

RESOURCE MANAGEMENT COMMITTEE

THE WEST COAST REGIONAL COUNCIL

Notice is hereby given that a meeting of the **RESOURCE MANAGEMENT COMMITTEE** will be held in the Offices of the West Coast Regional Council, 388 Main South Road, Paroa, Greymouth on **Tuesday, 13th March 2012**

B.CHINN
CHAIRPERSON

M. MEEHAN
Planning and Environmental Manager
C. DALL
Consents and Compliance Manager

<u>AGENDA NUMBERS</u>	<u>PAGE NUMBERS</u>	<u>BUSINESS</u>
1.		APOLOGIES
2.	1 – 5	MINUTES 2.1 Confirmation of Minutes of Resource Management Committee Meeting – 7 February 2012
3.		PRESENTATION
4.		CHAIRMAN'S REPORT
5.		REPORTS
		5.1 Planning and Environmental Group
	6	5.1.1 Planning & Environmental Manager's Monthly Report
	7	5.1.2 Contact Recreation Report
	8 – 9	5.1.3 Civil Defence & Regional Transport Report
		5.2 Consents and Compliance Group
	10 - 15	5.2.1 Consents Monthly Report
	16 – 18	5.2.2 Compliance & Enforcement Monthly Report
		6.0 GENERAL BUSINESS

THE WEST COAST REGIONAL COUNCIL

**MINUTES OF THE MEETING OF THE RESOURCE MANAGEMENT COMMITTEE
HELD ON 7 FEBRUARY 2012 AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL,
388 MAIN SOUTH ROAD, GREYMOUTH, COMMENCING AT 10.33 A.M.**

PRESENT:

B. Chinn (Chairman), R. Scarlett, T. Archer, D. Davidson, A. Robb, A. Birchfield, F. Tumahai

IN ATTENDANCE:

C. Ingle (Chief Executive Officer), R. Mallinson (Corporate Services Manager), M. Meehan (Planning & Environmental Manager), C. Dall (Consents & Compliance Manager), T. Jellyman (Minutes Clerk)

1. APOLOGIES

Moved (Archer / Davidson) *that the apology from I. Cummings be accepted.*

Carried

2. PUBLIC FORUM

There was no public forum.

3. MINUTES

Moved (Davidson / Archer) *that the minutes of the previous Resource Management Committee meeting dated 13 December 2011, be confirmed as correct.*

Carried

Matters Arising

There were no matters arising.

4. CHAIRMAN'S REPORT

Cr Chinn advised that he has nothing to report this month.

5. REPORTS

5.1 PLANNING AND ENVIRONMENTAL GROUP

5.1.1 PLANNING & ENVIRONMENTAL MANAGER'S MONTHLY REPORT

M. Meehan spoke to his report advising that tenders have been invited for the identification of areas of Outstanding Natural Features and Landscapes as this is part of the Coastal Plan Review. He advised that we are working in partnership with the three district councils as they all have an interest in this process. M. Meehan advised that this council would be leading the process throughout its term with input from the district councils. He stated that tenders close at the end of this month and will be evaluated then.

M. Meehan reported that Contact Recreation Sampling Results for the end of last year and early this year have revealed some high results in Buller at Shingle Beach and Marr's Beach. He advised that since writing this report further results have been submitted and these results are looking good. M. Meehan stated that heavy rainfall was associated with the higher results and it was felt that stormwater might have contributed to these higher results.

Cr Archer asked how far is the study on identification of Outstanding Natural Features and Landscapes is likely to be extended and if it is going to be part of a major Coast wide study or just about the coastal area? M. Meehan responded that the work would be of the whole area as the district councils are

interested in doing work on land, outside of the CMA and this council is interested in doing work inside the CMA and this is why the councils have combined to do the work. M. Meehan advised that some work in both Buller and Grey districts have been done but there has not been a lot done in Westland. M. Meehan advised that WCRC wants a review of Outstanding Natural Features and Landscapes sites in the coastal plan, as this is the major part of our review. Cr Archer stated that he is pleased that the whole region is included in the review. C. Ingle advised that he is aware of a study being conducted by Meridian Energy Ltd for the Buller region as part of their Mokihinui consent applications. C. Ingle stated that it may well be that this information and the study tie in together. He advised that depending on how the tender process works out it could be that the same provider does both studies. C. Ingle advised that the district councils are contributing financially because they need some information on outstanding landscapes on land and in the coastal environment whereas this council is interested in the coastal marine area. He stated that putting the two together makes good financial and environmental sense. C. Ingle advised that he would be keeping a careful eye on the cost of this. Cr Birchfield asked what is the next step and will there be further restriction on private land development. C. Ingle advised that the information would assist resource consent applications if someone wants to do something like building a jetty if the jetty is in one of the Outstanding Landscape areas the applicant would have to consider how they would mitigate the affects on the landscape. He stated applicants have to do this now so is it no different to how the Plan is now other than the areas might change. M. Meehan stated that this process would give consent applicants a concise portfolio of Outstanding Natural Features. Cr Archer stated some of the major benefits to the people of the region is that when they are going through the resource consent process they are currently having to pay huge amounts of money to identify these areas and there will soon be significant savings for future developers. Cr Archer stated there would also be views from extremists who think the entire West Coast should be protected as an Outstanding Natural Feature. C. Ingle stated that his experience with the Coastal Plan and the Jackson Bay marine farm, in that case the maps in the Coastal Plan identified the headlands around the corner from Jacksons Bay as being outstanding landscape but not the bay itself. He advised that this was quite pertinent in the Environment Court's decision in that they took the Plan areas as being what was outstanding even though experts at the hearing said that the Bay is outstanding as well. Cr Davidson stated that he would be keen for Council to push for government funding for this project. Cr Birchfield stated he does not see why ratepayers should be funding this and if it is a statutory requirement then government should be providing the money for it.

Moved (Archer / Davidson) *that with the correction of the word "beach" in the State of Environment section of this report, this report is received.*

Carried

5.1.2 STATE OF ENVIRONMENT REPORT – POLICY IMPLICATIONS

C. Ingle spoke to this report advising that following the Surface Water Quality Report which was released in August last year, he asked the Planning staff to check the results of that report against our policies in the Land and Water Plan and assess how well this told us we were doing in terms of our plan objectives. C. Ingle advised that the conclusion is reasonably positive with the State of Environment Report results indicating that the main objectives in the West Coast Regional Council's Proposed Land and Water Plan are being met and the policy framework is operating as intended. C. Ingle stated that this report provides an explicit link between the science WCRC does and the policy work that WCRC does. Cr Davidson stated that he is pleased with how well on track council is.

Moved (Robb / Davidson) *That Council receive this report.*

Carried

5.1.3 PROPOSED REGIONAL LAND AND WATER PLAN

M. Meehan spoke to this report and advised that the Plan was notified on 17 September 2010. He stated that staff have been going through the submissions and working on the recommending report which is due to be finalised within the next month or so. M. Meehan reported that constructive prehearing meetings have been held with Community & Public Health regarding sewage on-site effluent rules (Rule 77) and discussions have been held with Territorial Authorities and Federated Farmers also. M. Meehan advised that hearings would be held in May 2012.

Moved (Robb / Archer) *That this report be received.*

Carried

5.1.4 NATIONAL POLICY STATEMENT FOR FRESHWATER MANAGEMENT – TRANSITIONAL POLICIES

M. Meehan spoke to this report advising that the NPS on Freshwater Management was gazetted in May 2011 and took effect on the 1st of July. M. Meehan advised that although a report was provided to council in July 2011 more work and analysis is required to determine whether further changes are required to the Land and Water Plan. He advised that with the State of Environment Report showing that the majority of waterways in our region are being maintained or enhanced with regard to water quality, we are not looking at any huge issues arising from the NPS. M. Meehan advised that this report looks at the specific policy amendments that council has been directed to make by the NPS, which is to insert policy A4, and B7 of the NPS into the regional plan which has now been done. M. Meehan advised that the amendment to the Plan was notified on the 18th of January. M. Meehan clarified that no changes to the Plan have been made apart from the insertions of policy A4 and B7. Cr Archer stated that he feels the NPS requirement to insert these NPS policies are reasonably complimentary to the existing policy and he would be interested in management's view of this. M. Meehan agreed and stated that they do compliment the existing policies that are in place and they are there to guide consents officers when dealing with consent applications.

Moved (Tumahai / Archer) *that this report be received.*

Carried

5.1.5 INTERIM DECISION – WETLANDS VARIATION

M. Meehan spoke to this report advising that the Environment Court has released a second interim decision on Variation 1 on the Proposed Land and Riverbed Management Plan (wetlands). He advised that the interim decision focuses on the planning evidence given at the hearings in August and October of last year. He spoke of the positive outcomes for council and stated that the Court has asked for further clarification regarding the rules relating to wetlands identified in Schedule 1 and 2 and is seeking further mediation to be undertaken by the end of February. M. Meehan advised that a further hearing has been scheduled for the week of 2 April 2012 if necessary. Cr Scarlett stated he feels that there are no negative outcomes at this stage. Cr Archer stated that Appendix 8 contained some very difficult areas for council and now with the inclusion of words such as "important" and "typical" this will take a lot of the sting out of Appendix 8.

Moved (Archer / Robb) *That Council receive this report.*

Carried

5.1.6 HYDROLOGY & FLOOD WARNING UPDATE

M. Meehan spoke to this report. He advised that there is an interference issue that is causing problems with transmitting of floodwarning information from the Buller and Karamea Rivers. M. Meehan advised that the source of the interference is a 900 MHz Broadband site that is operating 20 – 30 metres from the Council's repeater location on Mt Frederick. He stated that interference results in data not coming through until the Broadband site is turned off. M. Meehan advised that he has been working with Radio Spectrum, the government body in charge of radio licences and regulations, to try and get a resolution. He advised that council's radio technician is going up to the site tomorrow to trial gear that has been supplied by Radio Spectrum to see if this will provide a solution. M. Meehan advised that until a solution is found, Radio Spectrum management have advised that when a heavy rain warning is received from Met Service that council asks the Broadband operator to turn his service off, which he has been doing, data is then collated and staff can then run the normal floodwarning service is operated. M. Meehan advised that this system is not ideal. M. Meehan advised that if the new equipment that is being installed tomorrow does not resolve this problem then the Broadband operator will be asked to move as Council operates under a general licence and he operates under a free licence. M. Meehan advised that council's site on Mt Frederick has been operating for 20 years and the Broadband operator has come in later. Cr Archer stated that the current situation is untenable and the council site will have preference. M. Meehan stated he is hopeful of this matter being resolved tomorrow.

Moved (Scarlett / Archer) *That Council receive this report.*

Carried

5.2 CONSENTS AND COMPLIANCE GROUP

5.2.1 CONSENTS MONTHLY REPORT

C. Dall spoke to his report and noted that over the two month reporting period there have been a number of consents issued. C. Dall reported that Council and Buller District Council provided their evidence to the Environment Court in relation to the Mokihinui Hydro Scheme appeals and they are now waiting for the evidence from the submitters to be filed. C. Dall reported that he attended two mediation meetings in Westport for the appeals relating to the Escarpment Mine proposal.

Cr Archer asked C. Dall if RC11227 is the transfer from the former Pike River Coal Ltd. C. Dall responded that Solid Energy Ltd attempted to take the lease for this site, which led to the High Court saying that they could not take the lease but they gave Solid Energy the option of maintaining the lease of the site for two years. C. Dall advised that Solid Energy have had to apply for their own consents because Pike River Coal Ltd is now in receivership and the receivers declined to transfer the consents to Solid Energy. C. Dall stated that in terms of takes and discharges this consent is basically a double up of what is already in place.

Moved (Archer / Birchfield) *that the February 2012 report of the Consents Group be received.*

Carried

5.2.2 COMPLIANCE & ENFORCEMENT MONTHLY REPORT

C. Dall spoke to this report advising that 66 dairy shed inspections were carried out during the reporting period. He stated that compliance is pretty good but seven of these dairy sheds were rated as significantly non-compliant which staff are now following up on.

C. Dall reported that there have been a few water management issues with the Rockies Mine, which is a small coalmine on the side of the Stockton Plateau. C. Dall stated that this is a small, constrained mine site. He advised that new consents for this site are currently being obtained.

C. Dall reported that there have been some exceedences of limits at the Stockton Mine site during the reporting period. He advised that none of the exceedences have occurred as a result of any significant adverse affects although a formal warning has been issued to the company as a result of one of the non-compliances.

C. Dall reported that the Reddale Mine near Reefton will be producing coal in the near future, council staff are making sure that monitoring is under control from the outset.

C. Dall reported that there is a continuing increase in gold mining activity. He stated that problems are being experienced with the number of new miners around their knowledge and meeting their consent requirements.

C. Dall reported that there were around 60 complaints during the two month reporting period with approximately 20% of the complaints relating to follow up work on whitebait stands that are yet to be taken down. C. Dall reported that five abatement notices were issued during the reporting period. C. Dall reported that the sentencing hearing for Council's prosecution against Mr Derek Newton took place on the 20th of January. C. Dall reported that Council is continuing to provide staff to the Rena operation in Tauranga. Cr Archer stated that he is interested to know how much resources are going into the follow up work for whitebait stands and if the consent holder meets this cost. C. Dall responded that if a whitebait stand is not removed then council has the option of issuing an infringement notice and if council needs to get work done to get the whitebait stand taken down then the consent holder is liable for those costs. Cr Archer asked what could be done about future consents for repetitive non-compliers. C. Dall stated that for consents relating to whitebait stands are under a programme where the whole suite of consents is replaced in one period. He advised that these consents have recently been replaced and they are not due to come up again until 2017. C. Dall advised that a consent cannot be declined on those grounds but more specific consent conditions can be put in place. Cr Chinn asked who pays for follow up visits to the whitebait stands. C. Dall advised that if there is non-compliance then the consent holder is liable.

Moved (Robb / Scarlett)

1. *That the February 2012 report for the Compliance Group be received.*
2. *That Council release the bond held for Resource Consent RC04169*

Carried

6.0 GENERAL BUSINESS

There was no general business.

The meeting closed at 11.35 a.m.

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Chairman

.....
Date

THE WEST COAST REGIONAL COUNCIL

Prepared for: Resource Management Committee Meeting
Prepared by: Michael Meehan, Planning and Environment Manager
Date: 2 March 2012
Subject: PLANNING AND ENVIRONMENT MANAGER'S MONTHLY REPORT

Coastal Plan Review

Tenders for the identification of areas of Outstanding Natural Features and Landscapes, and Outstanding Natural Character as part of the Coastal Plan review closed on 20 February. Four tenders were received. These are being evaluated against several criteria.

Staff have been collating information on coastal hazards in the region over the last 10-13 years, as part of the Coastal Plan review. NIWA will analyse the information and staff will assess if changes are required to the Coastal Hazard Areas currently in the Plan.

Air Quality Plan Review

Preliminary work has begun on the ten year review of the Regional Air Quality Plan. The Plan will have been operative for 10 years on 31 July this year. Since the Plan came into effect, the main change to consider is the Reefton airshed.

Land and Water Plan

Staff are in the final stages of finishing the recommending report, it is envisioned that this will be completed by 1 April 2012.

Hearings are still planned for May/June depending on availability of Councillors due to resource consent hearings and other matters.

Flood Warning

No floods were recorded for the reporting period

Mount Frederick Repeater Interference Issue

The Mount Frederick repeater interference issue has been resolved and the flood warning system is now fully operational.

RECOMMENDATION

That this report is received.

Michael Meehan
Planning and Environment Manager

THE WEST COAST REGIONAL COUNCIL

Prepared for: Resource Management Committee Meeting
 Prepared by: Emma Chaney Technical Officer
 Date: 2 March 2012
 Subject: **CONTACT RECREATION MONTHLY REPORT**

The contact recreation monitoring programme is almost complete. The table below presents the results for this summer so far.

Most samples were within the very low risk category, however there were a number of samples which exceeded that threshold.

	Nov	Nov	Dec	Dec	Jan	Jan	Feb	Feb
Buller Sites								
Carters Beach at campground beach access	😊	😊	😊	😊	😊	😊	😊	😊
North Beach at tip head road steps	😊	😐	😊	😊	😊	😊	😊	😊
Buller River at Shingle Beach	😊	😐	😐	😊	😊	😞	😊	😊
Buller River at Marrs Beach	😊	😐	😞	😐	😊	😐	😞	😊
Grey District Sites								
Rapahoe Beach at end of Statham St	😊	😊	😊	😊	😊	😊	😊	😊
Seven Mile Creek at SH6 Rapahoe	😊	😊	😊	😊	😊	😊	😊	😐
Nelson Ck at Swimming Hole Reserve	😐	😊	😐	😊	😊	😊	😊	😊
Grey River at Taylorville Swimming Hole	😊	😊	😞	😊	😊	😊	😊	😊
Cobden Beach at Bright South West end	😊	😊	😊	😊	😊	😊	😊	😊
Blaketown Beach at South Tiphead	😊	😊	😊	😊	😊	😊	😊	😊
Lake Brunner at Cashmere Bay Boat Ramp	😊	😐	😊	😊	😊	😊	😊	😊
Lake Brunner at Iveagh Bay	😊	😞	😊	😊	😊	😊	😊	😊
Lake Brunner at Moana	😊	😊	😞	😊	😊	😊	😊	😊
Karoro Domain at Surf Club	😊	😊	😊	😊	😊	😊	😊	😊
Westland Sites								
Hokitika Beach at Hokitika	😊	😊	😊	😊	😊	😊	😊	😊
Kaniere River at Kaniere Kokatahi Rd	😊	😊	😊	😊	😊	😊	😊	😊
Lake Mahinapua at Shanghai Bay	😊	😐	😊	😊	😊	😊	😊	😊

😊	Very low risk < 260 E. coli; < 140 Ent
😐	Low to moderate risk 260-550 E. coli; 140-280 Ent
😞	Moderate to high risk > 550 E. coli; > 280 Ent

RECOMMENDATION

That this report is received.

Michael Meehan
Planning and Environment Manager

THE WEST COAST REGIONAL COUNCIL

Prepared for: Resource Management Committee Meeting – 13 March 2012
 Prepared by: Nichola Costley – Regional Planner
 Subject: **CIVIL DEFENCE & REGIONAL TRANSPORT REPORT**

Civil Defence Emergency Management Update

Resilience Fund

Funding has been secured from the Ministry of Civil Defence and Emergency Management (MCDEM) to undertake a public preparedness survey. With 500 surveys being undertaken throughout the West Coast during February the results will provide a baseline from which to plan public education programmes. The outcomes of the survey will be reported to the next Coordinating Executive Group meeting on 18 April 2012.

Two applications have been made to the Resilience Fund for the 2012/13 year. These include:

1. Fuel Resilience - An application has been made to hard wire emergency generators in several service stations on the West Coast. This will enable the provision of fuel for emergency vehicles should there be an event which results in long term power outages.
2. A joint application in association with the Nelson Tasman and Marlborough CDEM Groups has been made for a person to be employed for a 3-year fixed term contract to provide Emergency Management Information System training as well as public education support.

New Zealand ShakeOut – 9.26am 26 September 2012

New Zealand ShakeOut is a national earthquake drill that will involve the general public. This will be the first national drill in New Zealand and will be similar to Exercise ShakeOut held on the West Coast in 2009. There are four overall exercise objectives;

- To promote earthquake planning and discussion by individuals, families and organisations in the lead up to 26 September 2012;
- To have people throughout New Zealand understand the right actions to take in an earthquake;
- To have 1 million people participate in the 'drop, cover and hold' drill at 9.26am on 26 September 2012; and,
- To provide targeted resources and activities enabling varying levels of participation.

A dedicated New Zealand ShakeOut website will be launched at the end of March where individuals, families, business and agencies will be able to register their participation and find a range of resources to assist them in preparing for an earthquake. Links to this information will be provided on the Council website as well as an update in the September Council Newsletter which will be circulated in the weeks leading up to the drill.

Regional Transport Update

Regional Transport Committee

The Regional Transport Committee (RTC) met on 28 February 2012. The meeting addressed the following items:

- Draft Regional Land Transport Programme (RLTP)

The RTC approved the draft Regional Land Transport Programme for consultation. As part of the approval process, the RTC had to prioritise the key transport projects for the West Coast for the next three years. The use of R funding was considered and the RTC noted that the remaining R funds must be committed to projects by 31 March 2015 and spent by June 2016. If the funding is not committed or spent then it will be absorbed back into the National Land Transport Fund. The

progress on spending this funding within the West Coast will be monitored closely over the next three years to ensure that it is spent within the Region.

The RTC appointed a Hearing Panel to be made up of the elected members from the 4 Councils and the NZ Transport Agency representative to hear submissions and make decisions on those submissions. The RTC resolved that following decisions being made on submissions, the Hearing Panel are to confirm and recommend the approved RLTP to the Regional Council. The consultation period is to commence on 12 March 2012 and is to run until 13 April 2012.

▪ **State Highway Update**

The NZ Transport Agency provided a pictorial review of the State Highway (SH) projects that have been undertaken over the past three years. There has been a number of large scale projects progressed including:

- Bridge replacements: Arahura (SH6), Goat Creek (SH73), Kokatahi and Woolhouse (SH6);
- Road realignments: McKendries Corner (SH7), Kellys (SH73), Woolhouse (SH6);
- Route security work: Yorkeys rock fall prevention (SH73), Wanganui River bridge scour protection (SH6), Otira Bridge underpinning (SH73), Woodpecker Bay (SH6), Gates of Haast design;
- Signalisation: Iron Bridge (SH6) and Fern Arch (SH6); and,
- Emergency works: Waiho Bailey Bridge lifting (SH6), 14 Mile washout (SH6), Waitangitona washout (SH6), Wallsend washout (SH7), Kellys Creek Bridge washout (SH73).

Future work on the network will focus on developing passing opportunities (consisting of slow vehicle bays and signage for SH 73, SH 7 near Reefton and through the Buller Gorge, and SH6 between Franz Josef and Fox.

▪ **Walking and Cycling Awards**

In 2008/09 the RTC successfully recommended to the NZ Transport Agency that a contribution of R funds be made to the development of the Fox and Franz Josef Glacier Access shared walking and cycling project. This project has recently won the MWH Consulting Award for Best Cycle Facility project in the recent Cycle Advocate Network awards.

RECOMMENDATION

That this report be received.

Chris Ingle
Chief Executive

THE WEST COAST REGIONAL COUNCIL

Prepared for: Resource Management Committee
 Prepared by: Colin Dall - Consents & Compliance Manager
 Date: 2 March 2012

Subject: CONSENTS MONTHLY REPORT

CONSENTSConsents Site Visits from 26 January – 29 February 2012

DATE	NAME, ACTIVITY & LOCATION	PURPOSE
30/1/12	Various Applications, Gravel extraction, Grey River (Cobden Bridge)	To investigate the site to assess the available gravel resource.
14/2/12	RC12031 – L & J Kersten, Stock crossings, Rotomanu	To investigate the site to gain a better understanding of the stock crossings.
15/2/12	Planners Forum – Westport	To attend the forum periodically held between planners of the four West Coast Councils to discuss planning and consenting issues relevant to the Councils.
16/2/12	Application Pending – F & A Ruessink, Stock crossings, Rotomanu	To investigate the site to gain a better understanding of the stock crossings.
16/2/12	Application Pending – Artson Farming Ltd, Dairy effluent discharge, Lake Poerua	To investigate the site to gain a better understanding of the discharge.
20/2/12	Mahitahi Roopu Meeting – Franz Josef	To attend the routine liaison meeting which is held between representatives of Te Runanga O Makaawhio, the Department of Conservation and Westland District and West Coast Regional Councils to discuss issues of concern and matters of interest to the iwi.
21/2/12	RC12040 – GW Bourke Family Trust, Stock crossing, Rotomanu	To investigate the site to gain a better understanding of the stock crossing.
21/2/12	Application Pending – I Whitmore & K Milne, Dairy effluent discharge, Rotomanu	To investigate the site to gain a better understanding of the discharge.
24/2/12	RC12001 – D Newton, River protection works, Taramakau River	To accurately record the location and dimensions of the river protection structure.

Non-Notified Resource Consents Granted from 26 January – 29 February 2012

CONSENT NO. & HOLDER	PURPOSE OF CONSENT
RC07078 RL Palmada	To undertake earthworks associated with alluvial gold mining and associated activities within Section 25 Blk VI near Inangahua Junction. To take and use water for alluvial gold mining activities within MP41936 near Inangahua Junction. To discharge sediment-laden water to land in circumstances where it may enter the Buller River and its tributaries. To discharge water containing contaminants (sediments from an alluvial gold mining operation) to the Buller River or its tributaries.

RC11081 Roberts Mining Ltd	<p>To undertake earthworks associated with alluvial gold mining and associated activities at Rimu, within the boundary of MP52030.</p> <p>To undertake earthworks associated with alluvial gold mining and associated activities at Rimu, within the boundary of MP41882.</p> <p>To take and use water for alluvial gold mining activities within the boundary of MP52030 at Rimu.</p> <p>To take and use water for alluvial gold mining activities within the boundary of MP41882 at Rimu.</p> <p>To discharge sediment-laden water to land in circumstances where it may enter water (tributaries of the New River) within the boundary of MP52030 at Rimu.</p> <p>To discharge sediment-laden water to land in circumstances where it may enter water (tributaries of the New River) within the boundary of MP41882 at Rimu.</p>
RC11132 M Crama	To undertake vegetation clearance and earthworks associated with a limestone quarry in the Buller Gorge, New Creek Road.
RC11141 Oceana Gold (New Zealand) Ltd	<p>To undertake earthworks and vegetation clearance associated with the construction, operation, maintenance and rehabilitation of the Souvenir waste rock stack and associated stormwater diversions.</p> <p>To undertake earthworks associated with the construction, maintenance and rehabilitation of stormwater diversion drains associated with the Souvenir waste rock stack.</p> <p>To divert stormwater in a drain associated with the construction and operation of the Souvenir waste rock stack.</p> <p>To discharge waste rock to land in the Souvenir waste rock stack.</p>
RC11158 A Gilman	<p>To disturb the dry bed of the Okuru River for the purpose of removing logs.</p> <p>To disturb the dry bed of the Turnbull River for the purpose of removing logs.</p> <p>To disturb the dry bed of the Waitoto River for the purpose of removing logs.</p>
RC11177 Ferguson Brothers Ltd	<p>To undertake earthworks associated with gravel stockpiling and screening/crushing plant operations at Camerons - State Highway 6/Taramakau.</p> <p>To take groundwater from the bed of the Taramakau River for the purposes of the operation of a gravel stockpiling and screening/crushing plant at Camerons - State Highway 6/Taramakau.</p> <p>To discharge water containing contaminants (sediments) to land where it may enter water via seepage, associated with the operation of a gravel stockpiling and screening/crushing plant at Camerons - State Highway 6/Taramakau.</p> <p>To discharge particulate matter to air associated with gravel stockpiling and screening/crushing plant operations at Camerons - State Highway 6/Taramakau.</p>
RC11182 Westland District Council RC11192 Westland District Council	<p>To construct rock protection works on the bed and banks of Kawhaka Creek.</p> <p>To undertake earthworks associated with the closure, capping and rehabilitation of the Hokitika Landfill.</p>
RC11200 Blacktopp Mining Ltd	To undertake earthworks associated with alluvial gold mining activities at Stafford.
RC11226 Solid Energy New Zealand Ltd	<p>To undertake land disturbance, vegetation removal and earthworks associated with exploration drive and drilling activities within MP41225.</p> <p>To take and use groundwater associated with exploration drive and tunnelling activities.</p> <p>To take and use surface water from Tararu Stream associated with exploration drive and drilling activities.</p> <p>To discharge water containing contaminants from exploration drive and drilling activities to land in circumstances where it may enter water.</p> <p>To discharge water containing contaminants from exploration drive and drilling</p>

RC11228
Crusader Coal Ltd

activities to Tararu Stream.

To discharge contaminants (associated with coal mining activities) to air from the Terrace Coal Mine, Reefton.

RC11237
Solid Energy New Zealand Ltd

To undertake up to 28 ha of vegetation clearance and earthworks, including works within the riparian margins of surface watercourses associated with the construction, operation, use, repair, and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme, including the following structures and works:

- The Lower St Pat's Reservoir, dam (including spillways), intake and outfall structures, and sediment retention structures, including structures and works within and adjacent to St Patrick Stream, and including rock removal from within the dam footprint.
Structures and works necessary to facilitate the diversion of water, including structures located within and adjacent to St Patrick Stream including temporary structures such as coffer dams.
- Limestone-dosing of Fly Creek and/or Plover Stream and/or St Patrick Stream.
- A pipeline to transfer water from the Cypress development.
- Realignment and upgrades to Fly Creek Mine Road.
- Upgrades to the existing power supply generally following the route of the existing Fly Creek Mine Road.
- Excavation and quarrying associated with sourcing aggregate for structures.
- Excavation necessary to ensure that should the hydro power scheme authorised by Resource Consents RC08149 (West Coast Regional Council) and RC08/131 (Buller District Council) be constructed, the holder of those consents can access its tunnel portal area and draw down the reservoir.

To disturb, excavate and deposit material in the bed of watercourses, and to erect, place, use, repair, and maintain structures within the bed of watercourses associated with the construction, operation, use, repair and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme, including the following structures and works:

- The Lower St Pat's dam, spillways and outlet structures (including temporary structures used during construction such as diversion culverts and coffer dams).
- The Lower St Pat's Reservoir and any sediment retention structures.
- Limestone dosing discharge pipelines and associated structures in the upper reaches of Fly Creek and/or Plover Stream and/or St Patrick Stream.
- A pipeline to transfer water from the Cypress development.
- Any other like structures required for and related to the construction, operation, use, repair, and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme.

To take, use, dam and divert water associated with the construction, operation, use, repair, and maintenance of Lower St Pat's Reservoir Water Treatment Scheme, including:

- Temporarily divert and dam St Patrick Stream during construction of the Lower St Pat's Reservoir and related dam structures adjacent to the dam construction area.
- Permanently dam St Patrick Stream by way of a dam to create the Lower St Pats Reservoir
- Divert tributaries of St Patrick Stream within the scheme area associated with incidental works.
- Divert and dam water within the scheme area associated with erosion and sediment control and the management of stormwater and surface runoff, including within sediment ponds and behind cofferdams and dam structures.
- Divert water and contaminants from the Cypress development into the Cypress transfer pipeline.
- Take water for limestone mixing purposes from Fly Creek and/or Plover

To take, divert and use groundwater (including seepage) within the scheme area associated with the construction, use, operation, repair, and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme.

To take and use water for construction activities associated with the Lower St Pat's Reservoir Water Treatment Scheme, from surface watercourses within the scheme area.

To discharge water and contaminants (principally sediment) to land, surface water and groundwater within the scheme area associated with the construction, use, operation, repair, and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme.

To discharge water and contaminants (including low pH water, trace elements, limestone, and sediment) associated with the use and operation of the Lower St Pat's Reservoir Water Treatment Scheme:

- To St Patrick Stream (from the Cypress transfer pipeline)
- To St Patrick Stream (from the Lower St Pats Reservoir) via the dam spillways or decant outlet structure.
- To ground within the Lower St Pat's Reservoir footprint.
- To T35 Stream at the time of decommissioning the dam (should the Hydro Developments Limited or a subsequent entity not construct its Hydro Scheme).

To discharge water and contaminants (including ultrafine limestone and/or hydrated lime) associated with the use and operation of limestone dosing plant or plants:

- To Fly Creek (from a pipeline) in the vicinity of the Cypress Haul Road
- To Plover Stream (from a pipeline) in the vicinity of the Cypress Haul Road
- To St Patrick Stream (from a pipeline) in the vicinity of the St Patrick Stream submergence into the old Fly Creek Mine workings.

To discharge contaminants to air associated with the construction, operation, use, repair, and maintenance of the Lower St Pat's Reservoir Water Treatment Scheme including but not limited to dust associated with:

- The excavation, handling, conveying and processing of gravel, sand, soil, rock and other natural materials.
- The operation of aggregate crushing, screening and concrete batching plants.
- Stockpiling activities.

RC11243
New Zealand Transport Agency

To deposit cleanfill on slopes up to 25 degrees, various locations in the West Coast Region.

To deposit cleanfill and undertake vegetation clearance on slopes greater than 25 degrees, various locations in the West Coast Region.

To discharge contaminants from cleanfill disposal sites to land, various locations in the West Coast Region.

To discharge stormwater runoff from cleanfill disposal sites to water, various locations in the West Coast Region.

RC11245
Solid Energy New Zealand Ltd

To undertake earthworks including humping and hollowing associated with the construction of waste rock, clay and coal fines disposal cells.

To discharge clay and coal fines from coal washing facilities and mine waste rock to land.

RC11248
Department of Conservation

To authorise the aerial discharge of 1080 (sodium monofluoroacetate) possum control cereal (at a sowing rate of up to 3 kg per hectare) containing up to 0.15% weight/weight of 1080, to land in the "Station Creek/Lewis Pass Treatment Area".

RC11256
Ahaura Farms Ltd

To disturb the bed of the Grey River associated with both the construction of a stopbank and placement of rock protection.

	To disturb the dry bed of the Grey River for the purpose of gravel extraction.
	To divert flow of the Grey River.
RC11263 MK Moynihan	To discharge treated dairy effluent to land, groundwater and surface water (Whites Creek) from DS295 at Lower Kokatahi.
RC11266 Francis Mining Co Ltd	To undertake earthworks to construct water treatment ponds near Garvey Creek.
RC11267 Francis Mining Co Ltd	To disturb the dry bed of the Buller River downstream of the Iron Bridge for the purpose of extracting gravel.
RC11268 Francis Mining Co Ltd	To undertake creek bed disturbance associated with the construction of a diversion channel and a rock groyne within Pensini Creek.
	To divert water within Pensini Creek.
RC12002 Solid Energy New Zealand Ltd	To discharge water containing contaminants from exploratory drilling operations to land, Reefton.
RC12005 Henry Adams Contracting Ltd	To disturb the dry and wet bed of the Hokitika River, Island site for the purpose of extracting gravel.
RC12006 A Anderson	To discharge treated dairy effluent to a farm drain where it may enter water (Murray Creek).
RC12010 Flowery Creek Forest Ltd	To undertake land disturbance associated with flipping and humping and hollowing of farmland adjacent to Flowery Creek.
	To discharge water containing sediment to land in circumstances where it may enter water in the catchments of Flowery Creek and Viaduct Creek.
	To take groundwater for the purpose of irrigation.
RC12012 Westroads Ltd	To undertake earthworks on slopes less than 12 degrees, Hokitika.
RC12016 The Christian Church Community Trust	To construct a diversion channel and backfill the old channel, Jones Creek.
RC12017 MBD Contracting Ltd	To divert water, Jones Creek.
RC12019 TJ & MT Burden	To disturb the dry bed of the Grey River at the SH7 Bridge, Ikamatua for the purpose of extracting gravel.
RC12020 Ferguson Brothers Ltd	To disturb the wet bed of Doughboy Creek at Kowhitirangi for the purpose of extracting gravel.
RC12025 Ernsbrook Stud Ltd	To disturb the dry bed of the Inangahua River at Oweka for the purpose of extracting gravel.
RC12026 Franz Josef Ltd	To discharge dairy effluent to land from a stand off pad to land at Corbyvale in circumstances where it may enter water (Falls Creek).
RC12039 Casa Finca Ltd	To discharge treated sewage effluent to land from a motel on Lot 2 DP 392476, Franz Josef.
	To discharge dairy effluent to land where it may enter water (Murray Creek) near DS253, Kowhitirangi.

Changes to Consent Conditions Granted from 26 January – 29 February 2012

CONSENT NO, HOLDER & LOCATION	PURPOSE OF CHANGE
RC00323 Oceana Gold (New Zealand) Ltd Globe Progress Mine, Reefton	To allow discharge of water to the Fossickers Creek tailings impoundment.
RC00323 Oceana Gold (New Zealand) Ltd Globe Progress Mine, Reefton	To change bond requirements to allow for the recently granted Resource Consent RC11141.
RC03258 Amethyst Hydro Ltd	To increase the volume of water that can be taken.

Amethyst Creek	
RC07104 Brian Blacktopp Contracting Adairs Road, Hokitika	To increase the limit on the maximum area of unrehabilitated land.
RC07161 Holcim (New Zealand) Ltd Cape Foulwind Cement Works	To change the monitoring programme for turbidity and pH.
RC07183 Holcim (New Zealand) Ltd Cape Foulwind Cement Works	To remove two monitoring sites and the requirement to monitor dissolved oxygen.
RC10061 Iron River Company Ltd New River	To increase the limit on the maximum area of unrehabilitated land.
RC10199 Solid Energy New Zealand Ltd Stockton Coal Mine	To change the discharge limits for cement kiln dust and the monitoring programme for Thallium.
RC11012 Solid Energy New Zealand Ltd Mid St Pat's Reservoir, Stockton Plateau	To allow Mid St Pat's Reservoir to be used as a water treatment facility.
RC11163 M & S Dredge Maruia River	To increase the volume of water that can be taken and to change the location and method of water take.

Limited Notified or Notified Resource Consents Granted from 26 January – 29 February 2012

CONSENT NO. & HOLDER	PURPOSE OF CONSENT
RC10168 Grey District Council	To install creek protection (rock rip-rap) on the bed and banks of Mill Creek. To divert water in Mill Creek.

Notified Consents Updates

The consents applications lodged by Solid Energy New Zealand Limited for its proposed "Mt William North Coal Mine" were publicly notified.

The Consents & Compliance Manager attended a Pre Hearing Conference for the appeals against the consents granted to Buller Coal Limited by the Council and Buller District Council for its proposed Escarpment Mine on the Denniston Plateau. Judge Newhook instructed the parties to file a list of issues and witnesses for the appeals by 1 March 2012 and documents for declarations relating to the issue of whether or not the effects of burning coal on climate change when that coal is burnt overseas can be taken into determining the consent applications.

Public Enquiries

49 written public enquiries were responded to during the reporting period, including two official information requests. 40 (81.6%) were answered on the same day, 6 (12.2%) the following day and the 1 (2.0%) no more than 10 working days later. Both official information requests were responded to within the 20 working day limit.

RECOMMENDATION

That the March 2012 report of the Consents Group be received.

Colin Dall
Consents & Compliance Manager

THE WEST COAST REGIONAL COUNCIL

Prepared for: Resource Management Committee
 Prepared by: Colin Dall – Consents & Compliance Manager and Colin Helem – Senior Compliance Officer
 Date: 1 March 2012
 Subject: **COMPLIANCE & ENFORCEMENT MONTHLY REPORT**

Site Visits

A total of 64 site visits were undertaken during the reporting period, which consisted of:

Activity	Number of Visits	Fully Compliant (%)
Resource consent monitoring	19	81
Dairy shed inspections	26	96
Mining compliance & bond release	19	47

These totals include 14 visits in response to complaints.

Specific Issues

Dairy Effluent Discharges: 26 dairy sheds were inspected during the reporting period, with one discharge system being rated as "significantly non-compliant" due to a lack of effluent storage.

Solid Energy New Zealand Limited (SENZ):

Stockton Mine: There were two non-compliances reported by the SENZ during the last reporting period. These reports related to non-compliant results at monitoring site "S6", which is in Mine Creek downstream of mining activities.

This is a continuation of water quality issues noted in late 2011 around construction of a haul road over drainage pathways that carry stormwater runoff during moderate to heavy rainfall events resulting in sediment-laden stormwater and discharges to Mine Creek. A formal warning was issued to the SENZ in respect of these initial problems. SENZ has advised that remedial works are underway and the Council is expecting an update on these matters soon.

Spring Creek Mine: An inspection of a drill site relating to the mine was carried out. The inspection revealed that the environmental practices in place on site were adequate and SENZ environmental staff were actively looking into innovative ways to recycle water and dispose of drill cuttings.

Alluvial Gold Mining: Inspections carried out in the last period have discovered issues mostly around paper work with operations generally being conducted well, but with some operations not having a current work programme in place.

Complaints/Incidents between 24 January and 27 February 2012.

The following 22 complaints/incidents were received during the reporting period:

Activity	Description	Location	Action/Outcome
Discharge to Air	Complaint about sand blasting discharges.	Paroa	Operation visited – investigation ongoing.
Rubbish Dumping	Complaint regarding the dumping of rubbish onto a riverbed.	Haast	DoC and Westland District Council followed up with the person responsible for the dumping.

Discharge to Air	Complaint regarding the discharge of dust beyond property boundary	Dobson	Still under investigation.
Sewage Discharge	Complaint regarding a leaking septic tank.	Blackball	Not substantiated by site visit.
Black Sand Mining	Complaint that sand had been extracted outside of consented area.	Barrytown	Not substantiated by site visit.
Bridge Construction	Complaint regarding the construction of a stock crossing.	Awatuna	Site visited – crossing compliant with resource consent conditions.
Gold Mining	Complaint that the mining operation was exceeded the allowed disturbed area.	Awatuna	Site visited – operation compliant with resource consent conditions.
Water Take	Complaint that a person has tapped into their water line without their authority.	Barrytown	Complainant given advice.
Black Sand Mining	Complaint that sand extracted outside of consented area.	Ruatapu	Still under investigation.
Coal Mining	Discharge to water in breach of compliance limits.	Stockton	Remedial works underway.
Earthworks	Complaint regarding discharge of sediment from a subdivision.	Kaniere	Not substantiated by site visit.
Stock Grazing	Complaint that dry stock are grazing the riparian margin of a river.	Haast	The riparian margin which is the subject of this complaint is known to be fenced.
Gold Mining	Complaint that the mining operation exceeded the allowed disturbed area.	Awatuna	Operation had already been visited in relation to an earlier complaint and found to be compliant.
Air Discharge	Complaint that spray drift from an aerial operation has gone onto the complainant's property.	Ngakawau	Sprayer contacted and no evidence of damage from spray drift was observed when the site was visited.
Gold Mining	Complaint about noise from a gold mining operation.	Waimangaroa	Complainant advised to contact Buller District Council.
Gold Mining	Complaint that a creek has gone to ground as a result of mining.	Ross	Not substantiated by site visit.
Flood Protection	Complaint that a landowner was working in the bed of a river and had diverted water.	Waipuna	Site visited – bank re-instatement carried out after a flood event. Landowner to apply for consent for the diversion.
Coal Mining	Discharge to water in breach of compliance limits.	Stockton	Remedial works underway.
Earthworks	Complaint about a digger working in the wet bed of a creek.	Fairdown	Permitted activity – work being carried out on behalf NZTA to clear gravel from a State Highway culvert

Earthworks	Complaint regarding earthworks within the riparian margin of a river.	Whataroa	Site visited – remedial work required to be carried out.
Dead Stock	Complaint about a dead calf in the Karamea River.	Karamea	Carcass removed by flood event prior to contractor going to the site to remove it.
Flood Damage	Complaint that a newly constructed stock crossing is diverting flood water and causing erosion.	Awatuna	Site visited – some bank erosion had occurred near the crossing and between crossing and the nearby road bridge. The crossing owner is going to place rock to prevent further erosion.

Formal Enforcement Action

The following three abatement notices were issued during the reporting period:

Activity	Location
Unauthorised earthworks in riparian margins and Greymouth Earthworks Control Area.	Greymouth
Unauthorised discharge of contaminants associated with gold mining activities.	Kapitea
Unauthorised earthworks associated with gold mining activities.	Rimu

The following 5 infringement notices were issued:

Activity	Location
Unauthorised discharge of dairy effluent – 2 notices issued (one to the farm owner and the other to the farm manager); and Breach of the associated abatement notice to cease the unauthorised dairy farm effluent discharge – one notice issued to farm owner.	Westport
Unauthorised earthworks associated with gold mining activities – 2 notices issued (one to the Consent Holder and the other to the mining contractor).	Camerons

One formal warning was issued to the Stockton Alliance for discharge of sediment resulting from construction of a haul road.

MINING

Work Programmes

The Council received the following 11 work programmes during the last reporting period, with all 9 valid programmes being processed in the 20 day timeframe. The remaining 2 (shown in *italics*) were incomplete and put on hold while additional information was sought.

Date	Mining Authorisation	Holder	Location
20 Jan 12	RC07102	Roa Mining Company Ltd	Roa
20 Jan 12	RC10186	Roa Mining Company Ltd	Roa
20 Jan 12	RC10194	Roa Mining Company Ltd	Roa
20 Jan 12	RC11143	Roa Mining Company Ltd	Roa
<i>30 Jan 12</i>	<i>RC01287</i>	<i>G J Cooper</i>	<i>Kapitea</i>
<i>31 Jan 12</i>	<i>RC10068 & RC11200</i>	<i>Blacktop Mining Ltd</i>	<i>Stafford</i>
09 Feb 12	RC07104	Brian Blacktopp Contracting	Rimu
09 Feb 12	RC97014	Cascade Coal Ltd	Denniston

21 Feb 12	CML37160	Solid Energy New Zealand Ltd	Island Block
22 Feb 12	RC10109	M & G Ferguson	Mikonui
24 Feb 12	RC05067	Whyte Gold Ltd	Dunganville

Bonds Received & Bond Releases

The following two bonds were received during the reporting period:

Mining Authorisation	Holder	Location	Amount
RC03120	Crusader Coal Ltd	Terrace Mine, Reefton	\$50,000
RC07104	Blacktopp Mining Ltd	Rimu	\$8,000

The following two bonds are recommended for release.

Mining Authorisation	Holder	Location	Amount
RC03120	Solid Energy New Zealand Ltd	Terrence Mine, Reefton	\$50,000
RC07219	Barry Foster Contracting	Kapitea Creek	\$6,000

The bond for Resource Consent RC03120 lodged by Solid Energy New Zealand Limited is being replaced by a bond for the same amount lodged by Crusader Coal Ltd.

OIL SPILL RESPONSE

The Council is continuing to provide support to the Rena operation in Tauranga, with two Council staff from Vector Control Services on constant rotation in a role that is overseeing beach clean up crews of up to 40 people.

RECOMMENDATION

- 1. That the March 2012 report of the Compliance Group be received.*
- 2. That Council release the bonds held for Resource Consents RC03120 (lodged by Solid Energy New Zealand Limited) and RC07219.*

Colin Dall
Consents & Compliance Manager

COUNCIL MEETING

THE WEST COAST REGIONAL COUNCIL

Notice is hereby given that an **ORDINARY MEETING** of the West Coast Regional Council will be held in the Offices of the West Coast Regional Council, 388 Main South Road, Greymouth on **Tuesday, 13th March 2012** commencing on completion of the Resource Management Committee Meeting.

A.R. SCARLETT
CHAIRPERSON

C. INGLE
CHIEF EXECUTIVE OFFICER

<u>AGENDA NUMBER S</u>	<u>PAGE NUMBERS</u>	<u>BUSINESS</u>
1.		APOLOGIES
2.		PUBLIC FORUM
3.		MINUTES
	1 – 3	3.1 Minutes of Council Meeting 7 February 2012
4.		REPORTS
	4 – 5	4.1 Planning & Environmental Manager's Report on Engineering Operations
	6 – 8	4.2 Corporate Services Manager's Report
	9 – 14	4.2.1 Proposed Financial Strategy Report
5.		CHAIRMAN'S REPORT
6.0	15 - 33	CHIEF EXECUTIVE'S REPORT
7.		GENERAL BUSINESS

THE WEST COAST REGIONAL COUNCIL

**MINUTES OF THE MEETING OF THE COUNCIL HELD ON 7 FEBRUARY 2012,
AT THE OFFICES OF THE WEST COAST REGIONAL COUNCIL, 388 MAIN SOUTH ROAD, GREYMOUTH,
COMMENCING AT 11.35 A.M.**

PRESENT:

R. Scarlett (Chairman), B. Chinn, A. Robb, T. Archer, D. Davidson, A. Birchfield

IN ATTENDANCE:

C. Ingle (Chief Executive Officer), R. Mallinson (Corporate Services Manager), C. Dall (Consents & Compliance Manager), M. Meehan (Planning & Environmental Manager), T. Jellyman (Minutes Clerk)

1. APOLOGIES:

Moved (Birchfield / Davidson) *that the apology from I. Cummings be accepted.*

Carried

2. PUBLIC FORUM

There was no public forum.

3. CONFIRMATION OF MINUTES

Moved (Archer / Birchfield) *that the minutes of the Council Meeting dated 13 December 2011, be confirmed as correct.*

Carried

Matters arising

There were no matters arising.

REPORTS:

4.1 ENGINEERING OPERATIONS REPORT

M. Meehan spoke to this report and advised that works are being carried out in the Taramakau, Waitangitana and Wanganui rating districts. M. Meehan reported that three tenders were received for the Last Resort Stopbank Upgrade in the Karamea rating district. He advised that Ferguson Bros Contracting Ltd won the tender but the initial price was renegotiated downwards and the rating district accepted the price of \$87,457. M. Meehan advised that there are some future works in Nelson Creek and Coal Creek rating districts.

M. Meehan reported that in the Blackball, Camelback and Kiwi Quarries there is a lot of rock that has been blasted but is yet to be pulled down. M. Meehan reported that Whataroa quarry is nearing a section of this quarry's life with the majority of the rock being extracted this section. He advised that he is currently working at getting a price from Ferguson Bros Ltd to get rock out from their land but on council's permit at the area towards the back of the quarry. M. Meehan stated that this would ensure that there is a constant supply of rock in the Whataroa area. Cr Archer asked M. Meehan if the tender prices for works in the rating districts are within the price range that was put to the rating district. M. Meehan advised that the majority of tender prices were under, except for the Karamea contract where the prices were over. Discussion took place on tender processes and prices.

Moved (Archer / Robb) *that this report be received.*

Carried

4.1.2 LOWER WAIHO RATING DISTRICT RATES

R. Mallinson spoke to this report and stated that this report is in relation to the presentation by Mr Quaife and Mr Brooks at Council's December meeting. R. Mallinson advised that council is aware of disquiet by a number of ratepayers about the level of the Lower Waiho rating. He stated that a letter was sent to all ratepayers in this rating district following the workshop held with Councillors. R. Mallinson stated that the letter advised that Councillors were looking at giving consideration to possibly reducing the total amount of the rate of the Lower Waiho rating district for the current rating year and also the next rating year. R. Mallinson advised that there are 23 ratepayers in this rating district and at the time of preparing this report there had only been two responses, one from Liz Ewins and one from Dr George Tripe. Neither of these responders was against the suggestion but Dr Tripe did urge some caution on this matter to council as it proceeds. R. Mallinson read a late response from another ratepayer, Robin Richards, to the meeting which outlines his concerns including the financial implications should flooding occur and repairs be required. Cr Scarlett invited discussion on this. Cr Davidson expressed his concern that council can overturn decisions that are made at rating district meetings. R. Mallinson responded that rating district meetings are consultative meetings but at the end of the day the final decisions rest with council regarding rating levels. M. Meehan advised that it was a very close call in favour of the rate strike at the annual rating district meeting. Cr Scarlett stated that if the rates are unaffordable then this could send people to the wall. Cr Robb clarified that there were only three responses and no major resistance from the people who originally voted for the \$100,000 rate strike, that the rate be taken down to \$50,000. R. Mallinson responded that other than Mr Richards' letter, those people did not reply. M. Meehan advised that it is important to note that the rating district made the decision to simply maintain the existing works at the annual meeting. He advised that a \$50,000 rate strike will pay for the budgeted maintenance on the existing structures and unless there are any unforeseen works the rating district will stay in the black. Cr Robb stated that if unforeseen works are required then the rating district needs to make a decision on whether to do the works or walk away. C. Ingle advised that there is always the option to raise a loan in that type of situation. Cr Chinn agrees with the recommendation, he stated that it is a one off and he will just see how things go. Cr Birchfield agreed with Cr Chinn. Cr Archer asked if there is anything in the content of the workshop relating to the Waiho River that could influence this current decision. C. Ingle felt that the Hall report was looking at longer term risks for the whole river, and it had no immediate implications. Cr Archer stated that these are difficult decisions but he agrees council should not be taking people to the wall, when they totally cannot afford to pay. Cr Archer stated that if unforeseen works are required then that is another issue that needs to be dealt with, if it happens.

Moved (Robb / Birchfield)

1. *That Council remits the second instalment of the Lower Waiho Rating District rates amounting to \$50,000 + GST. (This means that the rating income for the rating district for 2011/12 will amount to only \$50,000 + GST).*
2. *That Council rate \$50,000 + GST for the 2012/13 rating year in the Long Term Plan.*

Carried

4.2 CORPORATE SERVICES MANAGER'S REPORT

R. Mallinson spoke to this report and advised this report is in line with previous reports. R. Mallinson advised that he has included investment information in this month's report. He reported that the operating surplus for the six month financial period is \$371,000 and there were positive budget variances amounting to \$96,000 in a number of general rate funded activities. Cr Archer stated that he accompanying Forsyth Barr report tends to indicate a lot more positive future which is good to see. R. Mallinson stated that he is expecting to see a sharp upswing in our investment returns to the end of January.

Moved (Archer / Robb) *that this report be received.*

Carried

C. Ingle spoke to his report. He stated that in terms of meetings, the December to January period has been quiet. C. Ingle advised that the West Coast Council CEO's met on the 16th of January. He stated that this meeting was arranged to welcome Buller District Council's new Chief Executive, Paul Wylie. Shared Services for the region were discussed at this meeting. C. Ingle reported that he attended a South Island wide Shared Services meeting in Christchurch on the 27th of January. He presented a paper at this meeting, which was a summary of where West Coast Councils are at with regard to shared services in the IT area. C. Ingle stated that he has issued an invitation to other small councils around the South Island to progress shared services together with the West Coast councils, as it is much easier to share with small councils who have similar needs. C. Ingle stated that the meeting was well represented with people from Otago Regional Council and ECAN as well. C. Ingle reported that work is being done in the health & safety area of council to enable ACC accreditation, which will result in a 15% discount in ACC levies. C. Ingle advised that good progress is being made with the Long Term Plan with the performance framework about to be workshopped following today's meeting. C. Ingle advised that he has attached the six month report from the AHB to his report and stated that it is good to see the graph heading in the right direction. Cr Scarlett invited Cr Robb to comment on progress to date with the Tb Free programme. Cr Robb stated the general feeling from the Tb Free committee is that things are on the right track with the new strategy and things are going well.

Moved (Davidson / Archer) *that this report be received.*

Carried

7.0 CHAIRMANS REPORT (VERBAL)

Cr Scarlett reported that has nothing to report this month.

GENERAL BUSINESS

Cr Davidson referred to a recent item in the Greymouth Evening Star where the Minister for the Environment, Dr Nick Smith, made a statement insisting that Council transfer the responsibility of prosecutions to the staff. Cr Davidson stated that this article intimated that a commissioner would be put in. Cr Davidson feels council should write to the Minister. Cr Robb feels that the media article took Cr Birchfield's response out of context. Cr Davidson would like the Minister to qualify his statement that he made to the Greymouth Evening Star and ask the Minister what are his plans for council and what options does council have. Cr Robb stated that he read the article and stated that the headline was "Council on a Slippery Slope" then the newspaper quoted Dr Smith. It was agreed that the article would be provided to councilors and discussed over lunch. C. Ingle stated that in the content of the article there was mention of the Minister cautioning council. C. Ingle stated that he was expecting to receive a letter from the Minister cautioning council but nothing has been received. Cr Birchfield stated that he has written to the editors of both The Westport News and The Greymouth Evening Star complaining over these types of articles.

The meeting closed at 12.04 p.m.

.....
Chairman

.....
Date

THE WEST COAST REGIONAL COUNCIL

Prepared for: Council Meeting – 13 March 2012
 Prepared by: W. Moen – Rivers Engineer and Paulette Birchfield – Engineering Officer
 Date: 2 March 2012

Subject: **ENGINEERING OPERATIONS REPORT**

RIVER AND DRAINAGE INSPECTIONS

- Wanganui RD - Inspection
- Arahura River – Mawhera Incorporation – Inspection / Advice
- Little Wanganui River – McBeth – Inspection / Advice
- Taramakau RD - Inspection
- Kaniere RD – Inspection
- Karamea RD – Inspection

WORKS COMPLETED & WORKS TENDERED FOR**Taramakau Rating District**

This work involving the placing of 2,100 m3 of compacted hardfill and 1,900 tonnes of rockwork, Has been completed by Henry Adams Contracting Ltd at a cost of \$ 33,702.00 (G.S.T. Exclusive)

Wanganui Rating District

This work involving the topping up of 2,550 tonnes of rockwork, has been completed by Westland Contractors Ltd. at a cost of \$63,777.00 (G.S.T. Exclusive) was tendered out.

Karamea Rating District – Last Resort Stopbank Upgrade

This work involving the placing of 6,400 m3 of compacted hardfill and installation of 1 culvert has commenced by Ferguson Brothers Ltd.

OTHER WORKS

Consultation with the ratepayers of the Taramakau Rating District was undertaken to discuss a resource consent application for which the Taramakau Rating District is considered an affected party. Council will work through this process on behalf of the rating district.

FUTURE WORKS

- Nelson Creek Rating District
- Coal Creek Rating District

QUARRIES**Quarry Work Permitted from 17 January 2012**

Quarry	Contractor	Tonnage Requested	Permit Start	Permit Finish
Kiwi	GH Foster Contracting Ltd	200	3 February	4 February
Kiwi	Paul Steegh Contracting Ltd	2500	10 February	31 March
Blackball	GH Foster Contracting Ltd	1000	10 February	30 February
Whataroa	Westland Contractors Ltd	1000	6 February	6 March

Approximate rock in quarry as at 25 February 2012 (in tonnes)

Quarry	Rock Available	Emergency Stockpile
Blackball	1,000	
Camelback	500	2,000
Inchbonnie	13,000	
Kiwi	1500	-
Whataroa	1,800	4,000
Okuru	1,500	-

RECOMMENDATION

That the report is received

Michael Meehan
Planning and Environment Manager

THE WEST COAST REGIONAL COUNCIL

Prepared for: Council Meeting
 Prepared by: Robert Mallinson – Corporate Services Manager
 Date: 2 March 2012

1. Financial Report

FOR THE SEVEN MONTHS ENDED 31 JANUARY 2021	ACTUAL	YEAR TO DATE BUDGET	ACTUAL % ANNUAL BUDGET	ANNUAL BUDGET
REVENUES				
General Rates	1,156,531	1,155,000	58%	1,980,000
Rates Penalties	48,390	43,750	65%	75,000
Investment Income	-45,868	610,313	-4%	1,046,250
Regulatory	743,683	630,382	72%	1,033,727
Planning Processes	176,126	119,379	86%	204,650
Environmental Monitoring	0	0	0%	0
Emergency Management	36,304	29,167	73%	50,000
River, Drainage, Coastal Protection	877,290	713,158	72%	1,222,557
Regional % Share Controls	381,156	379,167	59%	650,000
VCS Business Unit	2,855,945	1,682,917	99%	2,885,000
	6,229,557	5,363,232	68%	9,147,184
EXPENDITURE				
Governance	203,246	224,900	53%	385,543
Regulatory Activities	1,242,047	1,073,251	69%	1,811,878
Planning Processes	440,695	424,758	61%	728,157
Environmental Monitoring	436,798	447,018	57%	766,316
Emergency Management	84,588	84,526	58%	144,902
River, Drainage, Coastal Protection	1,106,755	783,288	82%	1,342,779
Regional % Share Controls	516,247	475,138	63%	814,523
VCS Business Unit	1,687,608	1,348,667	73%	2,312,000
Portfolio Management	43,858	35,000	73%	60,000
	5,761,842	4,896,546	69%	8,366,098
SURPLUS / (DEFICIT)	467,715	466,686		781,086

BREAKDOWN OF SURPLUS (-DEFICIT)	Variance Actual V Budgeted YTD	ACTUAL	BUDGET Year to date	ANNUAL BUDGET
Rating Districts	-187,305	-34,029	153,276	262,758
Quarries	-51,672	-71,694	-20,022	-34,324
Regional % Share of AHB Programmes	-39,119	-135,091	-95,972	-164,523
Investment Income	-665,039	-89,726	575,313	986,250
VCS Business Unit	834,087	1,168,337	334,250	573,000
General Rates Funded Activities	110,078	-370,082	-480,158	-842,075
TOTAL	1,029	467,715	466,686	781,086

Net Contributors to General Rates Funded Surplus (-Deficit)	Actual	Budet ytd	Annual Plan
Net Variance Actual V YTD			
Rates	1,531	1,155,000	1,980,000
Rates Penalties	4,640	43,750	75,000
Representation	21,654	-224,900	-385,543
Regulatory Activities	-55,495	-442,869	-778,151
Planning Activities	40,810	-305,379	-523,507
River, Drainage, Coastal Protection (excl.	79,641	-203,383	-348,656
Environmental Monitoring	10,220	-447,018	-766,316
Emergency Management	7,076	-55,360	-94,902
	110,078	-480,158	-842,075

STATEMENT OF FINANCIAL POSITION @ 31 JANUARY 2012

	@ 31/01/2012	@ 30/06/2011
<u>CURRENT ASSETS</u>		
Cash	94,789	35,009
Short term Deposit - Westpac	1,102	1,502,947
Accounts Receivable - Rates	-327,248	286,950
Accounts Receivable - General Debtors	349,859	1,747,428
Prepayments	206,605	227,482
Sundry Receivables	227,876	233,453
Stock - VCS	32,684	143,635
Stock - Rock	295,595	31,886
Stock - Office Supplies	11,232	11,232
Accrued Rates Revenue	303,450	0
Unbilled Revenue	220,244	113,060
	<u>1,416,188</u>	<u>4,333,082</u>
<u>Non Current Assets</u>		
Investments	11,900,958	11,473,175
Investments-Catastrophe Fund	513,196	0
Fixed Assets	4,331,258	4,168,272
Infrastructural Assets	49,007,111	49,007,111
	<u>65,752,523</u>	<u>64,648,558</u>
TOTAL ASSETS	<u>67,168,711</u>	<u>68,981,640</u>
<hr/>		
<u>CURRENT LIABILITIES</u>		
Bank Short Term Loan		0
Accounts Payable	496,366	1,310,545
GST	-10,760	0
Deposits and Bonds	517,659	590,305
Sundry Payables	326,763	480,466
Accrued Annual Leave, Payroll	283,977	294,522
Other Revenue in Advance		1,070,622
Rates Revenue in Advance		60,940
	<u>1,614,005</u>	<u>3,807,400</u>
<u>NON CURRENT LIABILITIES</u>		
Future Quarry restoration	60,000	60,000
Greymouth Floodwall	2,016,613	2,048,291
Inchbonnie	72,281	82,877
Punakaiki Loan	185,557	209,856
Office Equipment Leases	37,384	58,060
	<u>2,371,835</u>	<u>2,459,084</u>
TOTAL LIABILITIES	<u>3,985,840</u>	<u>6,266,484</u>
<u>EQUITY</u>		
Ratepayers Equity	18,577,120	18,577,120
Surplus Tsfrd.	467,715	
Rating District Equity Mvmts	177,336	
Rating Districts Equity	1,362,865	1,540,201
Tb Special Rate Balance	1,037	1,037
Revaluation	32,316,638	32,316,638
Quarry Account	379,160	379,160
Investment Growth Reserve	9,901,000	9,901,000
TOTAL EQUITY	<u>63,182,871</u>	<u>62,715,156</u>
LIABILITIES & EQUITY	<u>67,168,711</u>	<u>68,981,640</u>

2. Investment Portfolio

PORTFOLIO @ 31 January 2012 Summary & Reconciliation		Cash	Bonds	Australasian Equities	International Equities	Property Equities	Alternative Asset Classes	Total	
Portfolio Value @ Start	01 July 2011	\$ 2,883,140	\$ 2,186,007	\$ 2,084,788	\$ 3,051,043	\$ 576,726	\$ 659,819	\$ 11,441,524	
Contributions		\$ -						\$ -	} \$ 500,000
Withdrawals		-\$ 257,109		-\$ 173	-\$ 274,370	\$ 0	\$ 31,652	-\$ 500,000	
Realised Gains/(Losses)		-\$ 10,449	-\$ 722	-\$ 112,602	\$ 273,653	\$ 60,120	\$ 40,414	\$ 250,414	} \$ 99,470
Unrealised Gains/(Losses)		\$ 3,744	\$ 39,036	-\$ 35,123	-\$ 511,335	-\$ 52,580	-\$ 124,089	-\$ 680,347	
Mgmt Fee								\$ -	
Income		\$ 43,840	\$ 68,307	\$ 56,184	\$ 43,103	\$ 19,307	\$ 70,137	\$ 300,878	
Changes Accrued Interest		\$ 12,665	\$ 16,921					\$ 29,586	
Portfolio Value @ End Period	31 January 2012	\$ 2,675,831.11	\$ 2,309,548	\$ 1,993,075	\$ 2,582,095	\$ 603,573	\$ 677,933	\$ 10,842,055	
ytd return for	7 months		2.12%	6.17%	-4.40%	-6.34%	4.65%	-2.51%	-0.91%

3. Total Investments

Westpac Catastrophe Fund Portfolio	\$513,196
Westpac General Portfolio	\$1,027,252
Ministry Economic Development & DOC Bond Deposits	\$31,651
Forsyth Barr Ltd (as per above table)	\$10,842,055
Total	\$12,414,154

Investment Income:

Forsyth Barr Ltd loss (as per above table)	-\$99,470
Westpac	\$53,602
Total	-\$45,868

4. General Comment

This financial report covers the seven months to 31 January 2012.

Highlights

- Surplus of \$467,715
- Positive budget variances amounting to \$110,000 in general rate funded activities.

The operating surplus increased by \$96,000 during January. This was mainly attributable to the approximately \$100,000 improvement in the Portfolio results during January. Further improvement is expected during February 2012.

RECOMMENDATION

That this report be received.

Robert Mallinson
Corporate Services Manager

THE WEST COAST REGIONAL COUNCIL

Prepared for: Council Meeting
Prepared by: Robert Mallinson – Corporate Services Manager
Date: 2 March 2012

Subject: **Proposed Financial Strategy Pursuant to the Local
Government Amendment Act 2010**

Background

This is a strategy that Council is required to adopt and include as part of its Long Term Plan (LTP).

Councillors had a preliminary look at a working Draft at the recent budget workshop.

The theme underlying the draft strategy is one of financial prudence and minimisation of costs to ratepayers.

The completed final Draft is now attached for Councillors' consideration.

RECOMMENDATION

That Council approves the Draft Financial Strategy for inclusion in the LTP.

Robert Mallinson
Corporate Services Manager

West Coast Regional Council Financial strategy

Introduction

The local Government Amendment Act 2010 introduced a requirement for each local authority to prepare and adopt a Financial Strategy as part of its Long Term Plan.

The purpose of the Strategy is to facilitate:

- a) Prudent financial management by providing a guide for Council to consider proposals for funding and expenditure against.
- b) Consultation on the Council's proposals for funding and expenditure by making transparent the overall effects of those proposals on services, rates, debt and investments.

The Financial Strategy must include:

- Expected changes in population and land use and the impact of these changes on operating costs.
- Expected capital expenditure that is required to maintain existing levels of service.
- Other significant factors affecting the ability to maintain existing levels of service and to meet additional demands for services.
- Quantified limits on rates and rate increases.
- Quantified limits on borrowing.
- Policy on giving of security for its borrowings.
- Objectives for holding and managing financial and equity investments and quantified targets for returns on those investments.

The four main obligations on Council to ensure that financial prudence is achieved are:

1. To manage finances prudently in a way that promotes the current and future interests of the community
2. To adopt a financial strategy that informs and guides the assessment of funding and expenditure proposals.
3. To adopt a set of funding and financial policies that offer predictability and certainty about sources and levels of funding.
4. To maintain operating revenues at levels sufficient to meet operating expenses.

Council's Core Drivers

- Council wishes to minimise costs to ratepayers.
- Council wishes to have a strong focus on water quality issues in the Region.

Council's Key assumptions

- Investment returns will continue to deliver 7% per annum.
- VCS Business Unit returns will at least equal \$500,000 per annum.
- General rate income is maintained in real terms.

Population Growth Projections

The Statistics New Zealand "medium series" population estimates for the Region show minimal population growth over the ten year period (from 32,900 people in 2011 to 33,000 people in 2022).

Council therefore is not expecting increased operating or capital expenditures resulting from population changes in the Region.

Land Use Changes

There are at present approximately 380 dairy farms in the Region. Continued growth in the number of dairy farms, or the total hectareage of land used for dairy farming is expected. This is not expected to have a significant impact on Council operating or capital expenditure requirements.

Mining (Coal and Gold) is expected to continue its growth in the Region. This could impact on demand for Council services (especially consent processing and compliance monitoring). Council has budgeted to meet this increased demand.

Council's Forecasted Funding Sources

	12/13	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22
General rates	25%	25%	25%	25%	25%	24%	24%	24%	24%	24%
Targeted rates	21%	20%	20%	20%	20%	20%	20%	20%	20%	21%
User Charges	17%	16%	16%	17%	17%	17%	17%	17%	17%	17%
Business Unit income	25%	27%	26%	26%	26%	26%	26%	26%	26%	25%
Investment Income	11%	11%	11%	11%	11%	11%	11%	11%	11%	11%
Other	1%	1%	2%	1%	1%	2%	2%	2%	2%	2%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

The Council funding sources remain very consistent over the 10 year timeline of the LTP.

Proposed Caps:

General Rates 30%

Targeted Rates 25%

Total Rates / Total Revenue

	46%	44%	44%	44%	44%	44%	45%	45%	45%	45%
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This demonstrates that Council dependence on rates revenue is not increasing over the 10 year timeline of the LTP.

General Rates / Total Rates

	55%	56%	56%	56%	56%	55%	55%	54%	54%	54%
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This demonstrates that Council dependence on the general rates is not increasing over the 10 year timeline of the LTP.

Interest Cost + Loan Principal Repayments / Total Revenue

Interest	2.1%	2.2%	2.1%	2.1%	2.2%	2.2%	2.1%	2.0%	2.0%	1.9%
Loan Principal	2.0%	2.1%	2.4%	2.1%	2.1%	2.3%	2.6%	2.9%	3.1%	3.4%
Total	4.1%	4.3%	4.5%	4.2%	4.3%	4.5%	4.7%	4.9%	5.1%	5.2%

This shows that Council debt repayments compared to total revenue are not onerous and are comfortably within manageable levels.

The increase in total % from 4.1% to 5.3% reflects the external debt incurred to fund the proposed "Warm West Coast" Scheme.

Proposed Cap:

Loan interest + Loan Principal repayments not to exceed 7.5% of Total Revenues.

Term Liabilities / Total Assets

	3.4%	3.5%	3.5%	3.3%	3.5%	3.5%	3.3%	3.2%	3.2%	2.8%
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This shows that total Council is not highly indebted.

Proposed Cap:

Term Liabilities not to exceed 7.5% of Total Assets.

Term Liabilities per head of population

Population (,000s)	33	33	33	33	33	33	33	33	33	33
\$ per head	\$75	\$77	\$78	\$81	\$86	\$87	\$88	\$86	\$88	\$87

This shows a small increase in debt / head of population which reflects the external debt to be incurred to fund the proposed "Warm West Coast" scheme.

Proposed Cap:

Term Liabilities not to exceed \$125 per head of Regional population.

Proposed Caps (Restrictions)

Debt (Term Liabilities)

- Interest and Principal expense / total revenue will not exceed 7.50%
- Term Liabilities not to exceed 7.50% of total assets.
- Term Liabilities / per capita will not exceed \$125 / per head of population.

Rates

- General rates will not exceed 30% of total revenue.
- Targeted rates will not exceed 25% of total revenue.
- General rate increases will not exceed the estimated BERL "other" inflation cost indexes (below).
- Tb Pest Management rate increases will not exceed BERL "other" inflation cost increases + 5% (30 June 2012 baseline \$650,000 + GST).
- River, Drainage & Coastal protection scheme rates will not exceed the sustainable level of annual maintenance expenditure identified in the relevant asset management plan + 33.3%. (This is to enable sufficient flexibility to react to requests by these protection scheme communities for protection works. If the community supports a level of scheme rates that exceed these limits, then the community wish will prevail.)

BERL forecast of price level changes are a specific set of price level adjustors which forecast expected price level changes specific to the local government sector (not the same as Statistics NZ CPI index).

Year	% per annum change-staff	% per annum change-other
2012/13	baseline	baseline
2013/14	2.4%	3.2%
2014/15	2.4%	3.2%
2015/16	2.6%	3.4%
2016/17	2.6%	3.5%
2017/18	2.4%	3.4%
2018/19	2.3%	3.3%
2019/20	2.6%	3.3%
2020/21	2.7%	3.6%
2021/22	2.7%	3.5%

Council's Investment Assets

As at 30 June 2012 it is estimated that Council Investments will amount to;

- \$11,000,000 managed in a diversified "balanced" portfolio by a Fund Manager.
- \$1,050,000 in a "moderate risk" portfolio with its bankers.
- \$575,000 in a "conservative risk" portfolio with its bankers. This is a fund established by Council as a Catastrophe Fund in lieu of continued unaffordable membership of the NZ LAPP Fund.

Total \$12,625,000

Council objectives for holding and managing these investments

The objectives of the \$11,000,000 and \$1,050,000 portfolio are;

- Generation of capital gains in order to protect the real value of the portfolio.
- Creation of income to be able to be used for Council activities and to be able to be reinvested to ensure further growth in the portfolio over and above the growth mentioned in (1) above.

The objectives of the \$575,000 portfolio are to;

- Help manage risks to Council Infrastructure (Rating District protection works) and to help ensure access to central government 60% assistance in terms of the 1991 National Disaster Recovery Plan.

The target levels of return for all three portfolios are 7.00% across the 10 year life of the LTP.

Council Borrowing

As at 30 June 2012 Council borrowings will total:

Rating District protection schemes repaid by targeted rates	\$2,225,250
Leased Assets	\$21,669
Total	\$2,246,919

In accordance with its existing borrowing policy, Council may offer the following forms of security to lenders:

- Deed of Acknowledgement of Debt.
- Negative Pledge.
- Specific charge over particular targeted rates (s115 Local Government Act 2002)
- Specific charge over general rate (s115 Local Government Act 2002)

Westpac bank holds a general first ranking Deed of Charge over rates (targeted and general). This Deed of Charge secures:

Overdraft Facility	\$250,000
Term Loan	\$167,564
Bond	\$30,000
Multi option credit line	\$3,000,000*
Risk management products dealing line	\$200,000
Total	\$3,647,564

* \$2,200,000 utilised @ 30/6/12 (balance owing now \$2,057,686)

Maintenance of Existing Levels of Service

Council has identified the following capital expenditure over the 10 year life of the LTP.

Replacements (to maintain existing levels of service)	\$3,097,000
Improved Levels of Service	\$261,000
Meet additional demand	\$0
Total	\$3,358,000

Other significant factors affecting Council's ability to maintain existing levels of service

As referred to above, Council relies on the following income sources across the 10 year life of the LTP:

General rates	25%
Targeted rates	20%
User charges	17%
Business Unit income	25%
Investment income	11%
Other	2%
Total	100%

General Rates

It will be important for Council to maintain the value of its general rate income in "real terms", ie after adjusting for projected future cost increases (inflation).

The estimated general rate income over the LTP has been adjusted to take into account these estimated future cost increases.

If the general rate income was not to keep pace with these cost increases, then this could affect the ability of Council to maintain existing levels of service.

Business Unit Income

The earnings from the Business Unit is a key part of Council funding requirements. If Business Unit income does not meet expectations this could also affect the ability of Council to maintain existing levels of service.

Investment Income

This is another key part of Council funding requirements. If Investment returns are lower than expected this could also affect the ability of Council to maintain existing levels of service.

Meeting Additional Demands for Services

Council has not identified any capital expenditure requirements in the LTP which would be necessary to meet additional demands for services.

As referred to above, the Statistics NZ population estimates for the Region do not anticipate any material population growth in the region which would result in any additional demands for services.

Dairy farming and mining activity is expected to continue to grow, but Council has already included provision in its operating budgeted to be able to meet any increase in demand from those activities over the life of the LTP.

THE WEST COAST REGIONAL COUNCIL

Prepared for: Council Meeting 13 March 2012
Prepared by: Chris Ingle – Chief Executive
Date: 1 March 2012
Subject: **CHIEF EXECUTIVES REPORT**

Meetings Attended

The key meetings I have attended since my last report include:

- Met Audit Director John Mackey on 8 February.
- Attended the IRIS shared services meeting in Wellington on 22 February.
- Attended the Regional Chief Executive's Forum in Wellington on 22 February.
- Attended the Chief Executive's Environmental Forum on 23 February.
- Led the Councillors Budget Workshop on 24 February.
- Attended the Regional Transport Committee meeting on 28th of February.
- Meeting the Auditor General's team on 6 March relating to the Department of Conservation's delivery of their Biodiversity functions.

Draft Long Term Plan 2012 - 22

Following the Budget Workshop, Robert Mallinson and I have been busy finalising the Draft Long Term Plan 2012- 2022. The Audit NZ team will commence their review shortly then the Draft Plan will come back to Council at the April meeting to release for public submissions.

Review of Enforcement Policy

Following Council's adoption of the new Alternative Environmental Justice Policy last year, I have reviewed the Council's enforcement policy to include the new policy and made other amendments as summarised below. The policy was last reviewed in 2007 and was overdue for a review.

- The introductory section has been simplified (page 2)
- The Council's approach to enforcement has been updated (page 3).
- The Formal warning option has been added to the list of available enforcement options.
- All flowcharts have been simplified (pages 4, 6, 8, & 10).
- The Prosecution procedures section has been updated to include reference to how the Alternative Justice Policy can be used (page 9).
- A new Appendix 5 has been added: The Alternative Environmental Justice policy.

The reviewed policy document is attached for Council approval.

RECOMMENDATIONS

1. *That this report be received.*
2. *That the attached Enforcement Policy is approved.*

Chris Ingle
Chief Executive



West Coast Regional Council

Enforcement Policy

Reviewed March 2012
Chris Ingle, Chief Executive

Introduction

Under the Resource Management Act 1991 (RMA), The West Coast Regional Council has statutory obligations for enforcing some provisions of this Act, commonly Section 9, and Sections 12 – 15. The enforcement mechanisms available to the Council under the RMA are concerned with three related outcomes:

- To avoid, remedy or mitigate any adverse effects on the environment
- To gain compliance with the RMA, resource consent conditions, regional plans and policies
- To deter individuals or companies from undertaking activities that may result in major adverse effects on the environment.

There are a number of enforcement options open to Council under the RMA, these options can be divided into two categories; Punitive or Directive:

Punitive	Directive
Formal written warning	Abatement Notice
Infringement Notice	Enforcement Order
Prosecution	

This enforcement policy presents guidelines to be followed by staff exercising these roles, and also outlines mechanisms that the Council will adopt to ensure that its enforcement powers are exercised appropriately. The policy should be read and used in conjunction with the *Basic Investigative Skills for Local Government 2010 Update Handbook*.

The purpose of this policy is to:

1. Provide consistency in the Council’s approach to enforcement decisions.
2. Provide assistance on the selection of the appropriate enforcement tools.
3. Ensure the appropriate procedures are followed by staff when they are undertaking enforcement work in order to be confident that the enforcement action has been carried out correctly.

Council Objectives for Enforcement

The Council has a responsibility to enforce the principal sections of the RMA, particularly S9 and S12-15. The Council’s objective in fulfilling these responsibilities is to achieve compliance with the RMA.

While a target of total compliance is desirable, it is recognised that this is sometimes an unrealistic ideal. Council has considerable discretion over how it enforces the RMA. The Council, through its elected representatives, is accountable to the community for the manner in which it exercises this discretion. A number of principles guide the exercise of this discretion. The four main principles to be used in guiding enforcement action are as follows.

Proportionality

The need to take action will depend on the severity of the event and the effects of that event on the environment. The enforcement action taken should be in proportion with the environmental effects.

The environmental effect of breaches of the RMA can vary markedly from minor breaches with minimal environmental effects, to those that have very serious effects. The seriousness of the breach should be reflected in the seriousness of the measures adopted by the Council in response.

Certainty

The Council will endeavour to provide certainty and clarity about what is, and what is not, acceptable compliance with the RMA and, in instances of non-compliance, the likely course of action that will be taken.

Although ignorance of the law is no excuse for breaching its provisions, the RMA can be difficult for the layperson to determine. While recognising that the Council is not the only or final arbiter of the requirements of the RMA, there is a community expectation that we will provide clear answers on the requirements of the RMA, particularly those provisions that the Council will enforce.

Impartiality

All persons and classes of consent holders/resource users will be impartially and fairly treated using the same process of enforcement regardless of the type and extent of resource use.

It is important for the Council's public accountability, credibility, and for the principles of natural justice, that all persons are dealt with fairly when considering which enforcement tool to use.

Clear and Speedy Resolution

The Council will endeavor to undertake its duties in a clear and speedy manner that gives effect to the purpose and principles of the RMA while minimizing costs to the ratepayer.

The Council intends to fulfill its enforcement duties in a clear and timely manner. This means that Council must often make decisions associated with the allocation of finite resources to areas of highest priority.

In order to ensure this principle is not compromised through a lack of funds, the Council intends to recover the costs associated with enforcement where possible.

Cost Recovery

Where monitoring costs are incurred in relation to a specific consent, these costs will be recovered from the consent holder in accordance with the West Coast Regional Council's general charging policy and the provisions of the RMA.

Where the Council incurs costs in avoiding, remedying, or mitigating adverse effects caused by or on behalf of any person, or in relation to land owned by such a person, from contravention of the RMA, that person will be invoiced to recover any costs incurred by The West Coast Regional Council.

Council Approach to Enforcement

In general, the West Coast Regional Council advocates a policy of education and co-operation towards compliance where an offence causes only minor environmental effects. However, the Council recognises that there are times when the use of punitive measures is necessary.

The Council will use formal warnings, abatement notices, infringement notices, and prosecutions in situations where such measures are considered to be necessary. It is not anticipated that enforcement orders will be used regularly, as they may require significant investment of ratepayer funds in terms of preparing legally robust documentation prior to seeking an Order from the Environment Court.

It is the responsibility of the Council to ensure that any adverse effects are appropriately avoided, remedied or mitigated against, therefore it will depend on the nature of each specific incident as to what form of enforcement action will be undertaken. For minor, one off incidents it is likely that a formal warning will be issued, however if the incident is of an ongoing nature or has been repeated a number of times it is likely abatement and infringement notices will be used. If it is deemed the incident has caused major adverse effects it would be likely that staff recommend prosecution.

In some instances it may be that abatement and infringement notices are issued in unison.

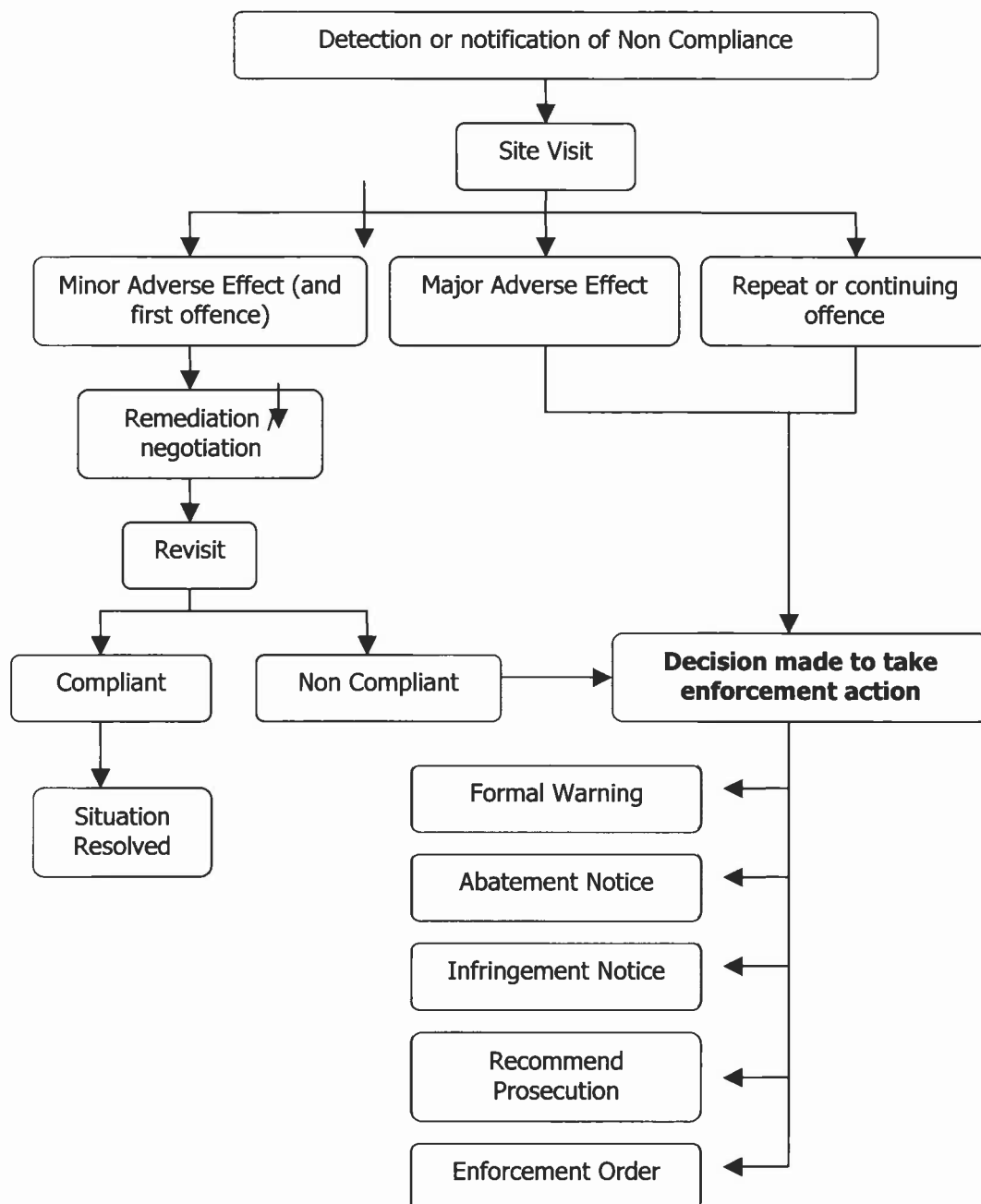
Factors to Consider when undertaking Enforcement Action

When deciding to take enforcement action there are a number of criteria that need to be considered in every case. These are listed below.

The actual adverse effects (effects that have occurred)	Any effort made to remedy or mitigate the adverse effects
Any likely adverse effects (potential effects)	The effectiveness of any remediation or mitigation undertaken
Whether it was a deliberate or an accidental action	Any failure to act on prior instructions, advice or notice
The degree of due care taken / foreseeability of incident	Any profit or benefit gained by alleged offender
The value or sensitivity of the area affected	The degree of deterrence required in relation to the party involved
The attitude of the offender toward the offence.	Any degree of general deterrence required
Whether it was a repeat non compliance or if previous enforcement action was needed for a similar situation	Any relevant special circumstances – eg extreme weather event or other event outside the control of the party involved

When considering enforcement action in relation to a breach of the RMA, regional rules or resource consent conditions the above factors must be considered before deciding on the most appropriate course of action. The investigating officer will discuss these matters with the Compliance Team Leader or the Consents and Compliance Manager.

Enforcement Action Decision Process



Infringement Notices

Where there has been a direct contravention of a resource consent or a rule in a regional plan, or a national environmental standard or other regulations; the West Coast Regional Council can issue an infringement notice. The basic requirements are as follows.

1. The infringement notice is issued by a warranted officer of the Council; and
2. The notice is issued to:
 - a person; or
 - a company; or
 - an incorporated body; or
 - a public authority.
3. The infringement notice is issued in the prescribed form – as detailed in Section 343C(3) of the RMA. See appendix two for a template of a correct infringement notice.

Infringement Notice Guidelines

Below are situations where the issuing of an Infringement Notice is considered appropriate.

- A repeat offence where the effects are no more than minor.
- A first offence where:
 - The effects are more than minor, but capable of being remedied; or
 - The effects are unable to be remedied, but are no more than minor;
 - Breach of an abatement notice where effects are no more than minor.
- Failure to provide certain information to an Enforcement Officer of the Council.

This is not to be considered a hard and fast rule and officers may choose to use discretion in instances where they deem that an Infringement Notice is not warranted, alternatively it may be considered that an Infringement Notice is not considered a strong enough deterrent and further enforcement options may be more applicable.

Discussions on what is the most appropriate form of action will be undertaken between the investigating officer, Compliance Team Leader and/or the Consents and Compliance Manager.

A notice should only be issued where:

- If the matter goes to Court, it can be proven beyond a reasonable doubt that the offence was committed by the person on whom the notice is being served (S340 and 341)
- The Council will not want to prosecute for that particular offence at a later stage
- The fine under the infringement notice is sufficient for the severity of the offence committed
- An infringement notice is likely to be a viable deterrent

When the Investigating Officer is satisfied that the incident has met the criteria needed to warrant an Infringement Notice being issued, a discussion needs to be held with the Compliance Team Leader and/or the Consents and Compliance Manager – who have delegation for the approval of Infringement Notices.

Enforcement Officers cannot issue an Infringement Notice without the prior approval of either of these two.

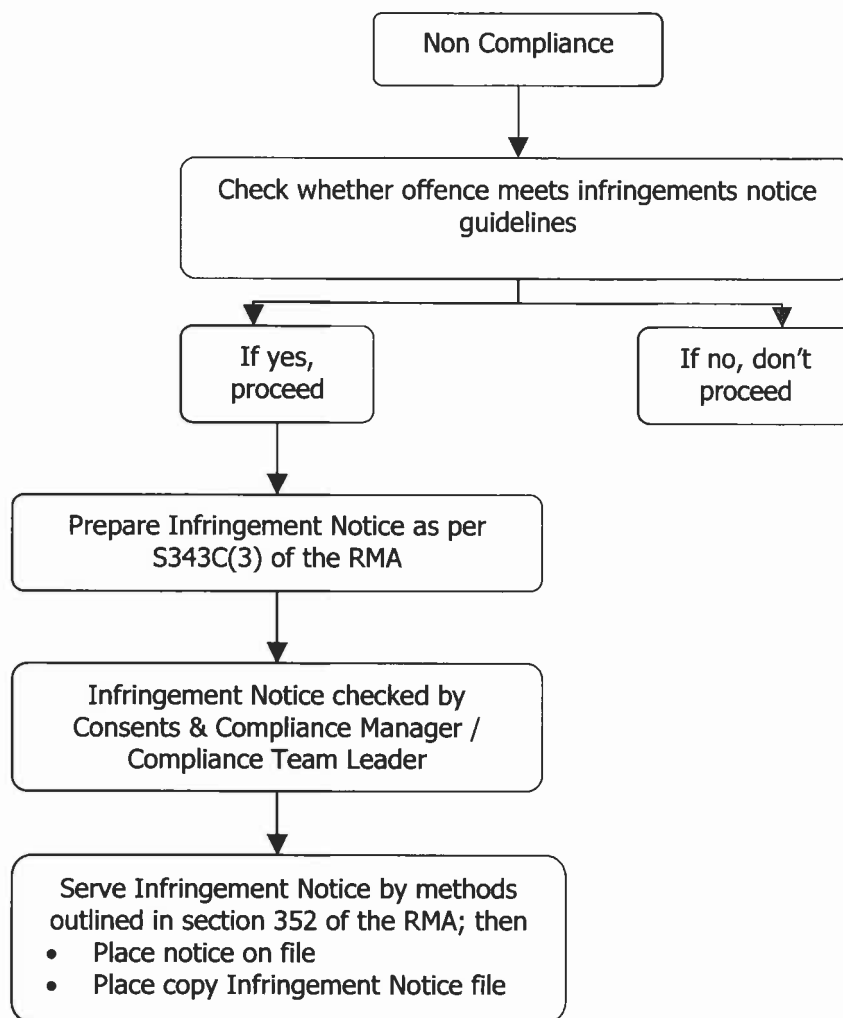
Serving the Infringement Notice

Once the infringement notice has been prepared it must be checked by either the Consents and Compliance Manager, or the Compliance Team Leader. Section 343C(2) of the RMA outlines the options for serving of Infringement Notices. The notice can be considered served when it has been served as per Section 352 of the RMA.

A copy of the notice must be kept for Council records. There is a specific file for hard copies of served Infringement Notices that is kept behind the Compliance Team Leader's desk. It is important that a signed copy is placed in this file for future reference. A file note should describe how and when the infringement notice was delivered.

Once the notice has been served, the offender has 28 days within which to pay. In order to keep track of this, the details need to be entered into the responsible officer's electronic or paper diary.

Infringement Notice Procedure



Submissions on Infringement Notices

The alleged offender has the right to make a submission explaining why they believe the infringement notice is inappropriate in the circumstances. Negotiations regarding settlement will be undertaken by the Consents and Compliance Manager.

Request for a Hearing

Any person who has received an infringement notice may request a hearing in court under S21(6) of the Summary Proceedings Act 1957. If this occurs, the Council then has the discretion to decide whether to proceed to Court. If the Council decides not to proceed, it will inform the person who has received the infringement notice in writing outlining the reasons for this decision and advising that the Council will not pursue the matter. If a decision is made to proceed the Council will file notice in Court in accordance with S21(8) of the Summary Proceeding Act. Such decisions are normally made by the Consents and Compliance Manager and the Chief Executive together.

Non-Payment

If, after 28 days from receipt of the notice by the alleged offender, the Council has not yet received payment, a submission, or a formal request for a hearing a **reminder notice** needs to be issued. This notice needs to contain the same details regarding the offence as the infringement notice. This reminder notice then needs to be served on the offender, who then has a further 28 days within which to pay, make a submission requesting the withdrawal of the notice, or to request a Court hearing.

If, on the expiry of the second period of 28 days, the Council has not yet received payment and has not received a formal request for a hearing the Council may file a copy of the Reminder Notice in Court within 6 months of the time when the offence is alleged to have been committed.

In these circumstances S21(5) of the Summary Proceedings Act applies, and the Court is deemed to have made an order that the defendant pay a fine equal to the amount of the infringement notice plus costs of the prescribed amount.

Abatement Notices

For more detailed information refer to the *Basic Investigative Skills for Local Government 2010 Update handbook* and the RMA.

An abatement notice is a formal written notice that may do one or more of the following:

- (a) Require the person on which it is served to cease, or prohibit from commencing, anything done or to be done by or on behalf of that person that, in the opinion of an Enforcement Officer:
 - Contravenes or is likely to contravene the RMA, any regulations, a rule in a plan, or a resource consent; or
 - is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; and
- (b) Require a person to take action to ensure compliance with the provisions of the RMA, or to *avoid, remedy or mitigate* adverse effects on the environment.

An abatement notice should be issued where an incident is occurring or is likely to occur, and the activity is causing or has potential to cause more than minor adverse effects. The key requirements are as follows:

An abatement notice can only be served where the Enforcement Officer has reasonable grounds for believing that any of the circumstances specified in S322(1) and (2) exist. A notice may be served on any person only by a warranted Enforcement Officer of the Council.

There are two types of abatement notices, both are issued under S322.

1. The first type of notice is issued under S322(1)(a) of the RMA, this is the most commonly used abatement notice and requires the person or persons to cease and / or not undertake an activity that may, in the opinion of the enforcement officer:
 - contravenes or is likely to contravene this Act, any regulations, a rule in a plan, or a resource consent; or
 - (ii) is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment
2. The second type of notice is issued under S322(1)(b) of the RMA. This type of notice requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the environment—
 - caused by or on behalf of the person; or
 - relating to any land of which the person is the owner or occupier.

Abatement Notice Procedure

Once an Enforcement Officer is satisfied that the abatement notice criteria have been met, the matter will be reviewed by either the Consents and Compliance Manager or the Compliance Team Leader. This will assist in ensuring that the issuing of an abatement notice is appropriate, or if other enforcement tools should be considered.

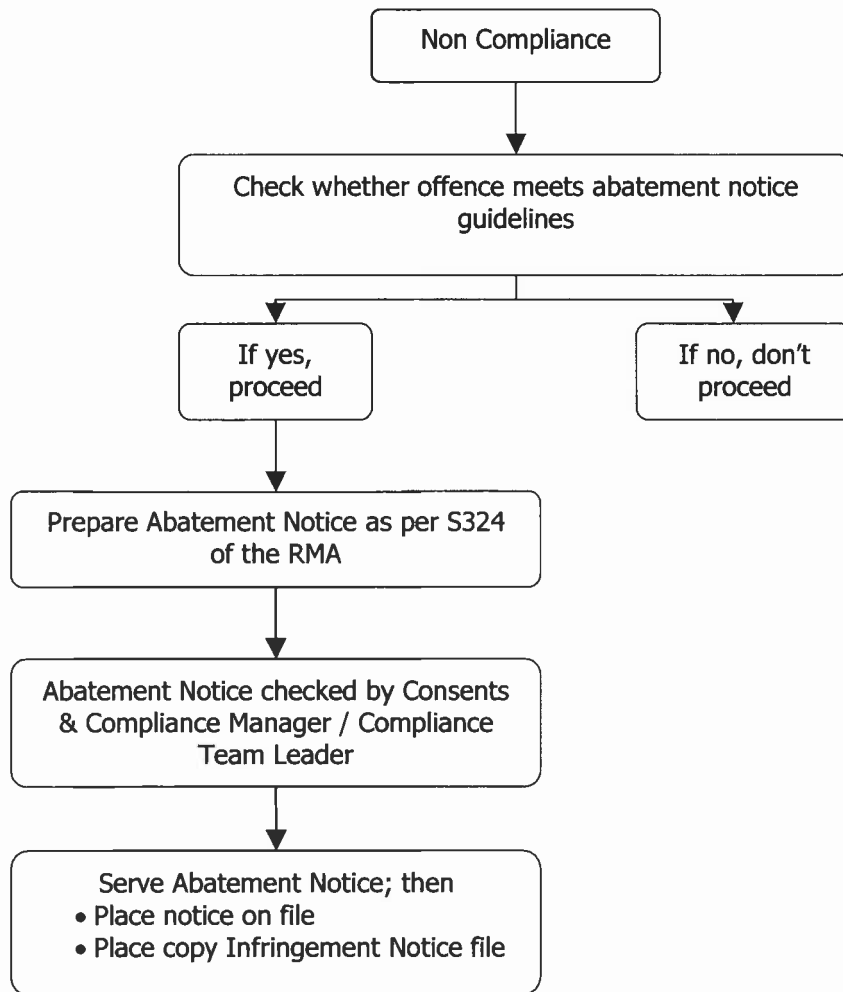
Preparation of the Abatement Notice

The abatement notice must be prepared in accordance with the requirements listed in s324 of the RMA and the template provided in the *Basic Investigative Skills for Local Government 2010 Update*.

Once the abatement notice has been prepared, it must be checked by either the Consents and Compliance Manager, or the Compliance Team Leader, who will confirm that it meets the legal requirements.

The abatement notice can then be mailed out or delivered to the recipient. A hard copy of the notice must be kept for council records (place a signed copy in the abatement notice file behind the Compliance Team Leader's desk), and a file note should be made by the enforcement officer that outlines how and when the abatement notice was delivered.

Abatement Notice Procedure



Abatement Notice Appealed under s325(1)

Under S325(1) an abatement notice may be appealed in the Environment Court. An appeal notice will be reviewed by the Consents and Compliance Manager.

Application to Change or Cancel Abatement Notice under s325A(4)

An application made under S325A(4) will be considered by the Consents and Compliance Manager and/or Compliance Team Leader.

- such applications be considered as soon as practicable (S325A(5)); and
- the applicant is informed in writing of the outcome of the application (S325A(6)).

Change or Cancellation of Abatement Notices under s325A(2)

Where an Enforcement Officer believes an abatement notice is no longer required (either as the result of a site inspection or a request by the person on whom the notice is served) the matter will be considered by either the Consents and Compliance Manager, or the Compliance Team Leader. If a change or cancellation occurs, written notice of change or cancellation must be given.

The Consents and Compliance Manager and Compliance Team Leader have delegation to change or cancel abatement notices and any change or cancellation of an abatement notice must be approved by them.

Prosecutions

The West Coast Regional Council has considerable discretion in deciding when to prosecute and when not to prosecute. A decision will be made by Council after a report and recommendation is presented by the Consents and Compliance Manager.

Prosecution Policy

There are three factors that need to be considered when deciding whether to proceed with a prosecution. These are:

1. The effect on the environment.
2. The degree of culpability of the alleged offender:
 - The culpability of the defendant;
 - The steps taken to remediate; and
 - The defendant's compliance history.
3. Any other circumstances:
 - The public interest;
 - The need for a deterrent; and
 - The likelihood the defendant will be discharged without conviction.

The Solicitor General's guidelines on factors to be considered before a prosecution must also be considered.

The Prosecution Process

The Prosecution Process follows the following steps:

1. A Compliance Officer discovers the offending and an investigation is carried out.
2. An enforcement discussion is held between the investigating officer, the Compliance Team Leader and the Consents & Compliance Manager, and a staff Enforcement Decision is made.
3. If the decision in (2) above is to recommend prosecution, a recommending report is prepared for Council.
4. A decision is made by Council whether to prosecute or not.

Following step 4 above, the Alternative Environmental Justice Policy may come into play (see appendix 5):

5. At the same time as charges are laid with the Court; an Alternative Environmental Justice offer may be made to the defendant, and if accepted by the defendant, the Council would apply to the Court for an adjournment to court proceedings.
6. An Alternative Environmental Justice conference would then be undertaken, facilitated by an independent agency.
7. The conference would result in an agreement on the remedial actions and timeframes for completion. If the conference fails to reach agreement, the court process resumes.
8. Once all agreed actions are completed, Council applies to the Court to withdraw all charges.

The tables below provide further information regarding culpability, environmental effect, and previous compliance history of the offender when considering a prosecution

Guidance on the Degree of culpability and intention:

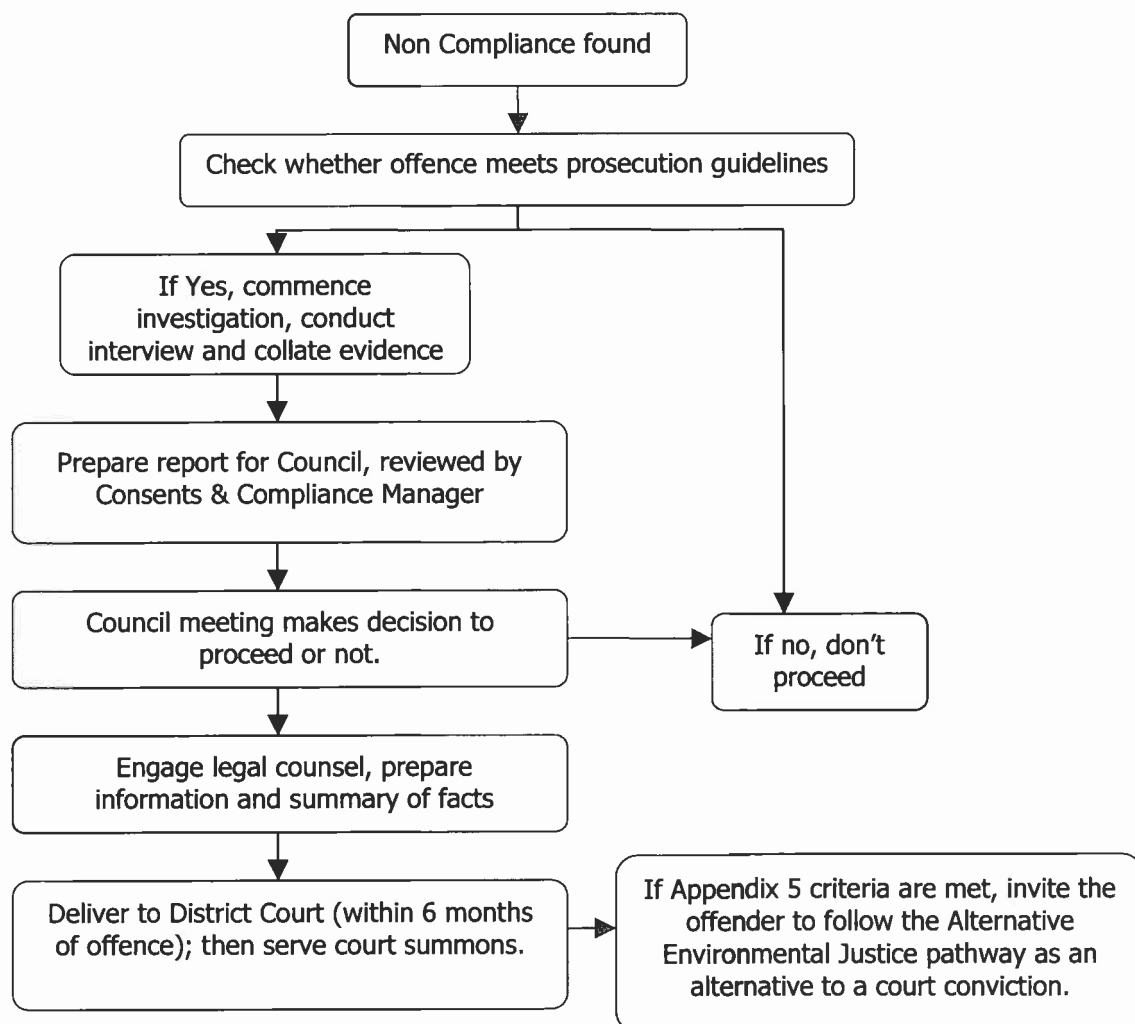
Unintentional breach	A breach involving a principal where a agent (contractor) fails to follow adequate instructions and this failure causes the breach results
Careless breach	A breach that occurs where a principal fails to give adequate instructions to an agent but is not reckless as to whether a breach occurs
Failure to give due regard	Accidental discharge that occurred after warnings were given about the potential for such a spill or that was the result of inadequate safety systems
Reckless breach	A breach where the alleged offender is reckless as to whether the action that caused the breach was in contravention of the RMA
Intentional breach	A breach made in the knowledge that it is a breach

Guidance on the Previous Record of Offender:

Good	Good record of compliance with few non-compliances and no enforcement action taken by council previously
Unsatisfactory	Some non-compliances but of a minor nature; OR Some non-compliances either of moderate effect and remedied quickly, or of minor effect
Poor	Record of non-compliance of a moderate nature but not remedied quickly or of a major nature
Unacceptable	Repeated record of non-compliance with more than minor effect with previous enforcement action taken or considered by the Council and little effort to improve record

Guidance on Efforts to Remedy:

Outstanding	All effort possible to remediate the effects taken as soon as became aware of the problem
Good	Good effort to remediate taken immediately or all effort possible taken after a short delay
Average	Average efforts to remediate taken immediately or good efforts taken after a short delay
Below average	Average efforts to remediate taken after a delay
No effort	No effort to remediate effects on the environment even when made aware

The Prosecution Procedure

Appendix One: Infringement Notice Checklist

CHECKLIST - INFRINGEMENTS

Site Name and Address		
Location Reference		
Site Contact Person File/Incident Reference		Phone WCRC Officer

Nature of Offence/Contravention:

Offence Date **Time**

Assessment of whether Infringement Notice Appropriate:

State infringement offence from Schedule 1 (Offence must appear in Schedule 1)

Relevant subsection of S338	Section of the Act breached	Level of fine

Tick Applicable Box:

Only proceed if one box can be ticked

- Repeat offence where effects no more than minor.
- First offence where potential effects more than minor.
- First offence where actual effects more than minor, but capable of being remedied.
- First-time offence where effects irreversible and no more than minor.
- Abatement notice breaches where effects no more than minor.
- Failure to provide certain information to an enforcement officer.

Notice can only be issued if all Four Boxes Below Ticked:

- Capable of proving beyond reasonable doubt that an offence was committed.
- Capable of proving beyond a reasonable doubt that the person on whom the notice is to be served is responsible for the offence.
- No prosecution required for breach in question.
- Infringement notice is likely to be an effective deterrent/fine sufficiently severe for offence.

Comments:

Infringement notice to be Issued

Yes/No/Decision Deferred

Signed _____ **Date** _____

Appendix Two: Infringement Notice Template

INFRINGEMENT NOTICE

Notice Number: 167

(Issued under the authority of section 343C of the Resource Management Act 1991)

ENFORCEMENT AUTHORITY:
West Coast Regional Council

**ENFORCEMENT OFFICER
IDENTIFICATION:** No 044

TO: ABC Contractors Ltd PO Box 123 Greymouth.

You are alleged to have committed an infringement offence against the Resource Management Act 1991, as follows:

Details of Alleged Infringement Offence

Section of Resource Management Act 1991 contravened:

Contravention of section 15(1)(b) (Discharge of contaminants to land where it may enter water) being an offence under section 338(1)(a).

Nature of infringement:

You have discharged a contaminant, namely sediment, from your mining operation at Imaginary Creek, Timbuktu, onto land where it has entered water, namely Imaginary Creek; when that discharge was not expressly allowed by a national environmental standard or other regulations, a rule in a regional plan, any proposed regional plan, or a resource consent.

Location: Imaginary Creek , at or about E2357736 N5830678

Date: 6 February 2010 ***Approximate time:*** 1950 hrs

THE FEE FOR THIS INFRINGEMENT IS: \$750.00

Payment of Infringement Fee

The infringement fee is payable to the enforcement authority within 28 days after:
25 February 2010

The infringement fee is payable to the enforcement authority at:
388 Main South Road, PO Box 66, Greymouth

Payments by cheque should be crossed "Not Transferable".

.....
Signature of Enforcement Officer

(IMPORTANT PLEASE READ SUMMARY OF RIGHTS PRINTED OVERLEAF)

SUMMARY OF RIGHTS

28

Note: If, after reading this summary, you do not understand anything in it, you should consult a lawyer immediately.

Payment

1. If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you in respect of this infringement offence. Payments should be made to the enforcement authority at the address shown on the front of this notice.
Note: If, under section 21 (3A) or (3C) (a) of the Summary Proceedings Act 1957, you enter or have entered into a time to pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 3 and 4 below do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Further Action

2. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing to the enforcement authority at the address shown on the front of this notice within 28 days after the service of this notice.
3. If you deny liability and wish to request a hearing in the District Court in respect of the alleged offence, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a Court hearing in respect of the offence. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court.
Note: If the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.
4. If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or otherwise, you must, within 28 days after the service of this notice, write to the enforcement authority at the address shown on the front page of this notice requesting a hearing in respect of the offence AND in the same letter admit liability in respect of the offence AND set out the submissions that you would wish to be considered by the Court. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the Court. There is no provision for an oral hearing before the Court if you follow this course of action.
Note: Costs will be imposed in addition to any penalty.

1 Non-Payment of Fee

5. If you do not pay the infringement fee and do not request a hearing within 28 days after the issue of this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).
6. If you do not pay the infringement fee and do not request a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay COSTS IN ADDITION TO THE INFRINGEMENT FEE (unless the enforcement authority decides not to commence court proceedings against you).

2 Defence

7. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the enforcement authority at the address shown on the front page of this notice within 28 days after the date of service of this notice on you. Late payment or payment made to any other address will not constitute a defence to proceedings in respect of the alleged offence.

Note: The following paragraph relates to defences available where a person is charged with an infringement offence against any of sections 9, 11, 12, 13, 14, and 15 of the Resource Management Act 1991.

8. (1) You will have a further defence (in addition to that indicated in paragraph 7 above) if you can prove -
 - (a) That -
 - (i) The action or event to which the infringement notice relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; AND
 - (ii) Your conduct was reasonable in the circumstances; AND
 - (iii) The effects of the action or event were adequately mitigated or remedied by you after it occurred; OR
 - (b) That the action or event to which the infringement notice relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage, and in each case -
 - (i) The action or event could not reasonably have been foreseen or provided against by you; and
 - (ii) The effects of the action or event were adequately mitigated by you after it occurred
- (2) Subparagraph (1) does not apply unless you deliver a written notice to the enforcement agency within 7 days after you receive the infringement notice -
 - (a) Stating that you intend to rely on the matters in subparagraph (1); and
 - (b) Specifying the facts that support your reliance on subparagraph (1).
- (3) If you are a principal, employer, or the owner of a ship and you may be liable for an alleged offence committed by your agent, employer, or the person in charge of your ship, you will have a good defence (in addition to that indicated in paragraph 7 above) if -
 - (a) You are a natural person (including a partner in a firm) and you can prove that -
 - (i) You did not know nor could reasonably be expected to have known that the offence was to be or was being committed; OR
 - (ii) You took all reasonable steps to remedy any effects of the act or omission giving rise to the offence
 - (b) You are a body corporate and can prove that -
 - (i) Neither the directors nor any person concerned in the management of the body corporate could reasonably be expected to have known that the offence was to be or was being committed; OR
 - (ii) You took all reasonable steps to prevent the commission of the offence

2..1.1.1 Queries/Correspondence

9. When writing or making payment of an infringement fee, please indicate -
 - (a) The date of the infringement offence; AND
 - (b) The infringement notice number; AND
 - (c) The identifying number of each alleged offence and the course of action you are taking in respect of it (if this notice sets out more than 1 offence and you are not paying all the infringement fees for all the alleged offences); AND
 - (d) Your address for replies (if you are not paying all the infringement fees for all the alleged offences).

FULL DETAILS OF YOUR RIGHTS AND OBLIGATIONS ARE SET OUT IN SECTIONS 341 TO 343D OF THE RESOURCE MANAGEMENT ACT 1991 AND SECTION 21 OF THE SUMMARY PROCEEDINGS ACT 1957.

NOTE: ALL PAYMENTS, ALL QUERIES, AND ALL CORRESPONDENCE REGARDING THIS INFRINGEMENT MUST BE DIRECTED TO THE ENFORCEMENT AUTHORITY AT THE ADDRESS SHOWN.

Marie Shroff
Clerk of the Executive Council

Appendix Three: Abatement Notice Checklist

CHECKLIST - ABATEMENT NOTICE

Site Name and Address Location

Site Contact Person		Phone	
File/Incident Reference		WCRC Officer	

Nature of Offence/Contravention:

Offence Date _____ **Time** _____

Type of Abatement Notice:

Abatement Notice Category	Section of the Act breached	Time Frame for Action

Notice can only be issued if all Four Boxes Below Ticked:

- Incident occurring or likely to occur, but given the facts of the case a prosecution unlikely to proceed
- Enforcement Officer has reasonable grounds for believing conditions any of the circumstances specified in s322(1) and (2) exist
- Infringement notice not a more appropriate method of dealing with issue
- If notice is to correct an action that has been previously undertaken, is the WCRC capable of proving beyond a reasonable doubt that original action was committed by the person on whom notice is to be served.

Abatement notice to be Issued Yes/No/Decision Deferred

Comments:

Signed _____

Date _____

Appendix Four: Form and Content of Abatement Notice

ABATEMENT NOTICE

Section 324, Resource Management Act 1991

TO: ABC Contractors Ltd PO Box 123 Greymouth 7840.

The West Coast Regional Council gives notice that you must cease the following action:

The discharge of contaminants to land where it may enter water, where this discharge is not expressly allowed by a rule in a regional plan, a rule in a proposed regional plan or a resource consent.

The location to which this Abatement Notice applies:

Forest District – Imaginary Creek at or about NZMS 260 J33: 585 – 301

You must comply with this Abatement Notice within the following period:

30 October 2009

This Notice is issued under:

Section 322(1)(a)(i) of the Resource Management Act 1991.

The reasons for this Abatement Notice are:

On 23 September 2009 a Compliance Officer of the West Coast Regional Council inspected the Gold Mining operation at Imaginary Creek and found the following:

- A new screen had been set up at the eastern of the permit. This screen was operating without adequate sediment controls in place. This resulted in a discharge to land where it entered Imaginary Creek. As a result of this discharge Imaginary Creek was discoloured.
- This new area was not covered by the work programme that had been submitted to the West Coast Regional Council.
- Condition 4.3 of Resource Consent RC00000 requires "*the Consent Holder to exercise the consent in accordance with the Annual Work Programme, except that the Consent Holder may, at any time, submit to the Consent Authority an amended work programme provided it complies with all other condition of the consents.*"

Therefore the discharge of contaminants to land where it may enter water was not expressly allowed by a rule in a plan, any proposed regional plan, or resource consent

If you do not comply with this notice you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stated as explained below).

You have the right to appeal to the Environment Court against the whole or any part of this Notice. If you wish to appeal, you must lodge a Notice of Appeal in form 49 with the Environment Court within 15 working days of being served with this Notice.

An appeal does not automatically stay the Notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325(3A) of the Resource Management Act 1991 (see Form 50). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

You also have the right to apply in writing to the West Coast Regional Council to change or cancel this Notice in accordance with Section 325A of the Resource Management Act 1991.

The West Coast Regional Council authorised the enforcement officer who issued this Notice. Its address is: The West Coast Regional Council, 388 Main South Rd, PO Box 66 Greymouth. Phone (03) 768 0466, Facsimile (03) 768 7133

The Enforcement Officer is acting under the following authorisation:

A warrant of authority issued by the West Coast Regional Council, pursuant to section 38 of the Resource Management Act 1991, authorising the officer to carry out all or any of the functions and powers of an enforcement officer under the Resource Management Act 1991.

Signature of Enforcement Officer

Date:

Appendix Five: Alternative Justice Policy

Background

Similar to the Restorative Justice process, the Alternative Environmental Justice approach is designed to allow the West Coast Regional Council to exercise prosecutorial discretion to resolve environmental offending without the offender gaining a conviction and a criminal record, while still ensuring timely remediation of the harm they have caused to the environment.

Applicability of the Alternative Justice Policy

Experience has shown that, in some cases, environmental offending is the result of ignorance of the rules or lack of care rather than outright deceptiveness or deliberate actions. Sometime in these cases the environmental impact is deemed to be more serious than what would warrant an infringement or abatement notice. However, exposing the offender to the full prosecution process may be too harsh. It is in these 'grey areas' where the Alternative Environmental Justice method could come into play.

The Alternative Environmental Justice Process

The current prosecution process follows the following steps:

1. A Compliance Officer discovers the offending and an investigation is carried out.
2. An enforcement discussion is held between the investigating officer, the Compliance Team Leader and the Consents & Compliance Manager, and a staff Enforcement Decision is made.
3. If the decision in (2) above is to prosecute, then a recommendation report is prepared for Council.
4. A decision is made by Council whether to prosecute or not.

Following step 4 above, the Alternative Environmental Justice Policy would come into play:

5. At the same time as charges are laid with the Court; an Alternative Environmental Justice offer may be made to the defendant, and if accepted by the defendant, the Council would apply to the Court for an adjournment to court proceedings.
6. An Alternative Environmental Justice conference would then be undertaken, facilitated by an independent agency.
7. The conference would result in an agreement on the remedial actions and timeframes for completion. If the conference fails to reach agreement, the court process resumes.
8. Once all agreed actions are completed, Council applies to the Court to withdraw all charges.

Eligibility Criteria for Alternative Environmental Justice pathway

The defendant must intimate a guilty plea before being offered the opportunity to follow the Alternative Environmental Justice pathway. The scale of the environmental impact is important but more important is the attitude of the defendant towards the offending and their compliance history. If an offender has a history of offences they may not be offered the opportunity to follow the Alternative Environmental Justice pathway.

Other criteria include:

- Culpability, the level of intent involved in commissioning of the offence;
- Degree and type of deterrence required;
- The defendant's personal factors. For example age and health may be taken into consideration;
- The views of any victim directly affected by the offending are also important (if there is a victim)
- All Council investigation costs must be met by the offender.

The Solicitor General's guidelines for prosecution decisions also contain relevant criteria that will apply in some cases.

Offering Alternative Environmental Justice

There are a range of complexities around RMA prosecution cases, including offences that have been carried out by more than one offender. Offender's culpabilities may be different so it may be that one person can be eligible for Alternative Environmental Justice, whereas another offender may not.

The offer of Alternative Environmental Justice will be made in writing at the time of service of the court summons. Acceptance must also be made in writing to Council by the defendant. Both parties retain the right to remove themselves from process for any reason, hence the need for charges to be laid at the outset.

Likely reasons for withdrawal from the Alternative Environmental Justice process include:

- The defendant may believe the requirements of Alternative Environmental Justice are too onerous and may consider that a hearing in court is their best option.
- The defendant may wish to reverse their intimation of guilt.

- Council may wish to withdraw if the defendant is not acting in good faith.

The Alternative Environmental Justice Conference

Similar to the Restorative Justice conference, this would be facilitated by an independent agency that is listed as a provider of Restorative Justice conferences with the Ministry of Justice. This will maintain transparency and impartiality for all parties involved in the process. The conference participants will include:

1. Conference facilitator
2. Council representatives (Investigating officer plus Consents & Compliance Manager or Team Leader)
3. Defendant, and support person if desired
4. Victim (if any)

The purpose of the Alternative Environmental Justice process is to facilitate the resolution of the offending to the standard where it is no longer in the public interest to proceed with a prosecution. It is up to the defendant to offer measures to address the impact of their offending. The appropriateness of the measures agreed to will be evaluated against the following:

- The proposed remediation measures must be in proportion to the offence.
- The defendant must show remorse.
- Remediation of harm caused should be undertaken by the defendant. It may be appropriate for Council to seek an enforcement order to ensure agreed remediation is fully completed.
- The remediation measures must be able to be completed within a suitable timeframe.
- The defendant must demonstrate an improved understanding of the rules relating to their activities (they may be able to show this by applying for resource consent or installing best practice systems).
- At the conclusion of this process the defendant should understand why their action was an offence and how to avoid similar incidents occurring in the future.
- General deterrence – the process is public and transparent and the publicity of the process and the remediation undertaken helps to educate the general public about environmental accountability.
- It may be appropriate for the defendant to compensate victims affected by the offending and non-financial reparation should be considered. If a community is affected then a donation to that community may be appropriate, but again this process needs to be transparent.
- The remediation measures must not provide any direct benefit to Council

Meeting the Council's Costs

The defendant will be liable for all the costs associated with the process. This includes the investigation and legal costs leading to the decision to undertake Alternative Environmental Justice and the costs associated with the Council attending the Conference (including the independent facilitator costs).

If one of the parties withdraws from the process then the defendant cannot be held liable for costs. However if this was to occur then Council would incorporate these costs into any sentencing submissions during the court process that follows.

THE WEST COAST REGIONAL COUNCIL

To: Chairperson
West Coast Regional Council

I move that the public be excluded from the following parts of the proceedings of this meeting, namely, -

Agenda Item No. 8.			
34 – 35	8.1	Confirmation of Confidential Minutes 7 February 2012	
36	8.2	Overdue Debtors Report	
	8.3	Response to Presentation (if any)	
	8.4	In Committee Items to be Released to Media	

Item No.	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.
8.			
8.1	Confirmation of Confidential Minutes 7 February 2012		Section 48(1)(a) and in particular Section 9 of 2nd Schedule Local Government Official Information and Meetings Act 1987.
8.2	Overdue Debtors Report		
8.3	Response to Presentation (if any)		
8.4	In Committee Items to be Released to Media		

I also move that:

- Chris Ingle
- Robert Mallinson
- Michael Meehan
- Colin Dall

be permitted to remain at this meeting after the public has been excluded, because of their knowledge on the subject. This knowledge, which will be of assistance in relation to the matter to be discussed.

The Minutes Clerk also be permitted to remain at the meeting.