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**Purpose:** This procedure outlines the process for entering into a consent agreement with an owner of private managed forest land.

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**Introduction:** Consent agreements are a mechanism to enforce non-compliant activities where Council and an owner agree that a contravention of the Act or Regulation has occurred or continues to occur with which the owner agrees.

The agreement represents an enforceable document that may contain a monetary penalty and / or remediation work(s) to be completed by the owner. The agreement also includes timeframes by which the penalty or remediation orders must be complete.

By agreeing to a consent order Council cannot make further determinations or Orders unless the Owner fails to comply with the terms and conditions of the original Consent Agreement.

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**Use of Consent Agreements:** The Council and the owner may agree that the owner or the owner's employee, contractor or agent may have contravened a provision of the legislation. In those circumstances, the Council and the owner have an opportunity to enter into a consent agreement. These agreements may provide for remedial measures to be carried out and potentially for a penalty of up to \$5 000 to be imposed.

Consent agreements are not determinations. The Council has not applied the contravention determination making process in respect of a specific fact pattern. Consent agreements do not result in a formal record of contravention.

Consent agreements represent the final administrative disposition of a particular matter. Once entered into, the owner cannot challenge the remedial measures or the penalty specified in the consent agreement. Conversely, the Council may not make a formal determination or impose an additional penalty. The only exception is where the owner fails to comply with the agreement.

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- Procedure:**
1. Confirm through the completion of a survey, inspection, investigation or other means that a possible contravention of Council legislation has occurred.
  2. Contact the Owner and provide the Owner or his / her representative an opportunity to meet and discuss the possible contravention.
  3. If through discussions with the Owner, the Owner and Council agree that a contravention has or continues to occur, then explore the option of entering a consent agreement with the Owner.
  4. In consultation with the Owner develop any remediation orders / monetary penalties and dates by which the orders / penalties must be paid.
  5. Complete an inspection of the remediation activity and communicate with the owner as to whether or not the consent agreement has been fulfilled in its entirety.
  6. If the Owner fails to fulfill the requirements of the consent agreement proceed with a formal investigation report.
  7. Submit investigation report to Council for a decision on proceeding with a hearing and compliance determination.
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**Regulatory  
Application  
and  
Follow-Up:**

The use of consent agreements by Council to address non-compliance with the regulation should consider their use in the following situations.

The clear non-compliance of an established standard of practice that's easily measurable and verifiable. The minimum # of trees per hectare, the years to reforest a cut over or damaged stand (5 or 10 years) or the time to successfully regenerate a stand (10 or 20 years). These are rigid standards of the regulation easily measurable. Breaches of these standards, agreed to by the owner and Council are situations where a consent agreement should be considered by both parties. The use of consent agreements for these situations introduces a significant improvement into the efficiency of Council compliance determination process.

The scope / scale of less tangible non-compliance activities should be a consideration when a consent agreement is contemplated. Formal compliance determinations by Council for relatively minor infractions consume significant resources of both time and money. The recognition that an infraction has or continues to occur by an Owner and a willingness to enter into a Consent Agreement greatly increases the efficiency of Council compliance determination process.

Council follow-up of an owner performance in the completion of remedial measures and in the development of procedures aimed at preventing future contraventions is a critical component in concluding the activities of a signed Consent Agreement.

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Date: February 16, 2016

Approved: Original signed  
Rod Davis, Chair