



# **AGENDA**

## Operations & Regulatory

Tuesday 18 July 2023, 9.00am

# Operations and Regulatory Committee

18 July 2023 09:00 AM



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### Whakataka te hau

#### *Karakia to open and close meetings*

Whakataka te hau ki te uru	Cease the winds from the west
Whakataka te hau ki te tonga	Cease the winds from the south
Kia mākinakina ki uta	Let the breeze blow over the land
Kia mātaratara ki tai	Let the breeze blow over the ocean
Kia hī ake ana te atakura	Let the red-tipped dawn come with a sharpened air
He tio, he huka, he hauhu	A touch of frost, a promise of glorious day
Tūturu o whiti whakamaua kia tina.	Let there be certainty
Tina!	Secure it!
Hui ē! Tāiki ē!	Draw together! Affirm!

### Nau mai e ngā hua

#### *Karakia for kai*

Nau mai e ngā hua	Welcome the gifts of food
o te wao	from the sacred forests
o te ngakina	from the cultivated gardens
o te wai tai	from the sea
o te wai Māori	from the fresh waters
Nā Tāne	The food of Tāne
Nā Rongo	of Rongo
Nā Tangaroa	of Tangaroa
Nā Maru	of Maru
Ko Ranginui e tū iho nei	I acknowledge Ranginui above and
Ko Papatūānuku e takoto ake nei	Papatūānuku below
Tūturu o whiti whakamaua kia	Let there be certainty
tina	Secure it!
Tina! Hui e! Taiki e!	Draw together! Affirm!



**Date** 18 July 2023

**Subject:** **Operations and Regulatory Committee Minutes – 6 June 2023**

**Approved by:** A J Matthews, Director - Environment Quality  
S J Ruru, Chief Executive

**Document:** 3187123

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### **Recommendations**

That the Taranaki Regional Council:

- a) takes as read and confirms the minutes of the Operations and Regulatory Committee meeting of the Taranaki Regional Council held in the Taranaki Regional Council chambers, 47 Cloten Road, Stratford on 6 June 2023 at 9.00am
- b) notes the recommendations therein were adopted by the Taranaki Regional Council on Tuesday 27 June 2023.

### **Matters arising**

### **Appendices/Attachments**

Document: 3177981 Minutes Operations and Regulatory Committee 6 June 2023.



**Date** 6 June 2023, 9.00am  
**Venue:** Taranaki Regional Council Boardroom, 47 Cloten Road, Stratford  
**Document:** 3177981

<b>Present</b>	S W Hughes D M Cram M J Cloke M G Davey D H McIntyre D L Lean N W Walker C L Littlewood D Luke Ā White R Buttimore	<i>Chairperson</i> <i>Deputy Chairperson</i>  <i>(zoom)</i> <i>ex officio</i> <i>ex officio</i> Iwi Representative Iwi Representative Iwi Representative <i>(zoom)</i>
<b>Attending</b>	Mr S J Ruru Ms A J Matthews Mr A D McLay Mr M J Nield Mr D R Harrison Ms L Miller Mrs V McKay Mr J Glasgow Miss N Chadwick Ms K Holland Mr F Kiddle Mr D Shearman Mr P Davison	Chief Executive Director - Environment Quality Director - Resource Management Director - Corporate Services Director - Operations Manager - Resource Consents Manager - Environmental Assurance Compliance Manager Governance Administrator Communications Advisor (zoom) Policy lead Land Services Manager Compliance - Team Lead

*two members of the public*  
*one media representative joined meeting at 10.00am*

**Zoom:** *Emily Bailey*

**Karakia:** The meeting opened with a group karakia at 9.00am.

**Apologies:** Apologies were received and sustained from, Councillor B J Bigham, P Muir Federated Famers. Noted Councillor D H McIntyre as late.

**1. Confirmation of Minutes Operations and Regulatory Committee 26 April 2023**

**Recommended**

That the Taranaki Regional Council:

- a) took as read and confirmed the minutes of the Operations and Regulatory Committee of the Taranaki Regional Council held on 26 April 2023 at Taranaki Regional Council 47 Cloten Road Stratford
- b) noted the recommendations therein were adopted by the Taranaki Regional Council on Tuesday 16 May 2023.

Cram/Cloke

**2. Deputation - Forest and Bird**

- 2.1 Tom Kay from Forest and bird delivered a presentation via zoom on the devastation of cyclone Gabrielle and other iconic flood events in New Zealand highlighting the need to prioritise nature based solutions.

**3. Resource Consents Issued under Delegated Authority & Applications in Progress**

- 3.1 Ms L Miller, spoke to the memorandum to advise the Committee of consents granted, consents under application and of consent processing actions since the last meeting.

**Recommended**

That the Taranaki Regional Council:

- a) received the schedule of resource consents granted and other consent processing actions, made under delegated authority.
- b) noted any specific recommendations therein.

Walker/Cloke

**4. Incidents, Compliance Monitoring Non Compliances and Enforcement Summary 30 March 2023 to 9 May 2023**

- 4.1 Mr J Glasgow spoke to the memorandum to update the Committee and provided a summary of the incidents, compliance monitoring non-compliances and enforcement for the period 30 March 2023 to 9 May 2023.

*\*9.27 Councillor McIntyre joined meeting\**

**Recommended**

That the Taranaki Regional Council:

- a) received the memorandum *Incident, Compliance Monitoring Non- Compliance and Enforcement Summary – 30 March 2023 to 9 May 2023*
- b) received the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 30 March 2023 to 9 May, noted the action taken by staff acting under delegated authority and adopted the recommendations therein.

Cloke/Cram

5. **Upcoming Freshwater Requirements for Farmers**

- 5.1 Mr A D McLay Director – Resource Management, spoke to the Committee to inform the members of the update on intensive winter grazing regulations and synthetic nitrogen regulation requirements.

**Recommended**

That the Taranaki Regional Council:

- a) received the memorandum *Upcoming Freshwater Requirements for Farmers*
- b) noted the Council prepared a booklet and developed a land and water hub on the website to assist farmers to comply.

Walker/Cloke

6. **National Environmental Standards for Plantation Forestry in Taranaki**

- 6.1 Mr A D McLay Director – Resource Management & P Davison Team Leader - compliance spoke to the memorandum to advise the committee on the monitoring and enforcement activities undertaken in relation to slash management under *National Environmental Standards for Plantation Forestry (NES-PF)*.
- 6.2 PowerPoint presentation.

*\*10.00 media joined meeting\**

**Recommended**

That the Taranaki Regional Council:

- a) received this agenda memorandum *National Environmental Standards for Plantation forestry in Taranaki*
- b) noted the Council will monitor and where necessary enforce the provisions of the *National Environmental Standard for Production Forestry and the Resource Management Act 1991* using its *Enforcement Policy (2017)*
- c) noted given the differences in catchment characteristics, geology, forestry cover, harvesting methods and regulation, the issues with slash management experienced in Gisborne are unlikely to occur in Taranaki.

McIntyre/Littlewood

There being no further business the Committee Chairperson, Councillor S W Hughes, declared the public meeting of the Operations and Regulatory Committee closed at 10.27 am.

**Operations and  
Regulatory**

**Committee Chairperson:** \_\_\_\_\_

**S W Hughes Chair**



**Date** 18 July 2023

**Subject:** **Resource consents issued under delegated authority and applications in progress**

**Approved by:** A D McLay, Director – Resource Management  
S J Ruru, Chief Executive

**Document:** 3184322

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### **Purpose**

1. The purpose of this memorandum is to advise the Council of consents granted, consents under application and of consent processing actions since the last meeting. This information is summarised in attachments at the end of this report.

### **Executive summary**

2. Memorandum to advise the Council of recent consenting actions made under regional plans and the Resource Management Act 1991, in accordance with Council procedures and delegations.

### **Recommendation**

That the Taranaki Regional Council:

- a) receives the schedule of resource consents granted and other consent processing actions, made under delegated authority.

### **Background**

3. The attachments show resource consent applications, certificates of compliance and deemed permitted activities that have been investigated and decisions made by officers of the Taranaki Regional Council. They are activities having less than minor adverse effects on the environment, or having minor effects where affected parties have agreed to the activity. In accordance with sections 87BB, 104 to 108 and 139 of the Resource Management Act 1991, and pursuant to delegated authority to make these decisions, the Chief Executive or the Director – Resource Management, has allowed the consents, certificates of compliance and deemed permitted activities.
4. The exercise of delegations under the Resource Management Act 1991 is reported for Members' information. Under the delegations manual, consent processing actions are to be reported to the Consents and Regulatory Committee.



5. In addition to the details of the activity consented, the information provided identifies the Iwi whose rohe (area of interest) the activity is in. If the activity is in an area of overlapping rohe both Iwi are shown. If the activity is within, adjacent to, or directly affecting a statutory acknowledgement (area of special interest), arising from a Treaty settlement process with the Crown, that is also noted.
6. Also shown, at the request of Iwi members of the Council, is a summary of the engagement with Iwi and Hapū, undertaken by the applicant and the Council during the application process. Other engagement with third parties to the consent process is also shown. The summary shows the highest level of involvement that occurred with each party. For example, a party may have been consulted by the applicant, provided with a copy of the application by the Council, served notice as an affected party, lodged a submission and ultimately agreed with the consent conditions. In that case the summary would show only 'agreed with consent conditions', otherwise reporting becomes very complicated.
7. The attachment titled 'Consent Processing Information' includes the figure 'Consent Applications in Progress' which shows the total number of applications in the consent processing system over the last twelve months. The number of applications for the renewal of resource consents is also shown. The difference between the two is the number of new applications, including applications for a change of consent conditions. New applications take priority over renewal applications. Renewal applications are generally put on hold, with the agreement of the applicant, and processed when staff resources allow. A consent holder can continue to operate under a consent that is subject to renewal. The above approach is pragmatic and ensures there are no regulatory impediments to new activities requiring authorisation.
8. The attachment also includes:
  - Applications in progress table - the number of applications in progress at the end of each month (broken down into total applications and the number of renewals in progress) for this year and the previous two years
  - Potential hearings table outlining the status of applications where a hearing is anticipated and the decision maker(s) (e.g. a hearing panel) has been appointed
  - Consents issued table - the number of consents issued at the end of each month for this year and the previous two years
  - Breakdown of consents issued. This is the number of consents issued broken down by purpose – new, renewals, changes or review
  - Types of consents issued, further broken down into notification types – non-notified, limited notified or public notified
  - Number of times that the public and iwi were involved in an application process for the year so far
  - Application processing time extensions compared to the previous years
  - Consent type process shows the notification type including applications submitted on and the pre-hearing resolution numbers
  - Applications that have been returned because they are incomplete.

### **Decision-making considerations**

9. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

### **Financial considerations—LTP/Annual Plan**

10. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

11. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

12. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Legal considerations**

13. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Appendices/Attachments**

Document 3184124: List of non-notified consents

Document 3184279: Schedule of non-notified consents

Document 3184083: Consents processing charts for Agenda

Operations and Regulatory Committee - Resource Consents and Exercise of Delegations 18 July 2023

Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 Jun 2023

Discharge Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
<a href="#">R2/0389-4.0</a>	Ngaere Farm Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/0487-4.0</a>	LJ Fleming & Co Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/0852-4.0</a>	Gordon Partners	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/1516-4.0</a>	Taungatara Farm Co Ltd - RM & AS Gatenby	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/2301-3.0</a>	Felgate Farm Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/2582-3.0</a>	Norwood Farm Partnership	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/2643-3.0</a>	Waiwira Holdings Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/2801-3.0</a>	Shaun Richard Pattinson	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/2935-3.0</a>	Sentinal Farms Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/3652-3.0</a>	Central Farm Partnership	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
<a href="#">R2/6217-2.0</a>	Taranaki Bulk Storage Limited	Land/Water Industry	Storage and Distribution	Fertiliser Manufacturing		New
<a href="#">R2/11033-1.1</a>	Waka Kotahi NZ Transport Agency	Water - Stormwater	Central Government	Transport	Roading	Change
<a href="#">R2/11063-1.1</a>	PFI Property No 1 Limited	Land - Stormwater	Property Development		Commercial Development	Change
Land Use Consent						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
<a href="#">R2/11104-1.0</a>	Todd Energy Limited	Dam/Weir	Energy	Production Station	Exploration and Production	New
<a href="#">R2/11117-1.0</a>	Parihaka Papakainga Trust	Structure - Bridge	Property Development		Access	New

**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/0389-4.0](#)

Ngaere Farm Limited

**Commencement Date:** 14 Jun 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 175 Cheal Road, Ngaere  
To discharge farm dairy effluent onto land

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

No return correspondence was received

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[R2/0487-4.0](#)

LJ Fleming & Co Limited

**Commencement Date:** 21 Jun 2023

**Expiry Date:** 01 Dec 2043

**Review Dates:** 01 June 2025, 01 June 2031,  
01 June 2037

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 597 Opourapa Road, Rahotu  
To discharge farm dairy effluent onto land

**Rohe:**

Taranaki (Statutory Acknowledgement)

**Engagement or consultation:**

Te Kāhui o Taranaki Trust

No return correspondence was received

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[R2/0852-4.0](#)

Gordon Partners

**Commencement Date:** 21 Jun 2023

**Expiry Date:** 01 Dec 2047

**Review Dates:** 01 June 2029, 01 June 2035,  
01 June 2041

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 1628 Palmer Road, Stratford  
To discharge farm dairy effluent onto land

**Rohe:**

Ngāruahine (Statutory Acknowledgement)

**Engagement or consultation:**

Te Korowai o Ngāruahine Trust

No return correspondence was received

**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/11033-1.1](#)

Waka Kotahi NZ Transport Agency

**Commencement Date:** 19 Jun 2023

**Expiry Date:** 01 Jun 2033

**Review Dates:** 01 June 2023, 01 June 2024,  
01 June 2027

**Activity Class:** Discretionary

**Location:** SH3/Princess Street intersection and Manukorihi Park

**Application Purpose:** Change

To discharge stormwater & sediment arising from earthworks into the Waitara River and an unnamed tributary of the Waitara River

Change of conditions to delete condition 14 relating to the requirement for site supervision by a Category 1 Geotechnical Engineer

**Rohe:**

Te Atiawa (Statutory Acknowledgement)

**Engagement or consultation:**

Te Kotahitanga o Te Atiawa Trust

Consulted by applicant

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Atiawa

*Te Kotahitanga o Te Atiawa provided initial feedback on 20 April 2023, detailing that tamariki and mokopuna deserve the utmost protection, including the most highly qualified experts informing the proposal. Te Kotahitanga o Te Atiawa and ngā hapū recommended to delay the determination of the application until a hui could take place for hapū to discuss concerns with a Geotech Engineer.*

*Ngā hapū and Te Kotahitanga shared email correspondence and met with BBO/Waka Kotahi and a Category 1 Geotech Engineer. Sarah Mako of Te Kotahitanga o Te Atiawa provided further feedback and confirmed that Manukorihi, Ngāti Rāhiri, Otaraua, Pukerangiora and Puketapu, as well as Te Kotahitanga o Te Atiawa, are comfortable with the removal of condition 14.*

Response and considerations during processing of application

*As part of the original consent application, extensive consultation for the project was undertaken by the applicant with numerous stakeholders including tangata whenua, directly and indirectly affected landowners, consent authorities, network utilities and the public at large. The applicant has established and regularly engaged with a Kaitiaki Forum, a collective group comprising the following hapū: Otaraua Hapū, Manukorihi Hapū, Ngāti Rāhiri Hapū, Puketapu Hapū, and Pukerangiora Hapū, along with Te Kotahitanga o Te Atiawa Trust.*

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## Non-notified authorisations issued by the Taranaki Regional Council between 15 May 2023 and 25 June 2023

[R2/11063-1.1](#)

PFI Property No 1 Limited

**Commencement Date:** 19 Jun 2023

**Expiry Date:** 01 Jun 2025

**Review Dates:**

**Activity Class:** Discretionary

**Location:** Paraitē Road, Bell Block

**Application Purpose:** Change

To discharge contaminated stormwater and sediment arising from earthworks onto and into land via the New Plymouth District Council stormwater network

Change of consent condition 1, to enable the discharge of stormwater and sediment from an additional 3,500m<sup>3</sup> volume of earthworks, and to allow earthworks to continue during the winter months.

### Rohe:

Te Atiawa (Statutory Acknowledgement)

### Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust

Response received

#### Comments from Te Atiawa

*The application property has the chance to effect nearby Mangaone Stream, a tributary of the Waiwhakaiho River. The Waiwhakaiho River and its tributaries are scheduled statutory acknowledgement to Te Atiawa under the Te Atiawa Claims Settlement Act 2016.*

*Statutory acknowledgement is the recognition of the cultural, traditional, historical and spiritual relationship Te Atiawa have with those areas. The statutory acknowledgement does not replace the whakapapa relationship Puketapu has with te taiao and our ancestral lands and the requirement to recognise and provide for this relationship and the culture and traditions of our whenua and taiao.*

*Puketapu and Te Kotahitanga o Te Atiawa have aligned the proposal with the Te Atiawa iwi environmental management plan Tai Whenua, Tai Tangata, Tai Ao, we provide the following advice:*

- *Puketapu Hapū and Te Kotahitanga o Te Atiawa were not engaged to inform the proposal.*
- *It is unclear from the application why further earthworks are required to be undertaken;*
- *What and where the licensed facility receiving the contaminated material is;*
- *No details of the NPDC resource consents for the removal of the soil and remediation of the whenua have been provided;*
- *Why the applicant needs to undertake earthworks in to the winter months;*
- *We do support the remediation of contaminated soil; however, it is unclear from the application how it was previously contaminated.*
  - *An assessment of the National Policy Statement for Freshwater Management, Regional Policy Statement for Taranaki, Regional Freshwater Plan for Taranaki, Proposed New Plymouth District Plan Decisions Version (including those rules with legal effect) and Tai Whenua, Tai Tangata, Tai Ao have been omitted from the application.*
  - *The ESCP was omitted from the application.*

*Puketapu and Te Kotahitanga o Te Atiawa recommended the following:*

1. *The application be returned as incomplete in accordance with the section 88 of the Resource Management Act 1991 processes;*
  2. *Further information be requested in accordance with the section 92 of the Resource Management Act 1991 process;*
  3. *Puketapu Hapū and Te Kotahitanga o Te Atiawa are identified as affected parties in accordance with the section 95 of the Resource Management Act 1991 processes.*
-

**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

*Response and considerations during processing of application*

*The application was for a variation to an existing consent (granted January 2023) for an increase in the volume of earth works and for works to take place in the winter months, and therefore the information provided only needed to address the changes in effects anticipated from the condition changes. It was considered that there was sufficient information provided to assess the change in effects. As the effects of the change in conditions were assessed as being less than minor, the consent was not notified.*

*Most of the information gaps identified were already addressed in the agent's initial application, for consent 11063-1.0.*

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/11104-1.0](#)

Todd Energy Limited

**Commencement Date:** 22 Jun 2023

**Expiry Date:** 01 Jun 2028

**Review Dates:** 01 June 2025, 01 June 2027

**Activity Class:** Controlled

**Location:** Otaraoa Road, Tikorangi

**Application Purpose:** New

To remove an orphan weir from the Mangahewa Stream

**Rohe:**

Ngāti Mutunga

Te Atiawa (Statutory Acknowledgement)

**Engagement or consultation:**

Lynn Graham & Cheryl Anne Foreman

Consulted by applicant

*The applicant has consulted with the owners of the land adjacent to the orphan weir. The weir was not constructed by, nor is it used by the landowners. A written approval for the proposal has not been provided by the landowners, however, they are not considered to be an affected party.*

Te Rūnanga o Ngāti Mutunga

No return correspondence was received

Te Rūnanga o Ngāti Mutunga

Consulted by applicant

Ngāti Rāhiri Hapū O Te Atiawa (Taranaki)  
Society Inc

Consulted by applicant

Otaraua Hapū Trust

Consulted by applicant

Pukerangiora Hapū

Consulted by applicant

Te Kotahitanga o Te Atiawa Trust

Consulted by applicant

Te Rūnanga o Ngāti Maru (Taranaki) Trust

Consulted by applicant

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Atiawa & Consultation by applicant

*Te Kotahitanga o Te Atiawa Trust commented that, as the applicant had undertaken pre-application consultation directly with Otaraua Hapū, representatives of the hapū would provide further advice as appropriate. As of finalising this report, no further comments have been received from Otaraua Hapū.*

Response and considerations during processing of application

*The applicant, according to the summary provided by the agent in the application documentation, has been engaging with iwi and hapū regarding the suite of resource consents for the MMPS (including the proposed orphan weir removal) since early 2022. Monthly hui have been attended by, depending on availability, representatives from Te Atiawa, Ngāti Maru and Ngāti Mutunga Iwi, and Otaraua, Pukerangiora and Ngāti Rāhiri Hapū. The outcomes of these hui have informed the applicant's proposal.*

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/11117-1.0](#)

Parihaka Papakainga Trust

**Commencement Date:** 24 May 2023

**Expiry Date:** 01 Jun 2037

**Review Dates:** 01 June 2025, 01 June 2031

**Activity Class:** Discretionary

**Location:** 297 Parihaka Road, Opunake

**Application Purpose:** New

To replace a pedestrian bridge over the Waitotoroa Stream

**Rohe:**

Taranaki (Statutory Acknowledgement)

**Engagement or consultation:**

Te Kāhui o Taranaki Trust

No return correspondence was received

Te Kāhui o Taranaki Trust

Consulted by applicant

*The applicant identified, and has been in consultation with two affected parties in relation to this application. Te Aroha Hohaia, Kaitautoko from Parihaka Papakāinga Trust has managed the consultation process with both Parihaka Papakāinga Trust and Taranaki Iwi.*

*Consultation with all parties that the applicant deems affected is ongoing and details of the proposed works has been provided for presentation at upcoming hui's and community discussions. The consultant has outlined that as these hui's are completed and feedback relevant to the consultation process is received, copies will be forwarded through to the Council for inclusion in the resource consent process.*

*An email with the draft consent conditions was sent out to members of the trust via the Te Aroha Hohaia, PPT representative, on Tuesday 9 May 2023 for review and agreeance. Te Aroha outlined in a reply email on Thursday 11 May 2023 that the draft conditions were reviewed and agreed upon by Kawe Whenua, a sub-committee of PPT with governance oversight for the pedestrian bridge replacement project.*

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/1516-4.0](#)

Taungatara Farm Co Ltd - RM & AS Gatenby

**Commencement Date:** 29 May 2023

**Expiry Date:** 01 Dec 2048

**Review Dates:** 01 June 2030, 01 June 2036,  
01 June 2042

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 832 Waiteika Rd, Opunake

To discharge farm dairy effluent onto land

**Rohe:**

Ngāruahine (Statutory Acknowledgement)

Taranaki (Statutory Acknowledgement)

**Engagement or consultation:**

Te Kāhui o Taranaki Trust

No return correspondence was received

Te Korowai o Ngāruahine Trust

No return correspondence was received

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[R2/2301-3.0](#)

Felgate Farm Limited

**Commencement Date:** 26 May 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 384 Ball Road, Alton

To discharge farm dairy effluent onto land

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

Responded they had no comment to make

**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/2582-3.0](#)

Norwood Farm Partnership

**Commencement Date:** 17 May 2023

**Expiry Date:** 01 Dec 2047

**Review Dates:** 01 June 2029, 01 June 2035,  
01 June 2041

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 130 Ladys Mile, Eltham

To discharge farm dairy effluent onto land

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

No return correspondence was received

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/2643-3.0](#)

Waiwira Holdings Limited

**Commencement Date:** 26 May 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Location:** 196 Lower Ball Road, Kakaramea  
To discharge farm dairy effluent onto land

**Application Purpose:** Replace

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

Response received

Comments from Ngāti Ruanui

*Ngāti Ruanui recommend that this application must include the plans discussed in the application to ensure that the applicant is able to comply with the new rules coming into force on the 1st December 2022. Ngāti Ruanui look forward to receiving the plans to ensure long term kaitiakitanga of the waterways and whenua.*

Response and considerations during processing of application

*Thank you for providing council with your comments.*

*As you are aware, almost every dairy discharge application received by council is a replacement of an existing activity and a controlled activity under the Regional fresh water plan for Taranaki. Applications, which meet the standards/terms/conditions of a controlled activity must be granted.*

*However, the council sets the terms and conditions of a resource consent, granted under a controlled activity. When granted, the activity will be subject to the conditions reasonably necessary to avoid or mitigate adverse environmental effects in accordance with the Regional Freshwater Plan for Taranaki.*

*Also, all farm dairy effluent discharge consent are subject to a monitoring programme, ensuring conditions of their consent are adhered to. Included in that authorisation, is a special condition, which requires the consent holder to provide council with a dairy effluent storage design report, completed by a suitably qualified person.*

*With the introduction of a new application form, for the discharge of dairy farm effluent, the form requires the applicant to provide more detail than they have in the past, which will improve the quality of that information, (including aerials) lodged with council.*

*Thank you for your response and council will pass on your comments, to the applicant.*

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/2801-3.0](#)

Shaun Richard Pattinson

**Commencement Date:** 01 Jun 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 273 Bird Road, Stratford

To discharge farm dairy effluent onto land

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

No return correspondence was received

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[R2/2935-3.0](#)

Sentinal Farms Limited

**Commencement Date:** 23 Jun 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 299 Cheal Road, Ngaere

To discharge farm dairy effluent onto land

**Rohe:**

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Ruanui Trust

No return correspondence was received

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**Non-notified authorisations issued by the Taranaki Regional Council  
between 15 May 2023 and 25 June 2023**

[R2/3652-3.0](#)

Central Farm Partnership

**Commencement Date:** 22 Jun 2023

**Expiry Date:** 01 Dec 2046

**Review Dates:** 01 June 2028, 01 June 2034,  
01 June 2040

**Activity Class:** Controlled

**Application Purpose:** Replace

**Location:** 394 Pembroke Road, Pembroke  
To discharge farm dairy effluent onto land

**Rohe:**

Ngāruahine (Statutory Acknowledgement)

Ngāti Maru

Ngāti Ruanui

**Engagement or consultation:**

Te Rūnanga o Ngāti Maru (Taranaki) Trust	No return correspondence was received
Te Rūnanga o Ngāti Ruanui Trust	Responded they had no comment to make
Te Korowai o Ngāruahine Trust	Response received

Comments from Ngāruahine

*We note and appreciate the clarity provided by the applicants map which clearly identifies the paddocks used for effluent irrigation and the locations of farm management infrastructure. It would be great if all applicants had similar maps.*

*Te Korowai notes that the application is for a discharge to land renewal with existing storage. This aligns with bottom lines of Te Uru Taiao o Ngāruahine which opposes discharges of any type directly to water bodies within the rohe of Ngāruahine. This is regardless of whether the discharge is treated or untreated.*

*We ask the applicant to provide a copy of their most recent Riparian Management Plan (if available). This will assist us in assessing the potential impacts of effluent discharge activity on the Kahouri Stream and its tributaries.*

*Te Korowai will advocate for the fencing and riparian planting of all tributaries to the Kahouri Stream to provide improved protection of this valued waterway. It is our expectation that this goes beyond the minimum requirements of TRC's riparian management plans.*

Response and considerations during processing of application

*With permission from the applicant, the riparian plan was sent to Ngāruahine on 8 February 2023.*

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## Non-notified authorisations issued by the Taranaki Regional Council between 15 May 2023 and 25 June 2023

[R2/6217-2.0](#)

Taranaki Bulk Storage Limited

**Commencement Date:** 26 May 2023

**Expiry Date:** 01 Jun 2038

**Review Dates:** 01 June 2024, 01 June 2026,  
01 June 2028, 01 June 2030, 01 June 2032, 01  
June 2034, 01 June 2036

**Activity Class:** Discretionary

**Location:** 4 Monmouth Road, Stratford

**Application Purpose:** New

To discharge stormwater from a fertiliser storage and distribution facility onto and into land and into an unnamed tributary of the Kahouri Stream

### Rohe:

Ngāruahine (Statutory Acknowledgement)

Ngāti Maru

Ngāti Ruanui

### Engagement or consultation:

Te Rūnanga o Ngāti Maru (Taranaki) Trust      No return correspondence was received

Te Rūnanga o Ngāti Ruanui Trust      No return correspondence was received

Te Korowai o Ngāruahine Trust      Consulted by applicant

*The applicant has consulted with Dion Luke (Pouuruihi Taiao – Environment Lead) through email, with an email outlining the proposal being sent on the 25th of January 2023 requesting any feedback. Dion Luke responded on the 10th of February 2023 and advised that Te Korowai o Ngāruahine have no issues with the proposed application and that he would support the previous conditions being imposed.*

Te Korowai o Ngāruahine Trust      Response received

### Comments from Ngāruahine

*Te Korowai o Ngāruahine acknowledged the improvements made to the stormwater management proposed by the applicant but believe that the improvements do not go far enough in preventing the entry of stormwater into the tributary of the Kahouri Stream. They have stated their opposition to the direct discharge of any stormwater to the Kahouri stream. However they have said that they will be supportive if the discharge is to land, a constructed wetland, or to other green infrastructure.*

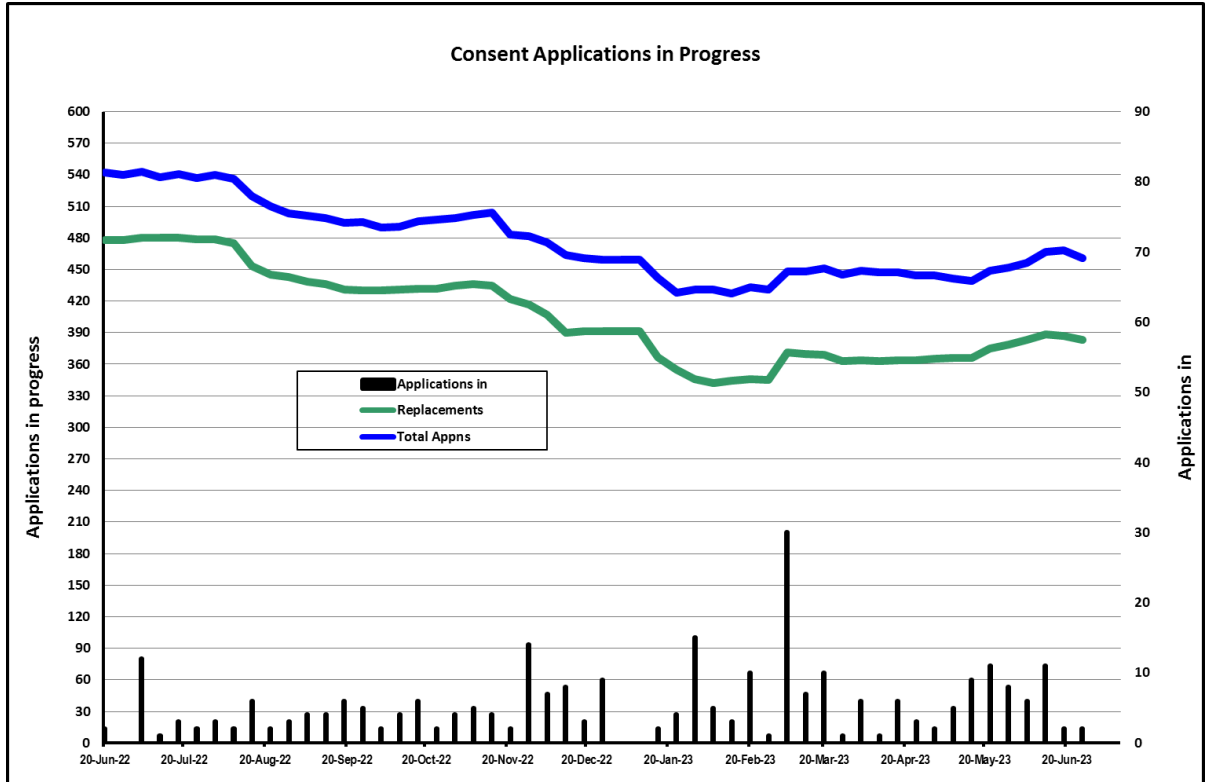
### Response and considerations during processing of application

*The applicant proposed to upgrade the internal layout of the stormwater treatment pond. The pond capacity is to remain unchanged but the pond will be modified to include multi-facet treatment including pools, marshlands, and forebays, with wetland vegetation introduced to treat stormwater prior to discharge to land where it may enter surface water. Although Council cannot comment on or assess the effects of this proposal on mana whenua values, given the applicant's proposed mitigations and offsetting measures, and assessment of the iwi management plans of Ngāruahine and Ngāti Ruanui it is considered that potential adverse environmental effects will be adequately avoided, remedied and mitigated.*

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### Consent Processing Information

#### 1) Applications in progress



#### 2) Month Ending

	July		Aug		Sept		Oct		Nov		Dec		Jan		Feb		Mar		Apr		May		Jun	
	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R
<b>2022/2023</b>	540	479	520	453	490	430	499	435	482	417	459	391	431	342	448	371	448	364	444	365	452	379	461	383
<b>2021/2022</b>	310	274	310	277	276	246	258	235	311	280	367	313	354	304	403	350	423	372	439	390	466	406	542	480
<b>2020/2021</b>	196	157	187	157	221	182	221	180	263	219	257	216	262	217	300	229	297	259	293	258	271	238	312	271

R = Replacements

Note: June part month

#### 3) Potential Hearings

Nil



#### 4) Consents Processed (running totals)

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June
<b>2022-2023</b>	7	53	82	86	139	171	211	228	249	261	283	
<b>2021-2022</b>	17	37	87	114	123	136	152	162	184	202	218	225
<b>2020-2021</b>	20	38	53	75	94	116	131	154	178	209	247	269

#### 5) Breakdown of consents processed

	New	Replace	Change	Review	Totals
<b>2022-2023 - to May</b>	<b>63</b>	<b>207</b>	<b>8</b>	<b>5</b>	<b>283</b>
2021-2022 Total	54	149	16	6	<b>225</b>
2021-2021 Total	71	148	39	11	<b>269</b>

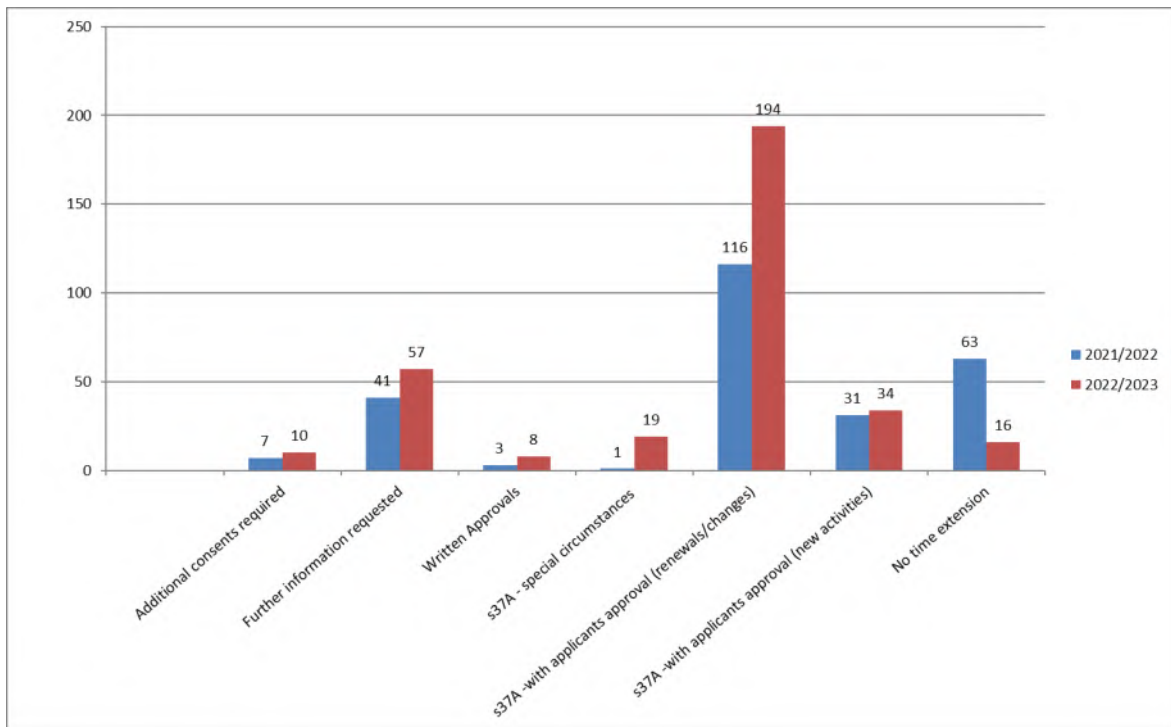
#### 6) Types of consents issued - year to date comparison

	Publically Notified						Total publically notified		Limited						Total Limited Notified		Non Notified						Total Non-notified		Grand Total
	Agricultural	Central/Local Government	Energy	Forestry	Other	%		Agricultural	Central/Local Government	Energy	Forestry	Other	%		Agricultural	Central/Local Government	Energy	Forestry	Other	%					
July 2020 to June 2021	0	0	0	0	2	0.7%	2	0	1	0	0	0	0.4%	1	146	20	44	6	50	98.9%	266	269			
July 2021 to June 2022	0	0	8	0	0	3.6%	8	1	0	0	0	0	0.4%	1	132	36	18	3	27	96.0%	216	225			
July 2022 to April 2023	0	0	0	0	0	0.0%	0	1	1	0	0	0	0.0%	2	201	15	25	0	40	99.3%	281	283			

#### 7) Involvement with third parties for applications processed year to date

	Consultation/ Involved (number of parties)	Number of Affected Party Approvals (written)	Totals
<b>Councils</b>	<b>1</b>	<b>13</b>	<b>14</b>
DOC	0	0	0
Environmental/Recreational Groups	0	0	0
Fish & Game	0	0	0
Individuals/Neighbours/Landowners	3	19	22
Network Utilities	0	0	0
Non Govt Organisations	0	0	0
Other Govt Departments	0	0	0
Iwi/hapu	478	0	478
<b>Totals - April 2023</b>	<b>482</b>	<b>32</b>	<b>514</b>

**8) Application processing time extensions used 2021/2022 versus 2022/2023**



**9) Consent type process**

	Last 10 year average 2013 - 2022	July 2021 to June 2022	July 2022 to May 2023
Total consents granted	347	225	283
Publically Notified	9	8	0
Limited-notified	10	1	2
Non-notified	330	216	281
Applications submitted on (in opposition and to be heard)	13	9	2
Application Pre-hearing resolution (%)	7 81%	8 89%	2 100%
Hearings (no. of applications)	1 (6)	1 (1)	0 (0)
Appeals (no. of applications)	1 (6)	0 (0)	0 (0)
Total current consents	4714	4372	4316

**10) Applications returned incomplete under Section 88**

For the 2022-2023 financial year, 28 applications have been returned incomplete under S88 of the RMA for insufficient information. Thirteen of those applications have since been resubmitted by the applicant.

**11) Deemed Permitted Activities issued**

Nil



**Date** 18 July 2023

**Subject:** **Incidents, Compliance Monitoring Non-Compliances and Enforcement Summary - 10 May 2023 to 30 June 2023**

**Approved by:** A D McLay, Director - Resource Management  
S J Ruru, Chief Executive

**Document:** 3186487

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### **Purpose**

1. The purpose of this memorandum is to allow the Council to consider and receive the summary of the incidents, compliance monitoring non-compliances and enforcement for the period 10 May 2023 to 30 June 2023.
2. The annual inspection for farm dairy effluent monitoring programme commences in September each year and usually finishes around March, however follow up inspections and winter milking inspections are also carried out during the rest of the year.

### **Executive summary**

#### **Incidents**

3. There are sixty five (65) incidents reported.
4. Thirty one (31) of the incidents were found to be compliant and twenty two (22) were found to be non-compliant. Twelve (12) of the incidents reported relate to non-compliances from previous periods (updates). The action taken on the incidents is set out for members information.

#### **Compliance monitoring non-compliances**

5. There are twenty eight (28) compliance monitoring non-compliances reported. Fourteen (14) of the compliance monitoring non-compliances reported are updates from previous periods.

Five (5) of the non-compliances reported are as a result of the annual dairy inspection round.

## Recommendations

That the Taranaki Regional Council:

- a) receives this memorandum *Incident, Compliance Monitoring Non-Compliances and Enforcement Summary – 10 May 2023 to 30 June 2023*
- b) receives the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 10 May 2023 to 30 June 2023, notes the action taken by staff acting under delegated authority and adopts the recommendations therein.

## Background

6. The Council receives and responds to pollution events and public complaints throughout the year. Consent compliance monitoring undertaken can also identify non-compliance. This information is recorded in the IRIS database together with the results of investigations and any follow-up actions. Such incidents and non-compliances are publicly reported to the Council through the Consents and Regulatory Committee via the Incidents, Compliance Monitoring Non-compliances and Enforcement Report or the Annual Compliance Monitoring Reports.
7. Attached is the summary of the Incidents, Compliance Monitoring Non-compliances and Enforcement for the period from 10 May 2023 to 30 June 2023.
8. Staff have been delegated by the Council to undertake enforcement actions. The enforcement policy and procedures are approved by the Council and then consistently implemented and reported on by staff.

## Disclosure Restrictions

9. The incident register information presentation was reviewed in 2014-2015 to increase reader understanding in this complex area. The first section addresses compliant incidents and can be publicly discussed. The second section provides an update on non-compliant incidents from previous meetings and where an incident has been resolved it can be publicly discussed. The third and fourth sections provide information on non-compliant incidents and non-compliances found during compliance monitoring during the period that are still under investigation and staff are limited in terms of public disclosure of information, while the investigation is ongoing and enforcement responses have not been determined. The incident flow chart and definition of terms provide further operational detail.

## Discussion

10. Council responds to all complaints received with most complaints responded to within four hours. This usually involves a site visit. Responses to complaints and non-compliances with rules in the Council's regional plans, resource consents and the Resource Management Act 1991 are recorded in the IRIS database. Where necessary, appropriate advisory or enforcement actions are undertaken. The latter may include issuing an inspection, abatement or infringement notice, or initiating a prosecution. Where an infringement notice or prosecution is possible, details of the information in the Incidents, Compliance Monitoring Non-compliances and Enforcement agenda item and staff comment will be restricted for legal disclosure reasons. Further information will be provided at a later date to the Council and for prosecutions a detailed report will be provided for information purposes, in the confidential section of the agenda.

11. A summary of Incidents, Compliance Monitoring Non-compliances and Enforcement for the period 10 May 2023 to 30 June 2023 is attached. The 'compliant' incidents are presented first in a table and the 'non-compliant' incidents are presented after in a more detailed summary, followed by the compliance monitoring non-compliances.
12. Generally, incidents in the 'compliant' table have a recommendation of 'no further action'. However, an incident is considered 'compliant' until such time as a non-compliance is found. Therefore, occasionally an incident in the 'compliant' table will have a recommendation of 'investigation continuing', if an ongoing investigation is still underway to confirm compliance.
13. A series of graphs are also attached comparing the number of incidents between 2016-2017 and 2021-2022, and also showing how the incidents are tracking in 2021-2022 in relation to environment type and compliance status. There is a graph showing the non-compliances found during compliance monitoring. There is also a graph showing enforcement action taken to date during 2021-2022.
14. The data in the graphs for 2021-2022 to date is showing that there are more incidents but less compliance monitoring non-compliances. Although in the first month of this period, there is limited data.

### **Decision-making considerations**

15. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

### **Financial considerations—LTP/Annual Plan**

16. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

17. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

18. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

### **Community considerations**

19. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

20. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Appendices/Attachments**

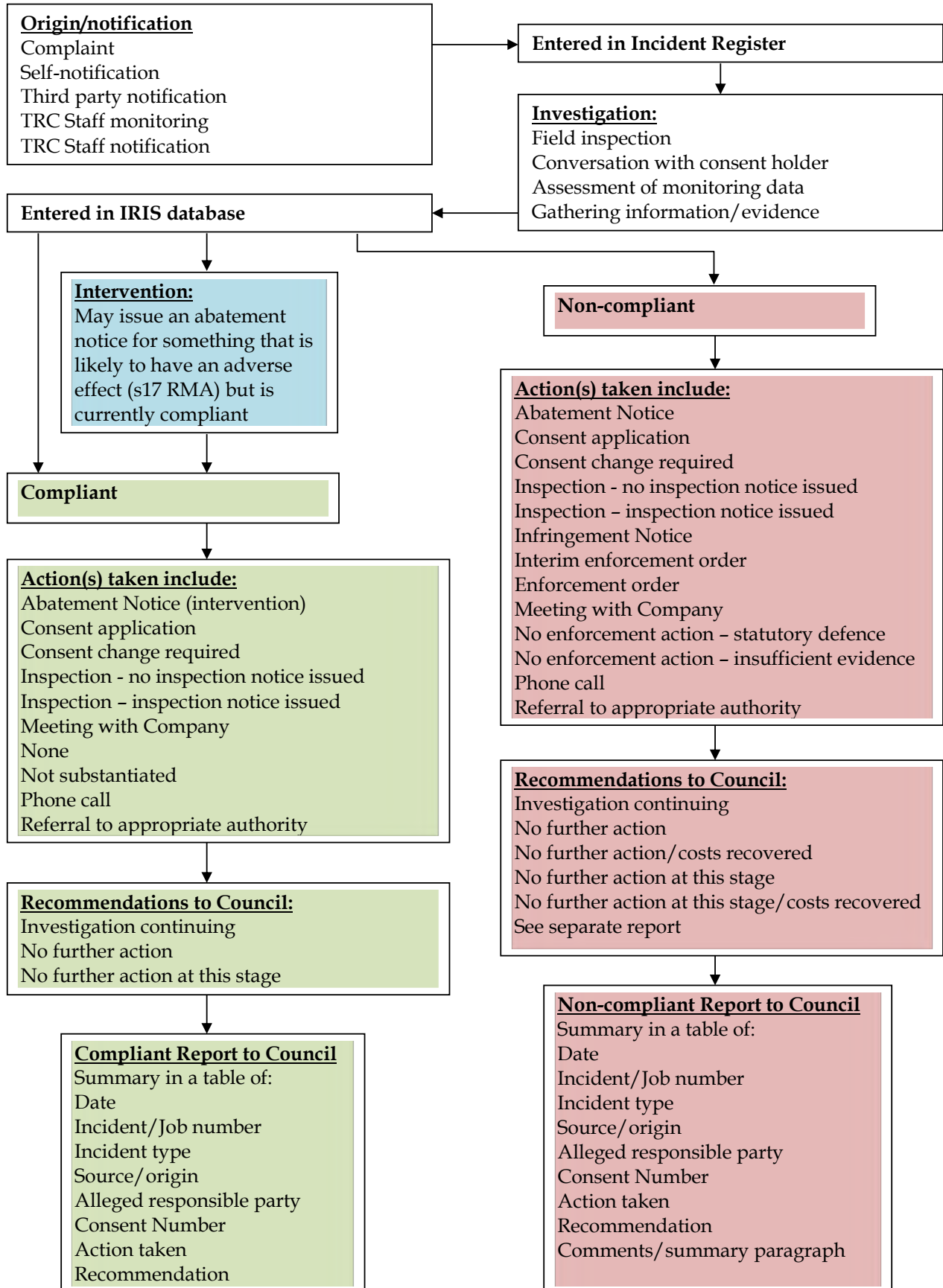
Document 1081324: Incident flowchart and terms explained

Document 3186192: Incident and Enforcement Graphs to 30 June 2023

Document 3187977: Incidents, Compliance Monitoring and Enforcement Summary 10 May 2023 to 30 June 2023

## Incident flow chart

Doc # 1081324





## Terms explained

### Compliance rating

Compliant	After investigation the incident was found to be <u>compliant</u> with environmental standards or other regulations, permitted rules in a regional plan (e.g. RFWP, RAQP, RCP allowed), a resource consent and/or the Resource Management Act 1991.
Non-compliant	After investigation the incident was found to be <u>non-compliant</u> with environmental standards or other regulations, rules in a regional plan, a resource consent and/or the Resource Management Act 1991

### Origin/Notification:

Complaint	Notification of incident received from public.
Self notification	Notification of incident received from the responsible party.
Third Party Notification	Notification of incident received from third party such as New Zealand Fire, District Council etc.
TRC Staff monitoring	Notification of incident found during routine compliance monitoring.
TRC Staff notification	Notification of incident found during unrelated monitoring/field work.

### Action/s Taken:

14 day Letter	A letter was sent requesting an explanation for the non-compliance and why enforcement action should not be considered. The recipient is given 14 days to reply.
Abatement Notice	A notice was issued requiring something to be undertaken or something to cease to ensure compliance with Rules in the regional plans, resource consent or Resource Management Act 1991. Notice must be complied with or further enforcement action can be considered.
Consent application	A consent application has been received as a result of the investigation.
Consent change required	During the investigation it was found that a consent change was required.
Emergency Works	Emergency works was allowed under section 330 of the RMA. Often a subsequent resource consent is required.
Enforcement Order	An enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be

	considered.
Infringement Notice (\$xxx.xx)	An infringement notice was issued under Section 338(1)(a) of the Resource Management Act 1991 and Councils delegated authority.
Inspection Notice	An inspection was undertaken and a notice of advice/instruction was issued to landowner/alleged offender.
Inspection/no notice issued	An inspection was undertaken, however no inspection notice was issued as there was no alleged offender/landowner to issue one to (natural event, unsourced etc).
Interim Enforcement Order	An interim enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be considered.
Meeting with Company	A meeting was held with the Company to discuss the incident and ways to resolve any issues.
None	No action was required.
Not Substantiated	The incident could not be substantiated (i.e. it is not likely/possible/probable that the alleged incident could have taken place).
Phone call	A phone call was made to the alleged offender/authority.
Prosecution	A prosecution is being initiated for this incident.
Referral to Appropriate Authority	The incident was referred to the appropriate authority (District Council, Department of Conservation etc).

**Recommendations to Council**

Investigation continuing	Outcome has not been finalised. Investigation is continuing on this incident, information/evidence still being gathered. Further action, including enforcement are being considered and therefore legally all information cannot be reported on this incident at this stage. These incidents will continue to be reported as updates in the following agendas.
No Further Action	Investigation is completed, any required enforcement action has been undertaken and no further action is required.
No Further Action At This Stage	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date.
No Further Action/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and no further action is required. Costs will be recovered from the alleged offender for the investigation.

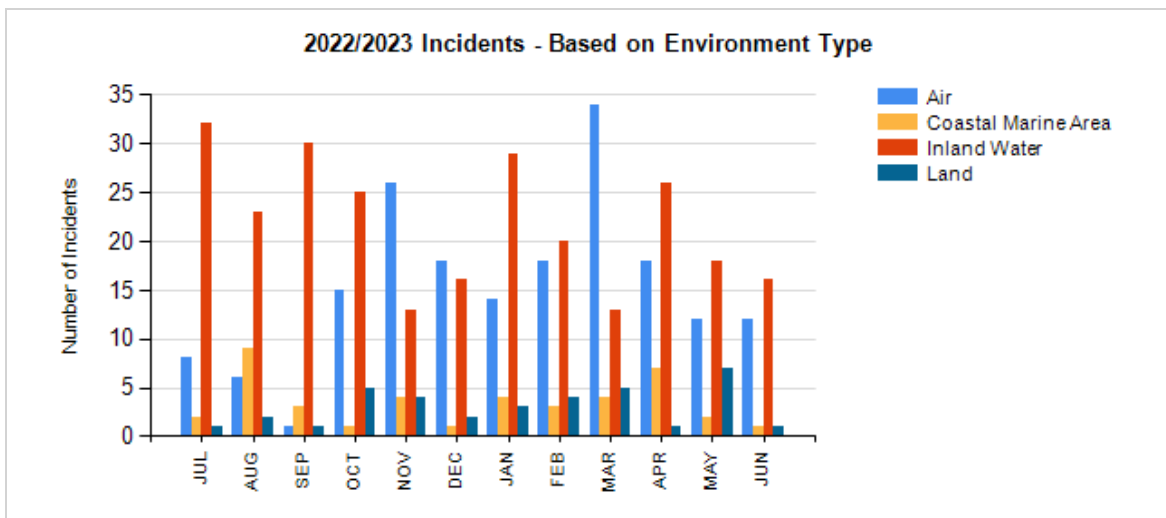
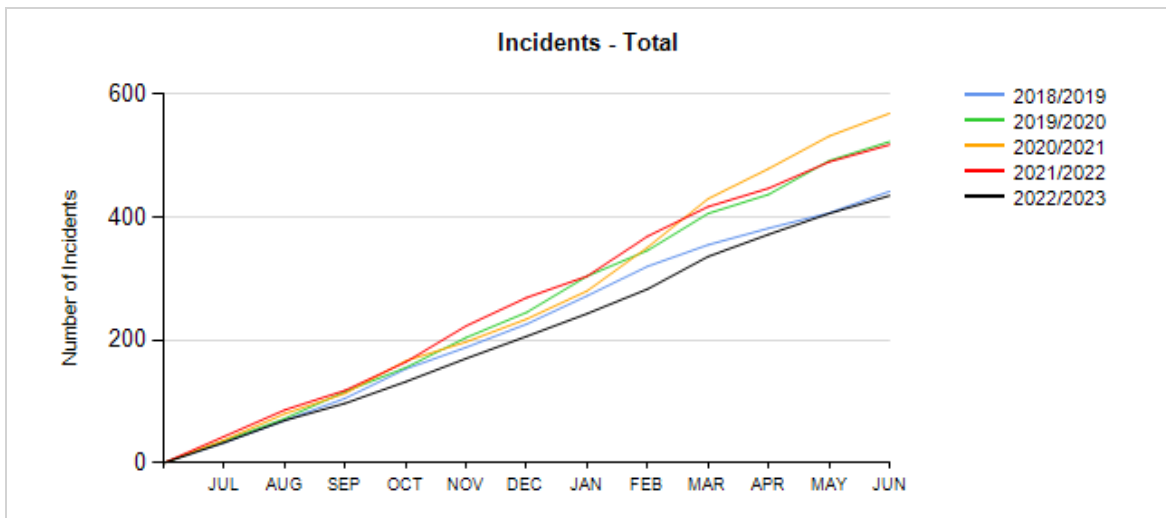
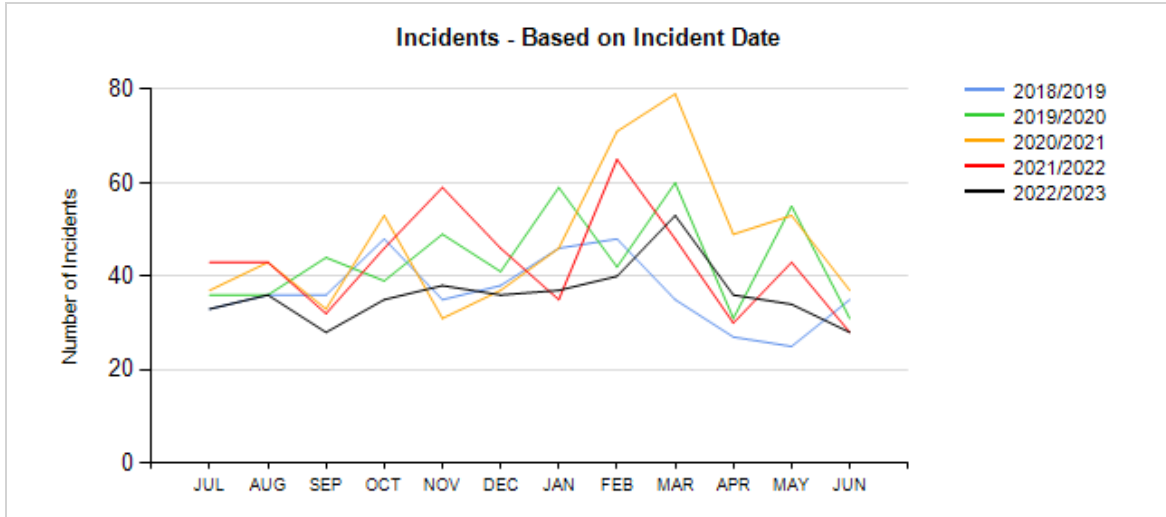
No further Action at this Stage/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date (reinspection of Abatement Notice etc). Costs will be recovered from the alleged offender for the investigation.
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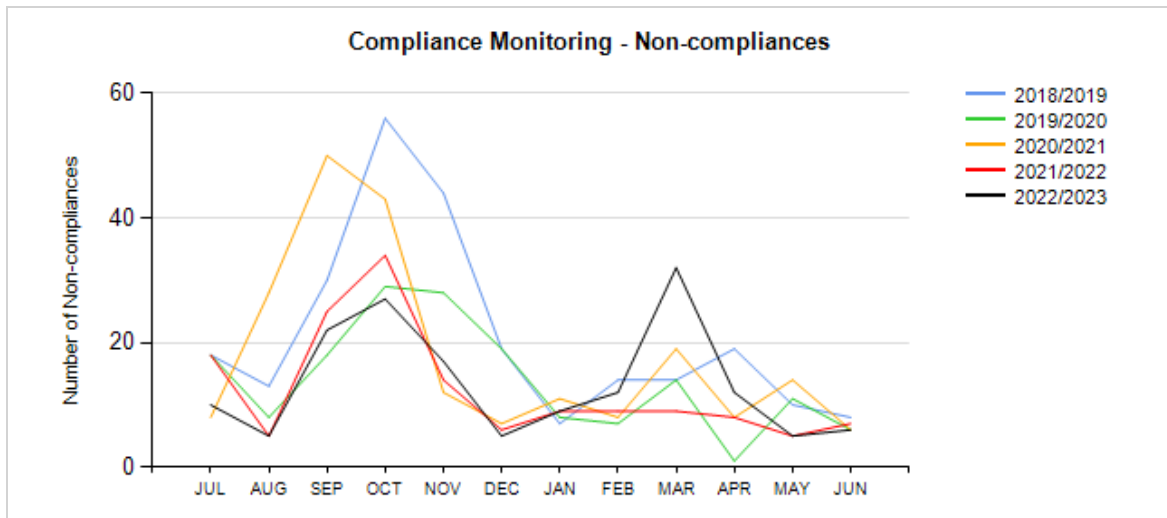
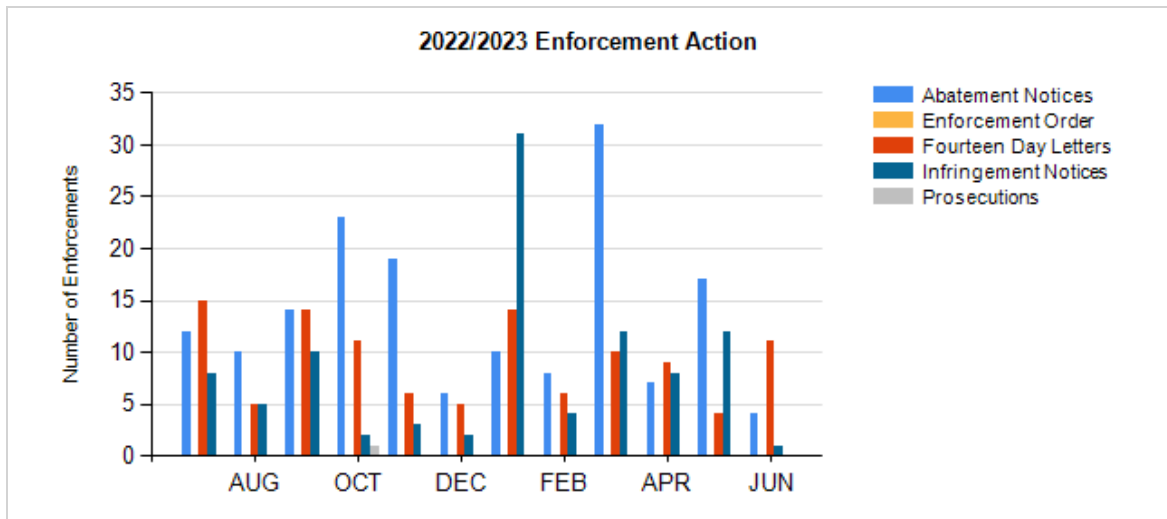
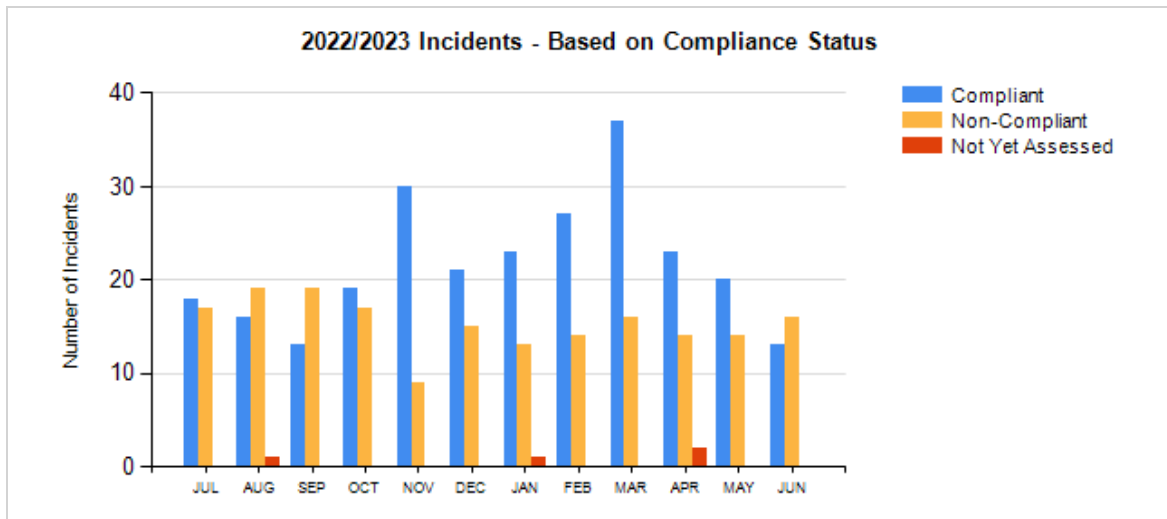
### **Defences under Sections 340 and 341 of the Resource Management Act 1991**

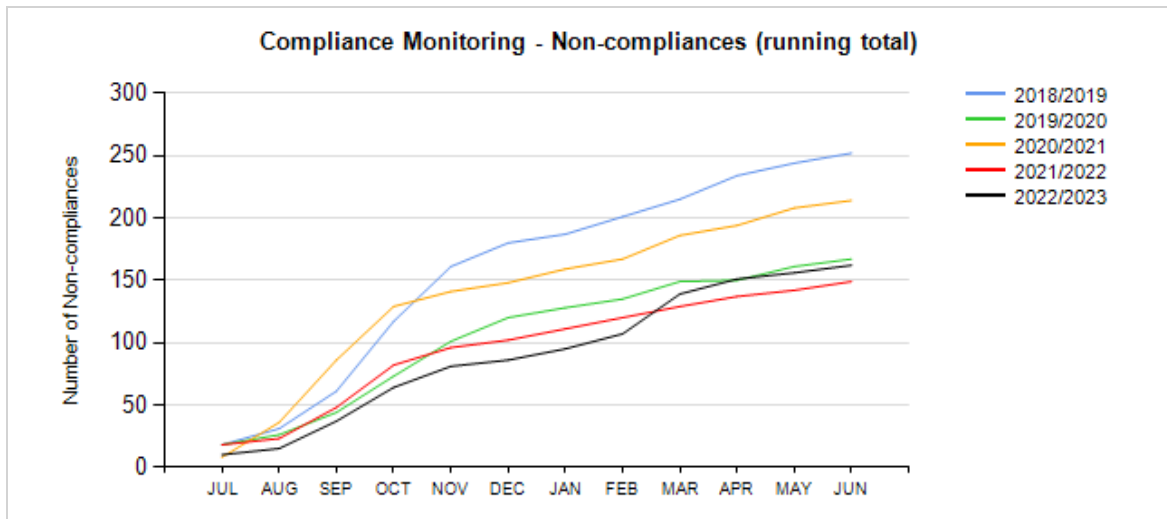
Sometimes no enforcement action is undertaken against an alleged offender for a non-compliant incident as they have a defence under Section 340 of the Resource Management Act 1991 including reasons such as:

- the defendant can prove that he or she did not know, and could not reasonably be expected to have known that the offence was to be or was being committed, or
- that he or she took all reasonable steps to prevent the commission of the offence, or
- the action or event could not reasonably have been foreseen or been provided against by the defendant.

### Incident and Enforcement Graphs to 30 June 2023







**Compliant Incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Compliance Status	Recommendation
4 May 2023	3301-23-398 IN/47624	Alleged piped Stream - Salisbury Road, Stratford	Third Party Notification	RFWP Allowed	No Further Action
4 May 2023	3301-23-399 IN/47625	Alleged piped stream - Flint Road West, Stratford	Third Party Notification	RFWP Allowed	No Further Action
10 May 2023	3301-23-397 IN/47658	Alleged ruptured underground irrigation pipe - Manaia Road, Kaponga	Self-Notification	Consent Compliance	No Further Action
10 May 2023	3301-23-400 IN/47755	Alleged instream works - Pembroke Road, Stratford	Third Party Notification	RFWP Allowed	No Further Action
15 May 2023	3301-23-401 IN/47669	Alleged earthworks - Corbett Road, Bell Block	Complaint	RFWP Allowed	No Further Action
15 May 2023	3301-23-405 IN/47704	Alleged earthworks - Sisson Street, Lepperton	Complaint	RFWP Allowed	No Further Action
16 May 2023	3301-23-402 IN/47693	Alleged smoke - Austin Road, Hawera	Complaint	RAQP Allowed	No Further Action
19 May 2023	3301-23-411 IN/47722	Alleged sulphur odour - Morgan Lane, New Plymouth	Complaint	RAQP Allowed	No Further Action
23 May 2023	3301-23-406 IN/47705	Alleged hydrocarbons in Huatoki Stream - Red Coat Lane, New Plymouth	Complaint	RFWP Allowed	No Further Action
24 May 2023	3301-23-407 IN/47709	Alleged wastewater discharge - Carrington Street, New Plymouth	Self-Notification	RFWP Allowed	No Further Action

**Compliant Incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Compliance Status	Recommendation
24 May 2023	3301-23-408 IN/47716	Alleged odour complaint - Smart Road, Waiwhakaiho	Complaint	RAQP Allowed	No Further Action
27 May 2023	3301-23-413 IN/47728	Alleged sediment discharge - Carrington Street, New Plymouth	Complaint	RFWP Allowed	No Further Action
29 May 2023	3301-23-416 IN/47739	Alleged burning - Glover Road, Hawera	Complaint	RAQP Allowed	No Further Action
29 May 2023	3301-23-414 IN/47742	Alleged dead cow at Waiwhakaiho River mouth, New Plymouth	Complaint	RFWP Allowed	No Further Action
30 May 2023	3301-23-418 IN/47745	Alleged effluent on Road - Cowling Road, New Plymouth	Complaint	RFWP Allowed	No Further Action
30 May 2023	3301-23-431 IN/47867	Alleged hydrocarbon spill - Princess St, Hawera	Complaint	RFWP Allowed	No Further Action
1 Jun 2023	3301-23-422 IN/47769	Alleged earthworks in a wetland - East Road, Stratford	TRC Staff Notification	RFWP Allowed	No Further Action
2 Jun 2023	3301-23-421 IN/47768	Alleged burning - Katere Road, New Plymouth	Complaint	RAQP Allowed	No Further Action
2 Jun 2023	3301-23-436 IN/47818	Alleged fertilizer on stream bank - Cape Road, Pungarehu	Complaint	RFWP Allowed	No Further Action
6 Jun 2023	3301-23-424 IN/47775	Alleged diesel spill - Ihaia Road, Opunake	Third Party Notification	RFWP Allowed	No Further Action



**Compliant Incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Compliance Status	Recommendation
6 Jun 2023	3301-23-423 IN/47778	Alleged backyard burning - Egmont Street, Kaponga.	Complaint	RAQP Allowed	No Further Action
6 Jun 2023	3301-23-433 IN/47889	Alleged stream works - Manutahi Road, Manutahi	Complaint	Consent Compliance	No Further Action
7 Jun 2023	3301-23-426 IN/47781	Alleged burning - Waiwhakaiho, New Plymouth.	Complaint	RAQP Allowed	No Further Action
7 Jun 2023	3301-23-427 IN/47785	Alleged wastewater discharge - Heta Road, New Plymouth.	Complaint	RFWP Allowed	No Further Action
9 Jun 2023	3301-23-430 IN/47796	Alleged burning odour - Devon Road, New Plymouth	Complaint	RAQP Allowed	No Further Action
9 Jun 2023	3301-23-434 IN/47802	Alleged discharge of contaminates to surface water - Brown Road, Inglewood.	Complaint	RFWP Allowed	No Further Action
9 Jun 2023	3301-23-424 IN/47809	Alleged discoloured stream - Upper Pitone Road, Oakura.	Complaint	RFWP Allowed	No Further Action
12 Jun 2023	3301-23-437 IN/47816	Alleged odour complaint - Brixham Place, New Plymouth.	Complaint	RAQP Allowed	No Further Action
18 Jun 2023	3301-23-439 IN/47876	Alleged concrete fill next to Waitotora Stream - Parihaka Road, Pungarehu.	Complaint	RFWP Allowed	No Further Action
20 Jun 2023	3301-23-442 IN/47879	Alleged heavy fertilizer application - Rangitatau West Road, Maxwell.	Complaint	RFWP Allowed	No Further Action

**Compliant Incidents for the period 10 May 2023 to 30 Jun 2023**

<b>Incident Date</b>	<b>Job Number IRIS ID</b>	<b>Incident Type</b>	<b>Source</b>	<b>Compliance Status</b>	<b>Recommendation</b>
25 Jun 2023	3301-23-447 IN/47902	Alleged smokey fire - Henwood Road, Bell Block.	Complaint	RAQP Allowed	No Further Action

**Updates of Non-Compliant incidents from previous agendas**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
22 Mar 2023 <u>Update</u>	3301-23-333 IN/47315	CCA treatment - Ihaia Road, Opunake.	Third Party Notification	Malcolm Thompson (22645)		EAC-25046 - Abatement Notice	No Further Action

**Comments:** A complaint was received alleging that a sawmill was using Copper Chromium Arsenic (CCA) to treat wood at a sawmill at Ihaia Road, Opunake. Investigation found that CCA was being used to tanalise timber on the premise. The inspection identified that insufficient controls were in place to prevent discharges to the receiving environment from the treatment process. An abatement notice was issued requiring works to be undertaken to ensure compliance with Rule 23 of the Regional Fresh Water Plan for Taranaki. Reinspection found that works had been undertaken to isolate the CCA treatment system from the site stormwater system to ensure compliance with the abatement notice.

24 Mar 2023 <u>Update</u>	3301-23-334 IN/47328	Dairy effluent discharge - Anderson Road, Eltham	Complaint	Paul Cornelius & Christine Maree Erkes (10993)	R2/2853-2	EAC-25065 - Abatement Notice EAC-25066 - Abatement Notice EAC-25067 - Explanation Requested - Letter EAC-25174 - Infringement Notice (\$750)	No Further Action/Costs Recovered
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**Comments:** A complaint was received concerning dairy effluent from race scrapings discharging overland and into a constructed drain, at Anderson Road, Eltham. Investigation found that farm dairy effluent was ponding in a paddock and discharging into the constructed drain in contravention of rules in the Regional Fresh Water Plan for Taranaki. An abatement notice was issued requiring works to be undertaken to prevent further discharge. Reinspection found that works had been undertaken to capture and direct the farm dairy effluent into the oxidation ponds to ensure compliance with abatement notice.

**Updates of Non-Compliant incidents from previous agendas**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
12 Apr 2023 <u>Update</u>	3301-23-355 IN/47451	Brown Stream - Okato	TRC Staff Notification	Dale Corrigan (10844) Darrell Hickey (10673)	R2/3796-2	EAC-25134 - Abatement Notice	Investigation Continuing

**Comments:** While proactively investigating ongoing reports of a 'green' stream in the Matanehunu Stream, Okato, it was observed that the stream was discoloured in nature. Further investigation traced the discolouration to a discharge of dairy effluent from an oxidation pond treatment system. Photographs and samples were taken. An abatement notice was issued requiring the consent holder to undertake works to ensure compliance with resource consent conditions. A reinspection showed that works undertaken were compliant with resource consent conditions.

16 Apr 2023 <u>Update</u>	3301-23-359 IN/47487	Poultry odour - Kaipi Road, Egmont Village	Complaint	Conrad Preece (72552) Kaipi Holdings Limited (50510) Tegel Foods Limited (9994)	R2/9500-1.1	EAC-25085 - Explanation Requested - Letter EAC-25086 - Explanation Requested - Letter EAC-25087 - Explanation Requested - Letter EAC-25179 - Infringement Notice (\$1,000)	No Further Action/Costs Recovered
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**Comments:** A complaint was received concerning odour emanating from a poultry farm at Kaipi Road, Egmont Village. While no offensive or objectionable odour was detected beyond the boundary of the property, it was found that poultry were being removed from the facility at a time which contravened resource consent conditions. Letters requesting explanation were sent. A letter of explanation was received outlining the procedures that Tegel Foods Ltd have put in place to ensure compliance with resource consent directions.

**Updates of Non-Compliant incidents from previous agendas**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
18 Apr 2023 <u>Update</u>	3301-23-363 IN/47505	Earthworks in Inaha Stream - Kohiti Road, Okaiawa	Complaint	Taranaki By-Products Limited (9197)	R2/6431-1	EAC-25190 - Infringement Notice (\$750)	No Further Action/Costs Recovered

**Comments:** A complaint was received regarding the discoloration of the Inaha Stream at Kohiti Road, Okaiawa. Investigation found that works were being undertaken to install a temporary culvert, following the failure of a previous culvert at the site during a flood event, within the Inaha Stream resulting in the discharge of sediment in contravention of the Regional Fresh Water Plan for Taranaki. Works were immediately ceased until an appropriate installation methodology and silt controls were implemented. An application for resource consent to authorise the culvert has been received by Council.

23 Apr 2023 <u>Update</u>	3301-23-374 IN/47542	Dead eels - Patea River, Patea	Complaint	Manawa Energy Limited (74010)	R2/0489-2.3	EAC-25108 - Explanation Requested - Letter EAC-25159 - Explanation Requested - Letter	Investigation Continuing
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**Comments:** A complaint was received regarding the discovery of dead eels at the Patea River mouth, Patea. Investigation confirmed a number of dead eels at the Patea River mouth. Further investigations also located dead eels below the Manawa Energy Limited hydroelectric power scheme at Lake Rotorangi. Visible injuries to the eels indicate that they were being injured during their migration through the hydro scheme. Resource consent conditions require Manawa Energy to facilitate the non-lethal downstream passage of adult eels from upstream of the Patea Dam to below the tailrace. A letter of explanation has been requested and an explanation received. A meeting has been organised with Manawa Energy. Enforcement action is being considered.

27 Apr 2023 <u>Update</u>	3301-23-375 IN/47578	Dead cow - Patea Beach, Patea	TRC Staff Compliance Monitoring	Andrea Burling (34027)			No Further Action
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**Comments:** During unrelated monitoring, a dead cow was located on Patea Beach, Patea. The owner of the animal was identified, however removal of the carcass was not possible due to it being located under an unstable coastal cliff. Further engagement with contractors confirmed it was unsafe to access the area to remove the carcass, which was subsequently left to decompose.

**Updates of Non-Compliant incidents from previous agendas**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
27 Apr 2023 <u>Update</u>	3301-23-380 IN/47580	Burning - James Drive, Bell Block	Complaint	Nicholas Johns (75060)		EAC-25193 - Infringement Notice (\$300)	No Further Action

**Comments:** A complaint was received regarding a smoky fire at James Street, Bell Block. Investigation found that farm fencing, including galvanised wire, had been burnt in contravention of the Regional Air Quality Plan for Taranaki. The responsible party immediately extinguished the fire using a digger.

27 Apr 2023 <u>Update</u>	3301-23-381 IN/47583	Burning - Surrey Road, Tariki	TRC Staff Compliance Monitoring	Colin Boyd (3013) Mile Square Farms Limited (3884)		EAC-25101 - Abatement Notice EAC-25102 - Abatement Notice EAC-25181 - Infringement Notice (\$300)	No Further Action/Costs Recovered
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**Comments:** During unrelated compliance monitoring it was found that tyres had been burnt at a rural property on Surrey Road, Tariki. An abatement notice was issued requiring the responsible party to cease and not recommence the burning of tyres in breach of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004. A reinspection found that the abatement notice was being complied with.

4 May 2023 <u>Update</u>	3301-23-395 IN/47627	Flooding - Tukapa Street, New Plymouth	Complaint	Smudgy Developments Limited (56784)		EAC-25109 - Abatement Notice	No Further Action
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**Comments:** A complaint was received regarding the discharge of stormwater from a subdivision onto a neighbouring property at Tukapa Street, New Plymouth. Investigation found that an urban subdivision was under development on the property. The incomplete permanent stormwater system resulted in stormwater being directed onto the neighboring property, causing flooding in contravention of Rule 77 of the Regional Fresh Water Plan for Taranaki. An abatement notice was issued requiring works to be undertaken to control the discharge of stormwater from the site. A reinspection on 15 May 2023 found the abatement notice was being complied with. A further complaint was received on 27th June 2023 which identified a further non compliance with the abatement notice (IN/47916 relates).

**Updates of Non-Compliant incidents from previous agendas**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
5 May 2023 <u>Update</u>	3301-23-390 IN/47633	Wastewater discharge - Monmouth Road, Stratford	Complaint	Ample Group Limited (52845)	R2/5221-2	EAC-25129 - Explanation Requested - Letter EAC-25182 - Infringement Notice (\$750)	No Further Action/Costs Recovered

**Comments:** A complaint was received regarding spray drift from a wastewater irrigator discharging beyond the boundary of the property on Monmouth Road, Stratford. Investigation found that no wastewater was being discharged beyond the property boundary. However, in response to a further complaint, an inspection was undertaken the following day where wastewater being discharged from the irrigator was observed ponding on the surface and flowing overland into the adjacent stream in contravention of resource consent conditions. An employee of the company was advised of the discharge and as a response moved the irrigator away from the stream which subsequently resulted in spray drift discharging beyond the boundary of the property. A letter requesting explanation has been sent, however no response was provided.

8 May 2023 <u>Update</u>	3301-23-391 IN/47643	Dairy effluent - Pembroke Road, Stratford	Complaint	D & S Hancock Trusts (10942)	R2/4667-3.0		No Further Action
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**Comments:** A complaint was received regarding odour from a dairy farming operation discharging beyond the boundary of the property on Pembroke Road Stratford. Investigation found the dairy effluent irrigator was in operation and discharging dairy effluent to land near the property boundary. An inspection of the irrigator found that dairy effluent was flowing overland and into the Mangarangi Stream in contravention of resource consent conditions. An explanation was provided and accepted.

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
18 May 2023	3301-23-403 IN/47691	Dead cow in Matanehunehu River, Paora Road, Okato	Complaint	Janet Hickey (75099)			No Further Action

**Comments:** A complaint was received regarding a dead cow at the mouth of the Matanehunehu River at Paora Road, Okato. The owner of the animal was identified and undertook steps to remove the carcass from the stream, and dispose of it in an appropriate manner.

19 May 2023	3301-23-404 IN/47692	Instream earthworks, Unnamed tributary of the Mangaotuku Stream 2 (Patea) - Brewer Road, Stratford	TRC Staff Notification	Luke Irwin (75143) Ralph Henry Vosseler (11788)		EAC-25143 - Abatement Notice EAC-25144 - Abatement Notice EAC-25146 - Abatement Notice EAC-25151 - Abatement Notice EAC-25164 - Explanation Requested - Letter	Investigation Continuing
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**Comments:** During unrelated monitoring, it was found that earthworks were being undertaken on a property on Brewer Road, Stratford. Investigation found that earthworks had been undertaken for land improvement purposes on the property. The works included instream works to clean out tributaries on the property and the installation of a number of culverts for access purposes. The instream works were found to be in contravention of the rules in the Regional Freshwater Plan for Taranaki and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020. Abatement notices were issued requiring instream works to cease, erosion and sediment controls to be installed, and works to be undertaken to ensure the culverts installed are compliant with the relevant regulations. A reinspection found that erosion and sediment controls have been installed on the property and the no further instream works have occurred. Work is ongoing to address the culverts. Further reinspections will be undertaken. A letter requesting an explanation was sent.



**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
23 May 2023	3301-23-412 IN/47723	Rubbish in stream, South Road, Pungarehu	Complaint	Unsourced (9768)			No Further Action
<p><b>Comments:</b> A complaint was received regarding rubbish being deposited in a stream at South Road, Pungarehu. Investigation found that motor vehicle parts and other general rubbish had been deposited in a constructed drain adjacent to South Road in contravention of rules in the Regional Freshwater Plan for Taranaki. Officer removed the rubbish at the time of the inspection. The responsible party could not be identified.</p>							
25 May 2023	3301-23-409 IN/47717	Odour from composting organic matter - Saltash Street, New Plymouth.	Third Party Notification	Chemwash Taranaki Limited (10137)		EAC-25163 - Explanation Requested - Letter	Investigation Continuing
<p><b>Comments:</b> A complaint was received regarding odour being discharged from the Chemwash Industrial site at Saltash Street, New Plymouth. An inspection found a large pile of road sweepings temporarily stored on site were decomposing, resulting in the discharge of offensive odour beyond the site boundary in contravention of rules in the Regional Air Quality Plan for Taranaki. A letter of explanation has been requested.</p>							
25 May 2023	3301-23-410 IN/47718	Dead calves near - Alfred Road, Egmont Village.	Complaint	Leon Strauss (75132)			No Further Action
<p><b>Comments:</b> A complaint was received regarding dead calves located adjacent to surface water at a rural property on Alfred Road, Egmont Village. Investigation located two dead calves adjacent to an unnamed tributary on the property in contravention of the Resource Management Act 1991. The responsible party was spoken to who undertook immediate works to remove the calves and dispose of them in an appropriate manner.</p>							
30 May 2023	3301-23-417 IN/47743	Backyard burning - Collingwood Street, Eltham	Complaint	Unsourced (9768)			No Further Action
<p><b>Comments:</b> A complaint was received regarding smoke within the Eltham township. Investigation found that vegetation had been burnt and was still smoldering at a residential section on Collingwood Street, Eltham. Responsible parties were advised of the rules regarding backyard burning and directed to extinguish the fire completely.</p>							

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
30 May 2023	3301-23-419 IN/47750	White Stream - Scott Street, Hawera	TRC Staff Notification	Un sourced (9768)			No Further Action
<p><b>Comments:</b> During unrelated monitoring by Taranaki Regional Council Officers, it was found that an unnamed tributary of the Tawhiti Stream 1 was flowing white in colour. An investigation found that the discolouration was likely a result of paint washings being discharged into it. The investigation failed to locate the source of the discharge with the stream flowing clear during the inspection.</p>							
30 May 2023	3301-23-420 IN/47751	Dairy Effluent - Waiteika Road, Opunake	Complaint	Sharon Nuku (33488) Waiteika Trust (20874)	R2/2605-3.0	EAC-25189 - Infringement Notice (\$750)	No Further Action At This Stage/Costs Recovered
<p><b>Comments:</b> A complaint was received regarding the ponding of dairy effluent onto land at Waiteika Road, Opunake. Investigation found that dairy effluent had been applied to land by irrigation the previous day, resulting in the ponding of effluent in contravention of resource consent conditions.</p>							
1 Jun 2023	3301-23-415 IN/47761	Backyard Burning - Collingwood Street, Eltham	Complaint	Richard Owen (75248)			Investigation Continuing
<p><b>Comments:</b> A complaint was received regarding smoke activating a smoke alarm at an industrial site in Eltham. Investigation found that a vegetation fire was smoldering at a residential address on Collingwood Street, Eltham which Compliance Officers had attended the previous day (IN/47743 relates). Attempts were being made by the responsible party to extinguish the fire however the towns potable water supply had been turned off for maintenance work making it difficult to fully extinguish the fire. This was confirmed during the inspection. The responsible party fully extinguished the fire once the water supply was turned back on later that day.</p>							

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
6 Jun 2023	3301-23-425 IN/47780	Rubbish on Tapuae Beach - South Road, Oakura	Complaint	Raymond Hector Barron (36375)			No Further Action
<p><b>Comments:</b> A complaint was received regarding rubbish on the beach at Tapuae, South Road, Oakura. Inspection found that a historic farm dump has been exposed on the sea cliff as a result of coastal erosion. No rubbish was observed on the beach. Due to the location of the dump, it is unsafe to mobilise heavy machinery to the cliff edge to remove the rubbish. The current landowner is aware of the issue and is monitoring the beach to remove any rubbish that discharges onto the beach as a result of further erosion.</p>							
7 Jun 2023	3301-23-428 IN/47790	Animal carcasses in stream - Bedford Road North, Inglewood	Complaint	Un sourced (9768)			No Further Action
<p><b>Comments:</b> A complaint was received regarding offal in a stream at Bedford Road North, Inglewood. Inspection found a dead sheep and pig carcass in an unnamed tributary of the Waionganaiti Stream. Officers removed the offal from the stream disposed of it in an appropriate manner. Responsible party was unable to be identified.</p>							

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
8 Jun 2023	3301-23-429 IN/47794	Green Stream - Plymouth Road, Omata	Complaint	Christine Barrett (50795) Martin Strauss (74270) Nicholas Barrett (28372) Zenith Trust (74279) Zenith Trustee 2022 Limited (74713)	R2/1702-3	EAC-25165 - Abatement Notice EAC-25166 - Explanation Requested - Letter EAC-25167 - Explanation Requested - Letter EAC-25168 - Explanation Requested - Letter EAC-25169 - Explanation Requested - Letter	Investigation Continuing

**Comments:** A complaint was received regarding a 'green' stream at Plymouth Road, Omata. Investigation found that farm dairy effluent had been discharged onto land from two irrigators in different locations on the property. The effluent had flowed overland and discharged into the Paopaohaonui Stream being a tributary of the Tapuae Stream, in contravention of resource consent conditions and abatement notices previously issued for similar incidents. Letters requesting explanations have been sent. Further enforcement action is being considered.

9 Jun 2023	3301-23-432 IN/47798	Hydrocarbon Spill - Huatoki Stream, New Plymouth	Complaint	Drillco 2019 Limited (73655)		EAC-25170 - Explanation Requested - Letter	No Further Action
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**Comments:** A complaint was received regarding a hydrocarbon sheen in the Huatoki Stream, New Plymouth. Investigation found that there had been a discharge of hydraulic oil as a result of a burst hydraulic hose on a horizontal drilling unit being operated on Vivian Street as part of NPDC sub surface infrastructure upgrades. Steps had been undertaken by the operators to prevent the spill entering the stream, however a small volume of oil had discharged into the stormwater system resulting in a visible sheen within the stream. Samples were taken and on analysis it was found that the concentration of hydrocarbons in the stream were below detectable limits. A letter requesting an explanation was sent and the explanation provided was accepted.

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
12 Jun 2023	3301-23-438 IN/47817	Rubbish in Patea River - Cloten Road, Stratford	Complaint	Un sourced (9768)			No Further Action
<p><b>Comments:</b> A complaint was received regarding rubbish being dumped in the Patea River at Cloten Road, Stratford. Inspection found that car bumpers had been dumped into the stream. The responsible party could not be identified and the items were removed and disposed of by Compliance Officers at the time of the inspection.</p>							
12 Jun 2023	3301-23-440 IN/47823	Discharge of Farm Dairy Effluent - Waiteika Road, Opunake	Complaint	Waiteika Trust (20874)	R2/2605-3.0	EAC-25171 - Explanation Requested - Letter	No Further Action At This Stage/Costs Recovered
<p><b>Comments:</b> A complaint was received regarding effluent that had been discharged adjacent to a wetland at Waiteiku Road, Opunake. Investigation found effluent solids had been discharged to land adjacent to a wetland in contravention of the Resource Consent conditions. The responsible party took steps to remove the effluent and reinspection found consent conditions were being complied with.</p>							
15 Jun 2023	3301-23-443 IN/47843	Unauthorised burning - Putahi Road, Patea	TRC Staff Compliance Monitoring	Robert & Verna Bourke (2672)			Investigation Continuing
<p><b>Comments:</b> During unrelated monitoring, black smoke was observed discharging from a fire on a rural property on Putahi Road, Patea. Investigation found that a tractor tyre was being burnt in contravention of rules in the Regional Air Quality Plan for Taranaki and the Resource Management (National Environmental Standards for Air Quality) Regulations 2004. Further enforcement action is being considered.</p>							

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
21 Jun 2023	3301-23-441 IN/47881	Backyard burning - Layard Street, Opunake	Complaint	Unsourced (9768)			No Further Action
<p><b>Comments:</b> A complaint was received regarding smoke being discharged as a result of backyard burning on a residential property on Layard Street, Opunake. Inspection did not locate any backyard burning activities, however flyers were delivered to a number of residents in the immediate area to advise them of the rules regarding burning within an urban defined area.</p>							
21 Jun 2023	3301-23-445 IN/47891	Paint discharge to water - Pukekura Park, New Plymouth.	Self-Notification	Whitaker Civil Engineering Limited (14442)			No Further Action
<p><b>Comments:</b> Self notification was received regarding paint chips which had discharged into the Pukekura Park lake as a result of maintenance works being undertaken on the Red Bridge. The responsible party deployed a boom to collect and subsequently recover the paint chips from the lake surface. Measures were put in place to prevent any further discharges as a result of the maintenance works.</p>							
22 Jun 2023	3301-23-444 IN/47890	House demolition and burning - South Road, Hawera	Complaint	Vernon John & Deidre Pauline Cleaver (13355)			Investigation Continuing
<p><b>Comments:</b> A complaint was received regarding a house which had been demolished and disposed of on a rural property at South Road, Hawera. Inspection found that a house on the property had been demolished with some of the materials being burnt on site in contravention of rules in the Regional Air Quality Plan for Taranaki. A letter requesting explanation has been sent.</p>							

**Non-compliant incidents for the period 10 May 2023 to 30 Jun 2023**

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
24 Jun 2023	3301-23-446 IN/47901	Unauthorized burning - Rugby Road, Tariki.	TRC Staff Notification	Lorry Land Limited (24772) Roger Schoemaker (33993)	R2/7965-1	EAC-25191 - Infringement Notice (\$750)	No Further Action/Costs Recovered

**Comments:** During unrelated activities, black smoke was observed discharging from an industrial site on Rugby Road, Tariki. Inspection found that unauthorised materials consisting of fibreglass and a steel truck deck were being burnt on the property in contravention of resource consent conditions. Responsible party was spoken to and immediately removed the truck deck and extinguished the fire.

25 Jun 2023	3301-23-448 IN/47903	Odour discharge - Breacon Road, Stratford.	Complaint	Regal NZ Trading Limited (74995)		EAC-25176 - Explanation Requested - Letter	Investigation Continuing
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**Comments:** A complaint was received regarding odour discharging from a parked truck on Breacon Road, Stratford. Investigation found that a truck used for the cartage of domestic rubbish was found to be discharging offensive and objectionable odours onto nearby properties. Responsible party was spoken to and is identifying a more suitable location to park the vehicle in the future. A letter requesting explanation has been sent.

27 Jun 2023	3301-23-449 IN/47916	Discharge of stormwater - Tukapa Street, New Plymouth	Complaint	N Mumby (75268) Smudgy Developments Limited (56784)			Investigation Continuing
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**Comments:** A complaint was received regarding stormwater discharging onto a neighbouring property from a residential subdivision under development on Tukapa Street, New Plymouth. The investigation found that sediment laden stormwater had discharged onto a neighboring property as a result of failed erosion and sediment control devices onsite. The discharge was in contravention of Abatement Notice EAC-25019. Further enforcement action is being considered.

**Updates of Compliance Monitoring – Non-compliances from previous agendas**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>22 Nov 2022 Update</u>	332123-146 ENF-23934	Annual Inspection	Significant non-compliance	DJ Harvey Family Trusts Partnership (69531)	R2/1609-4.0	EAC-25110 - Explanation Requested - Letter EAC-25013 - Infringement Notice (\$750) EAC-24839 - Abatement Notice EAC-24838 - Abatement Notice	No Further Action/Costs Recovered

**Comments:** During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Parihaka Road, Pungarehu. Two abatement notices were issued requiring alleged offender, cease the discharge of farm dairy effluent into water, or onto land where it is likely to discharge to water and undertake works to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection found that the abatement notice and resource consent was being complied with at the time of inspection. Further enforcement action is being considered. During a dairy non-complaint re-inspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and Abatement Notice EAC-24838 & 24839, which was issued as a result of a previous non-compliance.

<u>15 Dec 2022 Update</u>	332123-131 ENF-23860	Follow Up Inspection	Non-compliance	Rocky Acres Trust (23569)	R2/1918-3.0		No Further Action
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**Comments:** During a follow up inspection, as part of the annual dairy inspection round, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Waiteika Road, Opunake. A further inspection confirmed that a stormwater diversion system has been installed at the property to achieve compliance with the resource consent conditions.



**Updates of Compliance Monitoring – Non-compliances from previous agendas**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>2 Mar 2023 Update</u>	332123-108 ENF-23850	Annual Inspection	Non-compliance	Irene Phillips (69381)	R2/3239-3.0	EAC-25020 - Abatement Notice	No Further Action/Costs Recovered

**Comments:** During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Upper Newall Road, Newall. An abatement notice was issued requiring works to be undertaken to ensure compliance with resource consent conditions. Reinspection found that the likelihood of an unauthorised discharge of farm dairy effluent to water was high due to poor repurposing of oxidation ponds to effluent storage at the property. A consultant has been engaged to provide assistance to ensure ongoing consent compliance is achieved at the property. An explanation was provided and accepted.

<u>17 Mar 2023 Update</u>	332123-121 ENF-23887	Compliance Monitoring Insp.	Non-compliance	Fletcher Concrete & Infrastructure Limited (24970)	R2/5026-2	EAC-25075 - Explanation Requested - Letter	No Further Action/Costs Recovered
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**Comments:** During routine monitoring it was found that a concrete batching site was not operating within resource consent conditions and in contravention of Abatement Notice-EAC-23386 at Mountain Road, Stratford. The discharge from the site had a high suspended sediment load. A letter of explanation was requested. Reinspection found that works were being undertaken, but had not been completed, at the site to ensure compliance with resource consent conditions. Reinspection found that works had been undertaken to ensure compliance with resource consent conditions. A significant upgrade of the stormwater infrastructure is being undertaken to ensure ongoing compliance.

<u>17 Mar 2023 Update</u>	332123-120 ENF-23886	Compliance Monitoring Insp.	Non-compliance	Taranaki Stock Car Club Inc (2299)	R2/2116-4.0	EAC-25074 - Explanation Requested - Letter	No Further Action/Costs Recovered
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**Comments:** During routine monitoring it was found that the site was not operating within resource consent conditions. The discharge from the site had a high suspended sediment load. A letter of explanation was requested. Reinspection found that works had been undertaken on site to ensure that resource consent conditions are being complied with.

**Updates of Compliance Monitoring – Non-compliances from previous agendas**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>23 Mar 2023 Update</u>	332123-122 ENF-23888	Compliance Monitoring Insp.	Non-compliance	Horizon Trust Management Limited (36890)	R2/7845-1.2	EAC-25088 - Abatement Notice	No Further Action/Costs Recovered
<b>Comments:</b> Analysis of samples, taken during routine monitoring on 23 March 2023, found that the allowable suspended solids limit was contravened at a quarry site at Whenuku Road, Normanby. An abatement notice was issued requiring works to be undertaken to ensure compliance with resource consent conditions. Further sampling undertaken found that the abatement notice was being complied with at that time of inspection.							
<u>30 Mar 2023 Update</u>	332123-132 ENF-23933	Annual Inspection	Non-compliance	Greenhills Trust (12618)	R2/1101-4.0	EAC-25188 - Infringement Notice (\$750)	No Further Action/Costs Recovered
<b>Comments:</b> During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Wiremu Road, Okato. Reinspection found that resource consent conditions were being complied with.							
<u>18 Apr 2023 Update</u>	332123-143 ENF-23929	Compliance Monitoring Insp.	Non-compliance	Greymouth Petroleum Limited (20755)	R2/7853-1.1		No Further Action
<b>Comments:</b> During routine monitoring it was found that best practicable options were not being undertaken, in relation to general housekeeping and site cleanliness, resulting in the potential entrainment of contaminants in stormwater during rainfall events at Turangi B Wellsite, at Upper Turangi Road, Motunui in contravention of resource consent conditions. Works were immediately undertaken to clean the site to reduce the risk of contaminants becoming entrained within the stormwater system on site.							

**Updates of Compliance Monitoring – Non-compliances from previous agendas**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>20 Apr 2023 Update</u>	332123-141 ENF-23920	Compliance Monitoring Insp.	Non-compliance	Molten Metals Limited (24944)	R2/9975-1.0	EAC-25115 - Abatement Notice	No Further Action/Costs Recovered

**Comments:** During routine monitoring it was found that best practicable options were not being used at a scrap metal site, in contravention of resource consent conditions, at Centennial Drive, New Plymouth. An abatement notice was issued requiring works to be undertaken to ensure consent compliance. Reinspection found that the abatement notice was being complied with.

<u>20 Apr 2023 Update</u>	332123-145 ENF-23932	Compliance Monitoring Insp.	Non-compliance	Value Timber Supplies Limited (30481)	R2/7338-1		No Further Action/Costs Recovered
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**Comments:** During analysis of samples taken during routine monitoring it was found that the allowable consented suspended solids limit had been exceeded (150 g/m3) in the stormwater discharge at a timber processing site at Bristol Road, Inglewood. Reinspection found that the suspended solid concentration (12 g/m3) in the stormwater discharge was compliant with resource consent conditions.

<u>20 Apr 2023 Update</u>	332123-140 ENF-23921	Compliance Monitoring Insp.	Non-compliance	Molten Metals Limited (24944)	R2/9974-1.0	EAC-25118 - Abatement Notice	No Further Action/Costs Recovered
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**Comments:** During routine monitoring it was found that required updates to documentation had not been submitted to this Council and best practicable options were not being used at a scrap metal site, in contravention of resource consent conditions, at Centennial Drive, New Plymouth. An abatement notice was issued requiring works to be undertaken to ensure consent compliance. At reinspection a formal abatement notice was being complied with.

**Updates of Compliance Monitoring – Non-compliances from previous agendas**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
27 Apr 2023 <u>Update</u>	332123-144 ENF-23930	Compliance Monitoring Insp.	Non-compliance	Fonterra Limited (50606)	R2/3902-3.0		Investigation Continuing

**Comments:** Analysis of samples taken during routine monitoring found that the oil and grease concentrations within the stormwater discharge were above the consented limits at a milk processing site at Whareroa Road, Hawera. The company is undertaking an investigation into the non-compliance. Further enforcement action is being considered.

2 May 2023 <u>Update</u>	332123-138 ENF-23925	Dairy Non-compliant Re-inspection	Significant non-compliance	Nigel Wayne & Denise Mary King (3009)	R2/4276-2.1	EAC-25128 - Abatement Notice	Investigation Continuing
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**Comments:** During a dairy non-compliant reinspection it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Egmont Road, New Plymouth. An abatement notice was issued requiring works to be undertaken to ensure compliance with resource consent conditions. Reinspection will be undertaken after 1 August 2023.

5 May 2023 <u>Update</u>	332123-146 ENF-23934	Dairy Non-compliant Re-inspection	Significant non-compliance	DJ Harvey Family Trusts Partnership (69531)	R2/1609-4.0		No Further Action/Costs Recovered
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**Comments:** During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Parihaka Road, Pungarehu. Two abatement notices were issued requiring alleged offender, cease the discharge of farm dairy effluent into water, or onto land where it is likely to discharge to water and undertake works to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection found that the abatement notice and resource consent was being complied with at the time of inspection. Further enforcement action is being considered. During a dairy non-complaint re-inspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and Abatement Notice EAC-24838 & 24839, which was issued as a result of a previous non-compliance.

**Compliance Monitoring – Non-compliances for the period 10 May 2023 to 30 Jun 2023**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
3 Feb 2023	332123-148 ENF-23936	Compliance Monitoring Insp.	Non-compliance	Technix Group Limited (20559)	R2/9982-1.0	EAC-25141 - Abatement Notice	No Further Action/Costs Recovered

**Comments:** During analysis of samples taken, at routine monitoring it was found that suspended solids limits were exceeded at an industrial site at Devon Road Bell Block. An abatement notice was issued requiring works to be undertaken to ensure consent compliance. The property has subsequently changed ownership and an application to change consent holders is being submitted to this Council.

11 May 2023	332123-150 ENF-23947	Compliance Monitoring Insp.	Non-compliance	Manor Properties Limited (55527)	R2/10847-1.0	EAC-25186 - Infringement Notice (\$750) EAC-25148 - Abatement Notice	No Further Action/Costs Recovered
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**Comments:** During routine compliance monitoring it was found that the site was not operating in accordance with resource consent conditions, and sediment laden stormwater was observed discharging from the site into surface water from a residential subdivision site on Junction St, New Plymouth. An abatement notice was issued to requiring the consent holder to undertake works to ensure compliance with the abatement notice. Reinspection found that the site was compliant with the abatement notice.

12 May 2023	332123-154 ENF-23948	Dairy Non-compliant Re-inspection	Non-compliance	Josh Neilson (75112) Kandahar Neilson Farm Limited (74300) Tony Neilson (75106)	R2/2833-2	EAC-25158 - Abatement Notice EAC-25149 - Abatement Notice	No Further Action At This Stage
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**Comments:** During a dairy non-compliance reinspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Wiremu Road, Opunake. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Re-inspection will be undertaken after 1 September 2023.

**Compliance Monitoring – Non-compliances for the period 10 May 2023 to 30 Jun 2023**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
15 May 2023	332123-156 ENF-23958	Dairy Non-compliant Re-inspection	Non-compliance	Alistair Barkla (20117)	R2/0875-3.0		Investigation Continuing

**Comments:** During a dairy non-compliant reinspection it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Whakamara Road, Manutahi. Works are required to repair bunding around the farm dairy. Reinspection will be undertaken after 10 July 2023.

16 May 2023	332123-152 ENF-23949	Dairy Non-compliant Re-inspection	Significant non-compliance	Otauto Farms Limited (56833)	R2/3436-3.0	EAC-25185 - Infringement Notice (\$750) EAC-25152 - Abatement Notice	No Further Action/Costs Recovered
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**Comments:** During a dairy non-complaint reinspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Otauto Road, Patea. An abatement notice was issued requiring, the cease of the unauthorised discharge, of farm dairy effluent. Reinspection found that the abatement notice and resource consent was being complied with at the time of inspection.

16 May 2023	332123-151 ENF-23946	Dairy Non-compliant Re-inspection	Non-compliance	Robert Swindlehurst (1639)	R2/0334-3.1	EAC-25147 - Abatement Notice	No Further Action/Costs Recovered
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**Comments:** During a dairy non-complaint re-inspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Kaiapoi Road, Midhurst. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Re-inspection will be undertaken after 30 June 2023 Re-inspection found that the abatement notice and resource consent conditions was being complied with at the time of inspection.

**Compliance Monitoring – Non-compliances for the period 10 May 2023 to 30 Jun 2023**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
23 May 2023	332123-155 ENF-23951	Advice & Information	Significant non-compliance	Intergroup Limited (50186)	R2/4776-2.0	EAC-25183 - Infringement Notice (\$750)	No Further Action/Costs Recovered

**Comments:** During analysis of samples taken in association with routine compliance monitoring it was found that the suspended solid concentration in the stormwater discharge exceeded resource consent conditions and was also non compliant with a previously issued abatement notice at an industrial site on Hudson Road, Bell Block. Reinspection found that works had been undertaken to ensure consent conditions were being complied with.

24 May 2023	332123-153 ENF-23950	Follow Up Inspection	Non-compliance	Peter Myers (2895)	R2/2321-3.0		No Further Action
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**Comments:** During a follow up inspection, in relation to a previous non compliance, it was found that the dairy effluent disposal system was not operating within resource consent conditions at Hawera Road, Hawera. Works were being undertaken upon the officers arrival to ensure consent compliance could be achieved. A reinspection confirmed compliance with resource consent conditions.

2 Jun 2023	332123-158 ENF-23953	Dairy Non-compliant Re-inspection	Non-compliance	Marcus Smith (16291)	R2/4347-2.1	EAC-25162 - Abatement Notice	Investigation Continuing
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**Comments:** During a dairy non-complaint re-inspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Opunake Road, Cardiff. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Re-inspection will be undertaken after 8 August 2023.

**Compliance Monitoring – Non-compliances for the period 10 May 2023 to 30 Jun 2023**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
6 Jun 2023	332123-157 ENF-23957	Dairy Non-compliant Re-inspection	Significant non-compliance	The Tom Lance Trust (51397)	R2/3309-3.0	EAC-25187 - Infringement Notice (\$750)	Investigation Continuing

**Comments:** During a dairy non-complaint re-inspection, it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and Abatement Notice EAC-24814, which was issued as a result of a previous non-compliance at on Parahaki Road, Waverley. Further enforcement action is being considered

15 Jun 2023	332123-159 ENF-23965	Compliance Monitoring Insp.	Non-compliance	ForestryCo (73350)	PA/20486-01	EAC-25173 - Abatement Notice	
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**Comments:** During routine compliance monitoring of a plantation forest, it was found that slash had been deposited within the Mako Stream in contravention of the Resource Management (National Environmental Standards of Plantation Forestry) Regulations 2017, at a harvesting site on Makara Road, Ratapiko. An abatement notice was issued requiring the slash to be removed from the stream and the site to be monitored during wet weather events until such time as the works are complete. Reinspection will be undertaken after 30 November 2023.

23 Jun 2023	332123-161 ENF-23969	Compliance Monitoring Insp.	Non-compliance	EB Developments Limited (74239)	R2/11045-1.0		No Further Action/Costs Recovered
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**Comments:** During routine compliance monitoring of a residential sub division development, it was found that there were a number of minor issues on the site regarding erosion and sediment controls, in non compliance with resource consent condition at Cunningham Lane, Oakura. No discharge of sediment to the receiving environment occurred as a result of the non compliance. Works were undertaken to ensure all erosion and sediment controls were maintained to ensure compliance with the resource consent conditions.



**Compliance Monitoring – Non-compliances for the period 10 May 2023 to 30 Jun 2023**

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
27 Jun 2023	332123-160 ENF-23966	Annual Inspection	Non-compliance	Barry John & Lynette Betty Bishop (2570)	R2/5877-2	EAC-25175 - Abatement Notice	Investigation Continuing

**Comments:** During routine compliance monitoring it was found that unauthorised material had been deposited in a clean fill at Ahu Ahu Road, Oakura. Insufficient silt and sediment controls were also observed at the site. Abatement notice was issued requiring works to be undertaken to ensure compliance with resource consent conditions. Reinspection will be undertaken after 28 July 2023.

29 Jun 2023	332123-162 ENF-23970	Annual Inspection	Non-compliance	Westown Agriculture Limited (55300)	R2/10884-1.0	EAC-25178 - Abatement Notice	Investigation Continuing
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**Comments:** During routine compliance monitoring it was found that insufficient erosion and sediment controls were installed in breach of resource consent conditions at a clean fill disposal site on Cowling Road, New Plymouth. Abatement notice was issued requiring works to be undertaken to ensure compliance with resource consent conditions. Reinspection will be undertaken after 31 July 2023.



**Date:** 18 July 2023

**Subject:** **Compliance monitoring and enforcement for the regional sector**

**Approved by:** A D McLay, Director - Resource Management  
S J Ruru, Chief Executive

**Document:** 3177950

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### **Purpose**

1. To inform the Council of independent analysis on compliance, monitoring and enforcement (CME) across the regional sector and its relevance to the Taranaki Regional Council (TRC).

### **Executive summary**

2. Effective CME is critical for the integrity of all regulatory systems. CME data has been published for the last 5 years to better measure the sectors performance. The current report takes the data and looks into the trends and stories which sit behind the numbers, rather than a focus on the performance of individual regional councils.
3. The Council has maintained the highest proportion of FTE compared with population of all councils and has steadily increased capacity over time. The data shows a high use of abatement notices and infringement notices but lower numbers of prosecutions. A high response rate to incidents has been maintained and all consents that require monitoring have been monitored.
4. A number of challenges in implementing CME are raised and possible mitigation measures are raised for discussion. The report also looks ahead at delivery of CME under the Natural Built Environment Act and the opportunities and challenges that the sector may face.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives the memorandum Compliance monitoring and enforcement for the regional sector;
- b) notes the Council's high use of compliance monitoring and enforcement tools in resource management; and
- c) notes the challenges faced by the sector and encourages these to be addressed.

## **Background**

5. Over the past five years, Te Uru Kahika – the collective grouping of all regional councils in New Zealand – has collected data on CME operations. It has now commissioned an independent analysis of the CME trends over these five years: Independent analysis of compliance monitoring and enforcement for the regional sector (the Report).
6. The Report goes beyond the annual reports Te Uru Kahika has previously prepared on CME. Along with its key findings, it provides recommendations to improve CME across all regional councils. The Report findings are in three areas: data analysis, current and emerging challenges, and future expectations and opportunities.

## **Discussion**

### **Data analysis**

7. Data analysed in the report showed an overall strengthening of the CME sector. Prosecutions and the size of financial penalties increase over the first three years, then suffering an understandable knock back due to COVID-19. It also found that CME resourcing across the country has increased considerably since 2017. Although 52% of all CME staff are employed by Waikato, Auckland and Canterbury councils.
8. While the above information is useful, the provision of anymore detailed insights is limited by the quality of the survey data. The Report recommends the development of more specific survey questions to delve into how CME decisions are made (as opposed to just what decisions are made), more detailed staffing information, and specific information on how councils monitor permitted activities.
9. Reflecting the importance TRC places on CME, the Council has the highest proportion of CME FTEs relative to population size in the country. TRC also issues more abatement and infringement notices, but has a lower number of prosecutions, than other regional councils.

### **Current and emerging challenges**

10. The Report identifies workforce capacity and capability as the most significant challenge to CME. Overall, CME work is increasing in volume and complexity as land use across the county becomes more intensive and new requirements enter into effect. Compounding this challenge are ongoing difficulties with CME staff retention, recruitment and training.
11. Effective CME requires a mix of environmental management expertise and strong conflict management skills. The Report notes most recruits are strong in one but not the other, meaning dedicated training is often vital for success in a role. But once CME staff become experienced, they often look to other resource management roles for advancement, such as in science or policy roles. The rise of remote work options for central government has also acted as a further drain on regional CME expertise.
12. The other two main challenges canvassed in the Report are cost recovery and tools. CME cost recovery is a long-run issue. Available cost recovery options cannot cover the full cost of CME activities. This means effective CME becomes dependent on organisation wide allocations through the Long Term Plan process, where it is vulnerable to deprioritisation. On tools, the Report simply states they are largely not fit for purpose, leading to administrative burden on CME staff.

13. The key recommendation in the Report to address the above challenges is the development of a dedicated strategy and work-programme between local and central government. This strategy and work-programme would aim to develop the recognition of CME as a resource management specialisation in its own right, with its own career and formal learning pathways. They also recommend the standardisation of CME forms and templates across regional councils as the first step in developing dedicated technology solutions to make life easier for CME staff.

#### **Future expectations and opportunities**

14. The Report sets out how the Natural and Built Environment Bill (NBE) will impact CME, the most significant being:
- Increased financial penalties<sup>1</sup>, new civil remedy tools<sup>2</sup> and the breach of a consent condition being an offence in its own right will give CME more clout. But the new civil remedy tools will require dedicated training on their application.
  - In performing CME, regional councils will have to give effect to te Tiriti o Waitangi. What this means in practice will need to be carefully thought through.
  - Overall there will be more permitted activities under the NBE, requiring additional CME resource focused on these types of activities. Under the NBA, permitted activity doesn't necessarily mean less risk. It may be that an activity is permitted because requiring a consent is of little value and risk can be managed entirely through CME.
  - The new ability to "require a person to pay any reasonable costs incurred by the regulator in, or incidental to, taking any action in connection with monitoring or enforcing the person's compliance with this Act" (NBE, S.781(1)).
  - The new ability to consider an applicant's compliance history when assessing a resource consent, and the ability for a council to initiate a review of a consent's conditions after a breach, will require CME and consenting staff to work more closely together.
  - With the new Regional Planning Committees responsible for creating Regional Monitoring and Reporting Strategies, regional CME staff will have to work more closely with their territorial authority counterparts.
15. Like most provisions in the NBA, the enforcement changes do not enter into effect immediately after the bill is passed. Rather, when they enter into effect must be specified by an Order in Council. An Order in Council can bring different provisions into force on different dates for different districts or regions.
16. Overall, the Report emphasises that the changes in the NBE elevate the role of CME in resource management. The changes are also an opportunity to get greater consistency across the regional sector as new systems and processes are rolled out.

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1 E.g. the maximum fine for failing to comply with an enforcement order under the NBE is \$1,000,000 for a natural person and \$10,000,000 for a person other than a natural person. It is \$300,000 and \$600,000 respectively under the Resource Management Act.

2 E.g. the Environment Court may order a person to pay back the amount they benefited as a result of their offence.

### **Financial considerations—LTP/Annual Plan**

17. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

### **Policy considerations**

18. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

19. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.
20. The Council involves iwi in enforcement for major pollution incidents with regular communication and the preparation of victim impact statements for prosecutions.

### **Community considerations**

21. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

### **Legal considerations**

22. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

### **Appendices/Attachments**

Document 3178649: Report on compliance monitoring and enforcement for the regional sector.



Regional and  
Unitary Councils  
Aotearoa

INDEPENDENT ANALYSIS OF

# Compliance Monitoring and Enforcement For the Regional Sector

COMPLIANCE ENFORCEMENT SPECIAL INTEREST GROUP  
(CESIG)

PREPARED BY BRIGHTA CONSULTING LIMITED



MARCH 2023

**Disclaimer:**

This report has been prepared by Amanda de Jong of Brighta Consulting Limited at the request of our client for the purposes for which they intended. Where the author has relied on information from councils, these have been referenced as appropriate and assumed to be accurate.

**Acknowledgments:**

We wish to acknowledge the valuable input provided by Rebecca Edwards, Senior Intelligence Analyst at Auckland Council, in assisting with data analysis for this report.

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## Foreword

Over the past five years, Te Uru Kahika's Compliance and Enforcement Group has collected and published data on the work being undertaken by regional and unitary councils as regulators. These annual reports were developed as a means for the sector to better measure its performance, understand the work being undertaken across the country, and provide a platform for us to better tell the story about regulation under the RMA.

This report, "An independent Analysis of Compliance Monitoring and Enforcement For the Regional Sector", represents the culmination of those efforts to date, by taking the data and looking into the trends and stories which sit behind the numbers.

Environmental Regulation in Aotearoa faces an unprecedented amount of change in the coming years, with the overhaul of the Resource Management Act, the introduction on a new farm planning regime, changes to the way Three Waters are managed and regulated, and the potential outcomes of the Future for Local Government Review. With this in mind, this report presents a timely opportunity to understand the current "state of the nation" for compliance and enforcement under the RMA, and how we might be positioned as a sector to meet this change and the heightened expectations on us as a sector.

The report highlights some real challenges faced around building and maintaining CME expertise to continue delivering such a high standard of work, in an employment market which continues to get more and more competitive. However, I also note and agree that this presents an exciting opportunity to grow CME as a specialisation and career pathway in its own right, and provide greater visibility and recognition of its importance to protecting our environment and communities.

We also welcome the recommendation to continue collecting data on how we regulate, and to further build on the work we've already done by identifying opportunities to establish consistency of approach.

In a foreword for a previous iteration of the CME Metrics Report, I noted that "readers should have confidence in our commitment to continuous improvement", and this remains the same. With the metrics programme now well established, I expect that this is only the first in a regular "deep dive" analysis to ensure we understand the stories which sit behind the data, and that we can continue to use these exercises as platforms to ensure we can continue to provide a high level of service to our communities.

Nga mihi nui

Michael McCartney  
Chief Executive Officer at Horizons Regional Council

## Executive summary

Effective compliance monitoring and enforcement (CME) is critical for the integrity of all regulatory systems. The Compliance Enforcement Specialist Interest Group (CESIG) of the regional sector has a collective interest in understanding the trends associated with their CME activity over time, as outlined in their adopted Strategic Compliance Framework. To that end, CESIG has committed to reporting on their CME activities each year in the form of an annual survey and should be commended for their efforts to do this.

This report now seeks to provide an independent review of the CME metrics data for the five-year period between 2017-2022 to identify any key trends, offer insights about what this may tell us about regional sector CME activity and provide an overview of environmental compliance behaviour over time. The focus is on CME activity of the regional sector at a national level, rather than on the performance of individual councils (noting a broad overview is provided in the regional snapshots at the beginning of this report).


























Within the context of this data and the well-documented challenges that CESIG face in their operational delivery of their duties under the Resource Management Act 1991 (RMA), this report then identifies mitigating actions at a conceptual level, that the sector could consider in their efforts to overcome these challenges. This report also looks ahead to the future delivery of CME under the proposed Natural and Built Environment Act (NBA) to identify the opportunities and challenges that the sector may face, along with suggestions for how the sector may capitalize on the reform era and prepare for implementation.

This report finds that:

- (a) The regional sector is responsible for a substantial CME workload, which has increased over the five-year reporting period. Covid-19 lockdown restrictions are a likely contributor to the reduction in the number of prosecutions in progress and completed by the regional sector over the last two reporting years. Notwithstanding, the steady increase in prosecutions and financial penalties in the first three reporting years can be viewed as a strengthened compliance approach from the regional sector. Continuation of the annual survey will be important to ascertain how this trend changes over time.
- (b) The data set provides valuable insights into CME activity delivered by the regional sector however the well-documented limitations of the data remain a barrier to understanding the nature and effectiveness of the CME response. There is a recognised need to balance pragmatism of data collection methods against the desire to gain more data, however in many cases this could be achieved by more intelligent and fit-for-purpose data and IT systems being available for CME teams across the regional sector. The recommended additional topics for questions within future surveys relating to enforcement decision making practices, prosecution cases, staff vacancies and permitted activity monitoring may be a workable addition worthy of consideration in the short-term, offering the potential to gain more mature insights into regional sector CME delivery.
- (c) The regional sector faces current and emerging challenges associated with developing and retaining CME expertise, cost recovery and access to new technology and tools. The regional sector would benefit from a multi-faceted, coordinated, and strategic approach to address these challenges. It is also recommended that national approaches to training and development for CME professionals are explored.

- (d) The Natural and Built Environment Bill (NBE) has placed a spotlight on the importance of CME within the new resource management system and offers a unique opportunity for the regional sector to give considerable thought to how CME functions and duties are fulfilled. There is a need, and opportunity, for increased central government, regional and territorial authority collaboration. Strong direction and guidance is also needed from central government to support implementation of the NBE. This time of change provides a powerful starting point for conversations within the regional sector, and between Ministry for the Environment (MfE) and the regional sector, for additional resourcing and attention for this historically under-resourced aspect of resource management. The regional sector should be empowered by this and work collectively to ensure that the new era of CME for the NBE is well-supported and resourced to overcome the challenges that the regional sector has faced to-date.

# INDEPENDENT REVIEW OF COMPLIANCE MONITORING AND ENFORCEMENT FOR THE REGIONAL SECTOR

	KEY FINDINGS	RECOMMENDATIONS
 <p><b>DATA ANALYSIS</b></p>	<ul style="list-style-type: none"> <li> CME workload has increased over time.</li> <li> Increased prosecution action and size of financial penalties over first 3 reporting years</li> <li> Increased CME officer resourcing since 2017</li> <li> Opportunities to gain more information from Councils</li> <li> Data limitations remain a barrier to gaining in-depth insights</li> </ul>	<ul style="list-style-type: none"> <li> Require more comprehensive data collection</li> <li> Include additional annual survey questions</li> <li> Gain increased visibility of permitted activity monitoring, enforcement decision making and staffing levels</li> </ul>
 <p><b>CURRENT &amp; EMERGING CHALLENGES</b></p>	<ul style="list-style-type: none"> <li> Need for increased resourcing</li> <li> Difficulties in developing and retaining CME expertise</li> <li> Cost recovery challenges</li> <li> Costs of new technology and tools creates barriers</li> </ul>	<ul style="list-style-type: none"> <li> Adopt a multi-faceted and strategic approach to resourcing challenges</li> <li> Explore national approach to training and development for CME professionals</li> <li> Consider standardisation of basic aspects of CME delivery to better enable use of tools and tech solutions as a collective</li> </ul>
 <p><b>FUTURE EXPECTATIONS &amp; OPPORTUNITIES</b></p>	<ul style="list-style-type: none"> <li> Need for recognition of CME as a specialisation</li> <li> Strengthened monitoring and system reporting requirements</li> <li> Potential for increased deterrence of environmental offending</li> <li> Greater consideration of the principles of te Tiriti o Waitangi</li> </ul>	<ul style="list-style-type: none"> <li> Increase central government, regional, and territorial authority collaboration</li> <li> Adopt principles of national consistency</li> <li> Strong direction and guidance needed from central government to support implementation of the NBE</li> </ul>

## Key findings and recommendations

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### DATA ANALYSIS

- An increase in prosecution action and the size of financial penalties over the first three years of the reporting period (after which was impacted by Covid-19 lockdowns) reflects a strengthened compliance approach by the regional sector.
- CME officer resourcing has increased considerably since reporting began in 2017. This can be viewed as a positive response from the regional sector to increase capability and capacity to respond to the increased compliance monitoring and complaints workload, though a significant proportion of this resourcing resides within three of the regional councils.
- There are opportunities to gain more information from councils in the annual survey to support the regional sector in their efforts to improve performance over time and work towards national consistency. More comprehensive survey questions should be incorporated to enquire about enforcement decision making practices, staffing levels, and permitted activity monitoring programmes.
- The data set provides valuable insights into CME activity delivered by the regional sector. Notwithstanding, the limitations of the data continue to be a barrier to gaining more mature and in-depth insights into the effectiveness of the CME work.

### CURRENT AND EMERGING CHALLENGES

- The regional sector would benefit from a multi-faceted and strategic approach to address the resourcing issues faced for CME function and service delivery. Whilst frontline officer resourcing is an important aspect of this, a wider lens that takes a 'systems approach' is recommended.
- The regional sector should work collectively with central government agencies and territorial authorities to develop a strategic approach and work programme to overcome the challenges regarding workforce development and retention.
- Standardization of basic aspects of CME delivery for the regional sector such as abatement notice templates, compliance monitoring reporting templates and infringement notice templates should be explored. This would enable the regional sector work to explore tools and technology solutions more easily as a collective, thereby providing economies of scale when it comes to financing of these tools and improving affordability and therefore availability of new tools.

### FUTURE EXPECTATIONS AND OPPORTUNITIES

- The changes proposed by the NBE, when viewed as a package, can be seen to elevate the role of CME in the resource management system. This is positive for CME as a specialisation in the resource management field.
- The ability to impose harsher financial penalties and the addition of a new civil remedy tool set is positive and has the potential to result in increased deterrence for environmental offending.
- Under the NBE, the regional sector in performing their duties will be required to 'give effect' to the principles of te Tiriti o Waitangi. This will require careful consideration, from how CME strategies are set through to how day-to-day decisions are made by compliance officers.
- The regional sector should capitalize on RM reform and the new NBE by adopting principles of national consistency for the benefits of data gathering and reporting.
- Strong direction and guidance are needed from central government to support implementation of the NBE.

## Regional snap shots

The focus of this report is primarily on trend analysis and commentary at a national scale, rather than a focus on the performance of individual regional and unitary councils. Notwithstanding, there is value in providing a brief snapshot of CME data relating to individual councils over the last five years. The following section sets out points of interest for each of the councils over the five-year period and must be considered in the context of the data obtained from the CME metrics reports over the respective reporting period. Of note, where the author considered there to be benefit from seeking insights about the data from the respective council, these have been marked with an \*. The response was obtained via email and the questions asked differed depending on what the data showed.

### ***Northland Regional Council\****

The data shows an increase in CME FTE alongside an increase in consent monitoring, relatively constant numbers of complaints and incidents investigated and proportion of confirmed breaches. At the same time, the data shows a trend of declining formal enforcement action. Northland Regional Council report that this downward trend in enforcement action can be attributed to a reduction in significant non-compliance associated with farm dairy effluent, as this activity has historically given rise to the most abatement notices and infringement notices issued by Northland Regional Council.

### ***Auckland Council\****

For Auckland Council, the data shows a trend of increased enforcement action over time until this year, where we see a significant drop in abatement notices and infringement notices issued. This year also saw a significant drop in complaints and incidents recorded. FTE has increased over the reporting period but remains lower than other councils when considered in light of the relative population served.

Most abatement notices and infringement notices issued by Auckland Council are attributed to the proactive erosion and sediment control monitoring project which covers small building sites in Auckland. Auckland Council has confirmed that the 2021/2022 year saw an improved level of compliance, therefore resulting in lower use of formal enforcement tools. The challenge of staff turnover and the need to train new officers and the lag time in performance that this generates was also identified as a contributor.

Auckland Council undertakes a large proportion of prosecutions initiated each year by the regional sector which can be reasonably expected given the scale of activity in the region and resources available.

### ***Waikato Regional Council\****

There appears to be a trend in decreased enforcement action over time, in particular a big decrease from the results of the 2021/2022 year when compared to the 2020/2021 year. This is alongside a drop in complaint volumes over that same period. Waikato Regional Council report that these trends can be attributed to several factors. Firstly, COVID lockdowns and operating restrictions impacted on CME operations and therefore could be reasonably linked as a contributor to a reduction in enforcement action. In addition, like others, they cite the challenge of staff turnover impacting on their operating productivity and efficiencies.

Alongside this, it was also reported that one enforcement case has impacted on their resourcing over the last three years, diverting resourcing from other compliance work.

### ***Bay of Plenty Regional Council***

The data shows similar CME activity each year over the 5-year reporting period with no major changes in enforcement action being undertaken. The data does show a significant drop in complaints received for the 2021/2022 year. FTE has remained steady over time, with FTE relative to the population served being mid-range in the context of CME resourcing in the regional sector.

### ***Horizons Regional Council\****

There has been an increase in incidents physically attended over time. Over the last few years there has been a trend of decreased enforcement being undertaken. Horizons Regional Council attribute this to impacts of staff vacancies, Covid-19 lockdowns and the positive impact of well-publicized prosecution results and increased deterrence. Whilst the data shows an interesting fluctuation in FTE for the CME team, with an increase of 13FTE in the 2020/2021 year that then decreased by 8 FTE this year, it was confirmed by Horizons Regional Council that the data from 2020/2021 contained errors.

### ***Hawkes Bay Regional Council***

Hawkes Bay Regional Council shows similar CME activity each year over the 5-year reporting period, with no major trends observed in the data. Enforcement action volumes have remained steady over time. The proportion of FTE to population has also remained relatively constant over time.

### ***Taranaki Regional Council***

Taranaki Regional Council has maintained the highest proportion of FTE compared to population of all the councils and has steadily increased their FTE over time. The data shows a high use of abatement notices and infringement notices but lower number of prosecutions. A high response rate has been maintained over time and they report that all consents that require monitoring have been monitored.

### ***Gisborne District Council\****

The data shows an increase in resource consents over the first three years and then a reduction over the past two years. The CME FTE has increased over time. Abatement notices were quite low in the second and third years of reporting and then dramatically increased and remained steady over the last two years. Gisborne District Council report that the increase in abatement notices was a result of having more staff available to undertake CME work. The data appears to show a lower use of infringement fines which the Council attributes to the lower severity of offending they observe in their region.

### ***Greater Wellington Regional Council***

Greater Wellington Regional Council shows similar CME activity each year over the 5-year reporting period, with no notable fluctuations observed in the data. Greater Wellington Regional Council continues to have a low number of FTE when considering their population and GDP, compared to other councils.

### ***Tasman District Council\****

The data for Tasman District Council shows that FTE has remained steady over the last five years. Consent numbers have fluctuated dramatically over time, though the Council has confirmed that this is because of an error in the data reported in 2019/2020 and then for this year, because of data cleansing which has removed expired and lapsed consents from the reported data. Formal warnings appear to be a commonly used tool in 2021/2022 (with no data on the years prior). Tasman District Council data shows a relatively low use of abatement notices and infringement fines.



### ***Marlborough District Council***

FTE has increased over the last five years but only by increments of 1 each year (exception being years three and four where the increase was 2). The data shows an increase in resource consents in the region between 2017-2021 but then a decrease in 2022. Enforcement action over time shows no major trends, with the use of prosecutions staying relatively steady over time.

### ***Nelson City Council\****

Over the last five years the data shows a relatively consistent use of formal actions, albeit at the lower end of use. The data shows that no prosecutions have been initiated over this period though the council confirms that a successful prosecution was concluded in 2018. FTE has remained constant over this time. Resource consent numbers have trended downwards over this time and are the lowest of all regional and unitary councils, noting that this a small region with few activities requiring regional consents.

### ***Environment Canterbury\****

2021/2022 shows a significant drop in complaints and enforcement action alongside an increase of 21 FTE. Environment Canterbury confirmed that there was an unusually high number of incidents reported in 2020/2021 because of the introduction of a new application for reporting odour incidents. The increase in FTE resulted from a Long-Term Planning (LTP) bid for more funding for CME staff. Incidents physically attended has decreased steadily overtime, with Environment Canterbury citing the impacts of Covid-19 on physical attendance as well as flooding in 2021 diverting CME resourcing for a period. The data shows a steady increase in resource consents over the last five years but with the data also showing the number of resource consents that require monitoring has steadily decreased over the five-year period. Environment Canterbury has confirmed that there were changes to how reporting for these metrics was undertaken over the course of the five reporting years.

### ***West Coast Regional Council\****

The data for West Coast Regional Council shows that FTE has remained steady overtime. Physically attended incidents have increased over time. Consent numbers have increased over time, with a decrease in enforcement action over the five-year period. West Council Regional Council attribute this reduction in enforcement action with improved compliance monitoring and the influence of a Farm Excellence program delivered by Westland Milk Products.

### ***Otago Regional Council\****

The data shows a decrease in complaints received over the last three years though Otago Regional Council is unable to report on the proportion of confirmed breaches. Resource consent numbers have remained relatively steady over time, but FTE has been increased over the last five years. The data shows a trend of increased enforcement action over time.

### ***Environment Southland***

The data shows that FTE has remained steady but that has been a decrease in enforcement action over time. Consent numbers have remained similar each year over the reporting period, except for a slight drop in the 2021/2022 year. There was a slight reduction in complaints in the 2021/2022 reporting year.

# Part 1 – Background, introduction, and overview

## How to read this report

This report has been prepared using the data from compliance monitoring and enforcement (CME) metrics reports that have been published annually since 2017. This has provided five years of data for CME activities undertaken by regional and unitary councils (herein referred to as 'the regional sector') which has provided a basis for the identification of trends overtime. This data is collected annually, where each regional and unitary council is requested to complete an online survey comprising 44 questions. Since year 2 of the survey, the questions asked of councils has remained unchanged except for the omission of some questions where answers had remained the same over reporting years. In year's 1 and 2 the report was conducted by Dr Marie Doole as an Independent Consultant at Catalyst Group. From year 3 onwards, collection and reporting of the data has been conducted by Sprout Customer Research.

This report does not seek to replicate or regurgitate the analysis of the CME metrics reports, rather it looks to identify trends at a national level to show how CME functions and activities may be changing over time and provide insights and observations as to what this may tell us about the sector.

Alongside the CME data, this report has relied on information obtained from responses to questions that were put to regional sector CME Managers. These questions were considered necessary where there were outliers or trends shown in the data, and it was important for the author to understand the context.

With the context afforded by the CME data, the report then includes an overview of challenges facing the regional sector alongside suggested mitigating actions, albeit at a conceptual level, that the sector could explore.

## Data Limitations

The limitations of the data that forms the basis of this report are well-understood and remain consistent with those identified in the reports prepared in the years prior. Notwithstanding, it is important to reiterate what these are:

- There are gaps in the data over the five-year period because of councils being unable to provide data some years.
- The way data is collected in each council differs and this makes it difficult to make accurate comparisons across councils. In some instances, this has also changed or improved therefore making the data incomparable to the prior years.
- The collection of data over the five-year period has not included any audit of accuracy or validity of the data.

## Background to the report

It is important to provide a brief history of the CME reporting that CESIG has undertaken over the last five years in recognition of their continued emphasis on the importance of having robust data to understand performance of the sector. The first report on CME activity of the regional sector was commissioned in 2017 and at this time, the data that was reported on represented the most comprehensive data that had been collated, analyzed, and made publicly available since the Resource Management Act (RMA) was introduced in 1991.

At this time, the author Dr Marie Doole, highlighted the variation in reporting undertaken by local authorities across the country and stated:

*“This project hopefully represents the genesis of a more consistent and practical means of monitoring council performance on CME in a way that is operationally relevant and instructive for councils, oversight bodies, regulated communities and the public. It may also represent a blueprint for an overhaul of the CME questions in the NMS in the future”.<sup>1</sup>*

Since then, CESIG have commissioned annual independent reports to understand regional sector CME activity occurring across the country. All 16 of New Zealand’s regional councils and unitary authorities have participated and this has collectively contributed to a data set that can begin to tell a story of CME activity over time.

CESIG has now commissioned this independent report to provide an analysis of the five years of CME data that they have obtained. This is a continuation of the efforts made by the regional sector, under the leadership of CESIG, to understand and improve their performance as a collective. Given the pending introduction of the Natural and Built Environment Act (NBA), this is also an important point in time for the sector to reflect on how far it has come and to ensure that learnings and insights are carried forward into the new era of resource management in New Zealand.

## Objectives of this report

### **This report seeks to:**

- Provide an overview of the ‘state of the nation’ for regional sector RMA CME based on the five years of metrics data and other sector efforts;
- Identify and discuss points of interest across the data at a national level;
- Gain an understanding of environmental compliance behaviour and any trends over time;
- Identify opportunities for improvements for data collection through CME metrics moving forward;
- Identify and discuss current and emerging challenges for the sector and any opportunities for improvements in how the sector regulates;
- Understand current and future expectations on the sector in the context of new legislation and identify ways to ensure the sector is equipped to deliver on its regulatory functions.

<sup>1</sup> Excerpt from page 17 of the Independent Analysis of the 2017/2018 CME Metrics Report for the Regional Sector

## Introduction to CME

The compliance framework set out in the RMA establishes a deterrence-based compliance regime. Deterrence approaches to regulation assume that an actor's motivation to comply with the regulatory system is a product of the likelihood that non-compliance will be detected, the severity of the penalty, and the speed at which the penalty is imposed. A fourth factor that is sometimes considered is the actors' perceptions of the previous three factors.<sup>2</sup>

In the context of the RMA, a deterrence-based regime is detection driven and relies on the local authority compliance officer needing to:

- Find and investigate a non-compliance.
- Issue a direction to act or take punitive action (a sanction).
- Follow-up to ensure that compliance has been achieved or otherwise.

For the purposes of this report, and consistent with the CME metrics reports to-date, compliance monitoring and enforcement is defined as:<sup>3</sup>

- **Compliance:** adherence to the RMA, including the rules established under regional and district plans and meeting resource consent conditions, regulations and national environmental standards.
- **Compliance Monitoring:** the activities carried out by councils to assess compliance with the RMA. This can be proactive (e.g., resource consent or permitted activity monitoring) or reactive (e.g., investigation of suspected offences).
- **Enforcement:** the actions taken by councils to respond to non-compliance with the RMA. Actions can be punitive (for the purpose of deterring or punishing the offender) and/or directive (e.g., directing remediation of the damage or ensuring compliance with the RMA).

## WHAT'S CHANGED SINCE 2016?

In addition to the annual reporting of CME metrics, the regional sector has committed to other initiatives since 2016 to improve consistency of CME delivery. This has included the following:

- Input into the creation of the Best Practice Guidelines for CME (2018)<sup>3</sup>
- Adoption of a Strategic Compliance Framework (first created in 2016<sup>4</sup> and then updated in 2019<sup>5</sup>)
- Regional sector councils undertaking peer reviews of their respective CME practices and procedures.

A brief overview of the Best Practice Guidelines and Strategic Compliance Framework follows below:

<sup>2</sup> Wright, Mark, J. F. University of Canterbury (2020) When Crime Pays: "Environmental Civil Prosecutions" and the Resource Management Act 1991. Chapter 4, page 47, provides an overview of deterrence-based regulation that is the source for this section of the report.

<sup>3</sup> Ministry for the Environment. 2018. Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991. Wellington: Ministry for the Environment.

<sup>4</sup> Regional Sector Strategic Compliance Framework 2016-2018

<sup>5</sup> Regional Sector Strategic Compliance Framework – Pou Tarāwaho Tūtohu a Te Rāngai a-Rohe – 2019-2024

## **COMPLIANCE MONITORING AND ENFORCEMENT – BEST PRACTICE GUIDELINES**

In 2018, MfE released the Best Practice Guidelines for CME which were developed with support from a panel of CME experts, and council staff throughout New Zealand.<sup>6</sup> These guidelines were developed to provide support and advice for councils on how they should administer their CME responsibilities under the RMA. These guidelines exist in the absence of any legislative requirements in the RMA as to 'how' a council should carry out their CME activities.

These guidelines cover aspects such as:

- The importance of adopting a strategic approach to compliance
- Key components of a compliance strategy
- Principles that should be followed for CME activities
- Working with iwi
- Cost recovery mechanisms available to local authorities
- Compliance monitoring – the importance of a risk-based approach
- Approach to site inspections, investigations, and evidence collection
- Enforcement tools and decision-making under the RMA
- Reporting and record-keeping
- Training, networking, and support

### **KEY CONCEPTS**

It is important to understand the CME activities delivered by the regional sector in the context of key compliance concepts that underpin their approach. Figure 1 below provides a diagram of how compliance responses from a regulator may differ depending on the behaviour of the individual. When this diagram is viewed in the context of the VADE model in Figure 2, this paints a picture of the proportion of the population that typically exhibits different compliance behaviours and sets the scene for environmental CME activity delivered by a local authority.

<sup>6</sup> Ministry for the Environment. 2018. Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991. Wellington: Ministry for the Environment. Input was provided by council staff from Greater Wellington Regional Council, Taranaki Regional Council, Hutt City Council, Waikato Regional Council, Waikato District Council, Thames-Coromandel District Council, Kaitiaki Coast District Council and Marlborough District Council.

FIGURE 1: STRATEGIC COMPLIANCE WITH THE RMA<sup>7</sup>

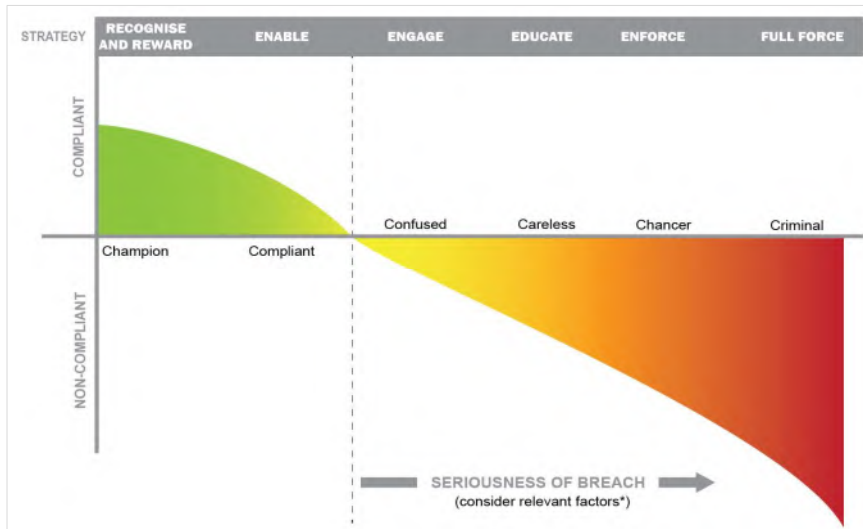
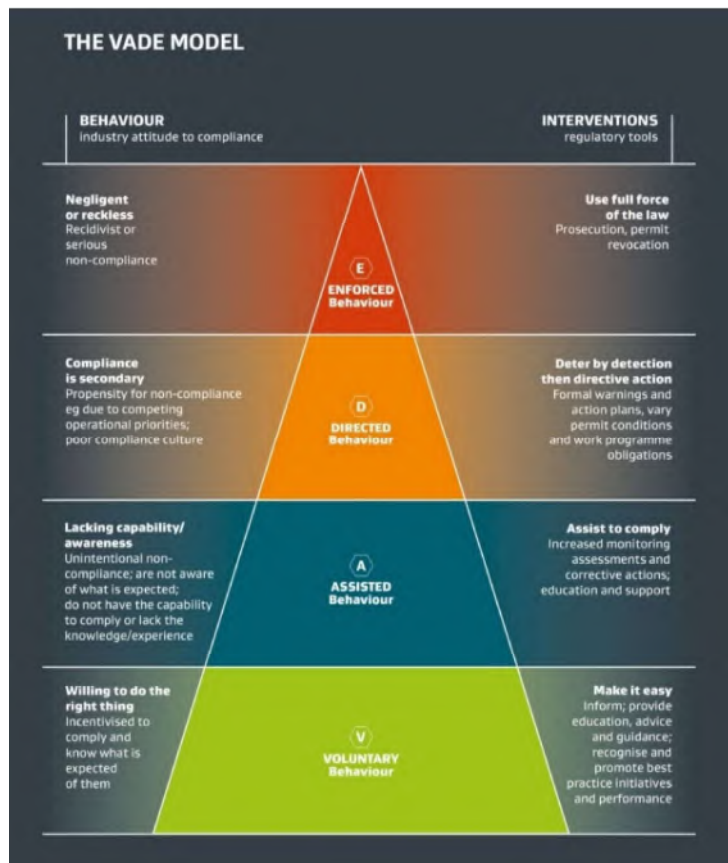


FIGURE 2: THE VADE MODEL<sup>8</sup>



<sup>7</sup> Model developed by the Waikato Regional Council for use in the CME Best Practice Guidelines (see page 18).

<sup>8</sup> VADE model diagram taken from page 396 of the New Directions for Resource Management in New Zealand- Report of the Resource Management Review Panel – June 2020.

## REPORTING AND RECORD KEEPING

Reporting and record keeping responsibilities of a local authority are prescribed in the RMA in so far as they must:

- maintain records on the efficiency and the effectiveness of plans (inclusive of CME) that is publicly available and in intervals of five years or less (section 35(2A))
- maintain information which is relevant to the monitoring of resource consents and ensure it is reasonably available at its principal office (section 35(3)).
- maintain a summary of all written complaints received by it during the preceding 5 years concerning the alleged breaches of the Act or a plan and information on how it dealt with the complaints (Section 35(5)(i)).

These legislated requirements are delivered operationally in many ways by councils across New Zealand, which reinforces the known limitations of the data that are referenced earlier in this report.

## STRATEGIC COMPLIANCE FRAMEWORK

CESIG first developed a strategic compliance framework (SCF) in 2016, which was then updated in 2019. The aim of this document is to support the regional sector in their journey of continuous improvement and commitment to achieving consistency. A key purpose of this document is to assist the sector to achieve this consistency, whilst recognizing that each council needs to be able to tailor their approach to meet their own needs, resourcing, and priorities. The expectation is that individual councils should have a compliance strategy, and that this strategy should be consistent with, and linked to, this overarching strategic approach developed by CESIG.

There are four major components to the SCF:<sup>9</sup>

1. **Monitoring** – this includes developing risk based monitoring programmes and responding to notifications of environmental incidents and breaches.
2. **Encouraging compliance** – ensuring that a full spectrum approach is being taken to achieve the highest possible levels of compliance.
3. **Non-compliance** – the appropriate use of enforcement tools to deal with non-compliance.
4. **Report and review** – this includes regular self-review, establishing a feedback loop to the policy writers as well as meaningful and transparent reporting to the public.

With regard to reporting and reviewing, the SCF emphasizes the need to have robust data to inform and support intelligence-led approaches to CME. The SCF also discusses how councils then report on their CME activities, with much variation in this aspect being noted across the sector. This is important in terms of both the importance of the perceived credibility of the sector as the key environmental regulator in NZ and to ensure that the regulated community know what to expect when contravention of the RMA occurs.

<sup>9</sup> Excerpt taken from page 3 of the Regional Sector Strategic Compliance Framework – Pou Tarāwaho Tūtohu a Te Rāngai a-Rohe – 2019-2024

## Important context

### FINDINGS FROM THE ORIGINAL 2017 CME METRICS REPORT

A key objective of this report is to understand how CME activity in the regional sector has evolved over the last five years. The inaugural survey undertaken by CESIG and analysis provided by Dr Marie Doole in 2017 represents a starting point for the data and reporting journey for the regional sector. As such, it is prudent to highlight the key recommendations for improvements that Dr Doole surmised to set the scene for an analysis of CME activity in 2022. These were identified as:<sup>10</sup>

- The opportunity for councils to work to standardise their approaches to CME tasks, to improve comparability of data obtained from councils and increase its value at a national scale.
- Suggestion for increased resourcing to fulfil the minimum requirements set out in the Best Practice Guidelines.
- Improved information management and transparency.
- A need to ensure internal policy frameworks for CME in councils are complete, to demonstrate fair and clear decision-making processes.
- Continuation of reporting and review efforts for CME metrics.
- The information management and reporting methods adopted by unitary authorities make it challenging to distinguish their district level CME activities from their regional level activities. This has impacts on the data comparability across the country.

### FINDINGS FROM LAST LINE OF DEFENCE

The Last Line of Defence<sup>11</sup>, also authored by Dr Marie Doole is a publication that reviewed the effectiveness of CME application for environmental law in New Zealand. Whilst the scope of this report was broader than just regional sector CME delivery, there are several findings and recommendations which are of specific relevance to the regional sector and are worth revisiting as part of this report.

#### Key findings and recommendations:

- Development of more robust career pathways of environmental CME officers in Councils to 'increase recognition, demonstrate capacity and reduce turnover rates'. (See recommendation 6 of the report).
- Enhanced linkages between policy, planning and CME functions are needed. Establishment of on-going feedback loops is required.
- Ensure staff are adequately trained, including in basic investigation skills. Consideration of clear development pathways for staff is highlighted as a suggestion to improve skillsets and improve capability.
- Development of clear and publicly available enforcement policies.
- Encourage regional and unitary councils to continue to co-ordinate at a national level and work with territorial authorities to provide guidance, advice and networking opportunities.
- Encourage regional and unitary councils to provide input into national initiatives, including into the development of a coherent suite of performance indicators to be included in the national monitoring strategy (NMS).

<sup>10</sup> Summarised from page iv of the Independent analysis of the 2017/2018 CME Metrics for the Regional Sector report

<sup>11</sup> Last Line of Defence – Compliance, monitoring and enforcement of New Zealand's environmental law – Marie A Brown, 2017



## Part 2 – Data analysis

### Overview of the analysis

Within the context set out in Part 1, this report seeks to identify key trends observed in the data, offer insights about what this may tell us about regional sector CME performance and provide an overview of compliance behaviour over time. The focus is on CME activity of the regional sector at a national level, rather than on the performance of individual councils (noting a broad overview is provided in the regional snapshots at the beginning of this report).

The forthcoming analysis of the data explores the following aspects:

- Section 1: Enforcement
- Section 2: Complaints
- Section 3: Financial penalties
- Section 4: Resource consents
- Section 5: FTE resourcing
- Section 6: Non-compliance over time
- Section 7: Permitted activity monitoring

### Impacts of COVID-19

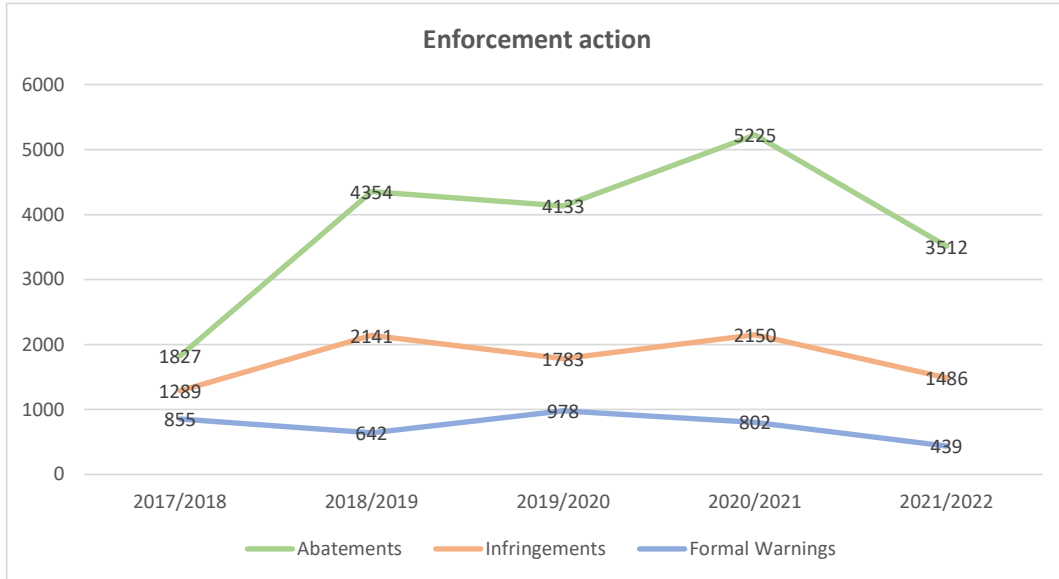
Covid-19 lockdowns have had a material impact on the CME operations of local authorities since 2020. Whilst CME is considered an 'essential service' and continued to operate during Alert Levels 3 and 4, the level of service was considerably reduced. Therefore, for context, it is important to set out the dates when New Zealand was subject to lock down restrictions.

- Alert Level 4 - 25<sup>th</sup> March 2020 – 27<sup>th</sup> April 2020
- Alert Level 3 – 28<sup>th</sup> April 2020-13<sup>th</sup> May 2020
- Alert Level 3 – 12<sup>th</sup> August 2020 – 30<sup>th</sup> August 2020 (Auckland Region)
- Alert Level 3 – 14<sup>th</sup> February 2021 – 17<sup>th</sup> February 2021 (Auckland Region)
- Alert Level 3 – 28<sup>th</sup> February 2021 – 7<sup>th</sup> March 2021 (Auckland Region)
- Alert Level 4 – 17<sup>th</sup> August 2021 -7<sup>th</sup> September 2021

After this time, the timing of restrictions and areas of NZ subject to restrictions became more nuanced. These restrictions applied to the North Island with Auckland, Northland and the Waikato experiencing Level 4 and 3 restrictions up until 2<sup>nd</sup> December 2021 when the Covid-19 Alert System was replaced by the Covid-19 protection framework.

**SECTION 1: ENFORCEMENT**

**FIGURE 3: TOTAL ENFORCEMENT ACTION TAKEN (EXCLUDING PROSECUTIONS AND ENFORCEMENT ORDERS)**



**FIGURE 4: TOTAL ABATEMENT NOTICES AND INFRINGEMENT FINES (EXCLUDING AUCKLAND)**

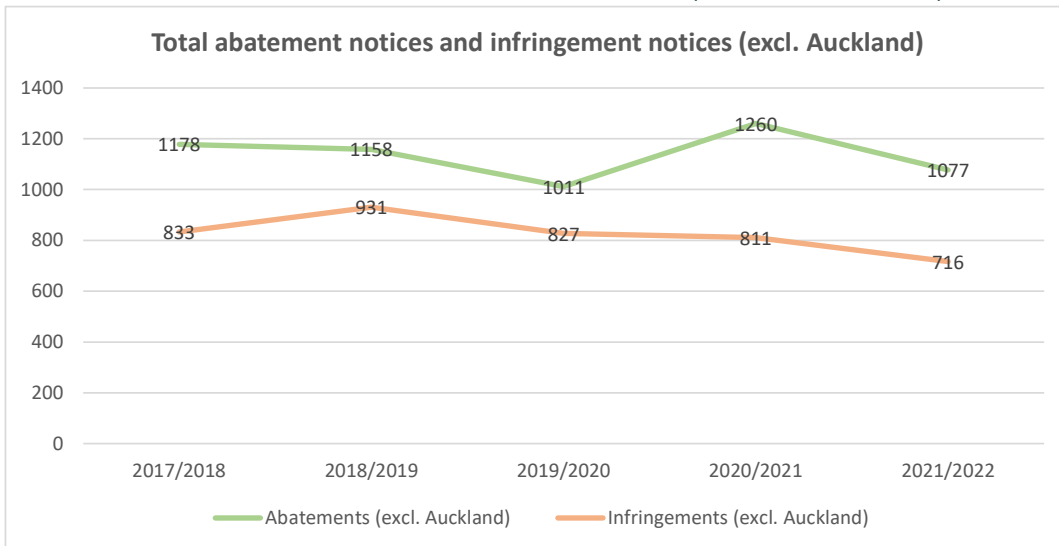


Figure 3 shows a considerable uptake in the use of abatement notices as an enforcement tool over the past five years whereas the use of infringement fines has fluctuated but remained relatively constant. Given Auckland Council issues the largest volumes of abatement notices and infringement fines within the regional sector, it is important to consider whether this trend applies nationally or is influenced heavily by Auckland Council data. Figure 4 therefore excludes Auckland Council data and shows a trend of decreased infringement fines since 2019 and a relatively constant use of abatement notices over the five-year period. The reduction in abatement notices and infringement fines issued in the 2019/2020 and 2021/2022 years may be reasonably attributed to the impacts of the Covid-19 lock down restrictions.

When the data is looked at alongside the levels of non-compliance detected over the corresponding period (see Figures 12 and 13), which shows a trend of increased low-level non-compliance for consents monitored, this could indicate a reluctance to use abatement notices and infringement fines for this level of offending. However, this relationship is tenuous given the enforcement data doesn't differentiate between enforcement action undertaken for consented vs unconsented activities.

The reasons for why the use of these enforcement tools have decreased over time can be varied and complex. For instance, a reduction in the use of enforcement tools could be attributed to improved compliance behaviour because of the effective use of such enforcement tools in the years prior, or heightened education efforts by the regulator. Conversely, a reduction in use of these enforcement tools could also reasonably reflect a lack of willingness by the regulator to use these tools, or a lack of experienced CME professionals with capability and confidence to use the tools. This diverse range of explanatory factors is important to acknowledge. When these numbers decrease, the performance of CME teams in the regional sector can come under scrutiny, noting that it is a relatively easy metric to measure and therefore use as a gauge for performance.

The current CME metrics data doesn't provide any visibility of the tiers of internal decision-making required for issuing of abatement notices, infringement fines and formal warnings in each council. It would be of benefit to the regional sector to understand if there is a relationship between the frequency of use of these enforcement tools by a council and the tier of internal decision-making required to use the respective tools. For instance, do processes that enable staff to use these enforcement tools without the need for higher tiers of approval equate to a greater use of these tools?<sup>12</sup>

Section 15 discharge offences under the RMA continue to form most of the enforcement action undertaken by the regional sector each year. This type of offending therefore requires considerable resourcing from the regional sector. The reasons for why this has been a trend year-on-year in the reporting could reflect several issues. For instance, it may be a matter of the regulated communities not understanding what is required to comply or CME regimes not being as effective as they could be to deter non-compliant behaviour.<sup>13</sup> It could also reflect the significance of the actual and potential adverse effects from a discharge often supporting higher escalation to formal enforcement. In addition, it could simply be a factor of the visible impact a discharge tends to have in the environment leading to this offending being detected more frequently and being much easier to collect evidence for and prove, than other types of environmental offending.

<sup>12</sup> Table 2.7 on page 47 of the Last Line of Defence sets out the decision-making tiers for enforcement tool use under the RMA based on 2016 survey data. The table shows that the number of Councils in the regional sector with delegation to staff below manager level for issuing of infringement fines was 4 and for issuing of abatement notices was 7.

<sup>13</sup> This was also identified as an issue in the 2017/2018 CME metrics report. See page 59 for commentary on this type of offending.

**FIGURE 5: PROSECUTIONS (BOTH IN PROGRESS AND CONCLUDED) AND ENFORCEMENT ORDERS**

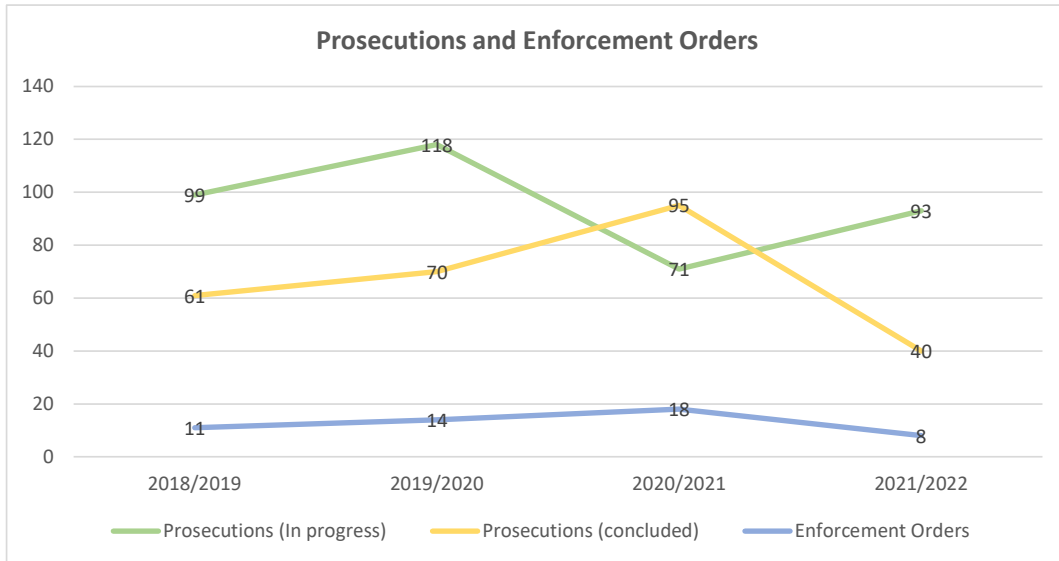


Figure 5 shows an inverse relationship between prosecutions in progress and prosecutions concluded in 2020/2021. This would be reasonably explained by the impacts of Covid-19 restrictions on detection of non-compliance and initiation of investigations. The impact of lockdowns is also likely to have caused delays in the court process therefore impacting on the number of prosecutions concluded in 2021/2022. Given the increase in prosecutions in progress in 2021/2022, we should expect to see a greater number of prosecutions concluded in 2022/2023.

The data shows that from 2018-2020 there was an increase in prosecutions and enforcement orders being undertaken. Unfortunately, due to the limitations of the CME metrics data, this does not allow for this increase to be readily attributed to an increase in severity of non-compliance being observed across the country. In addition, it doesn't provide a basis to understand if this increase can be attributed to more offending relating to unauthorized activities or if it can be attributed to significant non-compliance for consented activities. Notwithstanding, an increase in formal enforcement action of this nature demonstrates a strengthened compliance approach from the regional sector.

## SECTION 2: COMPLAINTS

**FIGURE 6: TOTAL COMPLAINTS ACROSS THE REGIONAL SECTOR AND COMPLAINT VOLUMES EXCLUDING AUCKLAND**

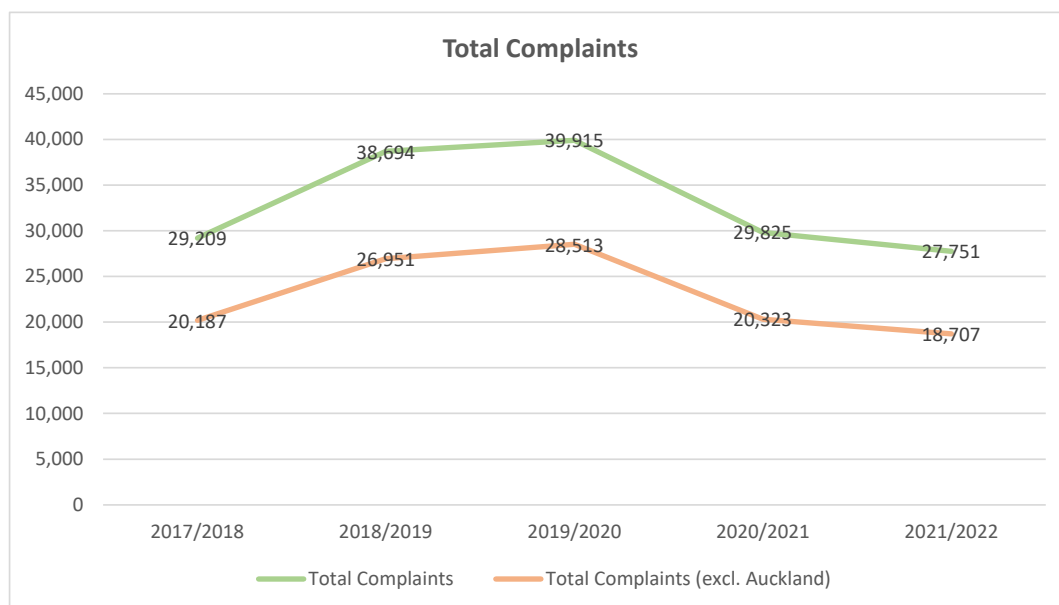


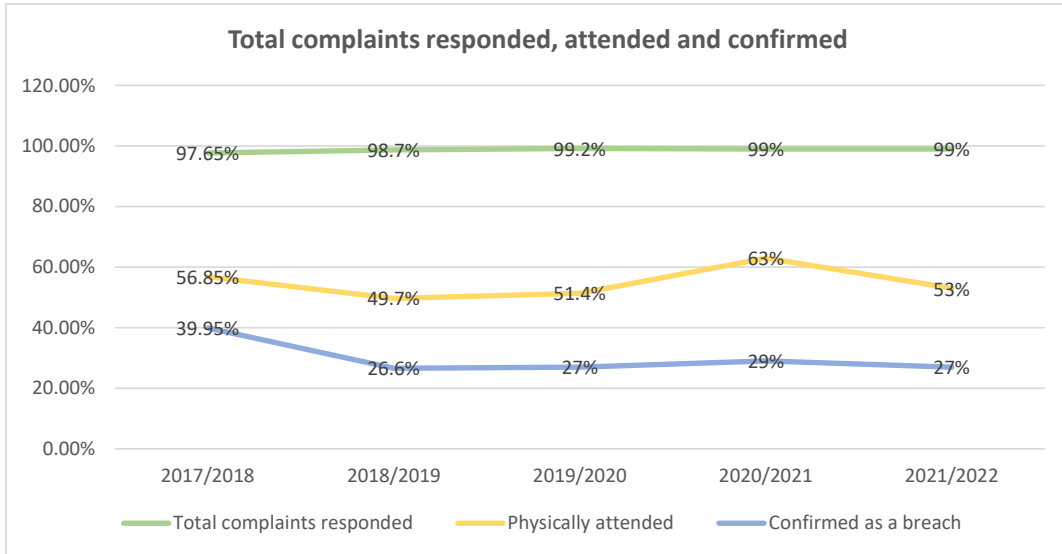
Figure 6 shows that the total number of complaints increased between 2017/2018 and 2019/2020, however they decreased in 2020/2021 and stayed low over the 2021/2022 period. It is important to note that this decrease in complaints in 2020/2021 happened outside of the two longer COVID-19 lockdown periods.

Due to Auckland’s large complaint volumes and longer 2021/2022 COVID19 lockdown period, the total level of complaints has also been examined excluding Auckland’s total. Figure 6 shows that the national trend followed a similar pattern even when excluding the complaints from the Auckland region. However, it is also important to note that the way that complaints are measured and recorded differs between councils and that the way that this is undertaken in councils has also changed over the five-year period. This makes it difficult to identify any meaningful trends from this data.

Complaints confirmed as a breach have decreased after 2017/2018 but remained relatively steady after that point (see figure 7 below). Except for the 2020/2021 reporting year, the data shows that approximately half of all complaints aren’t physically attended by councils. Given the 99% response rate for complaints, this demonstrates a high reliance on desktop analysis and phone calls to complainants as a response by council. This aligns with a risk-based approach that tends to be adopted by the regional sector when responding to complaints, noting that this approach is an efficient method of response for low impact and/or low priority complaints. In addition, this may also reflect the known resourcing constraints faced by CME teams.

In terms of confirmed breaches, the vast majority of these each year continue to relate to unconsented activities (noting that 10 councils are unable to provide data on this). As such, the role of the public in reporting non-compliance to a Council remains important for a Councils ability to detect and respond to RMA non-compliance and operate as an effective regulator.

**FIGURE 7: TOTAL COMPLAINTS RESPONDED, PHYSICALLY ATTENDED, AND CONFIRMED AS A BREACH**



### SECTION 3: FINE AMOUNTS

**FIGURE 8: FINANCIAL PENALTIES ARISING FROM PROSECUTIONS**

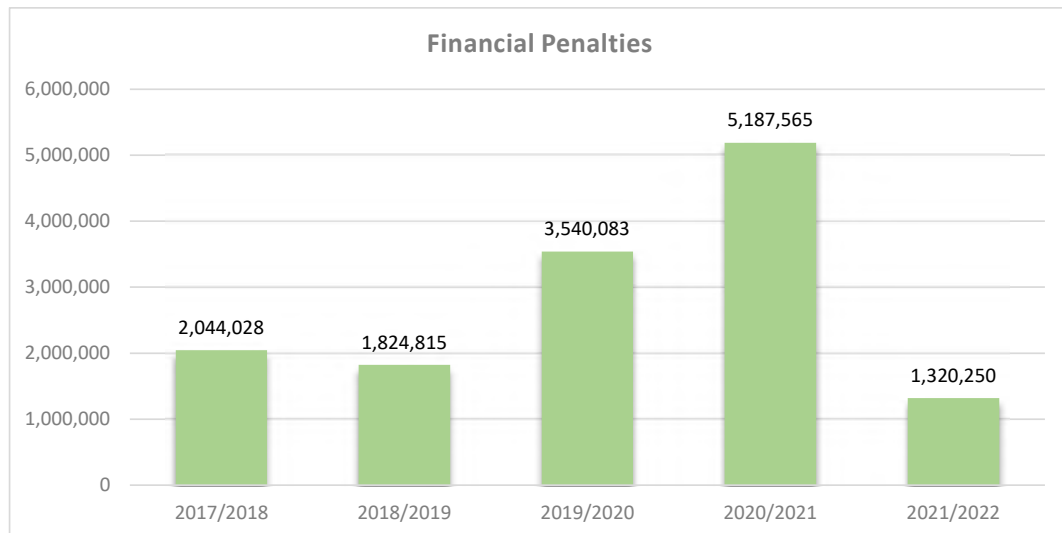
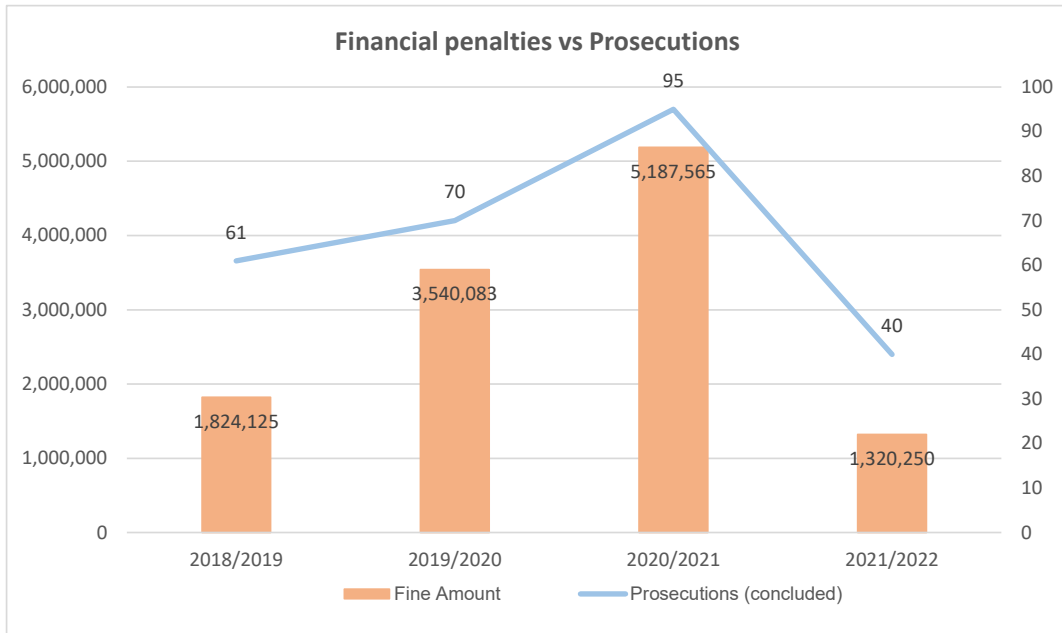


Figure 8 shows financial penalties increasing over time up until 2021/2022 when it dramatically reduces. This data logically aligns with the prosecution data shown in Figure 9 where the year with the greatest fine amounts also aligns with the reporting year where the greatest number of prosecutions were concluded. When considering the increase in prosecutions concluded from 2018-2021, the proportional increase in the total fines is most significant between 2018/2019 and 2019/2020 where a 14% increase in concluded prosecutions was associated with a doubling of the fine amounts between these same periods.

It must be noted that other sanctions are also imposed by as part of prosecutions. In the 2021/2022 reporting year where the financial penalties are notably lower than the years prior, such sanctions included the imposition of a prison sentence, reparation payments and community service.

**FIGURE 9: FINANCIAL PENALTY AMOUNTS VS PROSECUTIONS**



**SECTION 4: RESOURCE CONSENTS**

**FIGURE 10: NUMBER OF ACTIVE RESOURCE CONSENTS**

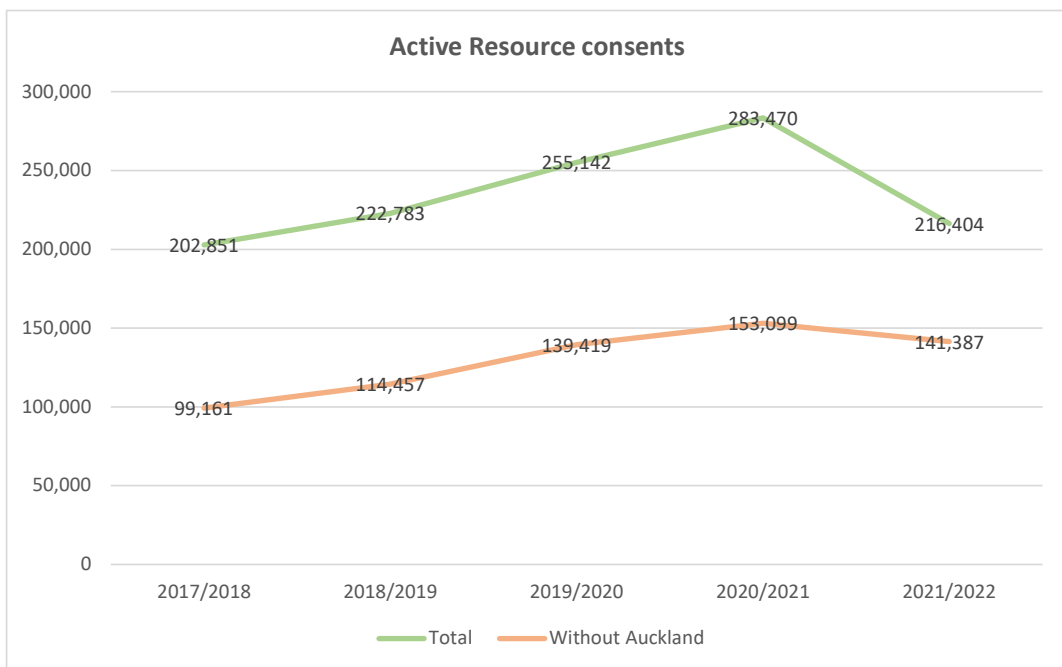


Figure 10 shows a 24% decrease in active resource consents that were reported from 2020/2021 compared to 2021/2022. This can largely be attributed to Auckland Council having undertaken a data cleansing exercise. However, it is also important to note that the data, excluding Auckland, also shows

a reduction in active resource consents for the 2021/2022 year after a four-year period of upward trend. Whilst this shows a reduction in active resource consents overall, it is important to acknowledge that some councils have changed the way consent numbers are reported over the five-year period, with fluctuations observed in the data for active resource consents over that time. It is also important to note that two of the unitary councils include district level resource consents (being Nelson City Council and Auckland Council) and that these numbers are included in the figures above. A further limitation is that one consent does not necessarily reflect one discrete site, and that the scale and complexity of the resource consents requiring monitoring is not able to be reported on with this data. For example, in the context of Auckland Council, there may be one resource consent record which covers a development comprising hundreds of new dwellings over many hectares of land.

## SECTION 5: FTE RESOURCING

FIGURE 11: ACTIVE RESOURCE CONSENT NUMBERS AND FTE RESOURCING OVER TIME

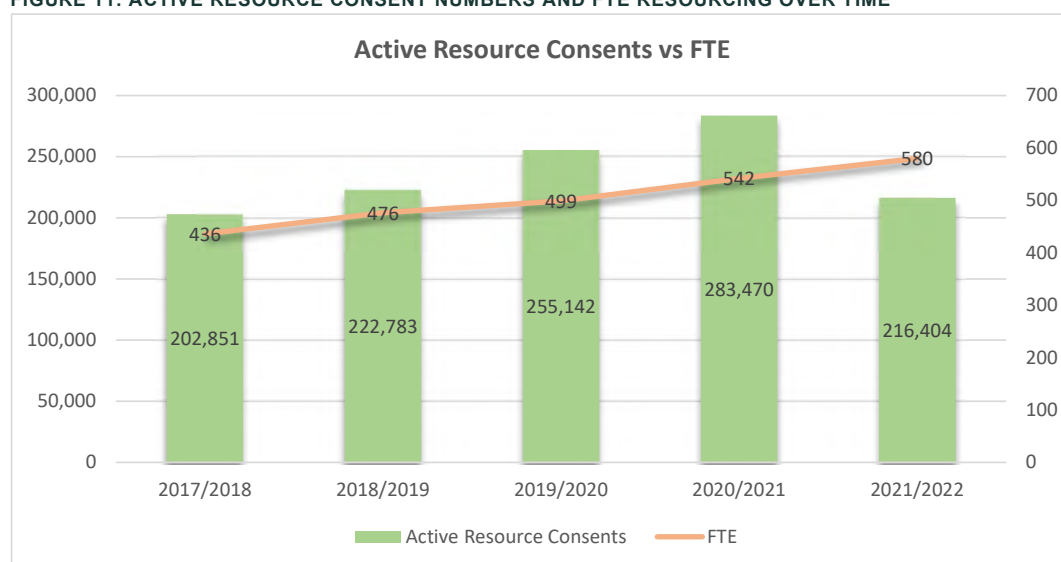


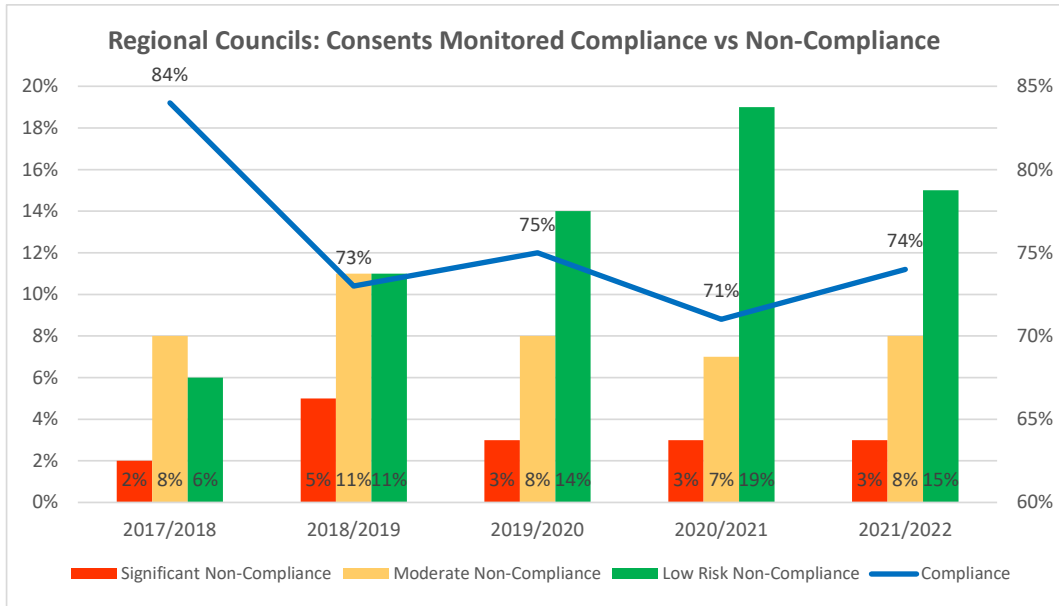
Figure 11 shows that CME FTE has increased considerably since reporting began in 2017. This can be viewed as a positive response from the regional sector to increase capability and capacity to respond to an increased compliance monitoring and complaints workload (as seen in Figure 6). It should be noted that the data relating to the number of consents monitored (not shown here) is difficult to draw insights from as there are inconsistencies in the provision of data from Councils over the reporting period and/or changes have been made to how the data has been reported which therefore makes it incomparable to the years prior.

It is noted that the makeup of Council CME teams differs across the country and that the FTE relative to population size also varies across the country. Over the five-year period, Taranaki Regional Council continue to have the highest proportion of FTE for relative population size and Greater Wellington Regional Council continue to have the lowest proportion of FTE for relative population size. The data also shows that 52% of all CME FTE are employed by Auckland Council, Waikato Regional Council and Environment Canterbury and that this proportion has remained relatively consistent over the five years of data collection. Of these three Councils, Auckland Council and Environment Canterbury have both considerably increased CME FTE over the five-year period, with Auckland Council increasing from 146 to 178 FTE and Environment Canterbury increasing from 44 to 75 FTE.

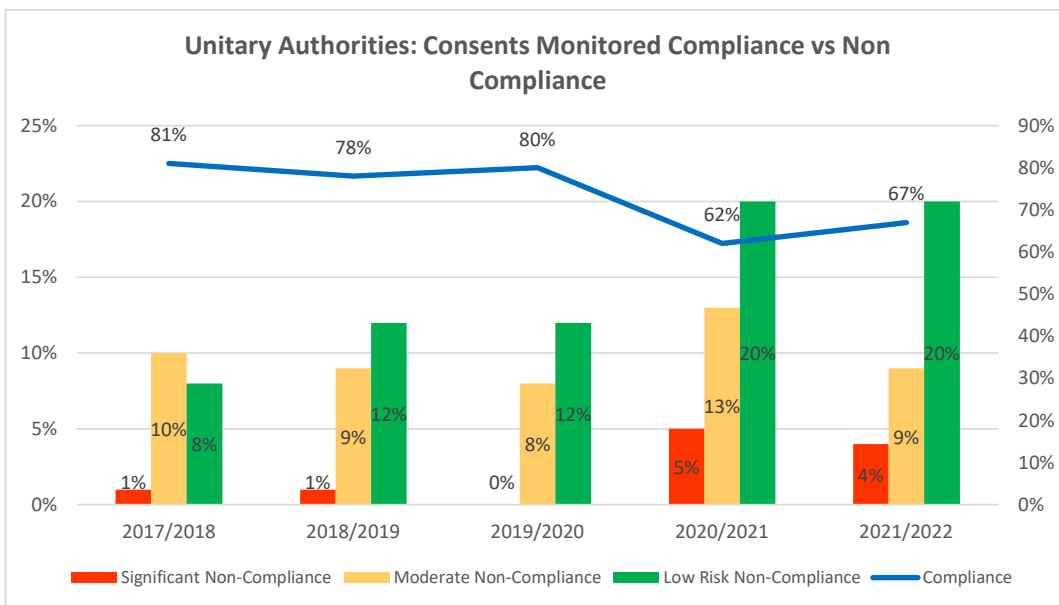


**SECTION 6: NON-COMPLIANCE OVER TIME**

**FIGURE 12: REGIONAL COUNCIL RESOURCE CONSENT COMPLIANCE LEVELS**



**FIGURE 13: UNITARY AUTHORITY RESOURCE CONSENT COMPLIANCE LEVELS**



Figures 12 and 13 show how the levels of non-compliance have changed over time, with compliance shown to be decreasing over the past five years for both regional and unitary councils. In terms of the type of non-compliance observed, the data shows that most consent-holders are exhibiting low-level non-compliance. This would align with what we could expect to see from this regulated community based on the VADE model behaviors i.e. people who choose to go through a consenting process and achieve compliance are typically more inclined to then comply with the consenting requirements. An increase in low-level non-compliance being observed overtime may reflect increased efforts by the regional sector

to undertake compliance monitoring of resource consents and an improvement in consistency of approach to grading of non-compliance over this time. It will be important to continue to monitor this aspect over time.

It is important to note that the unitary council data includes compliance monitoring results for both district and regional consents as these are not able to be reported separately by Nelson City Council and Auckland Council.

## **SECTION 7: PERMITTED ACTIVITY MONITORING**

The data on permitted activity monitoring undertaken by the regional sector is minimal, with the questions in the CME metrics reports limited to asking each Council to confirm which permitted activities they have a monitoring program for. The data shows no major changes in this data over the five-year period, with forestry and dairy permitted activity programs accounting for almost 50% of the programs undertaken by the regional sector in 2022.<sup>14</sup>

Whilst this data gives an indication of what proactive permitted monitoring is being undertaken by the regional sector, the data doesn't show how the obligations for permitted activity monitoring has changed over this time. For example, there is no information relating to what rules in the respective regional plans require permitted activity monitoring and the proportion of these that are actively monitored by the regional sector. As such, the appropriateness of the compliance monitoring approach from the regional sector to permitted activity monitoring cannot be commented on in any detail.

Notwithstanding, a lack of permitted activity monitoring across the regional sector is a well-known issue that has been recognized in the aforementioned reports and analysis provided by Dr Marie Doole<sup>15</sup> and The Randerson Report.<sup>16</sup>

<sup>14</sup> See page 22 of the Analysis of the 2021/2022 CME Metrics for Te Uru Kahika Regional and Unitary Councils Aotearoa

<sup>15</sup> See Independent analysis of the 2017/2018 CME Metrics for the Regional Sector report and Last Line of Defence – Compliance, monitoring and enforcement of New Zealand's environmental law – Marie A Brown, 2017

<sup>16</sup> New Directions for Resource Management in New Zealand- Report of the Resource Management Review Panel – June 2020.

## Revisiting the findings from the original 2017 CME metric report

The inaugural report from 2017 outlined key findings and made suggested recommendations for the regional sector's CME operations and delivery. Having undertaken a review of the five years of data that have now been collected, the following comments are made as to how these recommendations have been implemented by the regional sector.

- The opportunity for councils to work to standardise their approaches to CME tasks, to improve comparability of data obtained from councils and increase its value at a national scale.

*Whilst some standardisation has occurred which is of benefit, there is still opportunity for improved consistency to enable better data aggregation and comparability. Change in reporting methods and codification of certain CME activities each year because of changes in internal systems has also made year-by-year comparisons difficult.*

- Suggestion for increased resourcing to fulfil the minimum requirements set out in the Best Practice Guidelines.

*FTE has increased considerably since 2017 for some Council's (namely Auckland Council and Environment Canterbury) and has remained steady for others. Continued emphasis on data reporting for CME activities may assist with more strategic workforce planning for the regional sector moving forward.*

- Improved information management and transparency.

*Whilst information management appears to have broadly improved since 2017, the quality and accuracy of data is unable to be validated.*

- A need to ensure internal policy frameworks for CME in councils are complete, to demonstrate fair and clear decision-making processes.

*All councils within the regional sector now have CME policy frameworks.*

- Continuation of reporting and review efforts for CME metrics.

*CME metrics reporting has continued each year with efforts to maintain a consistent approach to provide comparable data and enable trend analysis. The Strategic Compliance Framework adopted by CESIG also commits the sector to reporting and review of their performance.*

- The information management and reporting methods adopted by unitary authorities make it challenging to distinguish their district level CME activities from their regional level activities. This has impacts on the data comparability across the country.

*This remains an issue for data comparability, with all unitary councils still unable to differentiate their district level CME activities from their regional level activities in their annual reporting for complaints data. Auckland Council and Nelson City Council are still unable to report on their regional level consent monitoring distinct from their district level activities.*

## Future of CME metrics reporting data

### OVERVIEW OF CURRENT METRICS

The CME metrics survey questions have remained consistent over the last five years, apart from minor refinements after the inaugural survey and the omission of questions in the 2022 survey where the answers provided from councils were the same each year.

It is therefore timely to review the survey questions and consider whether it may be beneficial to add or remove questions. This speaks to the broader intent of the survey, which is to gain insights into the performance of the CME sector, with a focus on achieving consistency and assisting with the development of best practice. Emphasis should be placed on collecting data that is able to tell a story that adds value to the regional sector in its efforts to achieve these broader performance objectives.

#### ***Data limitations***

Whilst the CME metrics data provides insights on key metrics and indicators that may be linked to regional sector performance measures, the fact remains that there is no ability to query the validity or accuracy of the data provided by councils. This limitation was identified within the inaugural survey analysis and has been highlighted again each year. Despite some efforts across the regional sector to gain consistency on reporting measures, there are limitations in how well this can be achieved because of the way information systems are designed. With the pending introduction of the NBA and regional approaches to CME being signaled, it is recommended that the regional sector use this as an opportunity to capitalize on this era of change and adopt principles of national consistency for data gathering and reporting. Notwithstanding, if full consistency was able to be achieved, it may still be challenging to validate the accuracy of the data provided by councils.

The CME metrics data captures information about the relative levels of non-compliance that councils assign to resource consents during their compliance monitoring over the reporting year. Whilst the scoring is nationally consistent in terms of the gradings assigned, the data isn't readily able to be correlated with the corresponding action that may result from the identified non-compliance. In addition, the data can't tell a story about the effectiveness of the intervention and what environmental outcome was achieved.

This limitation can be viewed in the context of the 'Tiers' of data for measuring performance of a regulatory system as outlined by Dr Doole in the *Last Line of Defence*.<sup>17</sup> In this context, the CME metrics reporting has a focus on collection of Tier 3 and Tier 4 data as this is the easiest data to collect and report on when considering the information systems that councils maintain. As such, the limitations remain in that we are unable to readily link any of this data to broader environmental outcomes and behavioural outcomes of the communities that are regulated. A substantial gap therefore remains, in terms of being able to robustly measure the performance of the regional sector when it comes to CME delivery.

<sup>17</sup> Page 13 of the Last Line of Defence Report contains Table 1.2 titled 'Four tiers of necessary data to evaluate a CME regime' as adapted from Sparrow (2000)

## CHANGES TO THE SURVEY

The data analysis has highlighted opportunities for additional information that could be obtained from the regional sector to provide more visibility of decision-making, additional context and more specific information relating to enforcement action undertaken. Rather than pose these as specific questions, these are suggested as themes on which new questions could be posed.

### *Enforcement decision making*

The existing CME metrics survey has a focus on decision-making adopted by Councils for prosecutions, with no questions on the decision-making process that Councils adopt for issuing of abatement notices, formal warnings, and infringement notices. For the purposes of this report, these are referred to as 'medium level' enforcement tools.

The data shows that some councils identify non-compliance but use very little 'medium level' enforcement tools. It would be useful to understand why, and the decision making associated with the use of these enforcement tools within these councils. This information could help to highlight where there may be gaps in understanding of the tools available and where more support is needed across the regional sector.

Other than reporting on the volumes of these types of enforcement action, there is little insight gained from the metrics reporting each year for this significant portion of the enforcement regime under the RMA. In addition, as a volumetric measure in isolation of an explanatory narrative from the regulator, there is a risk of face-value analysis and misinterpretation of the data.

This hypothesis was tested during the analysis undertaken for this report. Where trends in the use of these enforcement tools were identified, each of the respective councils were given an opportunity to provide a written explanation for why this may have been the case. As to be expected, the answers were diverse. The reasons given ranged from the improved compliance behaviour of regulated parties, perceived low-level non-compliance not warranting these types of enforcement action, through to the impacts of staff turnover on the use of these enforcement tools.

As mentioned earlier in this report, there is data from 2016 which sets out the tiers of delegation for enforcement decision making for all councils across New Zealand.<sup>18</sup> At this time, it was reported that only four regional sector councils had staff authorised to issue infringement notices and seven councils with staff authorised to issue abatement notices.

In order to gain up-to-date insights into the enforcement decision making made within the regional sector, it is recommended that new questions be incorporated into the survey that cover the following:

- What tools Councils have available to assist compliance officers with their decision making around abatement notices, infringement notices and formal warnings. If there are tools used – ask the respective Council to provide a copy of the documents/tools that they ask staff to use. This may help to compare the approaches taken by councils and highlight opportunities for consistency in CME practice, sharing knowledge and building capability within the sector.
- What reporting documentation is prepared in support of enforcement decision making for abatement notices, infringement notices and formal warnings. Include links to templates that are used.

<sup>18</sup> Page 47 of Last Line of Defence – Compliance, monitoring and enforcement of New Zealand's environmental law – Marie A Brown, 2017

- Details of where delegation sits within the council to issue abatement notices, infringement notices and formal warnings. It would be interesting to see if this is correlated to the volume of enforcement action that is undertaken by the respective councils and again, may highlight opportunities for consistency in approach across the sector.

### ***Impacts of staff turnover***

The regional sector has recently reported on the impact that staff turnover has on their ability to undertake effective CME functions.<sup>19</sup> In the foreword of this year's CME metrics report, it was reported that some councils have reported 'a 50% turnover in teams'. It is inevitable that high staff turnover will negatively impact on a council's ability to deliver an effective CME service with a traditional deterrence-based compliance model. However, the current metrics reporting doesn't gather data on this important aspect.

In order to gain insights and evidence as to how staff turnover, retention and recruitment challenges may impact a council's ability to undertake effective CME, it is recommended that new questions be incorporated into the survey that cover the following:

- The proportion of staff turnover that there has occurred during that reporting year.
- The salary banding and salary range for CME positions.
- The number of positions held vacant on the date of submitting the data.
- Whether the Council has a dedicated programme for training and development of staff. If yes, what does this include? This would give an indication as to how the regional sector is investing in capability of CME staff and aid in further information sharing across the regional sector.
- A free-text section that provides Councils an opportunity to explain how staff turnover and vacancies may have impacted on their CME function that year.

### ***Prosecutions***

The current CME metrics questions relating to prosecutions don't provide any insights as to the nature of the activities that are resulting in prosecution action. For instance, there is no data as to whether the prosecution relates to unconsented activity or consented activity or the section of the RMA to which the offending relates. Given the number of prosecutions is relatively low in the context of all CME work undertaken by the regional sector, there is an opportunity to obtain more details relating to prosecutions which may lead to more discussion about outcomes within the CESIG. This could also support work to explore the appropriateness of a banding system for environmental offending and penalties imposed.<sup>20</sup>

It is recommended that new questions be incorporated into the survey that cover the following:

- Where a prosecution has been undertaken, whether it was related to unconsented or consented activity. Provide a brief overview of the case and nature of the offending including the section of the RMA under which the offence was committed and reasons for the offending.
- Provide the details of the financial (and other) penalties imposed by the Environment Court for each case.

<sup>19</sup> Report for RCEO Group – RMA Investigations and Enforcement Report – CESIG Working Group Compliance and Enforcement Special Interest Group April 2022

<sup>20</sup> See Page 14 Report for RCEO Group – RMA Investigations and Enforcement Report – CESIG Working Group Compliance and Enforcement Special Interest Group April 2022

### ***Permitted activity monitoring***

The current CME metrics survey questions provide limited information relating to permitted activity monitoring. Given the likely increase in the need for comprehensive permitted activity monitoring programmes in the future (discussed further in the forthcoming section of this report), it would make sense to start collecting more data on this compliance monitoring work. This would likely aid in consistency in approach and provide heightened visibility and status of this important CME work in the broader work undertaken by the regional sector. However, given the variation in regional plan regulatory regimes that exists, and that this information is unlikely to change substantially year-on-year, it may make more sense to undertake this data gathering and analysis outside of the annual survey (which aligns with the recommendations in the 2017/2018 CME metrics report).<sup>21</sup> This may provide helpful context for the sector when considering their approach to permitted activity monitoring.

It is recommended that additional questions be included that cover the following aspects:

- Information regarding funding arrangements for permitted activity programmes in the region. i.e. Are Councils adopting a 'polluter pays' funding arrangement or are programmes being funded by budgets assigned through an Annual Plan process and funded by rate payers.

### ***Suggested additional data gathering and analysis outside of the survey***

- Information should be gathered about Regional Plan permitted activity provisions that require explicit compliance monitoring. This would help to get an idea of the scale of the permitted activity workload across the councils, and to provide context for how decision making is made about which permitted activities are monitored. This would also highlight opportunities for consistency or at a minimum, may offer an opportunity for shared learnings across the regional sector for how this work may be approached.

<sup>21</sup> Page 51 and 52 of the Independent Analysis of the 2017-2018 compliance, monitoring and enforcement metrics for the regional sector.

## Part 3 – Current and emerging challenges

The regional sector is facing existing and emerging challenges when it comes to CME delivery. Those considered to be the most prevalent are explored below, along with possible mitigating actions presented at a conceptual level, for the regional sector to consider.

### Resourcing

In recent times, CME has been referred to as the 'Cinderella' of the resource management system.<sup>22</sup> This is off the back of resourcing challenges, often further exacerbated by resourcing having to be assigned to manage issues that aren't having the greatest environmental impact. For instance, dealing with issues between neighbours or escalated complaints which aren't resulting in environmental effects that warrant such detailed attention.

The volume of work for CME teams across the regional sector has increased since CME metrics reporting began in 2017. Responding to complaints, undertaking effective compliance monitoring of both consented and permitted activities and undertaking investigations and appropriate enforcement responses requires significant work and expertise. In addition, this work is often complex, and this complexity has increased over time. This can be attributed to more intensive land uses and activities occurring across the regions but also reflects how regional plans have evolved in the years since the RMA was introduced. This has all cumulated and contributed to more pressure on CME resourcing.

In addition, there is also a risk of CME resourcing becoming a victim of its own success. If CME strategies are working well, the regulator should see improved compliance behaviour from the communities they regulate. This in turn leads to decreased enforcement action being required. At this point, the spotlight often comes on the CME teams and the resourcing assigned to them with questions asked as to whether it is required if the community is perceived to be complying of their own volition. A reduction in CME resourcing then leads to less compliance monitoring, non-compliance may increase, and the resource challenge resurfaces. The CME team are then required to put forward robust business cases to justify further resource to get on top the issue and then the cycle continues. This reinforces the need to obtain CME performance data and what constitutes 'success' as more than just a quantum of sites inspected, or enforcement action taken. This type of data needs to be able to be reviewed in the context of the effectiveness of the approach and environmental outcomes that occur as a result. In addition, recognition needs to be given to the value that monitoring compliant activities provides as a means of encouraging and maintaining compliance over time.

Notwithstanding the broader resourcing challenges identified above, and the need to increase resourcing, there are limits to the benefits offered by simply increasing the number of CME officers. In many cases, increasing front line CME resource to the scale needed to manage the breadth of the compliance issue is likely to become operationally untenable before being sufficient to reach the compliance performance needed to deliver the outcomes anticipated by the regulatory policy. As such, a multi-faceted approach is needed to address the issues faced by the regional sector when it comes to resourcing of the CME function and service delivery. A system approach is required rather than focusing on front line CME officer FTE alone.

<sup>22</sup> Use of this term is taken from the New Zealand Planning Institute submission reference quoted on page 400 of the New Directions for Resource Management in New Zealand- Report of the Resource Management Review Panel – June 2020.



## Workforce Capacity and Capability

Retention and recruitment of CME staff is an ongoing challenge for the regional sector. CME activity is multi-disciplinary, and often attracts people from a broad range of backgrounds. In many local authorities, CME officers have a background in traditional law enforcement such as the NZ Police. Whilst this can offer a beneficial skill base when it comes to investigating non-compliance and taking enforcement action, comprehensive training in RMA context and environmental regulation is required for CME officers with this background. Conversely, people with a background in environmental science, planning and policy roles may also end up in CME officer roles where the training gap is therefore investigation and more general enforcement training. This means the training needs of the sector are reasonably diverse.

Once CME officers obtain considerable experience in the role and are operating effectively, the regional sector experience difficulties in retaining these people in these positions. Historically, other resource management roles such as science, planning or policy roles are seen as progression opportunities, also offering higher salaries in the respective councils.<sup>23</sup> Furthermore, in recent years, the increase in remote working and expansion of other central government agencies which require persons with a similar skill set such as Kainga Ora, Ministry for the Environment, EPA and Taumata Arowai has further exacerbated the resourcing challenge that already existed.

In the absence of CME being duly recognized as a resource management specialization with dedicated training and workforce planning committed to at a central government and regional sector level, it is considered that this difficulty in attracting and retaining people in CME roles is likely to continue.

These workforce retention, capacity, and capability issues inevitably impact on the regional sector's ability to deliver CME services. At the most basic level, less people available to do the work means less non-compliance being detected and less enforcement action being taken. At a more nuanced level, experienced CME officers who have tenure in these roles end up spending much of their time training a constant influx of new staff rather than undertaking CME work directly themselves therefore diverting important CME resource for lengthy periods of time.

## Difficulties of cost recovery

The difficulties of cost recovery for CME work are well-documented and therefore are only briefly mentioned here for completeness, noting that the NBE has improved provisions relating to cost recovery which are explored in the forthcoming section of this report.

Approaches to cost recovery for CME activities differ across the regional sector. These range from some councils recovering costs for investigations of non-compliance, through to some councils not recovering any CME costs except for those associated with resource consent monitoring. In addition, where a council considers the use of escalated enforcement action such as enforcement orders and prosecutions, the costs to the regulator can be extensive and are not able to be recovered. This means that most CME functions delivered by councils in the regional sector are heavily dependent on general funding linked to Long Term Plan (LTP) budget setting processes. This in turn can make effective CME delivery vulnerable to political influence.

<sup>23</sup> This is the authors experience from working with local authorities but is also supported by commentary outlined on page 21 of the Report for RCEO Group – RMA Investigations and Enforcement Report – CESIG Working Group Compliance and Enforcement Special Interest Group April 2022

## Tools and technology

Whilst new technology and tools may become available, access to these can be expensive and therefore a barrier for use by the regional sector. This can make intelligence-led monitoring challenging for CME teams. In addition, the data and reporting systems used by the regional sector are often not 'fit for purpose' for CME operations which can make basic administrative tasks a burden for CME officers. This results in more time spent on administrative paperwork and less time on effective CME work and case investigation. Whilst the regulations specify the form and content of abatement notices and infringement notices<sup>24</sup>, there is still considerable variation across the sector in how these are prepared. Standardization of basic aspects of CME delivery for the regional sector such as abatement notice templates, compliance monitoring reporting templates and infringement notice templates could assist to remove some of this administrative burden across the sector whilst also improving consistency and comparability of data across the regional sector. This consistency may also create opportunities for councils to work together alongside central government to explore tools and technology solutions via joint initiatives, thereby providing economies of scale when it comes to financing of these tools. It is noted that this would require consideration of what regulatory levers may have to be enacted to require this consistency from councils.

### MITIGATING ACTIONS FOR CONSIDERATION:

- The regional sector would benefit from a multi-faceted and strategic approach to address the resourcing issues faced for CME function and service delivery. Whilst front line officer resourcing is an important aspect of this, a wider lens that considers the suitability of the design of the broader operational system is recommended.
- The regional sector should work collectively with central government agencies and territorial authorities to develop a strategic approach and work programme to overcome the challenges regarding workforce development and retention. This should take a long-term view, to further develop the recognition of CME as a resource management specialty alongside other disciplines such as planning and environmental science fields. Development of a career pathway and formal learning pathway through engagement with young people could be explored to build workforce capacity, alongside a national approach to training and development for professionals already working in the CME specialty to build workforce capability.
- Standardization of basic aspects of CME delivery for the regional sector such as abatement notice templates, compliance monitoring reporting templates and infringement notice templates should be explored. This would enable the regional sector work to consider tools and technology solutions more easily as a collective, thereby providing economies of scale when it comes to financing of these tools and improving affordability and therefore availability of new tools. It is noted that this would require consideration of what regulatory levers may have to be enacted to require this consistency from councils.

<sup>24</sup> Resource Management (Forms, Fees and Procedure) Regulations 2003 and Resource Management (Infringement Offences) Regulations 1999.

## Part 4 – Future expectations and opportunities

### Resource Management Reform

The regional sector is about to enter an era of change, with resource management reform on the imminent horizon. The Natural and Built Environment Bill (NBE) was introduced to parliament on 17<sup>th</sup> November 2022 and has proposed a suite of changes for how environmental regulation and compliance is administered in New Zealand. These changes relate to how the system is fundamentally designed, but also in what enforcement tools are available for NBE regulators. This Bill will work in tandem with a Spatial Planning Bill along with a Climate Adaptation Bill which is to be introduced at a later date. Once passed, the legislation will be known as the Natural and Built Environment Act (NBA) and Spatial Planning Act (SPA).

Although not in scope of the current reform program, the government has also signaled a review of the institutional arrangements for how CME is delivered in New Zealand though this has been deferred for the time being.<sup>25</sup>

### Natural and Built Environment Bill (NBE)

The NBE introduces a shift away from a focus primarily on environmental effects and sustainable management, to a more prescriptive framework that seeks to enable development and promote outcomes within the context of environmental targets and limits.

The purpose of the Act states:<sup>26</sup>

**The purpose of this Act is to –**

- (a) Enable the use, development, and protection of the environment in a way that –
  - i. Supports the well-being of present generation without compromising the well-being of future generations; and
  - ii. Promotes outcomes for the benefit of the environment; and
  - iii. Complies with environmental limits and their associated targets; and
  - iv. Manages adverse effects; and
- (b) Recognize and uphold te Oranga o te Taiao.

In addition, the NBE includes a shift in approach to how Tiriti o Waitangi is referenced when compared to the RMA 1991, now requiring that ‘all persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi’.<sup>27</sup>

<sup>25</sup> Page 32 of the Ministry for the Environment. 2021. Transforming Aotearoa New Zealand’s resource management system: Our future resource management system – Materials for Discussion. Wellington: Ministry for the Environment.

<sup>26</sup> Part 1, Sub Part 1, Section 3 of the Natural and Built Environment Bill

<sup>27</sup> Part 1, Sub Part 1, Section 4 of the Natural and Built Environment Bill

## KEY ELEMENTS OF THE NBE

There are key elements of the system design and approaches to resource management outlined within the NBE that relate to CME delivery. These are summarized below:

- A strengthened approach to CME has been outlined in the intent, with a new civil remedy enforcement regime introduced to compliment the traditional criminal prosecution framework.<sup>28</sup>
- An ability for NBE regulators to cost recover for their CME work to a greater extent than what is currently provided for by the RMA 1991.<sup>29</sup>
- Removal of 'trial by jury' as an option for environmental offending by reducing maximum sentence for imprisonment to 18 months.<sup>30</sup>
- Increased financial penalties.<sup>31</sup>
- Removal of ability to insure against financial penalties.<sup>32</sup>
- An ability for a consent authority to consider the compliance history of a person when determining an application for resource consent.<sup>33</sup>
- An ability for a consent authority to invoke a consent condition review process where there is non-compliance with one or more resource consent conditions.<sup>34</sup>
- An ability for the Environment Court to revoke a resource consent where there is significant continued non-compliance.<sup>35</sup>
- Changes to permitted activities and introduction of Permitted Activity Notice Framework.<sup>36</sup>
- Increase in timeframes for statute of limitations.<sup>37</sup>
- Introduction of a new offence for breach of a consent condition.<sup>38</sup>
- Regional Planning Committees to undertake preparation of Regional Monitoring and Reporting Strategies.<sup>39</sup>
- Requirement of a NBA regulator to publish information about their functions, duties and powers.<sup>40</sup>
- Requirement of the Ministry for the Environment to prepare and issue guidance to assist regulators in undertaking their enforcement functions, duties and powers under the NBA.<sup>41</sup>
- Increased system oversight and stewardship responsibilities for Ministry for the Environment (MfE), along with a new role for the Parliamentary Commissioner for the Environment in reviewing the performance of the system.<sup>42</sup>

<sup>28</sup> These civil remedies refer to Monetary Benefit Orders, Sec 718 of the NBE Bill; Enforcement undertakings, Subpart 2 Sec 723 of the NBE Bill; Adverse Publicity Orders, Sec 731 of the NBE Bill

<sup>29</sup> Sec 781 of the NBE Bill

<sup>30</sup> Sec 765 of the NBE Bill

<sup>31</sup> Sec 765 of the NBE Bill

<sup>32</sup> Sec 766 of the NBE Bill

<sup>33</sup> Sec 223 (2) (f) of the NBE Bill – limits this to prior non-compliance by the applicant and for which enforcement action has been taken

<sup>34</sup> Sec 277 (2) (c) of the NBE Bill

<sup>35</sup> Sec 719 of the NBE Bill

<sup>36</sup> Sec 302 of the NBE Bill and Sec 783 (1)(g) stating that a local authority must monitor permitted activities in their region

<sup>37</sup> Sec 759 of the NBE Bill

<sup>38</sup> Sec 760(1)(c) of the NBE Bill

<sup>39</sup> Sec 785 of the NBE Bill

<sup>40</sup> Sec 786 of the NBE Bill

<sup>41</sup> Sec 787 of the NBE Bill

<sup>42</sup> Sec 838 of the NBE Bill

## What does this mean for the regional sector?

The components of the NBE outlined above will impact on CME delivery by the regional sector in many ways. The changes proposed, when viewed as a package, can be seen to elevate the role of CME in the resource management system. This is positive for CME as a specialization in the resource management field and will create both opportunities and challenges for how the regional sector operates. These are set out below, along with suggestions for what the regional sector could consider for preparing for implementation and work in the new era of the NBE.<sup>43</sup>

### CONSIDERATION OF TE TIRITI

Under the NBE, the regional sector in performing their duties will be required to 'give effect' to the principles of te Tiriti o Waitangi.<sup>44</sup> This is a stronger requirement than what currently exists under the RMA 1991, whereby such matters are only required to be 'taken into account'.<sup>45</sup> The regional sector will have to give careful consideration to this significant change in requirements under the NBE, from how CME strategies are set through to how day-to-day decisions are made by compliance officers.

Further to this fundamental shift, the NBE also establishes a role for mana whenua in local authority monitoring activities. This presents an opportunity for the regional sector to enhance their existing working relationships with mana whenua in their region.

### NEW AND ENHANCED TOOLS

The ability to impose harsher financial penalties is a welcomed change and likely to result in greater deterrence of environmental offending. The addition of a new civil remedy tool set is also positive, expanding the enforcement action options available for the regional sector. Implementation support will be critical for this aspect of the reform programme as compliance officers, the legal fraternity and regulated community get familiar with the different tools and how and when they should be used. A strong emphasis on education and guidance for the regional sector (and district councils) should be adopted by central government to support the introduction of these tools.

### MORE PERMITTED ACTIVITIES

The NBE signals a shift to more permitted activities being provided for in NBE plans and the introduction of a Permitted Activity Notice regime.<sup>46</sup> Permitted activities may be subject to conditions or compliance with standards and are authorized by the notice. Compliance monitoring is expected to be undertaken by the NBE regulator and the provisions allow for cost-recovery of this function.<sup>47</sup>

Whilst this may achieve efficiencies in the consenting space, this is likely to increase the compliance monitoring workload for the regional sector. In addition, the culture shift within the system to establish the new permitted activity regime is likely to require significant efforts to educate the regulated community. Whilst education of the community would be a deliverable and outcome of the NBE plan-making process, the reality is that front-line compliance officers and regulatory teams are likely to shoulder much of this burden when implementing the plans.

<sup>43</sup> At the time of preparing this report, transitional arrangements for implementation of the NBA in terms of the enforcement provisions were still unclear

<sup>44</sup> Sec 4 of the NBE Bill

<sup>45</sup> Sec 8 of the RMA 1991

<sup>46</sup> Part 5, Sub Part 1, Section 156 of the NBE Bill

<sup>47</sup> Sec 783 (1) (g) of the NBE Bill

When considering the current resource attributed to permitted activity regimes under the RMA, this change in the system will necessitate additional resourcing to ensure that permitted activities receive the CME attention that is required. This will be particularly important in the new world of environmental limits and targets, with Councils obligated to track their progress in achieving these targets and consenting activity within limits.<sup>48</sup> This will also require a culture shift in how permitted activities have been historically viewed by regional councils. The change in approach to the PA classification means that just because it is a PA, it doesn't mean it is of a lesser environmental risk than an activity that requires a consent. The decision to make it a PA may be because a consenting process is deemed to be of little value, and the environmental effect is better managed by compliance monitoring and data-driven interventions by the regulator if it is required. This elevates the importance of effective CME.

### **COST RECOVERY FOR CME ACTIVITIES**

An inability for Councils to cost recover for parts of their CME functions has been a long-standing, and well-documented issue identified by the regional sector.<sup>49</sup> New provisions to make cost recovery an avenue to fund CME activities undertaken by the regional sector is a welcomed addition to the resource management framework. This again will require a big culture shift and time of adaptation for the regulated community, who are in many cases currently not being subject to compliance monitoring or if they are, are not experiencing financial costs for this. Though each region has their own approach to cost-recovery, there may be benefits to co-ordinate approaches to certain activities to assist in the broad culture shift that is required. Notwithstanding, it must still be emphasized that compliance monitoring is of value to the community and that such a function should still be attributed the necessary funds through councils financial planning processes.

### **STRONGER TIES TO RESOURCE CONSENTING**

An ability for a consent authority to consider the compliance history of an individual when determining a resource consent is a significant addition to the current matters that can be considered under Sec 104 of the RMA 1991.<sup>50</sup> Further to this, the NBE proposes an ability for the consent authority to initiate a review of the conditions where there has been a breach of the consent condition(s). These provisions, merely by their existence, will likely provide enhanced deterrence of environmental offending and are a positive addition to the environmental legislative framework. However, this will necessitate stronger relationships between CME officers and consenting staff working within a consenting authority.

### **STRENGTHENED MONITORING AND SYSTEM REPORTING REQUIREMENTS**

The NBE makes it clear that system monitoring and reporting is to be delivered by local authorities and the Ministry for the Environment, along with a new role for the Parliamentary Commissioner for the Environment. The NBE specifically sets out a requirement for an NBE regulator to publish information about their functions, duties and powers, a register of all enforcement activities and details of enforceable undertakings.<sup>51</sup> This offers the opportunity to raise the profile of the importance of CME functions of a regional council within the community.

Interestingly, the NBE also introduces a prioritization framework that a local authority must follow when fulfilling their monitoring duties. This specifies the priority must be natural environmental limits and targets, followed by matters contained within the National Planning Framework (NPF), and then regionally significant matters identified in their Plan.<sup>52</sup>

<sup>48</sup> Part 2, Sub Part 2, Section 53 of the NBE Bill

<sup>49</sup> See page 400 para 47 of New Directions for Resource Management in New Zealand – Report of the Resource Management Review Panel June 2020 and page 3 of Independent Analysis of the 2017-2018 compliance, monitoring and enforcement metrics for the regional sector -Final Report (Brown, Dr. M).

<sup>50</sup> Part 5, Sub part 3, Section 223 of the Natural and Built Environment Bill

<sup>51</sup> Part 11, Sub Part 6, Section 786 of the Natural and Built Environment Bill

<sup>52</sup> Part 11, Sub Part 6, Section 783 of the Natural and Built Environment Bill

This prioritization approach, or hierarchy of considerations that seems to be introduced by this provision will likely generate community debate as local community expectations may not align with the national direction. Where most regional councils adopt a risk prioritization model for how their work is undertaken, this new requirement will require a refresh of this approach. This may present opportunities for standardization of CME approaches from councils which would be beneficial in many respects as noted earlier in this report.

## **OPPORTUNITY FOR MORE NATIONAL DIRECTION AND GUIDANCE**

With the exception of the CME Best Practice Guidelines that were released by the Ministry for the Environment in 2018, there is very little national direction or guidance for local authorities when it comes to exercise of their enforcement functions, duties and powers. Effective CME is critical to the integrity of any regulatory system. Without CME, the policy frameworks and consenting processes that take so many years to come to fruition can be undermined, environmental outcomes can be compromised, and communities can feel let down. In many ways, CME is one of the most vulnerable components of the resource management system because of the discretion that is left to individual officers to effectively uphold the regulatory framework. Unlike plan making stages and consenting stages where there are plan-making processes and consenting processes with checks and balances in place, a local authority has a lot of discretion as to how they full fill their CME duties. To highlight this vulnerability should not be taken as a criticism of the sectors ability to make good decisions about how they undertake their CME duties, as the CME metrics data clearly shows that there is a large volume of great work being undertaken by the sector. The key point is that there would be many benefits to stronger direction and more tailored and specific guidance being readily available for the regional sector to support implementation of the new NBE, and this provision in the bill enables the regional sector to begin constructive discussions with MfE to ensure that this is delivered.<sup>53</sup> In addition, it is recommended that any guidance developed by MfE is developed in partnership with the regional sector and the legal fraternity to ensure it is fit for purpose.

## **REGIONAL COORDINATION – CLOSER WORKING RELATIONSHIPS WITH TERRITORIAL AUTHORITIES**

Regional Planning Committees will be responsible for Regional Monitoring and Reporting Strategies.<sup>54</sup> This will mean regional sector CME will have to have a closer relationship and alignment with territorial authority CME activity and other monitoring initiatives that the council is responsible for. CME will also have to be responsive to environmental risks identified<sup>55</sup>, therefore requiring stronger feedback loops between different parts of the resource management system across councils. Alignment of operational priorities across teams and local authorities will be a challenge and will need to be managed.

Given the well-known challenges associated with fragmented CME delivery across multiple smaller agencies, there are likely to be benefits to this closer working relationship between the regional sector and territorial authorities. Such benefits could be:

- Enhanced opportunities for growth and development of CME officers to improve recruitment and retention.
- Less opportunity for offending to 'slip through the cracks' when there are questions as to who has jurisdiction over a particular issue.
- Efficiencies in delivery and use of resources.
- More holistic overview and approach to resource management.
- Would align with the approach to plan making under the NBE.

<sup>53</sup> Part 11, Sub Part 6, Section 787 of the Natural and Built Environment Bill

<sup>54</sup> Part 11, Sub Part 6, Section 785 of the Natural and Built Environment Bill

<sup>55</sup> Part 11, Sub Part 6, Section 784 of the Natural and Built Environment Bill

## Part 5 – Conclusions and recommendations

The regional sector has benefited from five years of CME metrics data and should be commended for their continued efforts to collectively participate in this annual survey. This data provides valuable insights into how CME delivery is undertaken by the regional sector. The data shows considerable efforts by CME officers across New Zealand, with an expanding CME workforce, during a period where there have been substantial challenges faced by the sector. Covid-19 has clearly impacted on CME delivery, and this shows in the data. It will be interesting to see what trends emerge from the data as we move out of the pandemic.

In terms of the survey questions and data collected, there are still areas which would benefit from greater consistency in terms of data collection and standardization of reporting. In addition, the issue remains in that there is limited ability to validate the accuracy of the data provided by councils. Given this was raised in the findings of the inaugural survey, there seems to have been little movement by the regional sector to improve in this space. Introduction of the NBE offers an opportunity to establish standardization of approach and processes, whilst respecting regional differences. It is recommended that CESIG take an early and proactive approach to ensure that this opportunity is not missed.

In addition, the substantial gap remains, in that the data is focused on metrics of actions and does not enable an assessment as to how effective these interventions have been in achieving the environmental outcomes that the RMA 1991 set out to achieve. There is of course a need to balance pragmatism of data collection methods against the desire to gain more data, however in many cases this could be achieved by more intelligent and fit-for-purpose data and IT systems being available for CME teams across the regional sector. The recommended additional topics for questions within future surveys is a workable addition worthy of consideration in the short-term, offering the potential to gain more mature insights into regional sector CME delivery.

Increased visibility of decision-making around enforcement action taken by the regional sector, beyond prosecution proceedings, would aid in constructive conversations across the sector and may highlight where training and development efforts are best placed as a sector. This may also provide opportunities for improvements in consistency of CME practice.

With regard to the challenges faced by the regional sector, it is recommended that CESIG work closely with central government agencies and territorial authorities to develop a strategic collaborative work programme to address resourcing, work force retention and tools and technology challenges. Consideration should be given to a national approach to training and development programmes to grow the capability of the sector.

The NBE has placed a new spotlight on the importance of CME within the new resource management system and offers a unique opportunity for the regional sector to give considerable thought to how CME functions and duties are fulfilled. There is a need, and opportunity, for increased central government, regional and territorial authority collaboration. Strong direction and guidance is also needed from central government to support implementation of the NBE. This time of change provides a powerful starting point for conversations within the regional sector, and between MfE and the regional sector, for additional resourcing and attention for this historically under-resourced aspect of resource management. The regional sector should be empowered by this and work collectively to ensure that the new era of CME for the NBE is well-supported and resourced to overcome the challenges that have been faced to-date.







**Date:** 18 July 2023

**Subject:** **Taranaki Regional Council role in regulating resource consents associated with the construction of Te Ara o Te Ata (Mount Messenger Bypass project)**

**Approved by:** A D McLay, Director - Resource Management  
S J Ruru, Chief Executive

**Document:** 3187340

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### **Purpose**

1. The purpose of this memorandum is to advise the Committee of the monitoring and enforcement activities undertaken by Council in relation to the construction of Te Ara o Te Ata (the Mount Messenger Bypass project).
2. Interest had been shown by elected members regarding the construction project and the role this Council has in relation to undertaking its regulatory functions for the various resource consents held by Waka Kotahi NZ Transport Agency, to enable the establishment of the new road.
3. A presentation, providing an update on the status of the project and the Council's role in ensuring adherence to resource consent conditions will be provided at the meeting and be available for elected members.

### **Recommendations**

That the Taranaki Regional Council:

- a) receives the memorandum, *Taranaki Regional Council role in regulating resource consents associated with the construction of Te Ara o Te Ata (Mount Messenger Bypass project)*.
- b) notes the Council will monitor and where necessary enforce the provisions of the *Resource Management Act 1991* using its *Enforcement Policy (2017)*.

### **Background**

4. Following detailed investigations and consultation on various options to construct a road to bypass Mount Messenger, Waka Kotahi decided upon an inland bypass route commonly referred to through the consultation process as Option C.
5. The project will construct a new transport link between Uriti and Ahititi through the Mimi and Mangapepeke catchments. The bypass is approximately 6 km in length and

will rise to a height of 110 metres above sea level, being 65 metres lower than the current route.

6. Significant infrastructure on the new route includes a 125 metre bridge over the Mimi wetland, a 235 metre tunnel and a 30 metre bridge across an unnamed tributary of the Mangapepeke Stream.
7. Estimated cost for the project is \$280 million with a construction timeline currently estimated to be four years. Construction timelines may change subject to land access into the Mangapepeke Valley.
8. The project is being undertaken by The Mt Messenger Alliance, which brings together Waka Kotahi NZ Transport Agency, Downer, HEB Construction, Tonkin & Taylor and WSP.

### **Resource consenting and commencement of construction**

9. In December 2017, after significant investigation and consultation with the Taranaki community and Ngati Tama, Waka Kotahi NZ Transport Agency lodged resource consent applications with this Council to provide for the construction of Te Ara o Te Ata.
10. After a long Court process, in March 2022, 57 resource consents were granted allowing for the construction of the project to commence.
11. In general terms, the suite of consents relate to authorising the following activities within the Mimi and Mangapepeke Catchments:

<b>General Purpose</b>	<b>Number of consents relating to activity</b>
Surface Water Takes	2
Groundwater Takes	2
Stream Diversions	9
Temporary Culverts	17
Permanent Culverts	21
Bridges	2
Discharge Stormwater and Sediment	1
Discharge of Dust to Air	1
Vegetation Removal	1
Planting in Riverbeds	1
Damming of Surface Water	2

12. In February 2023 two further resource consents were granted to allow for the disposal of surplus (cut to waste) material to land in association with the project.
13. A suite of general conditions apply to all consents. These conditions are related to matters such as cultural protocols, community liaison, complaints and incidents,

management plans, ecological and mitigation offsets and annual reporting. The majority of these conditions apply to both this Council's consents and those issued by the New Plymouth District Council.

14. It is likely that further resource consent applications will be lodged with this Council as engineering designs for the construction of the road are refined and different methodologies or solutions are adopted by the project team, as they attempt to construct a resilient road through difficult terrain.
15. Construction of the project commenced in May 2022, with the establishment of a construction yard, laydown areas and various site access points extending from the southern base of Mount Messenger to the road summit.
16. A cable way has been installed at the road summit on Mount Messenger to provide for access into the upper Mangapepeke catchment. This is to enable construction to commence on the largest fill area along the alignment (Fill 12) with an approximate 660,000 m<sup>3</sup> of material to be placed in the gully.
17. Work is currently underway constructing the bypass on the south-eastern side of the Summit. Land access issues have meant that no significant works have commenced on the northern side of the summit within the Mangapepeke catchment.

### **Compliance Monitoring and Engagement with Ngati Tama**

18. The resource consents place a number of constraints on the project to ensure that environmental effects of the project are monitored, measured, reported and mitigated against. This includes an emphasis placed on the project team to undertake various monitoring and reporting obligations throughout and beyond the construction phase of the project.
19. Alongside the internal project monitoring requirements, members of this Council's Compliance Team undertake weekly compliance monitoring inspections at the site.
20. During the inspections, officers inspect various aspects of the works depending on the construction phase at the time. This includes matters such as:
  - Assessing compliance with overarching management plans and site specific management plans
  - Inspections erosion and sediment controls associated with the earthworks across the project to ensure they are installed as per the design standards and are operating at the required efficiencies
  - Ensuring discharges to the receiving environment (streams and wetlands) are appropriately monitored and reported
  - Inspections of vegetation clearance, slash management and the creation of erodible surfaces
  - Inspections of online and offline stream works such as culvert installation and stream diversions
  - Assessing dust discharges
  - Ensuring compliance with permitted activity rules in the Regional Fresh Water Plan
  - Liaising with the projects' environmental and construction teams to identify possible issues as construction progresses across the site.

21. Ngati Tama representatives are entrenched throughout the construction and environmental teams and provide a cultural lens across the project to ensure that, as kaitiaki, all cultural aspects relevant to the project are acknowledged, respected and protected.
22. Representatives of Ngati Tama accompany all site inspections undertaken by Council Compliance Officers. This unique opportunity provides Council officers with the ability to develop and understand the cultural lens that is placed across the project, while also upskilling Ngati Tama representatives with regulatory compliance matters. Viewing environmental protection jointly through a cultural and regulatory lens often identifies similar concerns and leads to similar solutions.
23. Council officers with various expertise will be utilised throughout the project to monitor and review various aspects of the project to ensure that all matters relating to compliance are achieved.
24. Where Council does not have the required expertise or resources to adequately monitor or review specific aspects of the project, then Council has engaged appropriately skilled individuals to provide their expertise on a contractual basis.

### **Compliance History**

25. As of July 2023, 54 onsite inspections have been undertaken at the project.
26. Numerous other compliance monitoring tasks have also been completed with the reviewing and certifying of various Management Plans, Monitoring Reports and Rainfall and instream turbidity trigger reporting.
27. Non-compliances have been identified on 2 occasions. These have been reported to this Committee in accordance with council procedures.

### **Financial considerations—LTP/Annual Plan**

28. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.
29. All costs associated with the monitoring of the project are recovered from the consent holder

### **Policy considerations**

30. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

### **Iwi considerations**

31. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan.

**Community considerations**

32. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

**Legal considerations**

33. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

## Operations and Regulatory Committee Public Excluded

In accordance with section 48(1) of the *Local Government Official Information and Meetings Act 1987*, resolves that the public is excluded from the following part of the proceedings of the Operations and Regulatory Committee Meeting on Tuesday 18 July 2023:

Item 12: Prosecution under the Resource Management National Environmental Standards for offences against section 338 of the *Resource Management Act 1991* for contravening sections 13, 14 and 15 and any other offences’.

The matter to be considered while the public is excluded, the reason for passing this resolution in relation to the matter, and the specific grounds under section 48(1) of the *Local Government Official Information and Meetings Act 1987* are as follows:

General subject of each matter to be considered	Ground(s) under section 48(1) for the passing of this resolution	Reason for passing this resolution in relation to each matter
<p>Item 12: Prosecution- Under the Resource Management National Environmental Standards for offences against section 338 of the <i>Resource Management Act 1991</i> for contravening sections 13, 14 and 15 and any other offences’.</p>	<p>That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 (a) and section 7 (2) (a) and (2) (g) of the <i>Local Government Official Information and Meetings Act 1987</i>.</p>	<p>The alleged offender(s) has not as yet had the opportunity to respond to the charges laid. It is therefore important that the principles of natural justice are applied and that legal privilege is maintained.</p> <p>Making any of this information publically available would result in a breach of the <i>Privacy Act 2020</i>.</p> <p>The public interest in knowing the nature of the offence and why Council has made the decision to prosecute is not outweighed by the harm that would be caused to the alleged offender(s).</p>

## AGENDA AUTHORISATION

Agenda for the Operations and Regulatory Committee meeting held on Tuesday 18 July 2023

Confirmed:



7 Jul, 2023 7:44:01 PM GMT+12

A J Matthews  
**Director-Environment Quality**

Approved:



11 Jul, 2023 9:24:45 AM GMT+12

S J Ruru  
**Chief Executive**