

**ENVIRONMENTAL SERVICES COMMITTEE MEETING HELD ON
WEDNESDAY 17 FEBRUARY 2016 AT MEMORIAL HALL SUPPER
ROOM, ESPLANADE, KAIKOURA.**

AGENDA

- 1. Apologies***
- 2. Matters of Importance to be raised as Urgent Business***
- 3. Environmental Services Report*** ***page 23***
 - *Building***
 - *Resource Planning***
 - *Resource Consent Update List***
 - *District & Environmental Planning***
 - *Environmental Health***
 - *Environmental Services Budget Report*** ***page 32***
- 4. Objection under Section 357 of the Resource Management Act*** ***page 33***
- 5. Urgent Business***

• Building

There were 10 Building Consents with a combined construction value of \$529,100 issued during December 2015. These consents were for:

- 2 heaters
- 2 relocated carriages
- 2 dwellings
- 2 residential alterations
- 1 sewer
- 1 shed

We currently have 12 consents being processed.

12 Land Information Memorandums and 9 Code Compliance Certificates were issued in the month of December 2015.

There were 5 Building Consents with a combined construction value of \$169,500 issued during January 2016. These consents were for:

- 1 heater
- 1 residential extension
- 1 drainage consent
- 1 shed
- 1 retaining wall

We currently have 10 consents being processed.

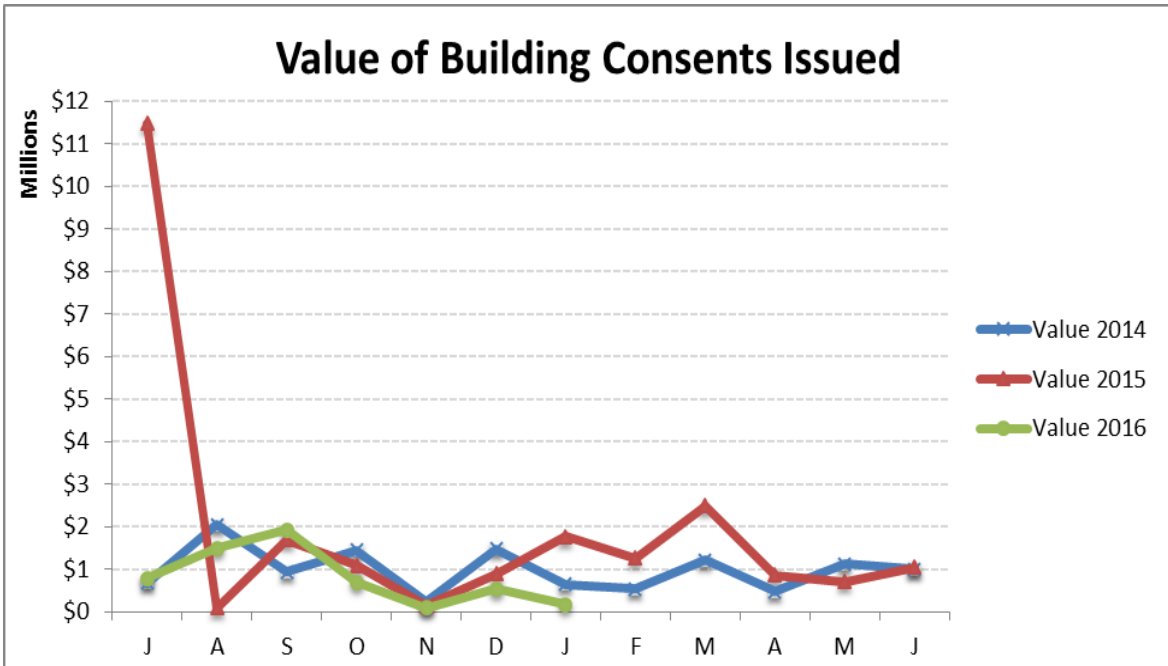
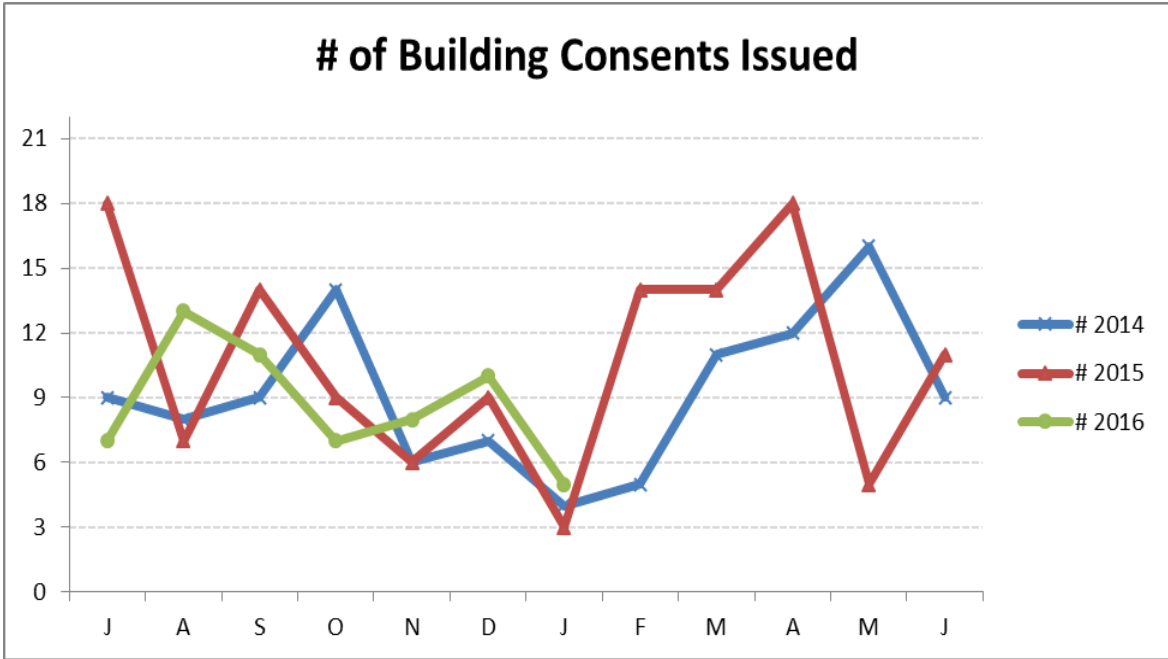
12 Land Information Memorandums and 8 Code Compliance Certificates were issued in the month of January 2016.

We had a very busy end to the year in December getting consents out before the break and Code Compliance Certificates issued.

January has seen a much quieter start and we have had time to start organising our swimming pool audits for the year. We have also been looking at the increase in containers appearing in various locations in the district.

We are also working on getting all commercial Building Warrant of Fitness's up to date and will start on the audits for those in the next month or so.

Prepared by	Jacqui Marsden, Building Technical Support Officer
Authorised by	Angela Oosthuizen, Chief Executive Officer



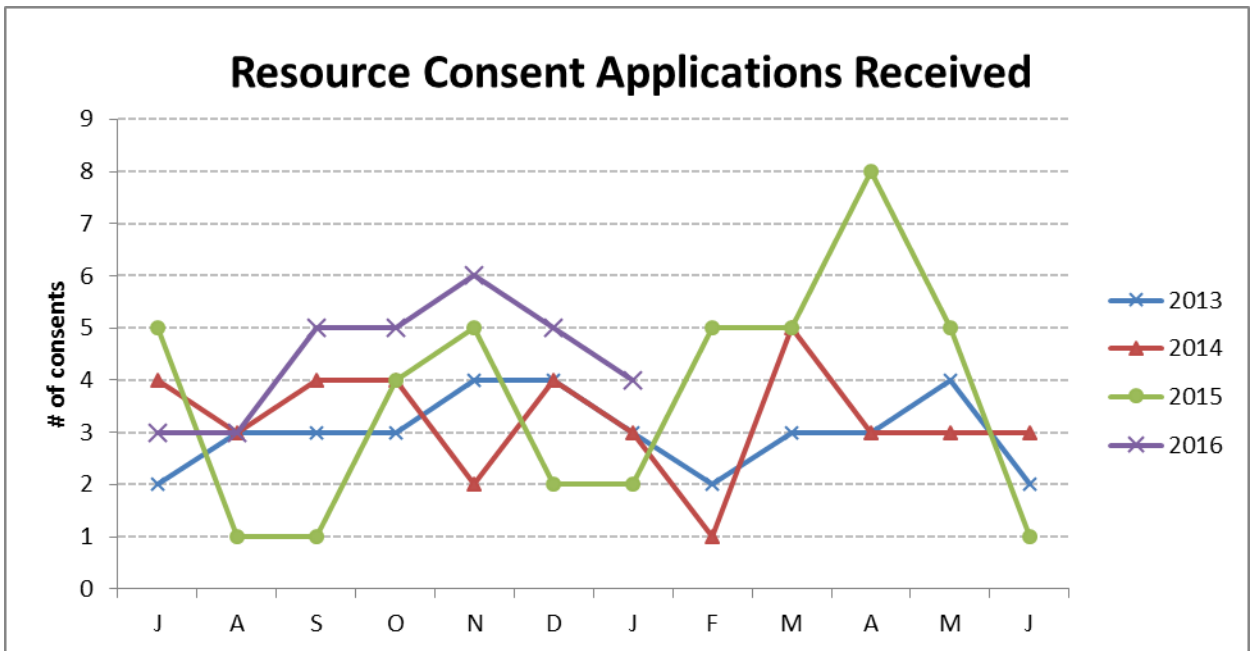
- **Resource Planning**

Five (5) land use applications and four (4) subdivision applications were received in this reporting period.

All applications were considered to be for minor consent.

The RJ Ross Family Trust subdivision application and Parsons Subdivision application will continue to be publically notified until the 11th of February.

C J Roberts Holdings Ltd and Lensan Trust visitor accommodation consent applications are currently being notified on a limited basis.



Prepared by	Lukas Aebli, Planning Officer
Authorised by	Angela Oosthuizen, Chief Executive Officer

• Resource Consent List Update

Resource consent update: from the 8th of December 2015 to the 5th of February 2016

Resource consent decisions issued:

Type of consent	Applicant	Address of activity	Number of Lots / Guests
Land use - Boundary set back	G Baynon	7 Kotuku Road	
Subdivision	S Abernathy	137 Torquay Street	2
Subdivision	M Fissendon	39 West End	2
Subdivision and Land use - Boundary	B Kunz	127 Scarborough	2
Subdivision	Okarahia	392 SHWY 1	3

Active consent applications currently in progress:

Type of consent	Applicant	Address of activity	Number of Lots / Guests
Land use - Earthworks in Archeological site	Sinclair & Hook	Valley Road, Goose Bay	
Land use - Site coverage	I Ling	13 Kotuku Road	
Visitor Accommodation	J Gartly	18 Whitby Place	8

Consent application currently being notified:

Type of consent	Applicant	Address of activity	No# of Lots / Guests
Visitor's Accommodation - Limited Not.	C J Roberts Holdings	12 Moa Road	6
Visitor's Accommodation - Limited Not.	Lensan Trust	119 South Bay Parade	8
Subdivision - Publically Notified	R J Ross Family Trust	1 Shearwater Drive	4
Subdivision - Publically Notified	Parsons	1234 SHWY 1	2

Consent applications awaiting receipt of further information requested from applicant or on hold:

Type of consent	Applicant	Address of activity	Number of Lots / Guests
Subdivision	Dr Heins Classics	213 Beach Road	4
Subdivision	Thomas	Inland Road	2
Land Use - Road setback	Kirk	26 Moa Road	
Land Use - Earthworks in Arch Site	KDC	Global for District	
Visitor Accommodation	Hammett	61 South Bay Parade	12
Visitor Accommodation	Page	128 Torquay Street	
Land Use - Earthworks in Arch Site	Slee & Bolt	42A Avoca Street	
Visitor Accommodation	Brown	39 Kotuku Road	8

• District & Environmental Planning

National Legislation

Resource Legislation Amendment Bill

The Minister for the Environment, Hon. Nick Smith, introduced to Parliament detailed reforms to environmental legislation that he says will support economic growth and housing development.

The Resource Legislation Amendment Bill encompasses changes to the Resource Management Act, Reserves Act, Conservation Act, Public Works Act, Environmental Protection Authority Act and Exclusive Economic Zone and Continental Shelf Act and aims to reduce costs and delays to planning decisions through reduced bureaucracy, reduced rights of appeal, greater national consistency and enhanced legislative cohesion.

Reduced bureaucracy is intended to be achieved through measures such as easier consenting for simple consents, national planning templates, alignment of RMA, Conservation Act and Reserves Act processes and increased regulation-making power to direct councils to fix consenting fees, permit certain land uses and prohibit plans from duplicating or overriding functions of other Acts, such as the Building Act, for example.

- Increased Māori participation
- Changes to plan making
- Changes to consenting
- Court powers
- Process alignment

Other notable changes include:

- New section 6 matter of national importance "the management of significant risks from natural hazards" (*this is the only change to Part II which is the Purpose and Principles of the Act)
- Sections 30 and 31 amended so it is a function of regional councils and territorial authorities to ensure sufficient residential and business development capacity to meet long term demand
- The function of regional councils and territorial authorities to manage hazardous substances is removed
- Amendments to Public Works Act to make land acquisition process and compensation fairer and more efficient

There are a range of significant procedural and process related changes in the Bill that could have a material impact on the effectiveness of the RMA and other Acts, which will be of great interest to the members of the Resource Management Law Association and the community in general.

A full submission will be presented in the March report for endorsement by the Committee.

Broadband

No further information has been received from MBIE at the date of this report. Local Government New Zealand advised on 4 February:

“...MBIE has written a letter to all councils that put in a registration of interest for the UFB/rural broadband programmes and mobile blackspot fund, providing an update on the process. The letter should have gone out last night and will go to the nominated contact, plus the CE.”

Canterbury Regional Council

Natural Resources Regional Plan – Air Section

A hearing was attended in Christchurch on 25th November 2015, decisions are now awaited it is anticipated that Kaikoura will remain outside of the special requirements of the Clean Air Zone.

Land and Water Regional Plan – Plan Change 4

Evidence has been filed as requested by the hearing commissioners. Hearing date of 29 February has been set. The key issues direction from the submission is that small water supplies which service point 1 -5 below require additional protection.

1. All premises which require licences or a Food Control Plan under the Food Act 2014
2. All camping grounds registered under the Camping Ground Regulations 1985
3. All properties which provide for accommodation for 5 persons or more
4. All existing Council Water Supplies which may be used for domestic use
5. Marae

The protection provided if the plan change is successful will result in a number of activities being permitted, including pit toilets provided more than 25m away.

A copy of the evidence has been circulated via email.

Canterbury is Tourism Business Friendly

The Mayoral Forum has tasked key growth aspects for Canterbury’s development to each of the districts territorial authorities. Kaikoura with support of Christchurch City has been tasked to ensure that Canterbury is tourism business friendly.

To gain feedback from the industry a survey has been sent to Regional Tourism Offices (RTO) and District Tourism Offices (DTO) and then each RTO and DTO asked to select a number of tourism providers.

The survey consists of the following open questions:

1. Are there any good rules that you would like to see Canterbury wide?
2. Are you aware of any specific local government regulations that impact negatively on the success of your business?
 - (i) Which one?(i.e. name it)
 - (ii) Why and how does (i) cause negative impacts?
 - (iii) If improvements can be made what are the improvements?
3. Please list below one other Council activity besides regulations that affects the success of local tourism businesses and tell us why (e.g. quality of Council infrastructure such as roads,

footpaths, water supplies, stormwater and sewage, investment in events, cultural activities etc)?

4. Please list below any wider (regional or central) government regulations that impact negatively on the success of local tourism businesses and why?

The response to the survey has been very poor. It is likely the poor response is due to the busy tourist season.

Earthcheck

Earthcheck Certification has been granted for 2016. A release to the public on Kaikoura's achievements will go out this week.

Waste Audit

A second waste audit has been carried out. Thanks to those Councillors that were able to volunteer. Results from the audits will be collated with a final audit, and used to review Kaikoura's Zero Waste Plan.

Food Act 2014

Changes to the Food Act were implemented in 2014. These come into effect in 2016. Most of the new requirements relate to reporting and verifying information. Staff will work with our contracted Environmental Health Officers to ensure the transition to the new Act is as easy as possible for businesses.

Kaikoura Integrated Health Facility

Work is continuing on the frontage and car park areas with kerb and channel now being installed. The Helipad may now require some upgrading, and staff are working with Canterbury District Health Board to ascertain what may be required in the area.

New Staff

We welcome Lukas Aebli to the Resource Consent Planning role, Catherine Ford to the Animal Control role and Celeste Harnett to the Building Administration role.

Marine Protected Areas

The Government is seeking feedback on its proposed changes to the way they provide for and manage marine protected areas in New Zealand. There is a fear this may erode the protection afforded to Kaikoura's Ocean Environment under the Kaikoura Kaikōura (Te Tai o Marokura) Marine Management Act 2014. Submissions are due by Friday 11 March 2016. A full submission will be presented at the next Council meeting for ratification.

Prepared by	Matt Hoggard & Rachel Vaughan, District Planners
Authorised by	Angela Oosthuizen, Chief Executive Officer

- **Environmental Health**

**CAMPING GROUND REGULATIONS 1985
FACILITIES CATERING FOR SELF-CONTAINED MOTOR HOMES**

BACK GROUND

During 2015 an approach was made by a property owner next to the Pier Hotel to utilise the property to allow fully self-contained motor caravans to stay on the site for temporary periods of time.

Such a facility would require considerations pertaining to the Resource Management Act 1991 and any related council District Plan rules, and the Camping Ground Regulations 1985.

This was the first application of this type in Kaikoura and required careful consideration and consultation with other organisations who had already been involved in such applications in other locations in New Zealand. There were three organisations that were used as the basis for the decision to approve the Ranui application. They were Southland District Council, Selwyn District Council and the New Zealand Motor Caravan Association Inc.

The Southland District Council processed an application for a camping ground catering for motor caravans and in doing so the Environmental Health Officer considered reports from the NZMCA and its lawyers, Gallaway Cook Allan, who provided an interpretation of the Camping Ground Regulations 1985.

The documents and information considered by the Kaikoura District Council's Environmental Health Officer included:

1. Health Act 1956 and Camping Ground Regulations 1985
2. Resource Management Act 1991 and the Kaikoura District Council District Plan
3. NZMCA application to Selwyn District Council for Resource Consent - Motor Caravan Park – Jones Road, Rolleston.
4. Environment Court Decision – between Christchurch International Airport and Selwyn District Council – Motor Caravan Park – Jones Road, Rolleston.
5. Gallaway Cook Allan legal interpretation of the Camping Ground Regulations 1985 and the regulations that could be exempt for a motor caravans facility – for the Southland District Council application by NZMCA
6. Southland District Council Environmental Health Officer assessment report identifying the specific regulations – those that require full compliance and those that are exempt.
7. Explanatory Commentary – The Camping Ground Regulations 1985 including the “Foreward” statement made by the then Hon Michael Bassett, Ministry of Health regarding the purpose of the regulations and explaining that considerable flexibility has been given to both the occupier of the camping ground and the local authorities by way of exemptions which can be given both to the occupier of the camping ground, and to the owners of relocatable homes.....

The Ranui Cottage intended use was not considered to present any public health issues given that the users are self-contained motor homes that have the necessary sanitary facilities, waste would

be disposed of in a sanitary manner at the Council's motor homes waste station in South Bay, the water supplied is from KDC community drinking water supply and the motor caravans would be staying on the property for temporary periods of time.

A certificate of registration under the Camping Ground Regulations 1985 was issued to Ranui Cottage. The registration certificate has pertinent conditions which are relevant to that type of use.

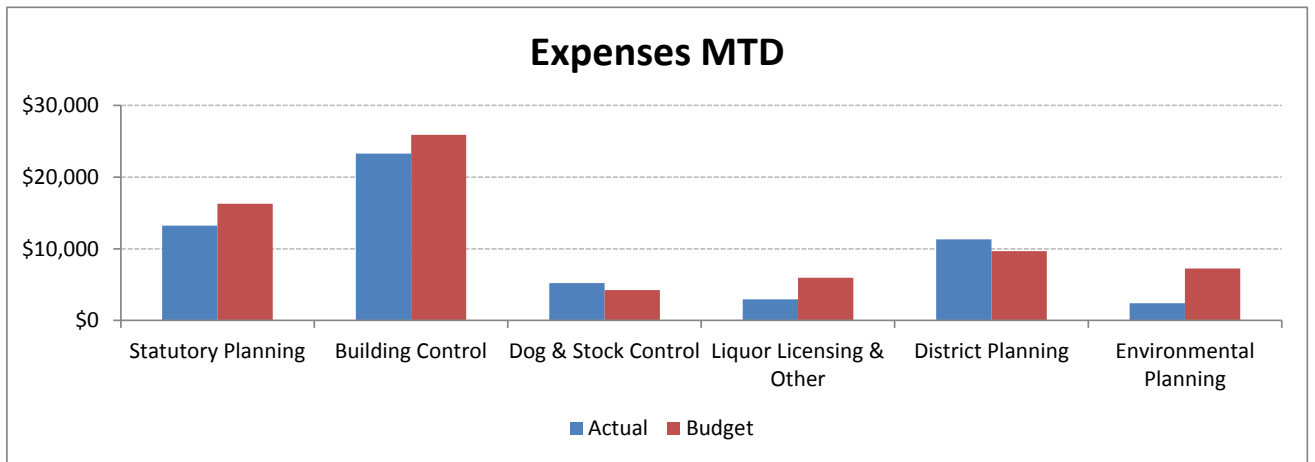
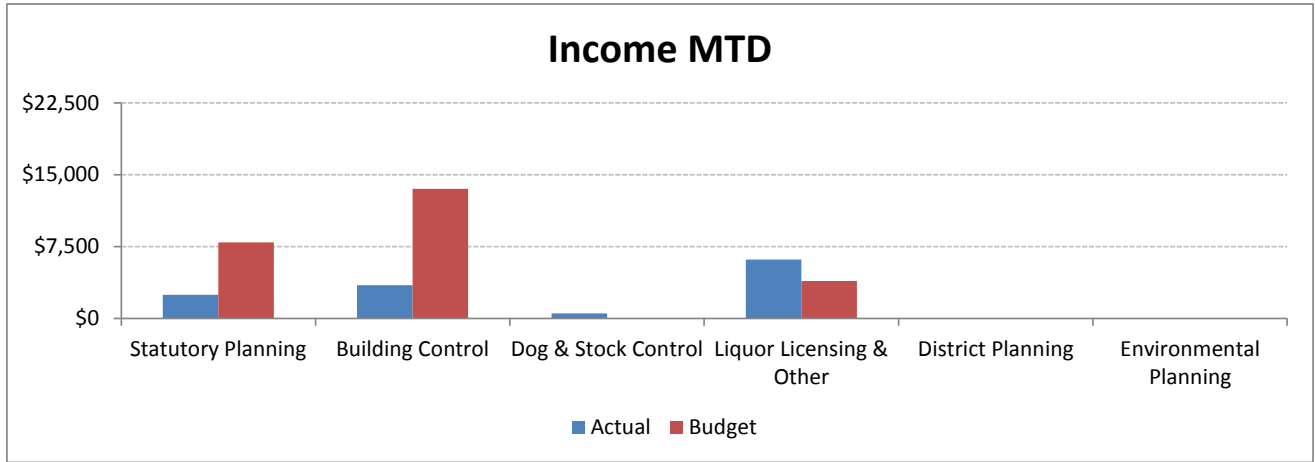
The report will be presented in more detail, along with supporting documents, at the Council meeting.

Signed:

A handwritten signature in black ink, appearing to read 'I. Shaw', written in a cursive style.

Ian Shaw
Senior Environmental Health Officer

Environmental Services Budget Report



KAIKOURA DISTRICT COUNCIL

**OFFICER'S REPORT TO THE ENVIRONMENTAL
SERVICES COMMITTEE**

OBJECTION UNDER SECTION 357 OF RMA 1991

Application Number:	12/2015/20
Applicant:	Waikoura Springs Ltd
Consent Sought:	Land Use
Address of Activity:	90 Mill Road KAIKOURA
Legal Description:	Lot: 2 DP: 11440
Valuation Number:	21070/25007
Lapse Date:	23/07/2020

1. INTRODUCTION

Council has received a letter from Mr Scully and Ms Shanahan which raises concerns with a number of conditions for resource consents issued for the property. Although the applicant's letter does not refer specifically to section 357 of the Resource Management Act 1991 I believe it should be seen as an objection to the conditions of the above resource consent.

A copy of the letter is attached for reference.

Under the existing delegations, the Environmental Services Committee has delegated authority to hear objections under section 357 of the Act in respect of resource consent conditions imposed by the Hearings and Applications Committee. This objection is therefore referred to this Committee.

The letter raises concerns with conditions 3, 4, 5 and 7. Given the details of the letter, I have addressed conditions 3, 4, 5 and 7. The last point of the letter is a matter to be dealt with by Environment Canterbury. I have forwarded the objection to Environment Canterbury for comment.

Each of these matters is addressed in turn in the analysis below.

2. ANALYSIS

Ministry for the Environment suggests a five step process to ensure that conditions are appropriate. These steps are as follows:

1. *Easily Understood*
2. *Fair and Reasonable*

3. *Consistent*
4. *Relevant*
5. *Enforceable*

2.1 Condition 3: A maximum of 300 total poultry on the site at any one time.

The Officers Report states:

Notwithstanding the rural zoning on the site, the activity is considered intensive farming in the Kaikoura District Plan. The activity is considered Intensive by the District Plan definitions, as it is:

- *more than 50 adult poultry and,*
- *the predominant productive processes are not dependent on the soil characteristics of the site on which it is situated*

In my opinion that the scale of the activity (being up to 300 poultry) is not in itself considered to be excessive for a rural site. The problematic issue on this site is that it is only 1.38ha in area. In terms of the application, the site area becomes an issue, as it creates a density which makes neighbouring properties very sensitive to activities on this site and reduces the separation between the neighbours and any activity on the site. Thus making any perceived effects more apparent.

This site is smaller than the minimum lot size in the rural area. This site size means that there is reduced separation distance for any activities on these neighbouring properties, which may mean effects are felt on neighbouring properties. In addition, this may limit future activities on neighbouring properties, due to separation distances in the District Plan. For example, the rule which requires a 50 metre setback for residential activities from farming activities may limit the undeveloped site to the north in the future. In addition to the small size of the site, the site is already largely used for a koura farming business. This is relevant as it restricts the available area for this chicken farming activity.

Due to the available area, in my opinion, the birds should be limited to the areas shown on the site plan indicated by the applicant and a condition is recommended to this effect.

Given the size of the site and the risk that a larger operation could impact neighbours, it is sensible to restrict from future expansion on the site unless circumstances change. In my opinion, suggesting a condition limiting the activity to 300 poultry on the site will ensure that any expansion of activities would require a change in condition to this resource consent and the appropriateness of the site could be considered by Council.

The Committee agreed with the assessment. The applicant wishes to undertake two activities on the site, one being the freshwater crayfish aquaculture activity and the other being the free range egg production. As much of the site is already covered in crayfish ponds, restricting the number of birds is to protect the amenity of the neighbouring properties.

If the Committee are satisfied that the additional ducks will not have an impact on neighbouring properties they may uphold the objection.

Recommendation: Uphold objection – amend condition.

A maximum of 300 total poultry for egg production purposes be kept on the site at any one time.

2.2 Condition 4: The poultry on site shall be limited to egg producing poultry and one rooster

In the other matter of a flock of broiler chicks. The application did not state that additional activities such as broiler chicks would be raised nor that roosters would be kept to raise chicks. The application stated that all birds would be brought in from offsite, and that chicken raising activities would not occur.

In my opinion, this is a change to the application, and would be more appropriately considered as part of a variation to the resource consent or a new consent application. The addition to the activity is outside of the scope of the original application and this may have impacted on the submissions to the application.

Recommendation: reject objection – uphold condition

2.3 Condition 5 States: There shall be no slaughtering or processing of poultry for meat on the site.

This is an activity that was not discussed in the application. I am satisfied that the applicant can as of right undertake this activity as part of normal farming activities but must comply with the waste management plan condition to ensure there are no health nuisance or vermin issues that may affect neighbouring properties.

Recommendation: Uphold objection – amend condition

There shall be no slaughtering or processing of poultry for meat for sale on the site.

2.4 Condition 7 states: Prior to discharge of the water from the Koura ponds to Lyell Creek, the applicant shall test for the presence of Escherichia Coliform bacteria as an indicator of faecal contamination. If the bacteria are present above the Microbiological Assessment Category (MAC) definitions of 261MPN/100ml, the pond water should be filtered to ensure no contamination of Lyell Creek occurs.

The condition originally suggested that bacteria discharge be kept below a background level. I'm not sure the applicant fully understands the implications of what they are suggesting. It seems that this condition is outside the functions of District Council's under Section 31 of the Resource Management Act and the condition can be deleted.

Recommendation: Uphold objection – delete condition:

Using MFE's five step process I comment as follows:

1. *Easily Understood*

Conditions 3, 4, 5 and 7 are easily understood and the conditions are not being appealed due to ambiguity.

2. *Fair and Reasonable*

It is my opinion that conditions are fair and reasonable as the applicant is seeking to intensively develop a rural site where there may be affects on neighbouring properties. The conditions were recommended from the information contained in the application.

3. *Consistent*

Conditions on similar applications should contain similar conditions. Although Council has had no applications that seek to develop a rural site so intensively, the District Plan contains enough guidance to allow consistent consideration of such activities.

4. *Relevant*

The conditions are relevant as the condition relates directly to the requirements of the Resource Management to contain effects on the subject property.

5. *Enforceable*

No concerns have been raised about the enforceability of the conditions in the objection.

2.5 Case Law

Arnott v North Shore City Council – A1/2000

The Court applied three principles that consent conditions should follow:

- (i) They must be for a resource management purpose, not for an ulterior one;
- (ii) They must fairly and reasonably relate to the development authorised by the consent; and
- (iii) They must not be so unreasonable that a reasonable planning authority duly appreciating its statutory duties could not have approved it.

It is considered that conditions 11 and 12 are consistent with this case law. The purpose of the condition has been discussed above, other consent authorities use special orders to require financial contributions. These contributions are based on reasonable level of contributions necessary for the upgrade of Council services necessitated by the change in accommodation type from long to short term.

Recommendation:

With due consideration of the above, it is recommended that the objection be allowed to the extent that:

- ***Conditions 3, 5 and 7 of the land use consent be amended, and***
- ***Condition 4 be upheld.***

Prepared by	Rachel Vaughan, District Planner
Authorised by	Angela Oosthuizen, Chief Executive Officer

Resource Consent appeal of application 12/2015/20

3/. Re a maximum of 300 total poultry

a/. Several times, and generally in spring, wild ducks have entered our netted ponds. This appears to be for breeding. After the young have reared, the family generally depart. They are of curiosity interest to us and we treat them humanely. However we neither feed them, nor profit, financially, from their presence. We request that this small number of wild duck, which is presently approx. 10, are not included in the permitted number of poultry of 300.

b/. We have presently approx. 20 dabbling ducks, being Muscovies and Indian Runners, on our ponds for the primary purpose of biological control of predators. These predators are tadpoles and dragon fly larvae. They also seems to be preventing floating aquatic weeds from establishing. Apart from throwing grain onto the pond to feed the koura, which the ducks do and don't take an interest in, we have no feeding management systems to cater for these ducks. We do collect a small number of duck eggs from nestings in the raupo grass. This number fluctuates and with a maximum to date is five per day. However this is a small benefit to us, and duck eggs are harder to clean. The main importance of keeping ducks is biological control of insect predators and macrophytes, and we therefore request that these ducks are not considered in our RC for poultry of 300.

Presently we have approx. 3,600 sq m surface area of ponds, and intend developing to 5,600 sq m of ponds. We therefore request that our application for ducks for predator control be considered for this future development, and to be a total of 30.

4/. The poultry on site shall be limited to egg producing poultry and one rooster.

I would like to have, within our RC of 300 poultry, to have approx 10 boiler chickens and one rooster, to maintain a population for home kill consumption.

Apart from one rooster to maintain a flock of 10 broiler chicks, I would like to be able to keep two roosters for breeding purposes. I maintain that I can keep these three roosters in separate netted compounds. Each of these is at least 100 metres from our sensitive neighbours. These are

a/. small pond one and

b/. small pond two/three/four (both in far north west of property)

c/. NW netted pond(s) ie when developed.

Ducks for predation control. Male ducks are referred to as drakes, not roosters. Appreciated if they were accommodated for.

5/. Appreciate addition of the word "for sale" to this sentence. I would like to be legally entitled to slaughter poultry for our domestic consumption, and also for culling stock

7/. Two tests for EColi taken gave a result of 100 and 2,140 MPN. I took both these samples at our pond discharge point.

Why the difference in sampling? I can think of

a/. a passing duck

b/. that by walking into the pond to take the sample, that I could not avoid stirring up the pond bottom and create a plume of sediment, and which was part of the sample.

Therefore I would like to discuss a different management resolution to not pollute the creek with faecal matter.

I suggest that all pond water is screened. FYI we presently do this with 2mm holes to prevent farmed koura from entering the creek and mixing with wild stock.

I am also interested in being a good environmental citizen and voluntarily putting our pond discharge water through a sprinkler system over riparian growth on the creek banks. This means multiple discharges of small outlets over a length of bank of 50 metres (and on both banks).

I request that we do this and waive the requirement to undertake EColi testing.