

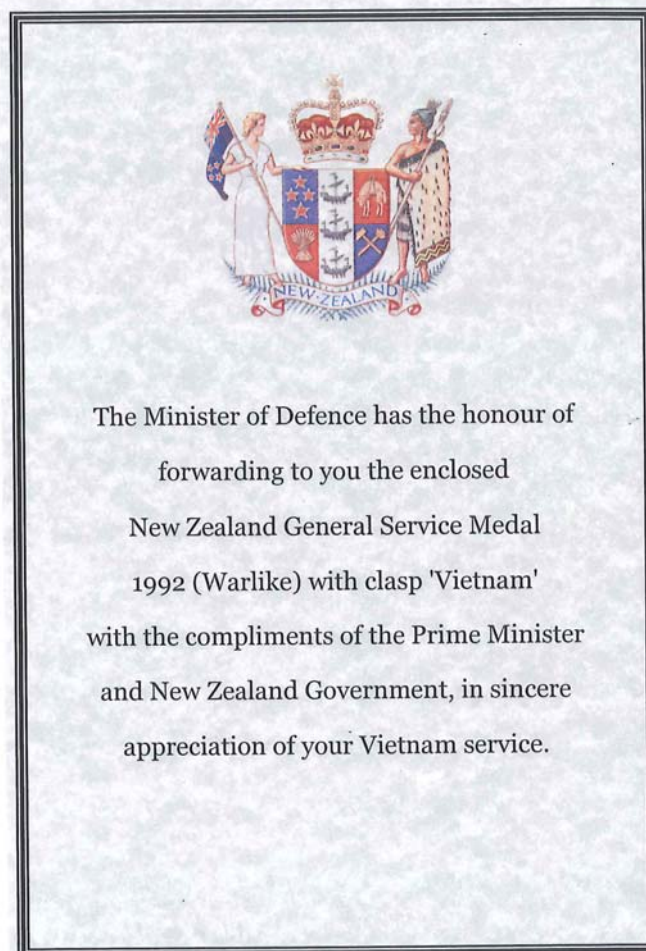
Planning & Regulatory Manager's Report – July 2008



General Service New Zealand Service Medal (Vietnam)

The Minister of Defence has recently awarded our Environmental Health officer, David Lawrence, a New Zealand General Service Medal (Vietnam), in appreciation of his service in Vietnam. This is in addition to the Operational Service Medal and the Vietnam Medal.

David served as a Medical Corpsman attached to the 161 Artillery Battery during 1970-71.



Accredited Building Consent Authority

On 27 May 2008 Waimate District Council was confirmed as an Accredited Building Consent Authority by certifying body, International Accreditation New Zealand. This achievement has been made possible following a year of process change and significant improvement.

Obtaining Building Consent Authority status is a terrific achievement. Staff have worked extremely hard to establish better practice in design, regulatory control and construction of buildings.

Waimate District is the 6th South Island Council to be accredited.

Accreditation means ongoing commitment as set out in the Building (Accreditation of Building Consent Authorities) Regulations 2006 (copy attached for Councillors information) and the Building Consent Authority Accreditation procedures and conditions.

Also the Building Consent Authority Management must undertake:

- To immediately notify International Accreditation of New Zealand of any significant changes in operations, facilities, procedures or staff, which are likely to affect accreditation
- To allow International Accreditation New Zealand access to Council's operations, facilities and procedures, for the purpose of reassessments from time to time
- To pay any costs relating to such assessments and related services as stipulated in relevant regulations.

Building Consent Guide

The Department of Building and Housing has issued a Guide to applying for a building consent (copy attached for councillor's information).

This guide is given out to people making enquiries etc regarding building new houses.

Outdoor Burning Canterbury Residential Areas

The Canterbury Regional Council has banned outdoor burning year-round on all residential properties in the Canterbury region. It is also banned on rural properties in the Christchurch, Rangiora and Kaiapoi clean air zones during winter and on rural properties near sensitive activities year-round. People who burn outdoors in these areas risk a \$300 fine.

Civil Defence Emergency Management Act 2002 – Power to Requisition

Below is an opinion from Peter W Mitchell, General Manager Regulations and Democracy Services, on whether or not Controllers can requisition a driver to operate a bulldozer or any piece of equipment in a Civil Defence emergency. There does not appear to be any case law on this subject at this stage.

Sections 90 and 91 of the Civil Defence Act provide:

“90 Requisitioning powers

- (1) *This section applies if a state of emergency is in force and, in the opinion of a Controller or a member of the Police, the action authorised by this section is necessary for the preservation of human life.*
- (2) *The Controller or member of the Police, or a person authorised by him or her, may direct the owner or person for the time being in control of any land, building, vehicle, animal, boat, apparatus, implement, earth-moving equipment, construction materials or equipment, furniture, bedding, food, medicines, medical supplies, or any other equipment, materials, or supplies, to immediately place that property (requisitioned property)—*
 - (a) *under his or her control and direction; or*
 - (b) *under the control and direction of a Controller or a member of the Police, or person authorised by that Controller or member of the Police, if that person has requested the person making the requisition to do so on his or her behalf.*
- (3) *A person exercising any power conferred on him or her by this section must give to the owner or person in charge of the requisitioned property a written statement specifying the property that is requisitioned and the person under whose control the property is to be placed.*
- (4) *If the owner or person for the time being in control of any property that may be requisitioned under this section cannot be immediately found, a Controller or a member of the Police, or a person authorised by a Controller or member of the Police, may assume immediately the control and direction of the requisitioned property.*
- (5) *If a person assumes the control and direction of requisitioned property under subsection (4), that person must ensure that, as soon as is reasonably practicable in the circumstances, a written statement specifying the property that has been requisitioned and the person under whose control it has been placed is given to the owner or person formerly in charge of the requisitioned property.*
- (6) *The owner or person in control of any property immediately before it is requisitioned under this section must provide the person exercising the power under this section with any assistance that the person may reasonably require for the effective and safe use of that property.*

91 Power to give directions

While a state of emergency is in force, a Controller or a member of the Police, or any person acting under the authority of a Controller or member of the Police, may—

- (a) direct any person to stop any activity that may cause or substantially contribute to an emergency:*
- (b) request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency."*

From these provisions the following points can be noted:

- a) A state of emergency must be in force.(S90(I))
- b) A Controller or a member of the Police must reach the view that the action authorised by section 90 to requisition is "...necessary for the preservation of human life." (S90(I))
- c) If that view is reached then the Controller or member of the Police, or a person authorised by him or her, may direct the owner or the person for the time being in control, to immediately place that property, in this instance, earth moving equipment, under the control and direction of the Controller or member of the Police if requested to do so.

In my view this power in section 90 is similar to the power that the Courts have held for many years that the Police have in certain emergency situations.

Those powers have been described as follows:

"The courts have held for many years in the development of the common law (that is that branch of the law as developed by cases) that with regards to Police the first duty of the Police is to prevent the committing of crime but also that there is a general duty to protect life and property".

In the text "Laws of New Zealand" the following is stated with regards to emergency powers in New Zealand:

"The Police have special emergency powers in certain emergency situations. Where a state of emergency is in force in any area, a member of the Police may require any premises or place to be evacuated, where such an action is urgently necessary for the preservation of human life.

Likewise a member of the Police may enter any premises or place where he believes that there are reasonable grounds that such action is necessary for saving life, preventing injury, rescuing or removing an injured or endangered persons, or permitting or facilitating the carrying out of any urgent measure in respect of the relief of suffering or distress.

During a state of emergency a member of the Police may also requisition certain property including land, buildings, vehicles, equipment or supplies.

The common law duty to protect life and property carries with it the authority to issue reasonable directions for that purpose. A refusal to comply with this direction may amount to the offence of obstructing a constable."

The same words regarding requisition and the reference to common law duty to protect life and property apply to the Controller, and any person acting in the authority of the Controller, as they are specifically referred to in Section 90. Parliament intended that the normal powers

of the Police to protect life and property be extended to the Controller in a Civil Defence emergency given the particular circumstances of an emergency.

In addition, section 90(6) provides the power to require assistance that may reasonably be required for the effective and safe use of property. In those situations it is common sense that if there is the power to requisition a bulldozer, then there is also the power to require the owner or person in control of the bulldozer to provide assistance in terms of section 90(6).

That conclusion is reasonable in order to make section 90 work. I do not see any other reason why Parliament would have intended that the Controller has a power to requisition the machine itself and not the means to require that an experienced operator manage the machine in an emergency.

My view is further reinforced by the fact that section 101 of the Civil Defence Emergency Management Act makes it a criminal offence for any person to intentionally fail to provide assistance in the terms of section 90(6). A statutory defence is provided if the court is satisfied that a Controller or member of the Police did not have reasonable grounds for believing that in all the circumstances of the case the direction of requisitioning in property was necessary for the preservation of life.

Clearly whether or not that is the case would depend on the facts of the particular circumstances. The penalty for a breach of section 101 is imprisonment for a maximum term of 3 months, or a fine not exceeding \$5000 for an individual. So Parliament is clearly intending that there be a significant sanction behind the power given to the Police and the Councillor in section 90 to requisition property and to require that any person provide assistance that maybe reasonably required where necessary to preserve life.

In conclusion Section 90 carries with it the provision for a Controller to requisition equipment, such as a bulldozer, and the power to require the driver to operate the bulldozer.

Food Control Plans

The New Zealand Food Safety Authority (NZFSA) is updating food laws to improve food safety statistics and to ensure that food operators take responsibility for providing safe and suitable food.

Before the new law comes in, NZFSA and local Councils are providing operators of takeaways, cafés, restaurants and catering establishments any opportunity to get ready for changes coming by taking part in the new system voluntarily. This involves using a new Food Control Plan that's designed to show operators how to produce safe food and meet the law by controlling the risk areas in preparing and selling food.

A Food Control Plan gives operators:

- step-by-step guidance on food safety procedures with tips for managing food safety supporting materials such as a fridge magnets and posters to remind your staff about the key points of food safety
- a digital thermometer
- checklists and forms for recording regular activities
- a diary for recording unusual events and follow-up actions
- a certificate of participation (demonstrating your commitment to food safety).

Under the existing Food Act, most food operators register their premises with their Territorial Authority. An Environmental Health Officer inspects these registered premises each year to assess compliance with the Food Hygiene Regulations 1974.

With a Food Control Plan in place (registered as a Food Safety Programme) an operator will be exempt from the Food Hygiene Regulations. A Council Environmental Health Officer (or representative) will verify (check) that the business is following its Food Control Plan and that it's appropriate for that business. The verifier does this by reviewing records, talking to management and staff, and visually assessing business activities.

The new Food Act will require nearly all commercial food businesses to have Food Control Plans; food sectors will be brought into the new system over a five year period. Those operators who opt in now will have the chance to keep their Food Control Plan in place until the end of that five year period.

Code Compliance Certificates

As at 11 June 2008, there were 1004 certificates due.

Environmental Enhancement Grants Open

Landowners or groups working to protect and enhance native biodiversity in Canterbury have until the end of August to apply for contestable grants of up to \$5000 through Ecan's Environment Enhancement Fund. This year Ecan has \$237,800 available including \$57,800 from the Honda Tree Fund. Application forms and further information are available from Ecan's website on www.ecan.govt.nz/eef.

State of the Environmental Report

The Ministry of the Environment has issued its second national level "State of the Environment" report.

It is to provide information about New Zealand's environment and how it is changing over time. It is to be used to inform and prioritise decision-making by Central and Local Government, business, as well as the wider community.

The section on "land" is attached. I will attach other sections of the report over the next few months.

Land

New Zealand is recognised internationally for its stunning landscapes and productive agricultural and horticultural land.

Since human settlement, the way we have used our land has fundamentally shaped our nation. Land is important to many of us in other ways – it can contribute to our sense of belonging to this country, and represent the place we call home.

New Zealand has developed internationally recognised expertise in the productive use of land resources, exporting high value agricultural, horticultural, wine, and timber products to the rest of the world. In recent decades, New Zealand has also marketed itself internationally as an attractive destination for scenic and adventure tourism.

A definition of land

Land is considered to include:

- the aesthetic components of landform and landscape including the vegetation cover
- the physical components of soil and parent material (the soils and underlying rock types that give rise to soil)
- the plant and animal communities in the soil, such as insects, mites, springtails, nematodes, worms, fungi, bacteria, and algae
- the exotic and native ecosystems resident on the land, such as exotic forestry, urban settlements, native forests, and tussock grasslands.

Land and our economy

Land plays an integral part in supporting New Zealand's top two export earners: tourism and primary production. In 2007, agriculture, forestry, horticulture, and viticulture generated \$6.1 billion, \$3.6 billion, \$2.5 billion, and \$662 million respectively in export earnings. In other words, about one-sixth, or 17 per cent, of New Zealand's gross domestic product (GDP) depends on the top 15 centimetres of our soil. In 2006, tourism generated \$8.3 billion in export earnings.

Land use and environmental impacts

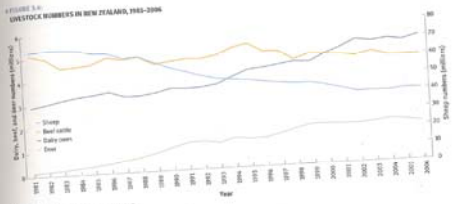
Using land for production and urban development puts pressure on the wider environment: urban and rural run-off pollutes our waterways and coasts, urban expansion leads to the loss of versatile soils, and more intensive agricultural land use increases the risk of environmental long term effects on soil quality, and the quality of our waterways.

Intensification of pastoral land use

Recent trends in land use in New Zealand include an increase in intensive pastoral land use (for example, higher stocking rates, increased use of herbicides and agricultural chemicals, and increases in irrigation use).

For example, Figure 3.4 shows that by 2006, dairy cow and deer numbers had increased to just over 5.2 million and 1.5 million, respectively. Between 1996 and 2006, the national dairy herd grew by 24 per cent. The recent expansion of dairy and deer farming has been particularly notable in the South Island. On the other hand, the number of sheep decreased to just over 40 million, and beef cattle numbers dropped to just under 4.5 million.

FIGURE 8.41 LIVESTOCK NUMBERS IN NEW ZEALAND, 1969-2006



Source: Ministry for the Environment, 2007a.

OUR PRIMARY PRODUCTION SECTORS RELY ON THE LAND.



Source: Ministry for the Environment.

Fertiliser use

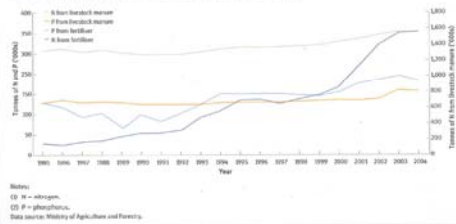
Intensification of pastoral land use has led to a noticeable increase in the use of fertilisers in high producing exotic pastures. Most of the increased fertiliser inputs are removed from the land as production, but there is no doubt that the intensification of pastoral land use has increased the pressure on our surface waterways and groundwater, as discussed in the Freshwater section.

Total fertiliser use significantly increased in New Zealand between 1985 and 2004 (see Figure 3.5). The amount of nitrogen fertiliser used in New Zealand has increased about ten-fold since 1985 and has doubled

since the mid-1990s. Nitrogen from livestock manure, which contributes around five times the amount of nitrogen to the land as nitrogenous fertilisers, also steadily increased.

These changes coincide with the trend towards more intensive forms of farming, particularly dairy farming, with its high density of grazing stock. Dairy cows excrete almost seven times the amount of nitrogen and phosphorus in their faeces and urine as breeding ewes, and around three and a half times that of breeding hinds (deer).

FIGURE 3.5
SOURCES OF NITROGEN AND PHOSPHORUS IN AGRICULTURAL CATCHMENTS, 1985-2004



Land cover

reflecting changes in land use, land cover in New Zealand continues to change as our population grows, land prices change, and international commodity prices fluctuate.

In 2002, native forest, native vegetation, and other natural land cover (for example, rivers, lakes, snow, ice, and scrub) made up 50 per cent of New Zealand's total land cover area. Pasture was our second largest land cover at just over 20 per cent. Exotic forest covered 7.31 per cent of New Zealand's land area.

Table 3.1 reports satellite measurements between 1997 and 2002, which showed that:

- pastoral land cover decreased by 125,200 hectares (or just over 1 per cent)
- human settlements increased by just over 5,300 hectares (or 3 per cent). This represents 96 per cent of the total increase in artificial surfaces of 5,500 hectares.
- native vegetation and native forest decreased by 17,200 hectares (or 0.35 per cent)
- exotic forest cover increased by 139,500 hectares (or about 8 per cent)
- horticultural land area increased by 4,500 hectares, with the total area of horticultural land at just under 1.6 per cent of New Zealand's total land area.

TABLE 3.1
CHANGES IN LAND COVER BETWEEN 1997 AND 2002

LAND COVER CLASS	1997 AREA (HECTARES)	PERCENTAGE OF TOTAL LAND AREA (%)	2002 AREA (HECTARES)	PERCENTAGE OF TOTAL LAND AREA (%)	CHANGE IN AREA (HECTARES)
Exotic forest	1,822,300	6.79	3,961,800	14.71	2,139,500
Exotic shrubland	370,900	1.38	563,300	2.15	+192,400
Native forest (excluding mangroves)	6,435,400	24.18	6,483,700	24.37	+48,300
Native vegetation	5,763,400	21.63	5,248,500	19.57	-514,900
Other native land cover	1,583,400	5.92	1,549,300	5.82	-34,100
Primarily horticulture	413,000	1.54	437,400	1.66	+24,400
Primarily pasture	8,985,200	33.50	8,860,000	33.13	-125,200
High producing exotic grassland	1,678,300	6.26	1,657,300	6.25	-21,000
Low producing grassland	215,600	0.80	220,100	0.82	+4,500
Artificial surfaces	215,600	0.80	220,100	0.82	+4,500
Total	26,811,000	100	26,821,000	100	+10,000

Notes:
Figures rounded to the nearest 100 hectares.
Data source: Ministry for the Environment, Land Cover Database Land 2.

Land use

In 2004, pastoral land use (for example, sheep, beef, and dairy farming) was New Zealand's largest human land use at just over 37 per cent of New Zealand's total land area.

Although the total area of New Zealand land in pasture has been decreasing since 1972, the area of land in dairy pasture has increased. This intensification of agricultural land use has occurred as farmers have responded to economic signals by converting suitable dry-stock pasture, exotic forestry, and existing dairy farms into more intensive dairy farms.

Over the past 30 years, increased diversification of land use has been evident, especially for horticultural land, including vineyards, orchards, and perennial crops. As an example, the area of land in vineyards increased by 28 per cent between 1997 and 2002.

Hill-country erosion

Hill country erosion is estimated to cost New Zealand between \$30 million and \$150 million each year through the loss of soil and nutrients; loss of production; damage to houses, fences, roads, phone and power lines; and damage to waterways and aquatic habitats. About 30 per cent of New Zealand is classed as severely erodible.

During the 1990s, hill country erosion eased in some regions. Satellite measurements between 1997 and 2002 showed that 36,400 hectares of land in erosion-prone hill country was converted from pasture to other land cover during this period. The large majority of this (36,300 hectares) was converted to exotic forestry, or retired and left to revert to scrub.

SOIL SLIP EROSION ON HILL-COUNTRY PASTURE.



Source: Ministry for the Environment.

Forestry

In 2004, the total area of planted (exotic) forestry was estimated to be 1.4 million hectares. From 1990 until 2003, a trend of benchmarked land area in exotic forestry was observed.

Figure 3.6 shows that, from a peak in the mid-1990s, there has been a significant reduction in the amount of new exotic forestry plantings. In 2005, the rate of new exotic forest plantings declined to its lowest level since 1979. Moreover, from 2004, a new trend became apparent of not replanting exotic forestry after harvesting or, in some cases, converting immature forest to pasture.

Land use and soil health

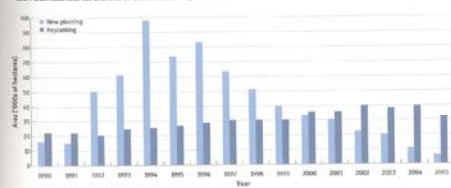
Land use affects soil health. Results from environmental monitoring under the 1500 Soils Project and subsequent regional council programmes show changes in New Zealand soils, particularly as intensive land use becomes more widespread.

A large proportion of overgrazed pasture soils show moderate compaction as a result of stock treading damage, which can lead to reduced pasture growth and increased rates of sediment and nutrient run-off. Some soils under dairy pasture show high phosphate levels and may also be reaching saturation point for organic forms of nitrogen. Subsaturation increases the risk of excess nitrate being leached to waterways.

Some intensively cropped soils (such as market gardens) also show high phosphate levels and have lower organic matter content and poorer soil structure than pasture soils. Native and exotic (plantations) forest soils generally show similar acidity and are more acidic than soils associated with other land uses, reflecting the use of lime and phosphate fertilisers to develop agricultural land.

Because pasture lands are so widespread in New Zealand, the condition of pasture soils has a major bearing on soil health nationally. Most declines in soil health are potentially reversible, but the shift toward more intensive farming practices in many regions around New Zealand may make a reversal difficult to achieve for some soils.

FIGURE 3.6
NEW PLANTINGS AND REPLANTING OF EXOTIC FORESTRY, 1990-2005



Data source: Ministry of Agriculture and Forestry.

Sustainable primary production

Driven by the growing market demand for clean green products, New Zealand's primary industry associations are increasingly adopting environmental management systems (EMS) to demonstrate the commitment of their sectors to sustainable primary production. Examples of existing initiatives are Sustainable Winegrowing New Zealand (SWNZ members in 2010), Forest Stewardship Council (standards covering 43 per cent of New Zealand's commercial plantation forests), Market Focused La dairy farmers' EMS initiative in 2008, and Official Organic Assurance (as of 2007, 800 farms were either certified or converting to organic status).

Ultimately, New Zealand land owners can benefit by managing, and being seen internationally to be managing, their land in a sustainable way, taking account of the impact of their activities on waterways, erosion, soil health, and also climate change.

Sustainable land management – present and future

Historically, environmental management of land in New Zealand has focused on managing hill-country erosion, minimising flood risk, and improving the health of pasture soils. More recently, attention has turned to protecting riparian stream margins, excluding stock from waterways, maintaining nutrient enrichment of our waterways, including through riparian buffering and use of nitrification inhibitors, and protecting our land based primary production sector from pests and diseases from overseas.

Looking ahead, focus is likely to intensify on:

- how best to minimise the impacts of intensified land use on our soils and waterways
- identifying and managing land contaminated by historical agricultural and industrial activities (see 'Contaminated Sites' following)
- continuing to manage hill-country erosion and biosecurity risks to New Zealand's primary production sector and native species
- meeting growing consumer demand for sustainably produced agricultural, horticultural, and forestry products.

Landcare Trust

The New Zealand Landcare Trust was established in 1996. Currently, more than 250 landcare groups operate around New Zealand with the vision of promoting sustainable land management. Each group's level of activity depends on the community in which they are based and the specific issues they are trying to address. Landcare groups are particularly active where regional councils have programmes for biodiversity protection and offer incentives or assistance to landholders.

Contaminated sites

New Zealand soils generally contain low levels of contaminants, but past industrial, domestic, or agricultural activities (such as the manufacture and use of pesticides, the production of coal and gas, mining, timber treatment, and sheep dipping) have contaminated some sites. Some of these activities – for example, the use of DDT in sheep dips from the 1940s to the 1960s – were not known to be hazardous at the time.

We do not accurately know the extent of contaminated sites in New Zealand. Rough estimates undertaken in the early 1990s put the number of contaminated sites between 7,000 and 8,000. About 1,500 of these were deemed to be a high risk to human health or the environment. However, there are now thought to be over 50,000 contaminated sheep dip sites alone around the country.

Regional councils, central government, and private land owners are gradually making headway in tackling the problem. Seven councils have now screened 4,474 sites across the country. To date, 519 high-risk sites have been identified. Of these, 34 per cent have already been cleaned up, or have a clean up or management programme in place.

Mapua Clean-up

The abandoned Fruitgrowers Chemical Company site at Mapua, near Nelson, was heavily contaminated by a range of toxic pesticides such as DDT, aldrin, lindane, and dieldrin. Central government and the local council, working in partnership, have provided \$6 million to clean up the site.

By August 2007, all the known contaminated soil had been treated on site, and de-contaminating of the plant had begun. The project is on target to be completed in late 2007, and the land handed back to the owners, Tasman District Council. About 40 per cent of the land is to be set aside as public space, and the rest designated for residential and commercial land use.

AERIAL VIEW OF THE ABANDONED FRUITGROWERS CHEMICAL COMPANY SITE AT MAPUA.



Source: Courtesy of John Fenton.

Resource Consents May/June

Since the last report, the following resource consents have been granted under delegated authority:

RM080024	Subdivision into 2 rural lots A.A. & S.M. Brandreth Sodwall Road, Otaio	02/05/08
RM080026	Subdivision – alter boundary between Units 27 & 28 A.W. Jones & Gilham Limited 4963 Waimate Highway, Glenavy	06/05/08
RM080029	Dwelling in flood risk area Frisia Farms Limited Cock and Hen Road, Ikawai	21/05/08
RM080031	Dwelling in flood risk area Papamoa Enterprises Limited 317 Andrews Road, Glenavy	22/05/08
RM080030	Garage extension - along boundary G. & M. Thomas 5 Naylor Street, Waimate	28/05/08
RM080033	Subdivision into 2 rural lots C.J. Sutcliffe & E. Aschebrock 11 Sullivan Road, Pareora	17/06/08
RM080034	Relocate building (dwelling) & reduced setback C.M. Murney 26 Kirks Road, Waimate	18/06/08

The following resource consent has been granted by the Hearings Commissioner:

RM051205	Commercial composting activity Billiza Partnership 351 Engelbrechts Road, Hook	16/05/08
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Brent Donaldson
MANAGER-PLANNING & REGULATORY
4 July 2008