

HAWKE'S BAY REGIONAL COUNCIL
ENVIRONMENTAL MANAGEMENT COMMITTEE

Wednesday 14 July 2010

SUBJECT: WATER TAKE COMPLIANCE UPDATE

REASON FOR REPORT

1. This report has been prepared to update the Committee on the water take compliance strategy and the non-compliance workloads over the past three years.

Background

2. Council requires that accurate water take data is provided by the consent holder to enable Council to manage the region's water resources and assess compliance with resource consents. This is especially important in areas where water is scarce or over allocated.
3. Up until 2 years ago, the quality of water use data being received by Council was poor for a significant number of consent holders. Many were not submitting their data on a regular basis, or submitting inaccurate data because there appeared to be no consequences for not complying with the resource consent conditions.
4. The Council has a compliance/enforcement strategy that aims to achieve compliance by using education and warnings before escalation to formal and punitive actions such as abatement notices, infringement notices, and prosecution.

General Information

5. In 2006/2007, staff identified that water use data non-compliance was creating problems in terms of information available for scientific investigations and ascertaining compliance resulting in compromised water resource allocation decision making. During enquiries with a number of consent holders, staff were told that consent holders did not supply water take data unless they received multiple telephone calls from Council because there appeared to be no consequence for not supplying the data in a timely and accurate manner.
6. As a solution, before the 2007/2008 irrigation season, Council sent out a letter to water take consent holders, outlining Council concerns regarding the inaccurate or nonexistent water take data. The letter set out the expectations of Council and informed consent holders that enforcement action was potentially going to be used to achieve compliance.
7. In the summer irrigation season of 2007/2008 there was no formalised strategy in place to improve the accurate and timely receipt of water take data from consent holders.
 - 7.1. At the end of the 2007/2008 season, quality of water use data had not improved despite the letter. Staff concluded that the education/warning letter by itself and the reminder telephone calls had not achieved the desired outcome.
 - 7.2. In the 2007/2008 season, 2 Abatement Notices were issued to consent holders to get them to supply water take data. During the same season 1 Infringement Notice was issued for the persistent non-return of water take data.
8. For the 2008/2009 season a formalised strategy was put in place where consent holders who had not submitted data in accordance with their resource consent conditions were telephoned by Council and asked to submit the data immediately. If they did not respond to that call, a second call was made. If they did not comply with the second telephone request, an abatement notice was issued that outlined their obligation under the terms of their resource consent and further outlined that a failure to submit data would result in enforcement action being taken against them.

- 8.1. In that season a total of 48 Abatement notices were issued on that basis, which was a disappointing outcome given staff attempts to gain compliance. However, by the end of the season, all of those 48 consent holders had supplied the required data and were up to date.
9. In the next season, 2009/2010, the same 2 telephone calls, abatement notice, infringement notice strategy was employed.
 - 9.1. Any consent holders who received an abatement notice the previous year were given an additional telephone call if they had failed to supply data on time on this occasion. 34 abatement notices were issued to a new set of non-complying consent holders giving a total of 82 active abatement notices for the non-supply of water take data.
 - 9.2. A total of 9 infringement notices were issued for continued failure to supply data, from that group.
 - 9.3. Staff consider that the compliance strategy was successful in that the quality of the water use data returns has increased to acceptable standards.

Prosecutions

10. During the past 12 months, Council has completed two successful prosecutions in relation to water.
11. The first involved a major wine grower that took water for irrigation during a water take ban period. They were convicted and fined \$50,000.00. The grower, knowing that a water take ban was in place, made a business decision to water new vines. The water was deliberately taken despite twice approaching the Council executive team for permission to breach the take ban, and both times being told in no uncertain terms they could not breach the ban.
 - 11.1. They proceeded on the basis that they believed the most they would be fined was infringement notice fine of \$750.00. The sentencing Judge was very critical of them on that point.
12. The second prosecution involved a local orchardist that took in excess of their water take allocation for a period of 4 weeks despite being warned not too. They were convicted and fined \$8,000.00

Going Forward

13. The Water Information Services group is now in a position to actively support the use of telemetry and the collection of water take data from consent holders. All consent holders that are not submitting their water take data in a timely manner are being invited to speak to Water Information Services group and explore the possibility of utilising telemetered data collection.
14. Both the Council teams are actively working with water users to streamline the water use data returns process. This is occurring within the catchment based user groups and on individual basis where appropriate.
15. It is intended that the current strategy will continue with the current resourcing for the foreseeable future in order to achieve better level of compliance and scientific data outcomes. It is expected that as the telemetry options gain traction, more consent holders will voluntarily start using it to help manage their business.

DECISION MAKING PROCESS

16. Council is required to make a decision in accordance with Part 6 Sub-Part 1, of the Local Government Act 2002 (the Act). Staff have assessed the requirements contained within this section of the Act in relation to this item and have concluded that, as this report is for information only and no decision is to be made, the decision making provisions of the Local Government Act 2002 do not apply.

RECOMMENDATION

1. That the Committee receives the report titled "*Water Take Compliance Update*".

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