

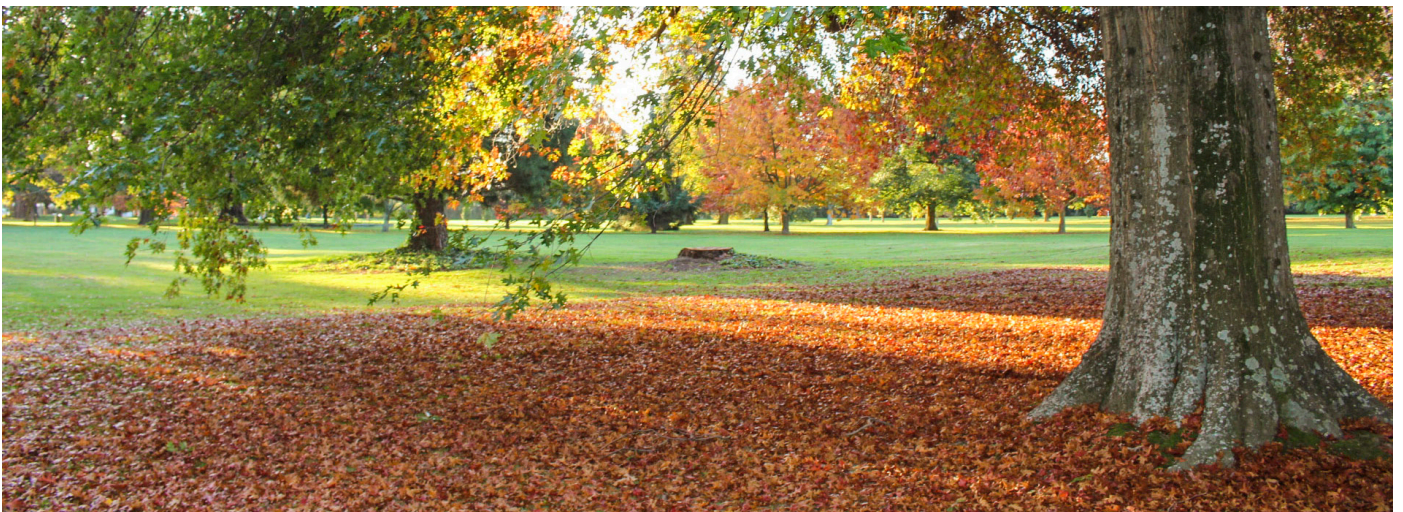
JUNE 2024

Welcome to our Winter Edition Newsletter

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This Resource Consent Team Newsletter provides information to assist those in the industry and their clients with respect to resource consent matters. It is not an exhaustive explanation of the matters that may be covered but a starting point for better understanding. If you seek specific information or advice you should consult a professional for bespoke guidance for your situation, or feel free to contact Council via the Duty Planning service on Council's website.



Reminder - Requirements of Section 87BA (DPBA)

We would like to remind all applicants and agents of the requirements of Section 87BA for Deemed Permitted Boundary Activities. Under the Resource Management Act the Council is required to strictly enforce the below requirements for this type of application.

Section 87BA states:

- “A boundary activity is a permitted activity if—

- (a) the person proposing to undertake the activity provides to the consent authority—

(i) a description of the activity; and

(ii) a plan (drawn to scale) of the site at which the activity is to occur, **showing the height, shape, and location** on the site of the proposed activity; and

(iii) the full name and address of each owner of the site; and

(iv) the full name and address of each owner of an allotment with an infringed boundary; and

(b) each owner of an allotment with an infringed boundary—

(i) gives written approval for the activity; and

(ii) **signs the plan referred to in paragraph (a)(ii);** and

(c) the consent authority notifies the person proposing to undertake the activity that the activity is a permitted activity.

(2) If a person proposing to undertake an activity provides information to a consent authority under this section, the consent authority must,—

(a) if subsection (1)(a) and (b) are satisfied, give a notice under subsection (1)(c); or

(b) if subsection (1)(a) and (b) are not satisfied, notify the person of that fact and return the information to the person.”

This requires a minimum of a site plan and elevations to be provided and signed by the affected party to show the height (Elevation), shape (Elevation) and location (Site Plan). If this information is not provided, the application will be returned with details of why the application was returned in accordance with Section 87BA(2)(b).

Additionally, a Deemed Permitted Boundary Activity is not appropriate to address non-compliance with a boundary rule in relation to a proposed boundary of an approved subdivision before titles are issued.



Duty Planner Service

The refreshed duty planner service is now performing at a very high level and continues to fully meet customer demand.

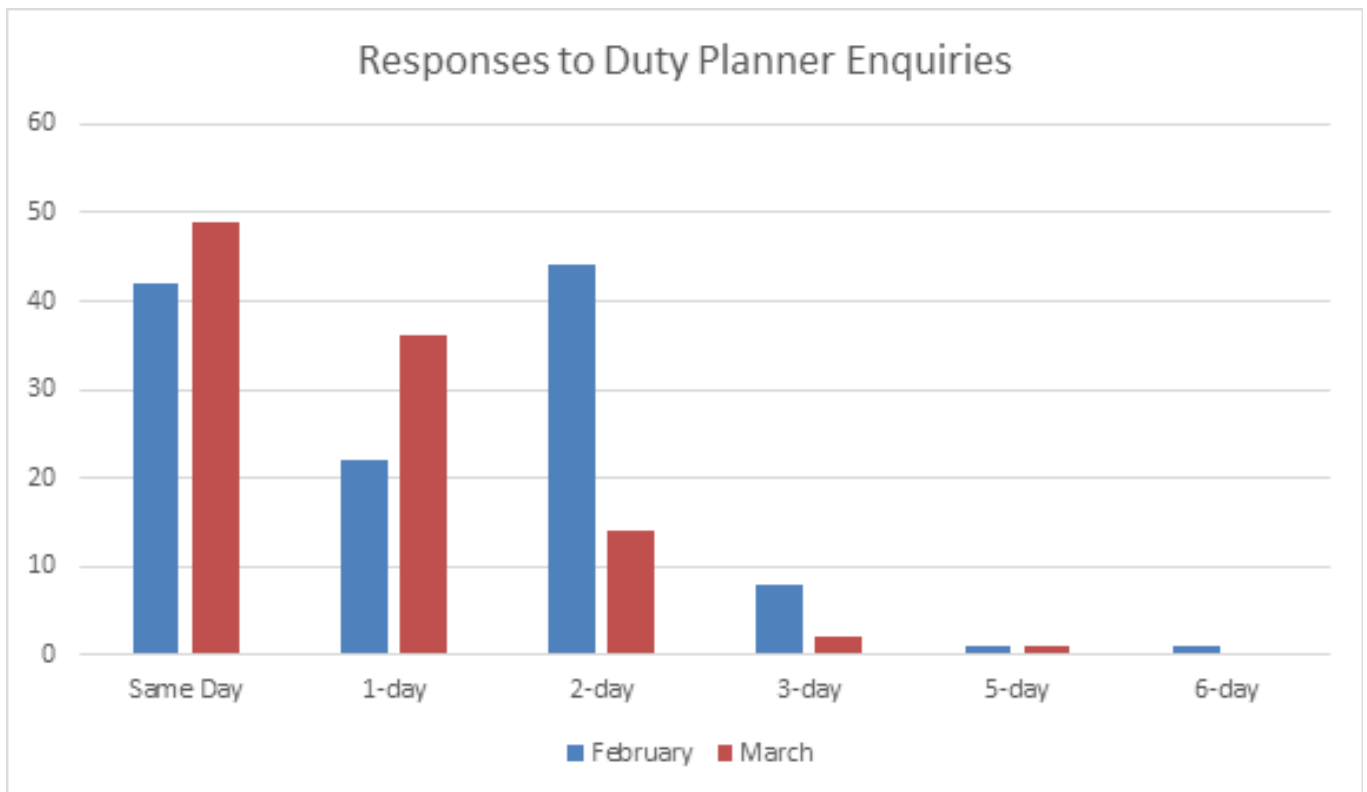
Duty Planner Service February Stats

The Duty Planner Service received 117 queries in February. 54.8% of responses to enquiries were within one working day, 92.4% of responses were within two working days, 99.2% of responses were within three working days and 100% within five working days.

Duty Planner Service March Stats

The Duty Planner Service received 103 queries in March. 82.4% of responses to enquiries were within one working day, 96% of responses were within two working days, 98% of responses were within three working days and 100% of responses were within six working days.

The duty planning service is available to assist members of the public with specific and general Resource Management Plan enquiries.



Practice Update - Erosion and Sediment Control Plans

Resource consent applications will be required to include erosion and sediment control plans (ESCP) when associated earthworks have the potential to cause adverse effects. This will ensure there is sufficient information available to assess the effects of the proposal, and the ability to avoid, remedy or mitigate these effects. An adequate ESCP is especially important when a work site is discharging dewatering water into nearby spring fed streams where water quality is very high. In these circumstances the ESCP needs to detail how very fine sediments are going to be removed from the discharge before it enters the waterway.

Use of flocculants or coagulants needs to be specified and what their effects on the downstream waterway will be. This requirement is necessary as there have been too many instances of inadequate sediment control in earth works and similar projects, which have either had adverse effects on waterways or the consent holder has come to Council requesting an immediate change to their ESCP because they have found their original control measures were inadequate.

Living Tiny Can Have Big Costs

As the cost-of-living increases, alternative and lower cost living arrangements like tiny homes are increasing in popularity. When considering if you could reside in a tiny home, located in an urban or rural environment, it is important to consider your obligations under the Resource Management Act 1991, Building Act 2004, and the Local Government Act 1974 to ensure your tiny home is lawfully established and avoid unexpected costs. Tiny homes can be purchased for significantly less than traditional homes; however, neglecting to address requirements for resource consent, building consent and development contributions can see the costs of living tiny increase significantly.

In Marlborough's urban environments, a tiny home could generally be established on allotments with between 290 to 450 square metres of available net site area, excluding access. The establishment of a tiny home in this area is subject to the Standards of 5.2.1 in Volume 2 Chapter 5 of the Proposed Marlborough Environment Plan (PMEP). Any shortfall in area or non-compliance with standards will require a resource consent and potential for affected party approvals or a costly notified resource consent application.

The construction or siting of a tiny home in any of Marlborough's urban environments will create additional demand on Council services, local roads, and parks and open spaces and will attract requirements for development contributions and additional rating costs. These costs are calculated by Council when an application for servicing a

development proposal is received and can be comparable to the cost of purchasing an entire tiny home upfront, with an additional rates payment required annually.

In Marlborough's Rural and Coastal environments, the PMEP controls the density of dwellings to protect the primary production capacity of the Rural Environment and to avoid urban sprawl. In the Rural Environment Zone, an allotment must be over 40 hectares in area to support a second dwelling or tiny home as a permitted activity and in the Coastal Environment Zone 60 hectares of area is required. Any deviation from permitted Standards regarding site area or building bulk and location will require resource consent. Rural tiny home living also requires consideration of any necessary discharge permits, water permits or bore construction consents which may be required to service a tiny home. Living tiny in the rural environment still requires the payment of development contributions for roading and reserves contributions; however, these costs total to significantly less than urban development contributions.

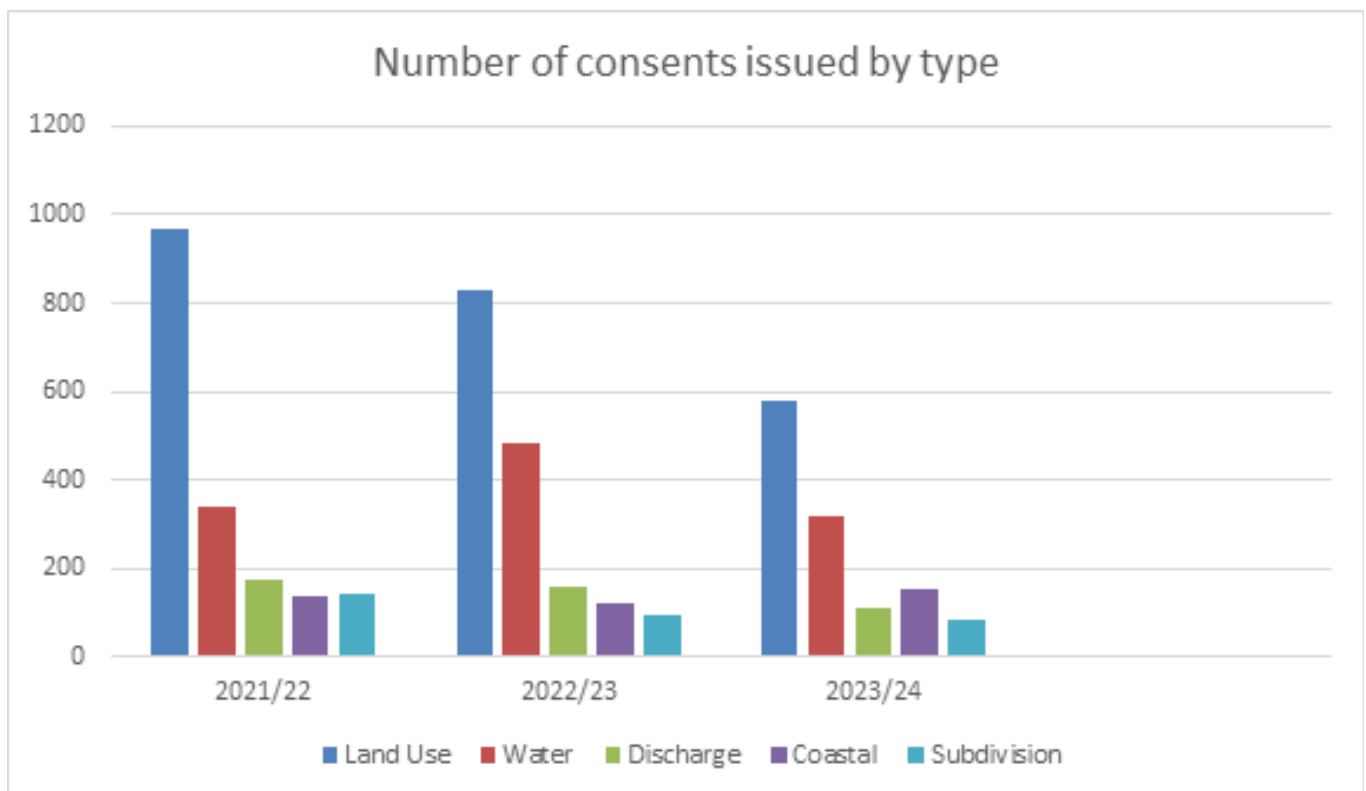
The construction of any habitable building or permanent service connections requires a building consent. If you are considering living in a tiny home, you should seek independent advice covering Building Act, Resource Management Act and Local Government Act matters. Failure to comply with the applicable legislation could result in compliance action and being required to remove the tiny home from the property.

Number of Consents Issued by Type

As Marlborough District Council is a unitary local authority, the RC Team process both regional and district consents to undertake activities that are not a permitted activity and may not occur “as of right” under the Resource Management Act 1991, or the various Plans governing the use of natural and physical resources in Marlborough and its coastal areas. The five types of consent processed by the RC Team are:

- land use consents;
- subdivision consents;
- water permits;
- discharge permits;
- coastal permits.

Many activities require more than one consent. A review of the number of consents by type over the last three financial years has shown that there has been an overall reduction in the number of consents processed but the percentage splits over the consent types have been relatively consistent.



When a resource consent application is received for an activity that requires multiple consents the application is allocated to a planner with experience in processing the application’s major consent type. The lead planner will then seek input/assistance from a specialist planner for the associated consents.

Out of Season Frost Fan Use

Frost fans are primarily used to protect budding and fruiting grape vines from frost damage between bud burst and harvest. Less common uses include protecting young vines to promote growth or preserving foliage volume as far into Autumn as possible. Frost fan use outside their typical operation window from bud burst to harvest is prevalent in years when frosts occur in early Autumn.

Operation of frost fans outside the period between bud burst and harvest has resource consent implications as both the Wairau Awatere Resource Management Plan and the Proposed Marlborough Environment Plan include in the controlled activity conditions or standards that a frost fan must only be operated from bud burst to harvest, or for maintenance or monitoring purposes. Adherence to these standards is required by the vast majority of frost fan consents in the conditions of consent and a copy of the rules is appended to the decision document. Therefore, out of season use of frost fans is not in accordance with vineyard operators resource consents for frost fans and may attract compliance action.

Out of season use of a frost fan may be approved by resource consent; however, this would not comply with the controlled activity standards of Rule 3.4.1 of the Proposed Marlborough Environment Plan and would require consideration as a discretionary activity. A discretionary activity requires a wider consideration of the effects of the frost fan beyond the matters of control listed in Rule 3.4.1 and the potential for adjoining neighbours to be deemed affected parties as a result of seeking to operate outside the limits set by the community through PMEP.

When seeking consent for a frost fan installation and operation, it is important to consider the desired use of the fan to ensure resource consent is acquired for all proposed uses of the fan.

Staff Profile



Autumn Faulkner

Autumn Faulkner has joined the team as Senior Legal Counsel – Regulatory. Her background is in law and policy across the private and public sector. Autumn will be assisting the team with legal advice as well as supporting the resource consent hearing process. Outside of work Autumn enjoys spending time with her young family, playing netball, and being actively involved in not-for-profit governance.

Next Issue out 1 September 2024