

FAQ'S *(continued)*

I have an existing resource consent up for replacement soon. Will a decision take longer than usual?

It is likely that the resource consent application process will take longer. New consent applications were on hold pending the Plan becoming operative. In most instances, decisions will need to be made on the called-in consents prior to decisions on any subsequent applications. It is important to note that a replacement application needs to be lodged at least six months prior to the expiry of the existing consent to enable exercise of that consent to continue. Replacement consents will be processed according to the requirements of the Plan.

Will replacement consents be treated any differently to new applications?

Yes and no! There is no right of renewal of resource consent and replacement consent applications do not have priority over new applications. However, Policy 28 of the Plan recognises the investment of existing consent holders and provides for replacement consents to be in the same allocation limit and priority band as the original consent.

How will priority be determined and how/when will I find out where my application is positioned in the priority queue?

Environment Canterbury is currently seeking legal advice on how to determine priority order. This is more complex in the Waitaki Catchment than in other catchments given the history of call-ins, previous public notifications and the need for applicants to provide more information in response to the Plan. Once priority lists have been determined for each part of the catchment, these will be provided to applicants. Please note that the determination of priority order will be made by the resource consent decision makers.

Will hearings for consent applications be held in order of the priority queue?

Not necessarily. What is critical is that decisions are made based on the priority queue. Consent applications can be considered at a hearing in any order.

The Plan can be viewed Environment Canterbury's website: www.ecan.govt.nz/our+environment/water/

Notes on the use of consultants:

The advice in this newsletter summarises quite complex technical and legal processes and may not apply to all situations. This advice is not intended to be legal advice and should not be relied upon as the sole basis for making important resource consent process decisions. We recommend that all water permit applicants use an experienced technical and/or legal consultant.

Environment Canterbury does not recommend any particular consultants. We can provide a list of names and contact details on request. We do recommend you choose qualified, experienced consultants with a proven track record that demonstrates that they understand the relevant technical and legal issues involved in the implementation of regional plans.

Will new applications to take water from the Waitaki be notified? If so, when?

Environment Canterbury is currently determining how much of the resource is allocated to existing consent holders. This will have a bearing on whether consent applications will be publicly notified. If your consent has already been publicly notified, you can expect that it will be re-notified under the Plan. Generally, if the effects of a resource consent application would be less than minor and no person would be adversely affected then an application can be non-notified. These thresholds are significant and it is worth noting the RMA default in the case of uncertainty is to notify.

I have submitted on a consent application but hear that it may be re-notified. Will my submission still be considered or will I need to resubmit?

Yes, your submission will be considered but you may wish to resubmit if there is anything you would like to add to your original submission.

If my resource consent application has to be re-notified, do I have to pay again?

The Ministry for the Environment has met the cost of the previous public notification. Consequently the cost to the applicant will be as if the resource consent was being notified for the first time.

The Plan sets annual allocation limits. How will annual allocation limits be implemented and measured?

If they have not already done so, applicants for water permits will be asked to specify an annual volume of water they would like applied to their consent.

The volume requested will be assessed against the Plan's policies including those on efficient and effective use (policies 15 to 20). If granted, a condition of the consent will most likely be that a suitable flowmeter be installed by the consent-holder to accurately measure and record the actual volume of water taken or diverted (see policy 21 of the Plan).



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Introduction

Waitaki RAP is a newsletter published by Environment Canterbury. It aims to keep people in touch with issues relating to the Waitaki Catchment Water Allocation Regional Plan (the Plan). This edition provides an update on the status of the Plan and outlines Environment Canterbury's plan implementation programme.



Announcement - Plan Operative

Following the appeals of Meridian Energy Ltd. and the MacKenzie Irrigation Company Ltd., the High Court issued a final judgement on 3 July 2006 incorporating changes in wording agreed to by all parties involved in the appeal.

This made changes to some of the rules relating to the transfer of consents in recognition of the non-derogation principle set by an earlier decision in the High Court in the case of Aoraki Trust Ltd. v. Meridian Energy Ltd.

This judgement means that the Waitaki Catchment Water Allocation Regional Plan is now operative. Environment Canterbury chairman Sir Kerry Burke has congratulated the Minister for the Environment on the achievement of a

statutory plan for the Waitaki River catchment, the Waitaki Catchment Water Allocation Regional Plan. Sir Kerry said. "It is now up to Environment Canterbury to implement this plan. Environment Canterbury has 220 deferred consent applications associated with new and existing water takes and water discharges in the catchment. These can now be processed," Sir Kerry said. "Some of these date back to 1998, with twice as many applications in the Upper Waitaki (above the main Waitaki Dam) as in the river system below the dam."

We will be working closely with the Ministry for the Environment and the Otago Regional Council to ensure that procedures are as seamless as possible."

If you have a general question (as opposed to one specific to your consent or application) and it has not been answered above, check out Environment Canterbury's website www.ecan.govt.nz, email us at info@ecan.govt.nz or contact Environment Canterbury's Customer Services on 353 9727 or 0800 EC INFO (324 636) and our Customer Services staff will help.



Waitaki Rap is also available electronically.

If you are keen to receive Waitaki RAP via email or know someone else who would like to be added to the distribution list, contact Environment Canterbury's Customer Services at 0800 EC INFO (0800 324 636) or email info@ecan.govt.nz. You can also contact us if you want to be taken off our mailing list.



Key objectives of the Plan

The Plan consists of policies, objectives and methods to provide for the following:

1. To sustain the qualities of the environment of the Waitaki River and associated beds, banks, margins, tributaries, islands, lakes, wetlands and aquifers;
2. To the extent consistent with objective 1, to enable communities to provide for their social, economic and cultural and their health and safety by providing water for their needs;
3. In allocating water, to recognise beneficial and adverse effects on the environment and both the national and local costs and benefits;
4. To promote the achievement of a high level of technical efficiency in the use of allocated water;
5. To provide for a practical and fair sharing of allocated water during times of low water availability.



Consent-holders and potential consent-holders

New Applicants

As outlined above, the implementation of this Plan will first affect those who have lodged consent applications. These will be subject to specified environmental flows and to rules relating to the cumulative effects on the environment, including the effects caused by the way in which that water is used. If you haven't yet lodged an application but intend to or would like to make changes to one that is pending, please bear in mind that this may place you at the end of the priority queue (depending on the extent of your proposed changes).

Existing consents that expire within five years

All existing consents in this category will be considered under the Plan if and when an application is made for a replacement consent. In some cases, there is a potential for consent applications to be declined if they do not comply with the Plan.

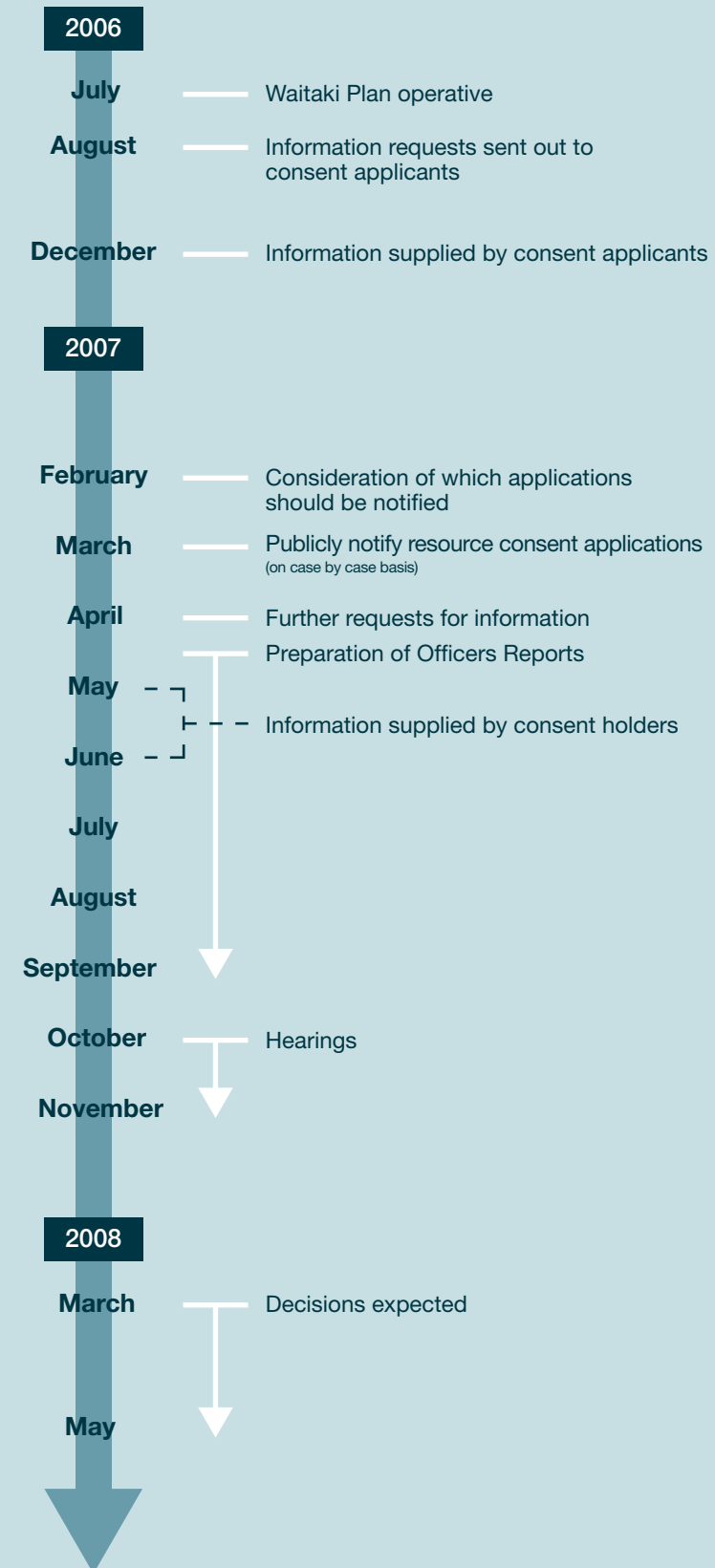
Existing consents with more than five years remaining

These consents will be reviewed and you may be asked for additional information to assist in this process. However, the new environmental flow regime cannot be applied to this category of consent for a minimum of five years in the majority of the Waitaki Catchment or for seven years in the Maerewhenua Catchment.

Timing

The timeline on the right shows the key milestones in the implementation of the Plan. Please be aware that some of the processes involved have many factors contributing to their completion, including due process and input from organisations outside the direct control of Environment Canterbury.

Timeline



FAQ'S (Frequently Asked Questions)

We have based the following FAQ's on a combination of actual enquiries received and those we anticipate might become common.

Will existing consents be reviewed to require compliance with the minimum flow and level regimes in the Plan?

Not for some time. Rule 25 of the Plan prevents such action until seven years after the Plan becomes operative in the Maerewhenua catchment, and for five years for the remainder of the Waitaki catchment. After that time, Environment Canterbury is likely to implement the minimum flow and level regime within the Plan for existing consents by reviewing those consents.

What does a consent review involve?

A consent review is initiated under section 128 of the Resource Management Act. A notice is then served on the consent holder by Environment Canterbury. If you receive such a notice, you may be invited to propose new consent conditions and will be given 20 working days to do so. From there the process is similar to the standard resource consent process, with Environment Canterbury required to make a decision regarding public notification, followed by a grant or decline decision some time later. The outcome of the review can be appealed or objected to in a similar way to decisions on resource consents applications.

NB: There is currently no charge to the consent holder for reviewing existing consent conditions in order to implement the minimum flow and level regime in the Plan.

I have not specified a minimum flow in my consent application. Is it important for me to do so?

Yes, it is important that you inform Environment Canterbury of the minimum flow you wish to see applied to your consent. If you agree for the minimum flow in the Plan to apply to your consent, it will be processed as a discretionary activity. If you wish for a lower minimum flow to apply, your consent will be processed as a non-complying activity. It is more difficult to get consent for a non-complying activity, which requires a more rigorous assessment to be made.