledge of appropriate fencing.

It is anticipated that there would be issues administering this discount due to the time involved and subjectivity of determining when the fencing discount should and should not apply.

No History of Enforcement

Those people and dogs that contravene the DCA are consuming considerably more of Dog Control's resources than complying dog owners.

For example, 151 infringement notices were issued during 2008. Of those infringement notices, 32 were issued to persons that had already received an infringement notice during 2008.

Microchipping

It is easier to trace the owner of a lost dog when the dog is microchipped, particularly if the registration tag is not on the dog.

Following up on dogs that are legally required to be, but not, microchipped is time consuming for Dog Control.

Rural Dogs

43% percent of complaints received about non-working dogs were about dogs located in Blenheim, Renwick, Seddon or Havelock. The remaining complaints (57%) were for non-working dogs in other areas of Marlborough.

Completion of Certain Courses

Council does not have records of those owners and dogs that have completed certain courses, therefore cannot provide statistics of offending or complaints for this group. However, it is assumed that people who make an effort to learn about and train their dogs are less likely to come to the attention of Animal Control.

There are a variety of courses available for dog owners. To be fair, each course would need to be researched and reviewed to determine its merits. This could take considerable time and may be subject of debate.

Club Membership

Council does not have access to records on membership, therefore can not provide statistics of whether or not members are less likely to offend or attract complaints.

There are a variety of dog clubs operating in Marlborough e.g. Canine Obedience, Pig Hunting Club etc. There would need to be further research on compliance history of club members and an assessment of the potential benefits and problems associated with each club.

Graduated Fee – Impact on Fees

The fees set out in the table below demonstrate the impacts of providing discounts to one criterion of dogs on the fees of another criterion

The criteria below were selected as an example and do not predetermine any fee or fee structure.

The fees outlined below are:

- based on current number of dogs that meet criteria;
- would not result in an overall change in current revenue collected;
- does not account for any increase in dogs eligible for lower fees.

Example 1	Non Working Dog “Category 1” (defined below)	Non Working Dog “Category 2” (defined below)	Discount
Proposed fee	\$45.00	\$66.00	\$21.00

Non Working Dog “Category 1” means any dog that meets all of the criteria below:

- microchipped with NZ standard chip;
- neutered;
- owned by a person who has not received an infringement notice in the previous 3 years and has never been prosecuted under the Dog Control Act 1991
- has not been classified as dangerous or menacing.

Non Working Dog “Category 2” means any non working dog that does not fit the definition of “Category 1”.

Example 2	Non Working Dog “Neutered”	Non Working Dog “Not Neutered”	Discount
Proposed fee	\$58.50	\$68.00	\$9.50

Example 3	Non Working Dog “No Enforcement” (defined below)	Non Working Dog “Enforcement” (defined below)	Discount
Proposed fee	\$64.30	\$85.00	\$20.70

“No enforcement” means any non working dog owned by a person who has not received an infringement notice, been made probationary, been prosecuted and the dog has not been classified during 2008.

“Enforcement” means any non working dog owned by a person who has been subject of enforcement during 2008.

Working Versus Non Working Dogs

The DCA specifically allows for lower fees for working dogs and for different classes (e.g. guide dogs) of working dogs.

Working dog fees are currently 28% of the non-working dog fee.

Approximately 10% of the revenue collected from dog registration fees is generated from working dogs.

7.5% of the total complaints received were with respect to working dogs, the remaining complaints are about non working dogs.

The 2008 property inspection programme found that 6.5% of the working dogs seen were unregistered and 5.5% of the non-working dogs seen were unregistered.

With the exception of working dogs for persons with disabilities, it could be considered that working dogs are a cost of doing business and are no different to any other business expense.

There are 10 dogs in Marlborough that assist people with disabilities (eg guide dog, hearing assist etc). Given the public good in having disability assist dogs, there may be justification for having these dogs being subject to a minimal fee.

More Than 6 Dogs Rebate

The DCA does not specifically state that there may be lower fees for people with more than a certain number of dogs. However, a rebate on the registration fee is currently available to owners of more than 6 dogs that have a history of compliance.

As part of the registration process for the 2008/09 year, 38 dog owners were allowed a ‘more than 6 dog’ rebate which in total cost approximately \$5000. About 50 cents of each dog’s registration is currently being used to cover the more than 6 dog rebate.

Processing the more than 6 dog rebate takes administration time.

It could be argued that it is a person’s choice to have a number of dogs and that it is up to them to pay for all their costs, including registration fees. On the contrary it could also be argued that the total registration costs are very high for those people with numerous dogs.

When considering the appropriateness of this rebate, it is important to note that there are already reduced fees for those owners who have dogs for legitimate work purposes.

If it is determined that the more than 6 dog rebate be removed or changed, there should be notification of affected owners, advertising and the changes should not be implemented for at least two registration years to allow owners time to reduce dog numbers if they wish.

Rate Subsidisation of Dog Control

The Dog Control function is currently funded entirely from dog registration fees. There is no subsidisation from rates collected.

There are two opposing views on whether or not there should be rate funding. With the current situation people who do not own dogs do not have to pay for Dog Control.

There is a contrary argument that dog control benefits all members of our community, not just dog owners. For example:

- Dog Control promotes better control of dogs, both registered and unregistered, which benefits the whole community.
- The Dog Safety School Education Programme which costs very approximately \$20 000 per annum is available to all school children;
- Dog Control investigates complaints from all members of the public and not all of those complaints are justified.

If there were to be subsidisation of dog control with rate, a \$1 discount in dog fee would result in an average increase in rates of 40 cents per ratepayer.

9. Marlborough District Council Charging Policy - Resource Management Act 1991 and Alterations to Consents Administration, Monitoring and Supervision Fees (C270-00 & C270-05)

(Report prepared by Garth Congdon)

Marlborough District Council Charging Policy - Resource Management Act 1991

1. The Council Charging Policy for activities undertaken under the Resource Management Act 1991, pursuant to the Resource Management Act 1991 and the Local Government Act 1974 was adopted in May 2008.
2. The Charging Policy is presented for ratification to clarify the application of the administration fee and simplify the travel rates.

Consents Administration, Monitoring and Supervision Fee Schedule

3. A review of the fee schedule (**attached**) in respect of the structure of the charges and the amount of the charges has been carried out. In general, fees have been gathered largely on actual recovery basis on completion of a particular matter, this captures all costs.
4. A review of cost recoveries has been undertaken by examining data from the past year and a scale developed that reflects the amounts previously recovered.
5. The fees come under the matters in Section 36(1) and enable the day to day operations to recover actual costs without undue process. The recovery of additional costs is required to be in accordance with Section 36(3) and would rely on the Charging Policy and the particular circumstances of an application.
6. The revised schedule sets flat charges which properly can be regarded as “fixed charges” in terms of Section 36(1), or a variable charge is set. The latter will generally be recovered by way of agreement for service and the amount of the charge would not be expected to be significant or disputed.
7. Section 36(4) requires that charges have as its *sole purpose* the recovery of *the reasonable costs incurred by the local authority in respect of the activity to which the charge relates*:
8. It is considered that this fee review addresses Section 36(4) by being based in the review of actual costs of processes and using these to formulate the accompanying schedule. Additionally, specific provision is made within the Charging Policy to allow consent holders to challenge what they consider unreasonable costs thus reinforcing what is considered to be a fair and reasonable charging regime.

RECOMMENDED

1. That the “Marlborough District Council Resource Management Act Charging Policy” be ratified.
2. That the proposed Consents Administration, Monitoring and Supervision Schedule of Fees under the Resource Management Act 1991 are publicly notified and the special consultative process commence as below:

19 March 2009	Environment Committee considers the proposed fee
2 April 2009	Full Council
6 April 2009	Special Consultative Procedure begins
	- Proposed fees published on the Council website

- **Information published in the Marlborough Express and the Christchurch Press**
 - **Information sent to stakeholders by means of newsletter**
- 8 May 2009**
- Special consultative procedure ends**
- **Submissions analysed and summarised into a report for the Environment Committee to consider**
- 11 June 2009**
- Environment Committee considers submissions**
- **Fees amended if necessary**
- 25 June 2009**
- Full Council**
- 1 July 2009**
- New fees commence**

Consents - Administration, Monitoring & Supervision		Charge \$
Sampling including the contracting of an independent consultant	Variable	Actual
Consultancy charges	Variable	Actual
Laboratory costs	Variable	Actual
Administration fee	Flat	\$40.00
Site Inspection	Variable	
Environmental Protection Officer	Per Hour	\$130.00
Assistant Environmental Protection Officer	Per Hour	\$91.00
Student Environmental Protection Officer	Per Hour	\$65.00

10. Review of Fees for Land Information Memoranda and Project Information Memoranda (I090-00)

(Report prepared by Kirsty Crawford)

Purpose

1. The purpose of this report is to areview the fees charged for Land Information Memoranda (LIMs) and Project Information Memoranda (PIMs).

Background

2. LIM and PIM fees were last reviewed in July 2007.
3. As a result of the economic downturn, LIM and PIM numbers, and therefore income, have seen a significant drop over the past twelve months.
4. Council is required by statute to provide LIMs and PIMs. Whilst LIMs are issued on request, Council is required to provide a PIM when an application for Building Consent is received.
5. LIMs are generally used as part of due diligence when purchasing property. PIMs are intended to assist in the planning of building projects. Through these processes Council provides, in summary form, a range of information relating to buildings, infrastructure and planning controls. Much of this information is held only by Council.
6. There is an element of public good in provision of both. This public good is recognised by a 17% rates subsidy in the LIMs/PIMs budget for 2009/2010.
7. Close examination of costs and adjustments has followed. There will however be a shortfall in income.
8. As this is not projected to be enough, a review of fees is considered necessary.

Options Considered

9. Projections for the 2009/2010 year are based on historical data. The median values have been used for the review exercise.
10. Council is required to provide LIMs (pursuant to Section 44A of the Local Government Information and Meetings Act 1987) and PIMs (pursuant to Sections 31-39 of the Building Act 2004). Provision of these reports is mandatory.
11. There is no other body able to issue LIMs and PIMs in this district.

Policy and Plan Considerations

12. The fee review is consistent with the LTCCP in so far as it is intended to continue to provide LIMs and PIMs within statutory timeframes.

Community Views

13. Consultation with the community is planned via the special consultative process.

Summary

14. In proposing this fee review, all options have been considered.
15. Whilst there is an element of public good in the provision of LIMs and PIMs, it should be noted that the main benefit is to the individual requesting these reports.
16. It is not reasonable to expect an increase in ratepayer subsidy for this activity.

17. Council does not have the option of ceasing to provide these reports.
18. Statutory timeframes mean there is a minimum level of staffing required.
19. An increase in fees is the only option available to avoid significant budget overrun.

RECOMMENDED

That the proposed fees, as attached, are publicly notified and the special consultative process commence as below:

19 March 2009	Environment Committee considers the proposed fee
2 April 2009	Full Council
6 April 2009	Special Consultative Procedure begins
	- Proposed fees published on the Council website
	- Information published in the Marlborough Express and the Christchurch Press
	- Information sent to stakeholders by means of newsletter
8 May 2009	Special consultative procedure ends
	- Submissions analysed and summarised into a report for the Environment Committee to consider
11 June 2009	Environment Committee considers submissions
	- Fees amended if necessary
25 June 2009	Full Council
1 July 2009	New fees commence

FEE TABLE: LGOIMA 1987 - Land Information Memoranda

Note

Land Information Memoranda (LIM) provides an applicant with information about a property, held by Council. They can be applied for at any time and may take up to 10 days to complete.

Land Information Memorandum	Charges \$	Proposed
Application charge - Residential	\$300.00	\$315.00
Application charge - Commercial/Industrial/Rural	\$525.00	\$545.00

FEE TABLE: Building Act - Project Information Memoranda

Note

Project Information Memoranda (PIM) are recommended to be applied for at the commencement of the planning for proposed works. They can be applied for at the time of lodging a Building Consent. A Project Information Memorandum application must be made in respect of any Building proposal and a separate fee paid as noted below.

Project Information Memorandum

	Charges \$	Proposed
Application (Other than minor)		
Application charge - Intermediate Fee	\$150.00	\$165.00
Application charge - Standard Fee	\$300.00	\$330.00

Minor Applications

Application charge - Spaceheaters & Minor Works	\$25.00	\$40.00
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Minor Works do not include, structural alterations, connection to services, increased demand on existing waste or stormwater systems

11. Marlborough Wine and Food Festival 2009 - Food Stalls (R360-01)

(Report Prepared by Gina Ferguson)

Purpose

1. The purpose of this report is to provide a brief summary of food stall operations at the Marlborough Wine and Food Festival 2009.

Background

2. Food stalls are required to comply with the Food Hygiene Regulations 1974.
3. Food stalls are required to be registered under the Health (Registration of Premises) Regulations 1966.
4. Local authorities have an obligation under the Food Hygiene Regulations 1974 to enforce these regulations within its own district.

Summary

5. On 14 February 2009 inspection of food stalls at the Marlborough Wine and Food Festival was undertaken.
6. All inspected food stall permits were current at the festival. However the follow up prior to the event to reach this compliance level was extensive.
7. The locations of refrigeration containers throughout the site were convenient for food stall operators and conducive to stalls following appropriate temperature control procedures for perishable food.
8. The majority of food stalls had made adequate provision for hand washing facilities within their sites.
9. Food stall operators at the festival are to be commended for their preparation prior to the event. All the food stalls inspected prior to the festival starting were well organised, fully equipped and following suitable food safety procedures for perishable food.
10. However as the festival progressed and customer demand increased the following was noted:
 - (a) With few exceptions, the floor space per food stall was inadequate for the number of staff serving and preparing food on site.
 - (b) The floor space and number of food stalls was inadequate to effectively meet customer demand, thus increasing food safety risk by creating a chaotic atmosphere within the stalls and promoting hurried preparation, cooking and serving of food.
11. One complaint was received with regard to food handling practices at the festival.

Recommendations for 2010 Festival

12. That a Council Environmental Health Officer be invited to the site pre brief meeting to instruct stall operators of stall requirements and food safety practices.

13. That Wine Marlborough accept food stall site applications conditional on stall operators providing with the application:
 - (a) A completed Marlborough District Council food stall permit application with the prescribed fee; or
 - (b) Provide a copy of their food stall permit or registered mobile shop permit which is current for the date of the 2010 festival.
14. That Wine Marlborough submit a list of food stall operators with their completed application and fee or their current permit to Marlborough District Council for processing, not less than 1 month before the 2010 festival.
15. That the District Licensing Agency when considering the special licence application make condition for an adequate food site ratio for the number permitted at the event, given the number of wine exhibitor stalls and the consumption of alcohol.
16. This year there were 22 food stalls (excluding coffee & Pinot noir jelly) for over 8000 persons. To put this in perspective this requires each stall to be serving a person every minute throughout the day for each patron to get an article of food in a 7.5 hour period.

Comment

17. The cooperation of Wine Marlborough was appreciated, especially Sarah Booker's contribution for assisting in following up on late food stall applications.

RECOMMENDED

That the information be received.

12. Appointment of Hearings Commissioners (C270-11)

(Report prepared by Louise Walker)

1. The Marlborough District Council Resource Management Act 1991 Instrument of Delegation requires that a list of suitably qualified and independent persons be appointed from which Hearings Commissioners shall be engaged.
2. To date Council has approved a pool of 33 Hearings Commissioners who can be called on to hear and determine applications for resource consents pursuant to Section 34A(1) of the Resource Management Act 1991.
3. All expressions of interest to be included in Council's pool of Hearings Commissioners are forwarded directly to the Environment Committee for a determination to be made as to the suitability of the candidate.
4. Kerry Smith has applied to be part of this pool of Hearings Commissioners. Below is a brief of his employment and relevant experience.

Mr Kerry Smith

5. Kerry is a partner at the Christchurch branch of the Buddle Findlay law firm.
6. With 25 years experience in dealing with environmental issues, Kerry has been involved in most facets of the resource consent process, from handling applications, through to appeals in the High Court.
7. Kerry Smith has had previous experience acting as a Hearings Commissioner at other councils within New Zealand.
8. Kerry holds the appropriate making good decisions course qualification, required to undertake a role as a Commissioner.

Commissioner Pool

9. Council is not bound to employ the services of a Commissioner once they are appointed before Full Council.

RECOMMENDED

That Mr Kerry Smith be appointed to act as a Hearings Commissioner as and when required.

13. ENSCO 056 Load-out (H090-07)

(Report prepared by the Harbour Master)

Purpose

1. The purpose of this report is to update the Committee of an oil rig load-out in Admiralty Bay that took place in December 2008.

Background

2. The Harbour Master was advised by Phoenix Shipping that it was the intention to load-out a production platform in Admiralty Bay during December. The primary reason Admiralty Bay was chosen is due to the shelter it provides for this type of operation, where environmental limits were a critical element.

3. The Marlborough Sounds Harbour Risk Assessment has identified Admiralty Bay as having:

“limited information available at present about navigation in the areas. It is thought to generally comprise only local leisure vessels, visiting yachts or fishing related activities”

Admiralty Bay is also a recognised marine farming area, particularly in the vicinity where the off-load is to be undertaken.

4. The Marlborough Harbour Navigational Safety Management System (SMS) recognises that circumstances can and do change and sets out policies that should be followed when this occurs:

i. “whenever circumstances change to bring in activities outside the existing scope of the Navigational SMS, the Harbour Master will, in full collaboration with the relevant stakeholders, undertake a risk assessment of the intended operation. This process is likely to include the activation of a meeting of the Navigational Management Advisory Team (NMAT).”

5. ENSCO 056 arrived in Admiralty Bay on 16 November 2008 under tow by two tugs. Once in Admiralty Bay the rig was soft-pinned and the platform raised approximately 4 metres above the water. The carrying vessel HEAVYLIFT FALCON arrived on 3 December 2008.
6. The load-out operation is, in itself, was quite simple. The carrying vessel was ballasted to a suitable draft and the rig manoeuvred over the submerged deck of the carrying vessel by attending tugs. However there are critical elements in the process, particularly when the carrying vessel’s deck breaks the water during the de-ballasting phase. It is at this stage where vessels have got into difficulty due to a sudden loss of stability at this critical point, this having the potential to result in the carrying vessel foundering.
7. Critical elements of the operation were restricted to daylight hours only.

Comment

8. With experience gained during previous similar operations, a review of previous risk assessments of off-load operations resulted in a list of ranked hazards which assisted in defining appropriate risk control measures.

9. As with previous operations, this was seen as ideal for a practical training opportunity for members of the Council's Marine Oil Spill Response Team. An Incident Action Plan identifying at risk environmental areas and outlining response options in the event of oil escaping from the carrying vessel was developed. In support of the plan, a small team of responders from Council and Maritime New Zealand established a forward response base at Catherine Cove and appropriate oil spill response equipment, sourced from the oil spill response shed in Picton as well as Nelson, was relocated to Catherine Cove. Additional responders were invited from Nelson but regrettably, none were able to attend. Maritime New Zealand's Marine Pollution Response Services sent one staff member to attend the operation. The team remained on site with essential elements of the response equipment ready for immediate deployment until the load-out was completed and the vessel departed Admiralty Bay.
10. On completion of de-ballasting the rig was fastened to the carrying vessel prior to departing Admiralty Bay. This phase took two and a half two days to complete.
11. The Oil Spill Response Team was stood down and all equipment returned to store once HEAVLIFT FALCON departed Admiralty Bay.

Conclusion

12. The load-on of the rig ENSCO 056 in Admiralty Bay resulted in a further comprehensive review of the risk assessment information held to date and initiated further amendments to the existing risk assessments specific to this activity.
13. Initiatives to reduce the elevated risk profile were acted on prior to the carrying vessel arriving on-site.
14. Marine Oil Spill Response Team members and appropriate equipment were re-located to Catherine Cove so as to be in a position to respond to any release of oil in the event of a mishap.
15.

A short PowerPoint presentation of the load-out will be shown at the meeting.
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RECOMMENDED

That the information be received.

14. Harbour Patrols (H090-07)

(Report prepared by the Harbour Master)

Purpose

1. The purpose of this report is to update the Committee of the harbour patrol activities over the holiday period.

Background

2. The Committee will be aware that over the past years regular harbour patrols have been in place between Labour week-end and Easter of the following year.
3. Generally patrols are run over weekends, but revert to a daily schedule over the busy holiday period. This summer the daily patrols commenced on 21 December 2008 and, apart from Christmas Day and New Years day, daily patrols have been undertaken.
4. It is noted from the daily reports from the patrol that there was a marked increase in recreational vessel traffic and counts of between 50-60 vessels per hour at the entrance to the Picton and Waikawa marinas were not uncommon. In addition, there was also the seasonal increase in small commercial operations - water taxis, etc.
5. Wearing of Personal Floatation Devices (PFDs), particularly in small craft (less than 6 metres) was a matter patrols reported on frequently. Members will have noted media comments on proposed changes relating to PFDs in vessels of less than 6 metres.
6. Speed of vessels within 200 metres of the shore was also an area that required constant attention, particularly in the vicinity of headlands. This applied to both commercial and recreational vessels.
7. Personal Water Craft on the whole were reported as being generally well behaved despite the fact that there were more on the water this year.
8. Patrol staff interact with the boating public on the water, at launching ramps, at water ski lanes and at jetties and baches in the Sounds. These opportunities are seen as being ideal to re-enforce educational themes as well as a means of distributing the 'Safe Sounds Boating' brochure and other educational material. For this summer season a print-run of 5,000 brochures was seen as a realistic number. At the time of preparing this report, less than 500 brochures remain for distribution until the end of the patrol period.
9. It is always difficult to find the correct balance of patrol time between Queen Charlotte Sound and Pelorus Sound. A number of patrol days were spent in Pelorus Sound this summer and comments from patrol staff indicate that, in general, recreational vessel behaviour was satisfactory. One patrol day coincided with the Hopai Sports Day.
10. On completion of the patrol schedule after Easter a general de-brief of staff will be undertaken which will form the basis of the brochure review, as well as patrol schedules for next summer.

Conclusion

11. Harbour Patrols have been undertaken in a similar format to those of previous years.
12. The matters of speed, general behaviour and wearing of PFDs have been noted by patrol staff as being an issue from time to time, but on the whole the patrols have been well received and seem to have the support of the boating public.

RECOMMENDED

That the information be received.

15. Oil Spill Response Report - Waikawa Marina Fire 5 February 2009 (H090-07)

(Report prepared by the Harbour Master)

Incident Summary

1. At approximately 0630 on the morning of 5 February, the Harbour Master was advised of a fire on board vessels in the Waikawa Marina by Port Marlborough. Although advised that everything was under control and that the Harbour Master's presence was not required, it was considered expedient to attend the scene.
2. In transit to Waikawa, the Harbour Master alerted the Council's Maritime Officer and requested him to make his way to Picton as soon as possible.
3. On arrival Waikawa, it was found that one pleasure craft on jetty 5W was on fire, a second was sunk alongside its berth and a third had been towed out of the marina and secured to a mooring just outside the west side of the marina. The fire on board the latter vessel had been extinguished.
4. It became clear, from general observation, that as a result of the fire, some fuel – diesel – had escaped from the vessel that had sunk. Assessing the likelihood of a further spill, the Harbour Master instructed the Maritime Officer to stop at the oil spill response shed and to bring sorbent booms from the equipment stock pile. To assist in preparing this equipment, a Council Harbour Ranger was mobilised to go to the shed.
5. Equipment was brought to the marina and deployed to contain spilled diesel once it was safe to do so. The response continued throughout the day with work ceasing once the final vessel had been removed to Waitohi wharf.
6. Containment booms remained in situ for the week-end to capture any further spilled diesel that may have been trapped under the adjoining jetty fingers. The booms were removed and disposed of on Monday 9 February.
7. Several visual investigations of the marina area after the week-end did not reveal any noticeable effects of the incident.

Response Operation

8. On arrival at Waikawa Marine, an assessment of the situation was undertaken. Since it was still an active Fire Service operation, this organisation was the lead agency in the overall operation.
9. The Marlborough Oil Spill Contingency Plan states:

“Objectives of the Marlborough Oil Spill Contingency Plan

The primary objectives of a Tier 2 oil spill response are set out in s 303 of the Maritime Transport Act, namely:

- *to prevent further pollution from the marine oil spill;*
- *to contain and clean-up the marine oil spill*

in a manner that does not cause further damage to the marine environment, or any unreasonable danger to human life, or cause an unreasonable risk of injury to any person.

Human safety and health have the highest priority in this plan. Occupational safety and health requirements form a critical element of any oil spill response undertaken.

The Plan aims to set out the procedures to:

- evaluate an oil spill report within one (1) hour of such a report being received;

- initiate the collection of evidence and samples for cost recovery/prosecution purposes;
 - undertake investigations and collection of evidence if necessary with the aim of establishing the identity of the spiller, and recovering costs from that party;
 - alert affected and interested parties of an oil spill within two (2) hours of a spill being reported if this is appropriate;
 - mobilise appropriate personnel and equipment in support of a Tier 2 response operation anywhere within the Marlborough District within five (5) hours of the spill being reported. For this purpose, the Marlborough District has been assessed as having a target spill capacity of 100 tonnes of Marine Diesel or Light Fuel Oil;
 - commence clean-up operations which mitigate the effects of the spilled oil and contribute to the restoration of the environment, anywhere in the District, within six (6) hours of the spill being reported.
 - initiate, when appropriate, Tier 2 wildlife protection and rehabilitation operations within four (4) hours of a spill being reported; and
 - complete clean-up operation in an expeditious manner within the resources available to this Plan”
10. During the course of extinguishing the fire, some diesel escaped into the marina area although the exact amount is difficult to quantify. However, weather conditions at the time and during the remainder of the day assisted in the natural dispersion of the free-floating diesel.
11. Discussions with the owners enabled a more accurate assessment on the amount of fuel on board each vessel to be made. In total this amounted to 5,000 litres of diesel being carried between all three vessels as well as the usual engine lubricating oil and some hydraulic oil. It is thought that a significant amount would have been burned during the fire but that there could still be a significant amount remaining. It is difficult to put a numerical value on the potential fuel remaining, but it was estimated at being in the region of 2,500 litres.
12. The Marlborough Marine Oil Spill Contingency Plan clearly stipulates that safety of human life is an overarching principle and that no response should be undertaken until it is safe to do so. It is accepted that ‘safe to do so’ is a judgement decision based on the training and experience of the person in charge of an operation. The Harbour Master also fulfils the role of Regional On Scene Commander and in this capacity has been involved in extensive training as well as attending major oil spill events both within New Zealand as well as overseas.
13. As soon the Harbour Master considered that it was safe to do so, sorbent booms were deployed to contain spilled diesel and engine oil in the immediate vicinity of the two vessels. Sorbent booms are 3 metre lengths of specially fabricated oleophilic material which, when strung together, forms an appropriate means of containing and recovering light oils such as diesel. To recover the heavier lubricating and hydraulic oil patches, sorbent pads were used.
14. In the event of a significant release of fuel occurring during the recovery of the vessels, rapid deployment boom was relocated from the store to the site should deployment become necessary. Rapid deployment booms differ from sorbent booms in that they are designed for longer periods of deployment and serve to contain spilled material within an area for recovery by mechanical means. Boxed in lengths of 90 metres, as its name indicates, it can be deployed very quickly as a first means of response. In this particular incident, however, use of this boom type was not considered a first response and kept as ‘back-up’.
15. Similarly, the use of dispersant as a response tool had also been considered. Dispersant is a detergent which breaks the surface tension of spilled oil and mixes it into the water column, thus aiding natural dispersion. Use of dispersant was eliminated for a number of reasons. Depth of water within the marina, limited circulation and tidal flushing that occurs naturally indicates that the use of dispersants is generally not appropriate. Further, once dispersants were applied, the further use of oleophilic materials to contain and recover spilled oil would be excluded.

16. Based on experience and knowledge, existing weather conditions at the time of the incident and that forecast for the remainder of the day indicated that natural dispersion and evaporation would occur quite rapidly aided by the mechanical agitation of marina waters by boating activity.
17. Concurrently, the third vessel involved, which had been secured to a mooring outside the marina, was taking on water and in danger of sinking. Once booming of the marina berths had been completed, efforts were concentrated on keeping the third vessel afloat. With the aid of two support vessels as well as pumping equipment, this vessel was able to be towed to Picton and taken out of the water
18. Salvage and recovery of vessels is a complex and time consuming operation and it is not unusual for there to be a sudden release either of fuel oils trapped within the hull or a sudden rupture of a fuel tanks. Again, to prevent such spillage from, any salvage/recovery work was undertaken within the boomed area, the boom only being 'opened' to allow exit of the recovered vessel. The recovery vessel was able to operate outside the boomed area during this operation.
19. Once recovered, a vessel was suspended alongside the recovery vessel and transported to Picton where it was lifted on to Waitohi wharf. During this operation there were no further reports that fuel was observed escaping.
20. When both vessels had been removed from the area, all sorbent pads were recovered, bagged and placed in an appropriately lined skip in order to prevent secondary contamination of the area.
21. Sorbent booms remained in place over the ensuing three days to contain and recover any remaining free-floating fuel. Once recovered, the booms were disposed of in the lined skip.
22. Currently, there is no viable means of disposing of oil contaminated waste in the Marlborough land fill. As a consequence, all recovered material will be transported to Christchurch for disposal.
23. Further inspections of the area over the following days have not evidenced any on-going areas of concern.

De-brief

24. Following any response operation, it is practice to conduct a debrief, looking at the overall operation, noting where things had gone well and where things could have been done better. The following items were noted:

- **Areas where improvements could be made**

Sorbent booms are supplied in lengths of 3 metres, each length contained in a plastic protective cover. It was noted that it took quite some time to join the required booms together (in total 45 were used). *This has since been remedied by joining a number of lengths together and stowing these in appropriately sized bags*

Better utilisation of the response trailer. *The trailer will be reconfigured to the extent that it will become the 'first response' mechanism*

Disposal bins provided need to be oil-tight – a small leak needed to be 'plugged'. *This will be further investigated with the provider of these bins.*

Had the event been larger, co-ordinating of equipment from the response shed by a suitable person would have been useful

There was some confusion as to changes in lead agencies. *This is to be followed up with the other agencies involved.*

- **Areas that went well**

Assesment was conducted in a timely manner, noting that it was not safe to deploy equipment and staff until the fire was extinguished

Response and deployment of booms occurred in a timely manner and well within the parameters set out in the Marlborough Oil Spill Contingency Plan

In conjunction with Port Marlborough staff, there were enough personnel to deal with the response.

Use of a scoop net on an extension handle allowed for recovery of debris without impacting on recovery of fuel.

Conclusion

25. A fire involving three vessels in Waikawa Marina resulted in an unquantifiable amount of diesel as well as smaller amounts of lubricating and fuel oil.
26. Following the implementation of the Marlborough Oil Spill Contingency Plan, response staff evaluated the spill, mobilised appropriate equipment and contained and cleaned up the spilled diesel and other oils.
27. Contaminated material has been recovered and is being disposed of appropriately.
28. A debrief of immediate response staff identified areas where improvement was needed, but also identified areas where the response went very well.
29. Equipment used in responding to this spill:
 - 45 sorbent booms
 - 300 sorbent pads
 - 50 sorbent pillows.
30. Agencies Involved
 - NZ Police,
 - NZ Fire Service
 - Marlborough District Council – Oil Spill Response staff
 - Port Marlborough

RECOMMENDED

That the report be received.

Photos





















16. Navigation Bylaws 2009 (L225-05)

(Report prepared by Mike Porter)

Purpose

1. The purpose of this report is to recommend the makeup of a Sub-Committee to hear submissions, consider all submissions and make recommendations to Council following the special consultative procedure currently underway for the two proposed Navigation Bylaws.
2. A further purpose of this report is to recommend that the submission period for the two proposed Navigation Bylaws be extended by one month to 27 April 2009.

Background

3. Under the Local Government Act 2002 (the Act) only Council has the power to make a bylaw.
4. However as part of that process Council can delegate to any Committee or Sub-Committee the power to hear, consider and make recommendations on submissions received following the public consultation phase.
5. Council can determine that the make-up of any Committee or Sub-Committee have members of the public as well as elected members. Using industry experts in conjunction with elected members has in the past been extremely successful in Council receiving the best advice possible from the process.
6. The decision under Minute No.R.08/09.311, from which Council commenced the Special Consultative Procedure, took into account the decision making process as required under the Act. Council officers consider that this report follows that process.

Comments on Sub-Committee Membership

7. Council officers have considered the make-up of such a Sub-Committee and recommend that two independent industry experts (appointed as commissioners) and one elected member be appointed to hear submissions, consider all submissions and make recommendations to Council following the special consultative procedure currently underway for the two proposed Navigation Bylaws.
8. It is further proposed that one of the industry experts (commissioners) be appointed as the Chairperson. This person would ideally also have a legal background as well as expertise in the maritime industry.
9. The other commissioner would have expertise in the maritime industry.
10. Council would need to nominate an elected member to be a member on this Sub-Committee.

Extension of Closing Date for Submissions

11. It is recommended that the submission period for the two proposed Navigation Bylaws be extended by one month to 27 April 2009. Industry representatives have requested an extension to allow further time to consult with their members so that robust submissions can be made.

RECOMMENDED

1. **That a Navigation Bylaws Sub-Committee be formed and delegated to hear submissions, consider all submissions and make recommendations to Council following the special consultative procedure currently underway for the two proposed Navigation Bylaws.**
2. **That the Navigation Bylaws Sub-Committee comprise two independent commissioners, one being appointed as the Chairperson, and one elected member.**
3. **That the submission period for the two proposed Navigation Bylaws be extended by one month to 27 April 2009**

17. Information Package

RECOMMENDED

That the Regulatory Department Information Package dated 20 March 2009 be received and noted.

18. Decision to Conduct Business with the Public Excluded

Decided That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Nassella Tussock Non Compliance
- Unauthorised Discharge of Wastewater
- Dairy Farm Compliance Update
- Animal Control – Classified Owners
- Earthquake Prone Buildings

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Nassella Tussock Non Compliance Unauthorised Discharge of Wastewater Dairy Farm Compliance Update Animal Control – Classified Owners Earthquake Prone Buildings	In order to protect the privacy of natural persons, as provided for under Section 7(2)(a).	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

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