

# Regulatory Committee Agenda - 9 September 2021



Meeting will be held electronically and livestreamed  
Link to: [Otago Regional Council YouTube Channel](#)

## Members:

Cr Gary Kelliher, Co-Chair	Cr Carmen Hope
Cr Andrew Noone, Co-Chair	Cr Michael Laws
Cr Hilary Calvert	Cr Kevin Malcolm
Cr Michael Deaker	Cr Gretchen Robertson
Cr Alexa Forbes	Cr Bryan Scott
Hon Marian Hobbs	Cr Kate Wilson

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Dianne Railton, Governance Support

09 September 2021 09:00 AM

<b>Agenda Topic</b>	<b>Page</b>
1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
3. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
4. PUBLIC FORUM Members of the public may request to speak to the Council. No requests were received prior to publication of the agenda.	
5. CONFIRMATION OF MINUTES The Committee will consider minutes of meetings a true and accurate record, with or without corrections.	3
5.1 <a href="#">Minutes of the 10 June 2021 Regulatory Committee Meeting</a>	3
6. <a href="#">ACTIONS (STATUS OF COMMITTEE RESOLUTIONS)</a> The Committee will be updated on its outstanding Actions.	7
7. MATTERS FOR CONSIDERATION	8
7.1 <a href="#">REGULATORY GROUP - QUARTERLY ACTIVITY REPORT</a> This report is to update the Committee on activities of the Regulatory Group during the 2020/21 year, and to provide an update on activities during the first month of the 2021/22 year.	8

7.1.1 [Attachment 1: Regulatory Reporting - 1 July 2020 to 30 June 2021](#) 18

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7.1.3 [Attachment 3: Deemed Permit Status Report - July 2021](#) 39

7.2 [LANDFILL REPORT](#) 42

This report provides the Regulatory Committee with a summary of ORC's regulatory role and responsibilities with managing landfill sites and an overview of the landfill information known to ORC.

8. CLOSURE



Minutes of a meeting of the  
Regulatory Committee held in the Council Chamber on Thursday  
10 June 2021 at 9:00 am

**Membership**

Cr Gary Kelliher (Co-Chair)  
Cr Andrew Noone (Co-Chair)  
Cr Hilary Calvert  
Cr Michael Deaker  
Cr Alexa Forbes  
Hon Cr Marian Hobbs  
Cr Carmen Hope  
Cr Michael Laws  
Cr Kevin Malcolm  
Cr Gretchen Robertson  
Cr Bryan Scott  
Cr Kate Wilson

**Welcome**

Chairperson Noone welcomed Councillors, members of the public and staff to the meeting at 9:03 am. Staff present included Sarah Gardner (Chief Executive), Nick Donnelly (GM Corporate Services), Gwyneth Elsum (GM Strategy, Policy and Science), Gavin Palmer (GM Operations), Richard Saunders (GM Regulatory & Communications), Dianne Railton (Governance Support), Steve Rushbrook (Harbourmaster), Simon Wilson (Manager Regulatory Data & Systems), Joanna Gilroy (Manager Consents), Tami Sargent (Manager Compliance), and Ryan Tippet (Media Communications Lead).

*For our future*

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## 1. APOLOGIES

No apologies were received. Cr Laws arrived at 9.11 am

## 2. PUBLIC FORUM

No public forum was held.

## 3. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

## 4. CONFLICT OF INTEREST

No conflicts of interest were advised.

## 5. CONFIRMATION OF MINUTES

### Resolution

*That the minutes of the meeting held on 3 March 2021 be received and confirmed as a true and accurate record.*

Moved: Cr Hobbs

Seconded: Cr Hope

CARRIED

## 6. ACTIONS

The outstanding actions of Committee resolutions were reviewed. Cr Noone advised that he and Cr Wilson will meet with David Clark MP, about the lack of connectivity in the Otago region.

## 7. MATTERS FOR CONSIDERATION

### 7.1. Regulatory Group - Quarterly Activity Report

*Cr Kelliher sat back from the table due to a possible conflict of interest.*

*Cr Wilson sat back from the table due to a possible conflict of interest.*

The paper provided an update for the Committee on activities of the Regulatory Group during the 2020/21 year to 30 April 2021, and to approve the Compliance Audit and Performance Monitoring Schedule for 2021-22. Richard Saunders (GM Regulatory & Communications), Steve Rushbrook (Harbourmaster), Simon Wilson (Manager Regulatory Data & Systems), Joanna Gilroy (Manager Consents) and Tami Sargent (Manager Compliance) were present to speak to the report and respond to questions.

There was a discussion about deemed permits and Joanna Gilroy advised that the people can still apply for deemed permits up to 1 July 2021, and said that the Consents team are now phoning permit holders, and have been sending letters, as well as using media, including print, online and radio.

Cr Laws asked if staff know where closed landfills are in case there is a weather event. Tami Sargent advised that closed landfills are listed on the HAIL Database, and Richard Saunders clarified that it wouldn't be ORC's responsibility to take remedial action as it is the Territorial Authorities who are the consenting authority.

Sarah Gardner acknowledged the great humanity shown by Steve Rushbrook at the recent boat capsizing at the Taieri Mouth Bar.

#### **Resolution**

*That the Committee:*

- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the period 1 March 2021 to 31 May 2021.
- 3) **Approves** the Compliance Audit and Performance Monitoring Schedule for the 2021/2022 year.
- 4) **Notes** that activity against the approved Compliance Audit and Performance Monitoring Schedule will be measured as part of the 2021/2022 Long Term Plan Community Outcomes.
- 5) **Requests** that staff provide an update on closed landfills in Otago for the next Regulatory Committee meeting.
- 6) **Notes** that staff will provide an update to us on allocation amounts within the outstanding deemed permits.

Moved: Cr Laws  
Seconded: Cr Malcolm  
CARRIED

#### **Resolution**

*That the Committee:*

- 1) **Requests** that staff to arrange a confidential briefing on updates on Plan Changes 7 and 8 to Councillors.

Moved: Cr Laws  
Seconded: Cr Malcolm  
CARRIED

#### **7.2. Intensive Winter Grazing 2021**

The report provided Councillors with an update on how Intensive Winter Grazing (IWG) is being managed by the Regulatory Group over the 2021 winter. Richard Saunders (GM Regulatory & Communications) and Joanna Gilroy (Manager Consents) were present to speak to the report and respond to questions.

Chair Noone, on behalf of Council, thanked Richard Saunders for his contribution to the national Farm Plan Steering Group.

*Cr Laws left the meeting at 10:06 am.  
Cr Calvert left the meeting at 10:06 am.*

**Resolution**

*That the Committee:*

- 1) **Receives** this report.
- 2) **Notes** the work underway by staff to implement the new Intensive Winter Grazing rules in the National Environmental Standards – Freshwater and Otago Regional Council Plan Change 8, and to meet central government expectations around monitoring and reporting for the 2021 winter.

Moved: Cr Wilson  
Seconded: Cr Malcolm  
CARRIED

*Cr Calvert returned to the meeting at 10:07 am.*

*Cr Laws returned to the meeting at 10:07 am.*

**8. CLOSURE**

There was no further business and Chairperson Noone declared the meeting closed at 10:07 am.

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Date

**ACTION REGISTER – OUTSTANDING RESOLUTIONS OF THE REGULATORY COMMITTEE MEETINGS AT 9 SEPTEMBER 2021**

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date	Completed (Overdue)
Regulatory Committee 2021.06.10	GOV2122 Regulatory Group - Quarterly Activity Report	Completed	Provide an update on closed landfills in Otago to the next Regulatory Committee meeting (8/9/21). <b>Res REG21-101</b>	General Manager Regulatory and Communications	<b>1/09/2021</b>  Report prepared for Regulatory Committee - 9 September 2021.	08/09/2021	
Regulatory Committee 2021.06.10	GOV2122 Regulatory Group - Quarterly Activity Report	Completed	Provide an update on allocations amounts within the outstanding deemed permits. <b>Res REG21-101</b>	General Manager Regulatory and Communications	<b>1/09/2021</b>  Email was sent to Councillors on 27 August 2021	08/09/2021	
Regulatory Committee 2020.10.15	GOV1945 Regulatory Group - Quarterly Activity Report	In Progress	Request the Chair and CEO to actively pursue better cellular coverage in Otago with Central Government and LGNZ to ensure staff and residents can fully engage in online data, monitoring and information opportunities and requirements.	Chairperson	<b>1/09/2021</b>  Ongoing lobbying of the Minister responsible for the Digital Economy and Communications.	11/03/2021	<b>Overdue by: 174 days</b>

### 7.1. Regulatory Group - Quarterly Activity Report

**Prepared for:** Regulatory Committee  
**Report No.** GOV2139  
**Activity:** Regulatory: Consents and Compliance  
**Author:** Richard Saunders, General Manager Regulatory and Communications  
**Endorsed by:** Richard Saunders, General Manager Regulatory and Communications  
**Date:** 9 September 2021

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#### PURPOSE

- [1] To update the Committee on activities of the Regulatory Group during the 2020/21 year, and to provide an update on activities during the first month of the 2021/22 year.

#### EXECUTIVE SUMMARY

- [2] This report summarises the activity of the Regulatory Group which includes Consents, Compliance, Harbourmaster and the Regulatory Data and Systems teams.

#### RECOMMENDATION

*That the Committee:*

- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the 2020 / 2021 year and the new reporting framework for the 2021/2022 year.

#### DISCUSSION

- [3] The following report provides a summary of the activity of each team within the Regulatory Group.
- [4] Attachment 1 contains statistics on Regulatory Group activity for the 2020/2021 financial year. Attachment 2 contains statistics on the Regulatory Group activity for the first month of the 2021/2022 year. At the time the report was prepared, the data for August 2021 was not available.

#### CONSENTS

##### Consent Processing

- [5] Over the financial year decisions were made on 438 individual consents and in the first month of the new the 2021/22 year decisions were made on 42 consents. Despite a very high workload all decisions in the financial year were made within Resource Management Act timeframes. Timeframe extensions were used in this period in most cases to enable the applicant to review the proposed conditions. A number of applications to replace deemed and water permits have also been placed on timeframe extension until the release of the decision on Plan Change 7 (PC7).



- [6] At the end of the performance period there were 384 applications in the system, which is an increase from 271 in July last year. The number in the system increased as expected, in part due to applications relating to deemed and water permits coming during February and March 2021. For context, 92 applications were received in March 2021 and 60 in May 2021. With this number of consents in the system staff workloads remain very high, but statutory timeframes are being met.
- [7] Applications relating to consents required under Plan Change 8 (PC8) have continued to be lodged. Residential earthworks consents have been the most prevalent of the new consent types under PC8. All staff continue to undertake training on PC8, with a focus on residential earthworks activities.
- [8] No applications were publicly notified in the financial year, but 12 were limited notified. Two hearing dates have been set for applications in September and October 2021. One application relates to water permits and the other to suction dredge mining. Both will be heard by independent decision makers.
- [9] No consent hearings were held the first month of the new reporting period and an additional two applications were limited notified. These applications may need to go to a hearing, but if matters raised in submissions can be resolved or there are no submissions, then these can be signed off under existing staff delegations.
- [10] A summary of consents statistics for the period are included in Figures 1 to 5 of Attachment 1.

#### **Deemed Permit Replacements**

- [11] Statistics on the number of deemed permits and their location are shown in Attachment 2. If the deemed permit is not replaced, it will only remain current until 1 October 2021. After this date, these permits no longer authorise the taking of this water. Broadly speaking the below options will be available to those who do not seek to 'replace' these permits:
- Take water under the relevant permitted activity rules, or RMA provisions; or
  - Seek a new permit for a new take.
- [12] As reported previously, letters reminding people to apply for their permits have been going out regularly and several advertising campaigns have been run. A final reminder letter has been sent and a second round of phone calls were also made to deemed permit holders who do not have an application in yet. Information on the number of permits not yet replaced and applications in progress is included as Attachment 3.
- [13] Applications have been lodged during the reporting period for water permits under PC7, specifically seeking a consent term of 6 years. These have been split between people preparing their own applications, with some coming in prepared by consultants. Whilst potential changes to PC7 haven been discussed in Court, these do not have any legal effect and have no effect on how current applications are processed.
- [14] Most applications for new permits relating to deemed and water permits, that have existing use rights are currently 'on hold' in our system awaiting a decision on PC7. This includes those in the Manuherehia. Once a decision has been made on PC7 we will talk with applicants and their advisors about their options for their applications. We will

have a peak in workload at this time but staffing levels, systems and processes in place should mean this peak is manageable.

- [15] One new appeal on a decision relating to deemed permits has been received. This relates to a water take in the Cardrona area. No date for a Court hearing, or any conferencing has been set. The ones already with the Environment Court, which all relate to water permits, will not be heard until a decision has been released on PC7.

#### **Public Enquiries**

- [16] Responding to public enquiries remains a significant part of the workload of the Consents Team. 2,456 enquiries were received over the financial year. The team have two dedicated staff allocated to public enquiries who provide advice on all queries regardless of geographic location and respond to emails, phone calls and in-person enquiries at the customer service centre.
- [17] The Public Enquiries team have been responding to requests for comments on applications that are seeking to use the 'Fast Track' process provided by the COVID-19 Recovery (Fast-Track Consenting). This process is run by the EPA. Decisions have been released by the EPA on the below projects in Otago:
- Queenstown Arterials Project
  - Northbrook Wanaka Retirement Village
- [18] The applications still in the EPA progress in Otago are:
- Wooing Tree Estate
  - Silverlight Studios
  - New Dunedin Hospital - Whakatuputupu
- [19] In order to enhance the public enquiries service, we have set up a consent information page specific to community and catchment groups and we are also working with our Communications Team to re-vamp the consents information on the website. This is focused on content changes, rather than any change to the look and feel of the website. The below resources are also in development:
- An infographic that shows the consent process. This is in the design stage and will be available soon.
  - Consent documents available online. The 'go live' for this is September 2021.
  - Consent forms being able to be filled in online.

#### **NES-FW and Plan Change 8 work**

- [20] The Consents team and wider Regulatory Group remain heavily involved in the implementation work on the NES-FW and PC8. Key work that has carried on from the last reporting period includes:
- Attendance at catchment group meetings when invited.
  - Discussions with stakeholder and industry groups about implementation and interpretation of the new regulations.
  - Participating in the internal cross-Council working group for the implementation of the NES-FW and PC 8.
  - Participation in the Court process for PC8 as expert witnesses.
- [21] Staff remain involved in the regional sector group providing input into the development of Freshwater Farm Plans. As farm plans will be a new tool for Otago it is important that

staff remain closely connected to this work so they can understand the impact it may have on our business.

#### **Building Consent Authority (BCA) Administration**

[22] In the 2020/21 year very little activity occurred in the building consent area. The transfer of the BCA function to Environment Canterbury has now been approved by Council and staff have handed over this process to Environment Canterbury.

#### **Flood Protection Management Bylaw 2012**

[23] Over the financial year 34 Bylaws were processed. From 1 July 2021 this function has been transferred to Council's Engineering Team.

#### **Process Improvements**

[24] The key focus for staff over the reporting period has been on how service is provided and ensuring staff have the tools to support them. This is an ongoing process, which is driven by staff and customer feedback. Changes that have been implemented in the last six months were reported at the last Regulatory Committee meeting.

[25] The focus for this financial year will continue to be on how staff interact with customers and the level of information staff provide them, as well as identifying areas for efficiency gains. This includes a focus on providing clear and consistent advice about the consent process.

### **COMPLIANCE MONITORING AND ENFORCEMENT**

#### **Performance Monitoring**

[26] In the 12 months to 30 June 2021 the Regulatory Data and Systems and Compliance teams graded 5,533 Performance Monitoring returns. This is up from 5,012 Performance Monitoring returns graded in the last financial year. The team has made an excellent start to the 2021/22 financial year grading 684 performance monitoring returns in July 2021, against an Annual Plan target of 450.

[27] A summary of performance monitoring data for 2020/21 is set out in Figures 7 and 8 of Attachment 1. Data for July 2021 can be found in Figures 8 and 9 of Attachment 2.

#### **Annual Compliance Reporting**

[28] Staff are preparing an 'annual compliance snapshot' for the 2020/21 year. The snapshot will provide an overview of the compliance monitoring and enforcement (CME) activities and actions during the 2020/21 year. This will boost the transparency of ORC CME activities in Otago. Due to reprioritisation of resources related to the recent Covid-19 Alert Level restrictions, the snapshot will be presented at the next Regulatory Committee meeting.

[29] In future years, a more detailed 'annual compliance report' will be developed and prepared for the 2021/22 year and annually thereafter, which will show delivery against the approved ORC Compliance Plan. It will also provide an overview of compliance for activities, land uses and consent types across Otago (e.g. forestry, landfills and wastewater treatment plants).

### **ORC compliance audits and inspections**

- [30] The ORC Long Term Plan 2021-2031 set out a new performance measure of meeting 85% or more of 'programmed inspections/audits completed each year, as per the Compliance Audit and Performance Monitoring Schedule'.
- [31] In the 2021/22 year to date, 53 on site consent audits and seven forestry inspections were completed. This is 92% of the planned compliance audits or inspections year to date. It is important to note that the current reporting does not include field visits related to winter grazing or the regionally significant wetland monitoring programme. Future reporting will include these field visits
- [32] A summary of compliance field visits in the 2021/22 year, compared with the Annual Plan target is set out in Figure 10 of Attachment 2.

### **RMA Consent Audits**

- [33] In the 2021/22 year, 604 on site consent audits were completed. Generally, compliance with consents can be considered high with most consent being graded either fully compliant (216 consents) or low risk non-compliance (199 consents). Compliance results for on-site consent audits showed that 71% of consent holders were complying with their consents, and around 9% were graded as significant non-compliance.
- [34] All moderate non-compliances (118 consents) or significant non-compliances (57 consents) have been followed up by staff and either appropriate action was taken in line with the RMA compliance and enforcement policy, or investigations are continuing.
- [35] A summary of RMA consent audit data for the 2020/21 year is set out in Figures 9, 10 and 11 of Attachment 1.
- [36] In the 2021/22 year to date, 53 on site consent audits have been completed. Generally, compliance with consents can be considered high with most consents being considered either fully compliant (38 consents), or low risk non-compliance (three consents).
- [37] All moderate non-compliances (five consents) or significant non-compliances (five consents) have been followed up by staff and either appropriate action has been taken in line with the RMA compliance and enforcement policy, or investigations are continuing. This includes three infringement notices and one warning being issued in relation to consent non-compliance.
- [38] A summary of RMA consent audit data in the 2021/22 year is set out in Figures 10, 11 and 12 of Attachment 2.

### **Forestry**

- [39] In the 2020/21 year, 38 forestry site inspections were completed. Generally, forestry activities have been conducted to a high standard. 33 sites were considered fully compliant, three sites were graded low risk non-compliance, one site was graded moderate non-compliance and one site was graded significant non-compliance. The moderate and significant non-compliances were due to a non-compliant temporary crossing and slash near a waterway. Both matters were followed up by Compliance staff to ensure appropriate remedial action was taken.

- [40] Further details on forestry inspections in the 2020/21 year can be found in Figures 18 and 19 of Attachment 1.
- [41] In the 2021/22 year to date, 7 on site forestry inspections have been completed. All of the forestry sites were considered fully compliant.

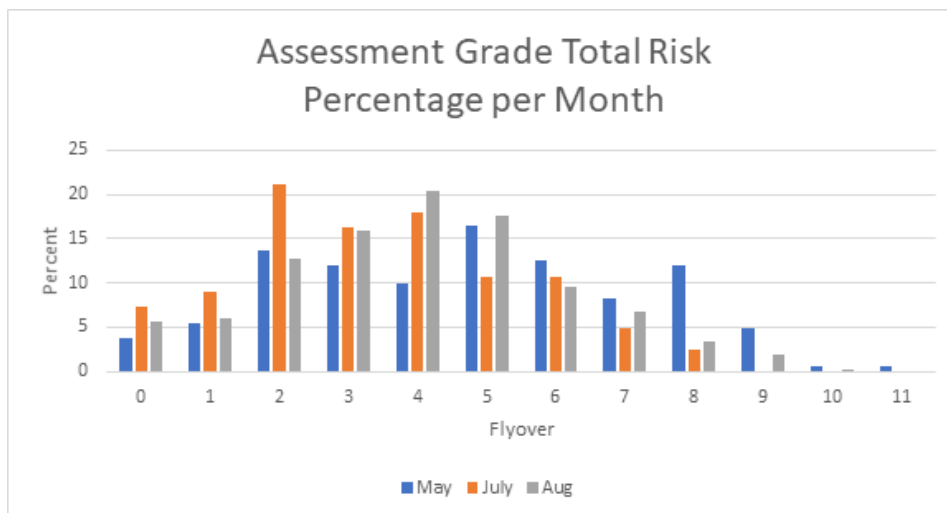
**Dairy programme**

- [42] During the 2020/21 Dairy Inspection Compliance Project, 428 dairy inspections were undertaken. All high-risk farms were inspected, with several follow-up visits undertaken. Overall compliance can be considered high with most farms being considered either fully compliant or low risk non-compliance. Nine farms were moderately non-compliant, and four farms were significantly non-compliant. The four significantly non-compliant inspections related to an effluent discharge that resulted in ponding, a silage leachate discharge that resulted in ponding and a case where inappropriate effluent pond infrastructure was being used. These matters have been followed up by staff and appropriate action has been taken, including issuing infringement notices, warnings, and abatement notices.
- [43] A summary of 2020/21 dairy inspection data is set out in Figures 16 and 17 of Attachment 1.

**Intensive Winter Grazing (IWG) Compliance Project**

- [44] An IWG compliance project has been undertaken to monitor IWG practices across Otago and to deliver on the Minister for Environment's expectation for increased IWG monitoring to ensure measurable improvements in IWG practices during the year.
- [45] A key component of the IWG compliance project included flyovers. The Compliance team completed three sets of three flights in May, July and August 2021 across the Otago region:
- North Otago – From Dunedin, north to the Waitaki River and inland to include the Maniototo.
  - South Otago – From Dunedin, south to the Catlins and inland to include Southwest Otago.
  - Central Otago – To cover Beaumont through to Queenstown, and north to the Lakes, including Makarora and down through the Ida Valley.
- [46] As part of our commitment to engage more with our partners and key stakeholders invitations were extended to a number of groups to take part in the winter grazing flights. These groups included runaka representatives, Federated Farmers and Fish and Game. The invitations were very well received but unfortunately due to weather delays for a number of our flights and busy schedules for all involved we were only able to host one visitor for these flights. This was a runaka representative from Puketeraki who joined the North Otago flight in July. We will be holding a debrief on the winter grazing programme in the coming weeks which will involve our iwi partners and all of our key stakeholder groups as we look to continue to strengthen these relationships.

- [47] Following the flyovers, Compliance staff contacted property owners and undertook field visits to the properties which identified potential breaches and high risk sites. There were 45 follow-ups from the May 2021 flyover, and 35 follow-ups from the July 2021 flyover. A further 60 follow-ups were planned in response following the August 2021 flyover. Some of these have not been completed due to Alert Level 4 restrictions.
- [48] These follow-ups provided an opportunity to ‘ground truth’ what was observed from the air. From the May and July 2021 flights, the ground truthing has shown either that there was not a breach or that the breach was low risk non-compliance. The ground truthing also allowed for educational support for the properties involved.
- [49] The following chart shows the percentage for each photo assessment grade across the three flyovers.



- [50] This chart indicates that the May 2021 flyover observations showed a proportionately higher level of risk than the following flyovers. This indicates a general lowering of risk over the season. This may be due to a range of factors including:
  - The total risk observed in the later flyovers due to seeing the mitigations and good management practices that were being used on site as the season progressed. During the May 2021 flyover the stock was not yet on the feed or had only just started on the feed. In July and August 2021, once the grazing had progressed there were mitigations used on farm that lowered the level of risk.
  - All the properties at the highest grades were contacted early in the season by Compliance staff. The improvement observed during the season could also have been attributed to the mitigations put in place by the farmers due to Compliance follow-ups as the season progressed.
  - Grazing practices like back fencing, grazing from top to bottom help to mitigate potential environmental effects. Smart grazing practices like leaving larger buffers to water ways and avoiding grazing through critical source areas are some of the mitigations that were discussed when Compliance staff contacted properties and are included in the MFE/MPI IWG plans. Having farmers implement these smart grazing

practices part way through the season had a positive impact on the assessments of observations about risk.

- [51] Once the follow-ups from the August 2021 flyovers are completed, staff will prepare a summary report for distribution with primary industry groups and key stakeholders. As planning will already be starting for the 2022 season, it is important that appropriate grazing plans are management practices are implemented, particularly not grazing within critical source areas. Ongoing engagement with the farming community and primary industry groups will continue.

#### **Investigations and Enforcement**

- [52] In the 2020/21 year, 1,610 service requests were received on the pollution response hotline, relating to 1,268 incidents. The most common reasons for requests were outdoor burning (386), water pollution (372), odour (254) and domestic chimney (172).
- [53] Further details on service requests in the 2020/21 year can be found in Figures 12 and 13 of Attachment 1.
- [54] In the 2020/21 year, ORC issued 27 warnings, 34 infringement notices, 25 abatement notices and initiated one prosecution. The most common causes of enforcement action related to land contamination (16), water pollution (14), consent non-compliance (12) and outdoor burning (12).
- [55] Further details on enforcement action in the 2020/21 year can be found in Figures 14 and 15 of Attachment 1.
- [56] In the 2021/22 year to date, 172 service requests were received on the pollution response hotline. The most common reasons for requests were water pollution (45), domestic chimney (42) and outdoor burning (25).
- [57] Further details on service requests in the 2021/22 year can be found in Figures 13 and 14 of Attachment 2.
- [58] In the 2021/22 year to date, ORC issued four warnings, nine infringement notices, and four abatement notices. The most common causes of enforcement action related to water pollution (8) and consent non-compliance (4).
- [59] Further details on enforcement action in the 2021/22 year can be found in Figures 15 and 16 of Attachment 2.

#### **Compliance Engagement and Education Activities**

- [60] To support and enable compliance, we work proactively with landowners, consent holders and the community to engage with on them compliance matters and educate on good practices.
- [61] Some of the engagement and education activities that have been undertaken in the 2021/22 year include:

- Sending out educational letters to alleged offenders in relation to domestic chimney or outdoor burning complaints.
- Preparing a factsheet to go with Fire Permits to remind people of the ORC Air Plan rules when undertaking outdoor burning.
- Proactive media release to encouraging good sediment control and management of earthworks sites in Otago.
- Social media post during Alert Level 4 restrictions reminding people to 'only drain rain' when undertaking DIY activities around the house to keep pollutants out of stormwater networks and waterways.

### **Harbourmaster**

- [62] The regional Tier 2 Oil Spill Contingency Plan has been updated (last done in 2015), it was outdated, had expired its approval and no longer fit for purpose. This was approved by Maritime New Zealand at the end of July 2021 following an extensive overhaul and refresh. The documents are saved on the national oil spill database (held and managed by Maritime New Zealand) and are available in hard copy from the Harbourmaster office. At the same time, all of the Tier 1 Oil Spill Plans have been updated and refreshed. They are now current and also sit in the national database. This was a team effort with a number of ORC staff making significant contributions to the final outcome.
- [63] We now have a live and functioning maritime incident reporting database. This has been added to the harbourmaster webpage and will be socialised at all opportunities. This will allow for better incident analysis and inform navigational risk assessment in the future.
- [64] The Harbourmaster has been engaged in the working group with Aurora for the replacement of power cables being laid across Otago Harbour. Underwater power cables have been successfully laid from Port Chalmers to Portobello. The next stage is to remove the old overhead power cables and pylons from the Islands. This is currently on hold due to Covid Level 4 restrictions and most likely to be completed when in Level 3.
- [65] Improvements of the marking of designated swim areas on Lake Dunstan have been identified. New buoys have been ordered. It is expected they will be placed once delivered and hopefully prior to the summer season.
- [66] Hydrographic survey of the eastern channel (Otago Harbour) will be undertaken during the 2021/2022 year. This is a piece of work that has not been undertaken for many years. It will inform any navigational issues that may need attention and it will provide information to update the navigational charts produced by LINZ and therefore better inform all recreational and commercial users utilising the area.

### **OPTIONS**

- [67] As this is a report for noting there are no options.

### **CONSIDERATIONS**

#### **Policy Considerations**

- [68] There are no policy considerations.



**Financial Considerations**

[69] There are no financial considerations.

**Significance and Engagement**

[70] As this is a report for noting consideration of the Significance and Engagement Policy is not required.

**Legislative Considerations**

[71] A number of legislative requirements govern the activities of the Regulatory Group.

**Risk Considerations**

[72] There are no risk considerations.

**Climate Change Considerations**

[73] There are no climate change considerations associated with this report.

**Communications Considerations**

[74] Communication with the Otago community occurs on a regular basis as a way to educate and inform people on regulatory matters. This includes a quarterly regulatory newsletter which is aimed at informing RMA professionals on technical matters and relevant updates.

**NEXT STEPS**

[75] Regulatory activity will continue and will be reported to the Regulatory Committee on a quarterly basis.

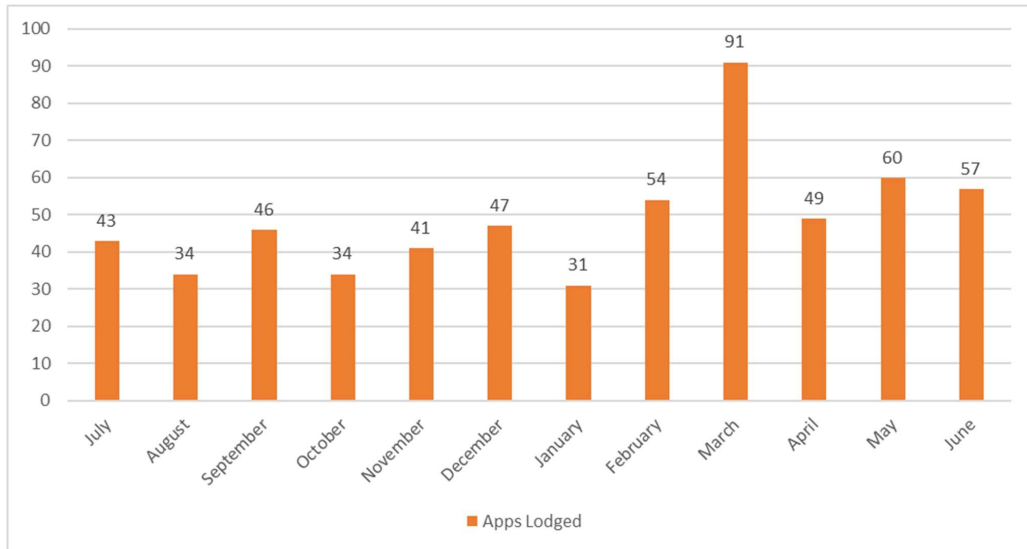
**ATTACHMENTS**

1. Attachment: Regulatory Reporting - 1 July 2020 to 30 June 2021 [7.1.1 - 11 pages]
2. Attachment 2: Regulatory Reporting - 1 July to 31 July 2021 [7.1.2 - 10 pages]
3. Deemed Permit Status Report - July 2021 [7.1.3 - 3 pages]

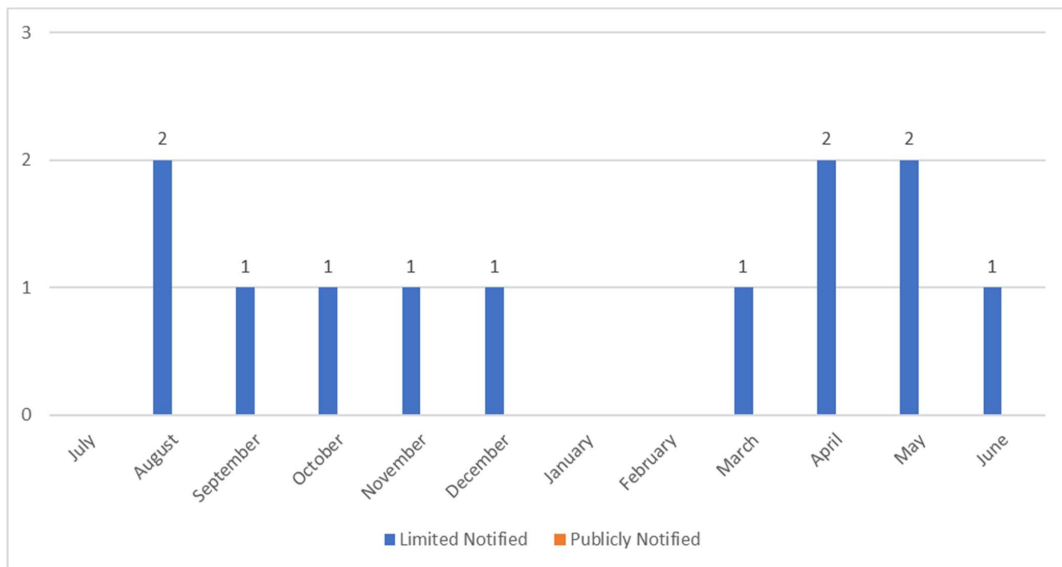
**APPENDIX 1: REGULATORY REPORTING FOR THE PERIOD 1 JULY 2020 TO 30 JUNE 2021**

**Consents**

**Figure 1: Resource Consent Applications Received**



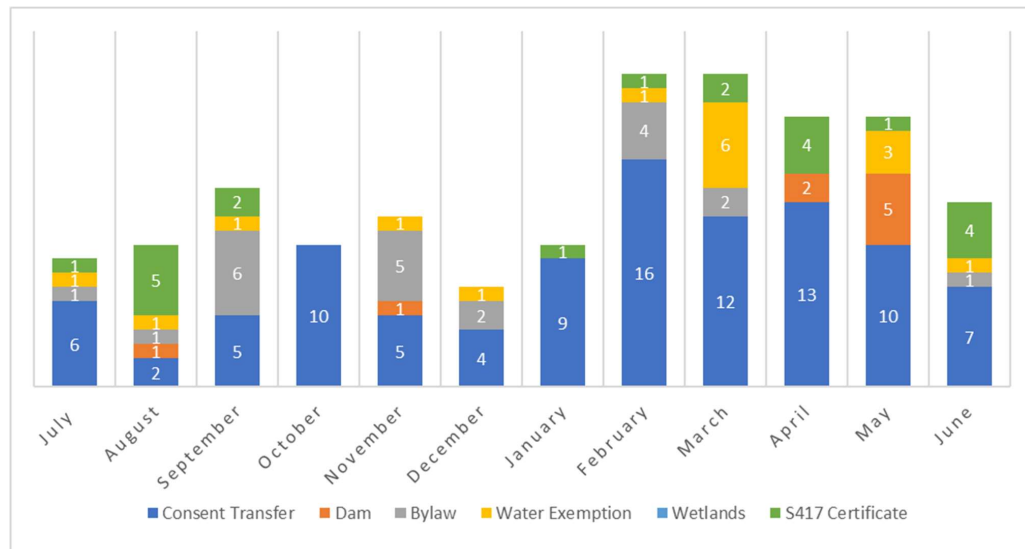
**Figure 2: Notified Applications**



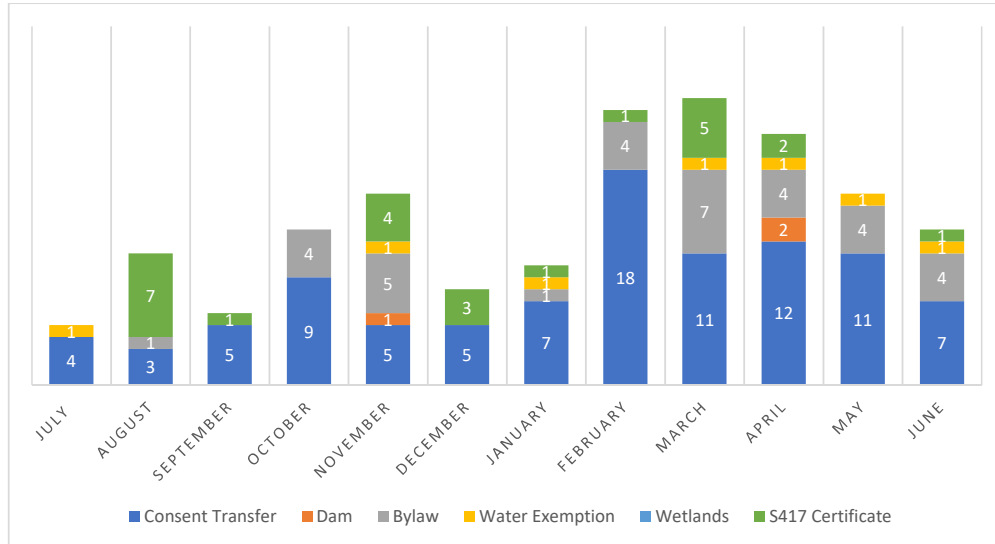
**Figure 3: Resource Consents Issued**

Activity	July	August	September	October	November	December	January	February	March	April	May	June	Total
Bore	4	5	10	8	9	5	5	10	22	15	13	12	118
CMA Use	2	3			1			2			7		16
Compliance Certificate		1				1			2	2		1	7
Dam		2	2	1			1	1		1	1	2	11
Discharge to Air	1		2	3	3			1			1	1	12
Discharge to Land	6	6	5	13	5	8	1	6	4	1	3	9	67
Discharge to Water	2	1	6	2	1	1	1	3	1		1	1	20
Divert		1	3	1			1	1	1		1	3	12
Earthworks						1	1	2	1	1	2	1	9
Effluent Storage								1					1
General	5	4	12	6	4	9	5	5	7	5	15	7	84
Gravel	1	1			1				2				5
Groundwater Take	1	4	3	4	4	1			2	1	2	1	23
Surface Take	12	2	7	4	4	3	1	1	1	3	5	8	51
Vegetation Clearance				1					1				2
<b>Total</b>	<b>34</b>	<b>30</b>	<b>51</b>	<b>42</b>	<b>32</b>	<b>31</b>	<b>16</b>	<b>34</b>	<b>42</b>	<b>30</b>	<b>53</b>	<b>43</b>	<b>438</b>

**Figure 4: Other Applications Received**



**Figure 5: Other Applications Processed**



**Figure 6: Consent Public Enquiries**

Total 2456

Type of Enquiry	No.	% of Total
Air Quality	99	4
Boatsheds, Jetties and Slipways	22	.89
Bores	68	2.76
Coastal Other	33	1.34
Contaminated Sites	11	.44
Current Consents	221	8.99
Deemed Permits	87	3.54
Discharge to Land	70	2.85
Dust Suppressants	5	.20
Farming Activities	109	4.43

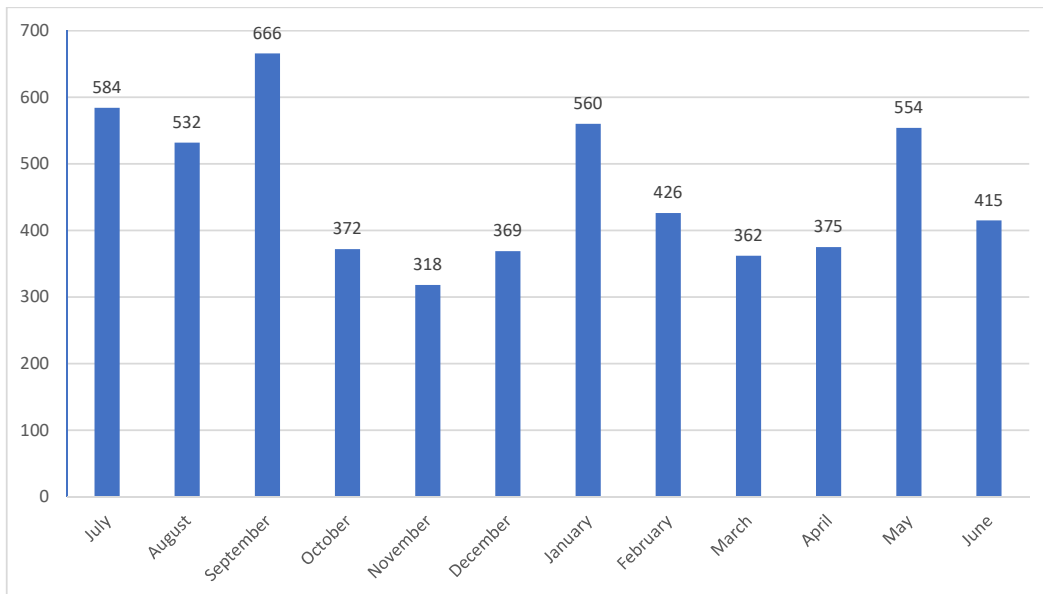
Gravel Extraction	9	.36
Historic - Current Consents	6	.24
Historic – Mining Privileges	5	.20
Historic – Other	3	.12
Historic – Property Enquiries	1	.04
Land Use Other	33	1.34
Mining Privileges	12	.48
Moorings	15	.68
Other	91	3.7
Permitted Activities	210	8.55
Plantation Forestry	5	.20
Pre-application	139	5.75
Property Enquiries	38	1.54
Residential Earthworks	17	.69
Specific Consent Enquiry	733	29.84
Transfers	6	.24
Water Other	90	3.66
Water Quality	20	.81
Water Take	217	8.83
Wetlands	10	.40
Working in a Waterway	71	2.89

Method of Enquiry	No.	%
Counter	337	13.72
Email	1653	67.30
Internet	56	2.29
Telephone	410	16.69

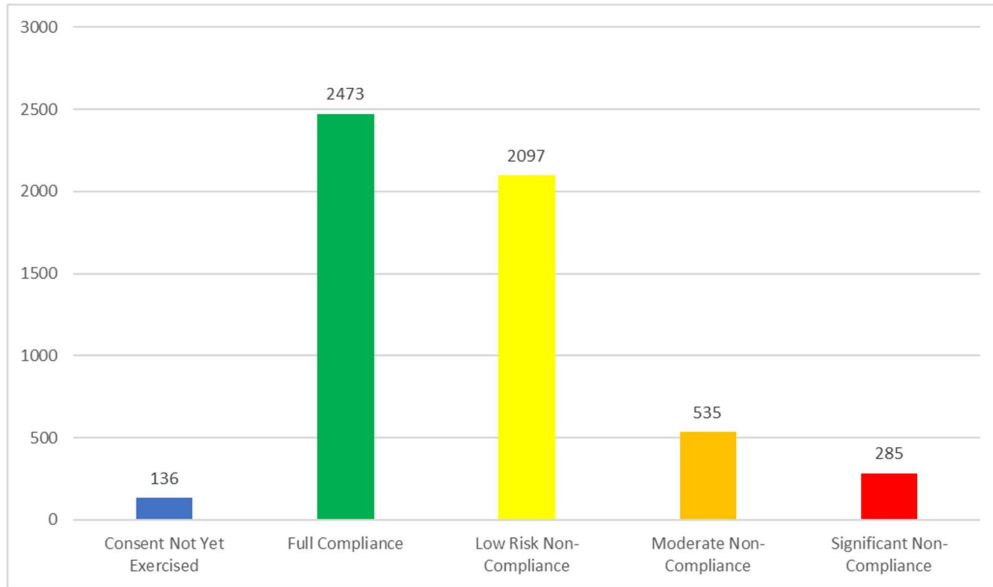
Enquiry Location	No.	%
Central Otago District Council	596	24.26
Clutha District Council	172	7
Dunedin City Council	456	18.56
Outside Otago	2	.08
Queenstown Lakes District Council	473	19.25
Throughout Otago	147	5.98
Unspecified	406	16.54
Waitaki District Council	204	8.33

**Compliance**

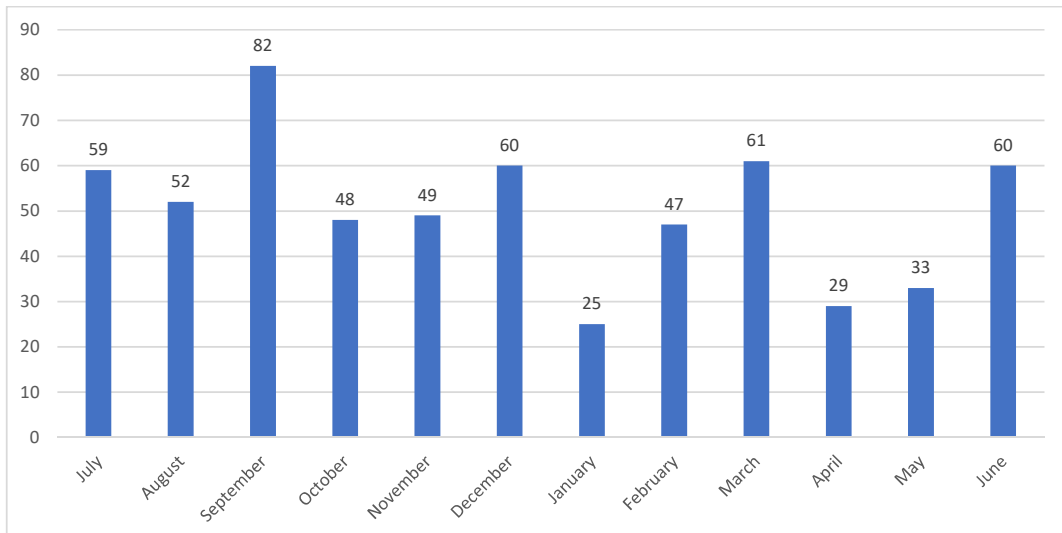
**Figure 7: Performance Monitoring Returns Completed**



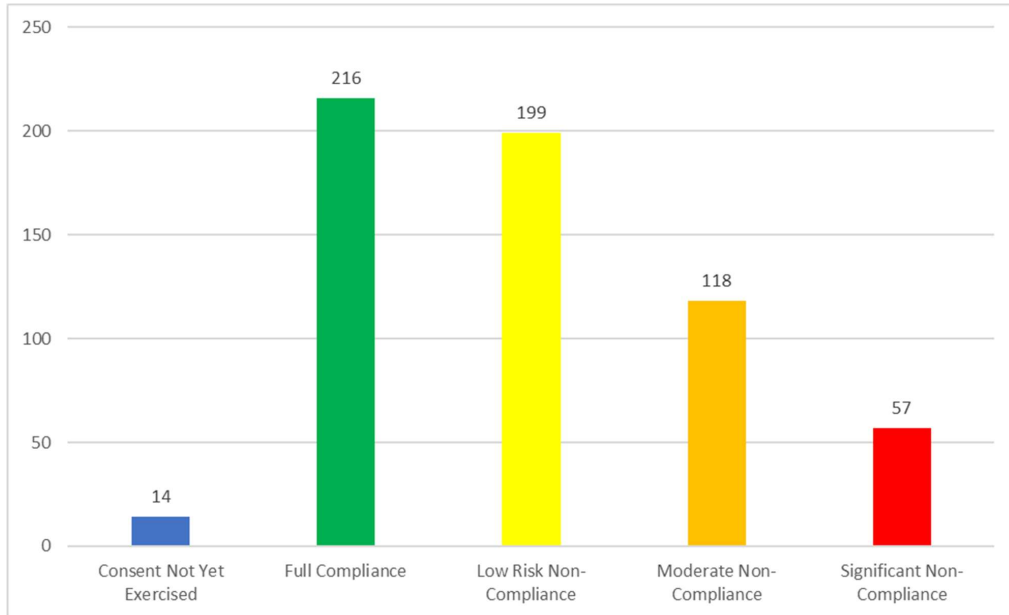
**Figure 8: Performance Monitoring Grades Year to Date**



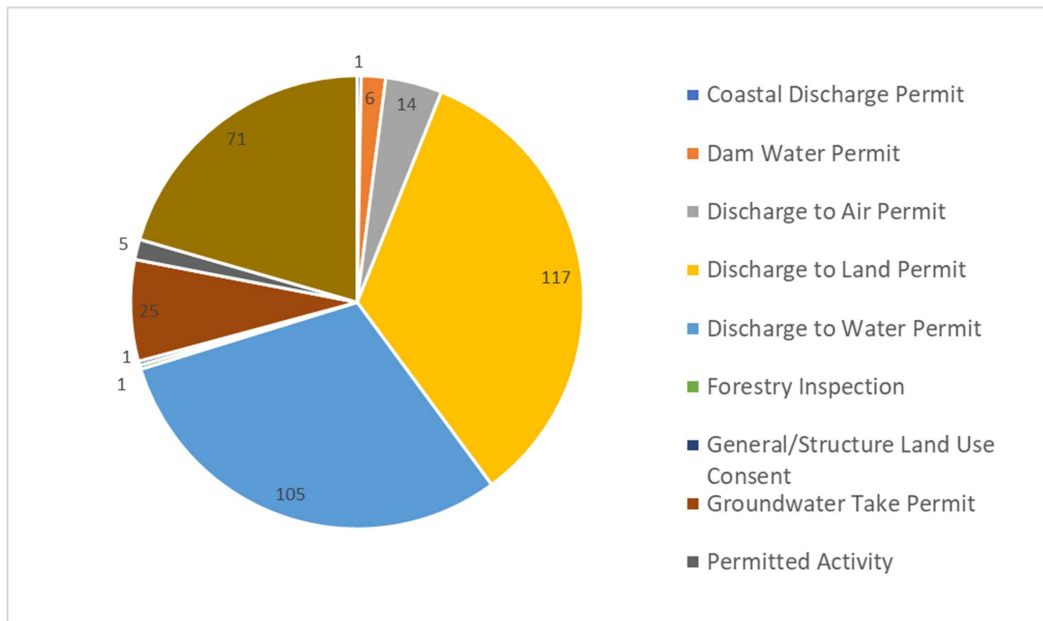
**Figure 9: RMA Consent Audits Completed**



**Figure 10: Audit Grades Year to Date**

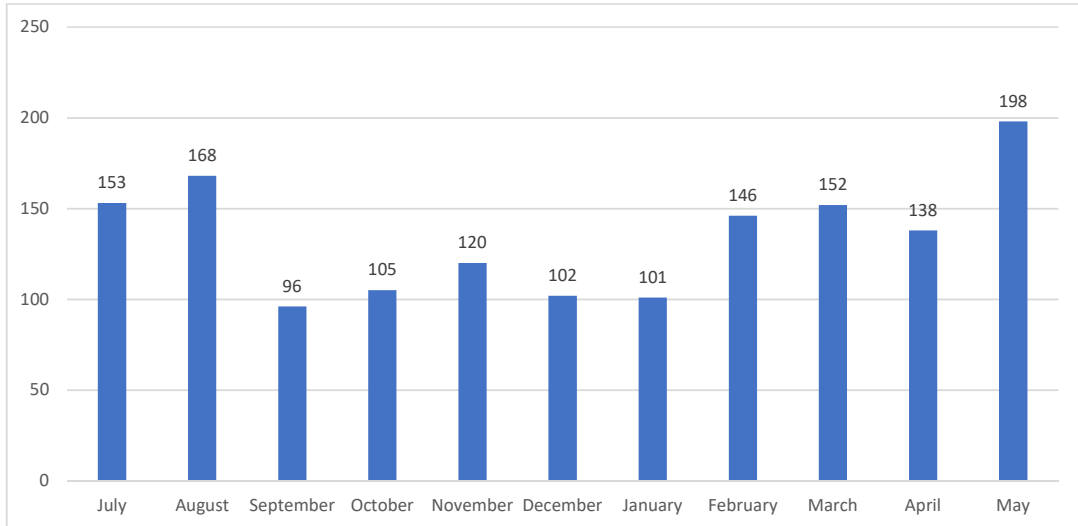


**Figure 11: Types of Significant Non-Compliance**

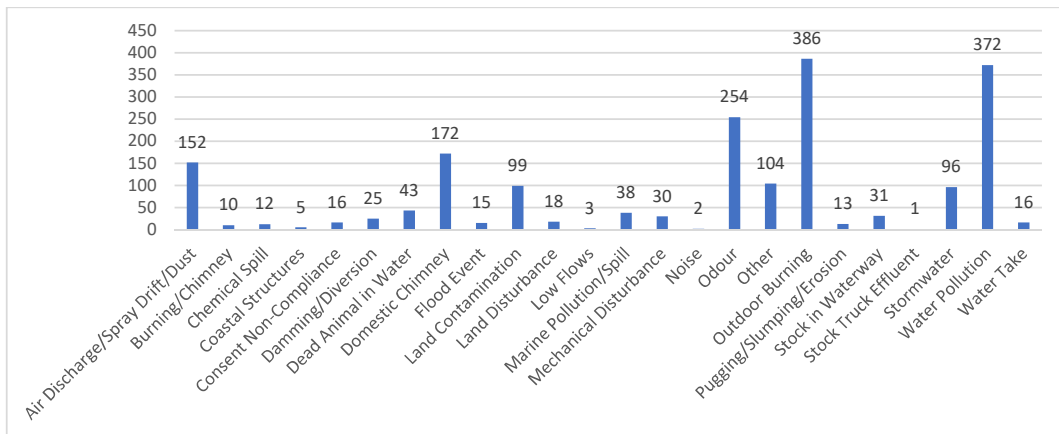




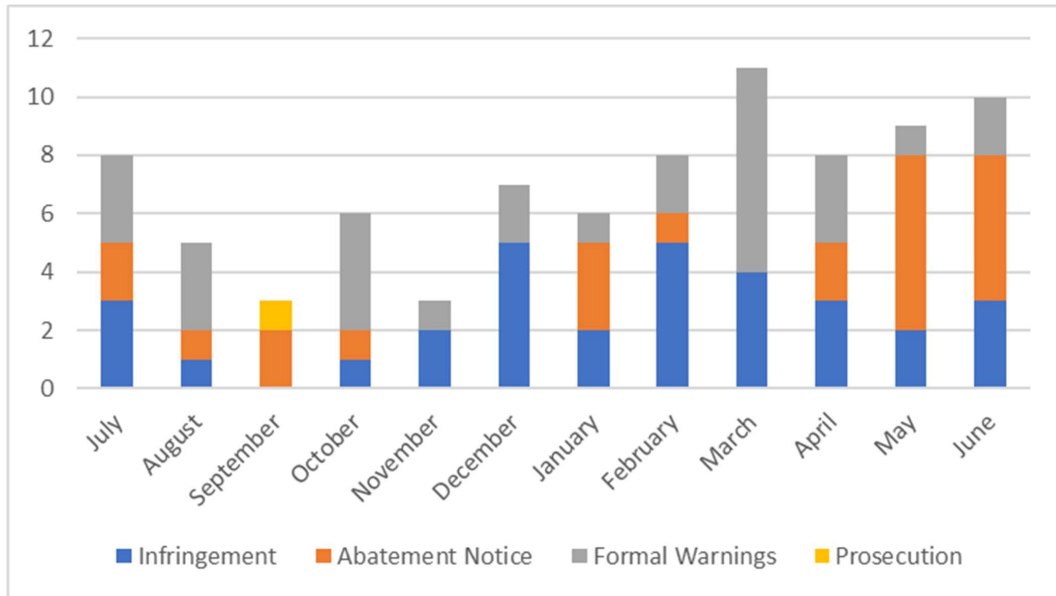
**Figure 12: Service Requests**



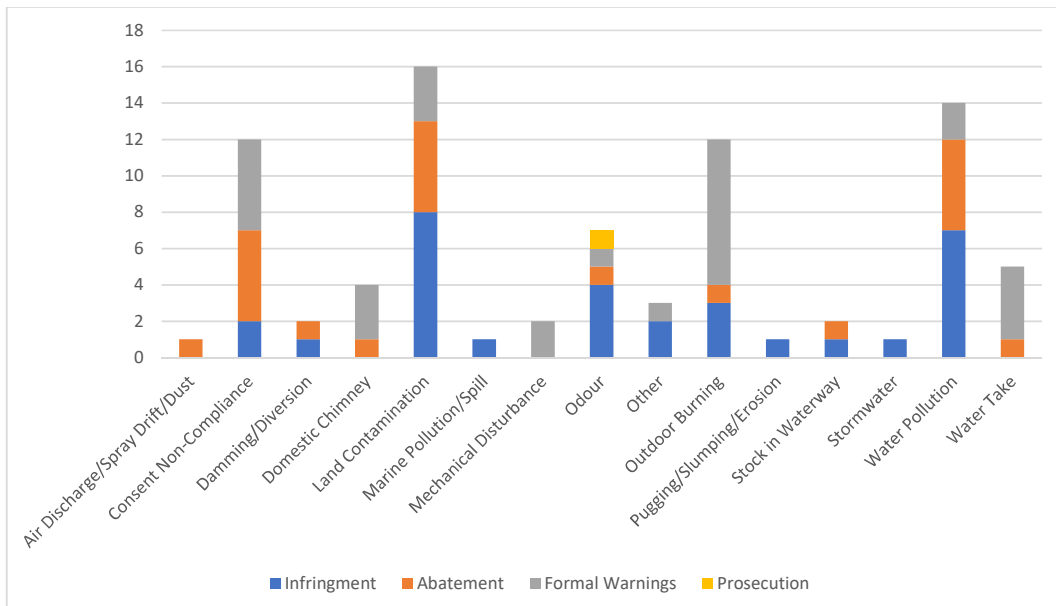
**Figure 13: Service Requests by Type**



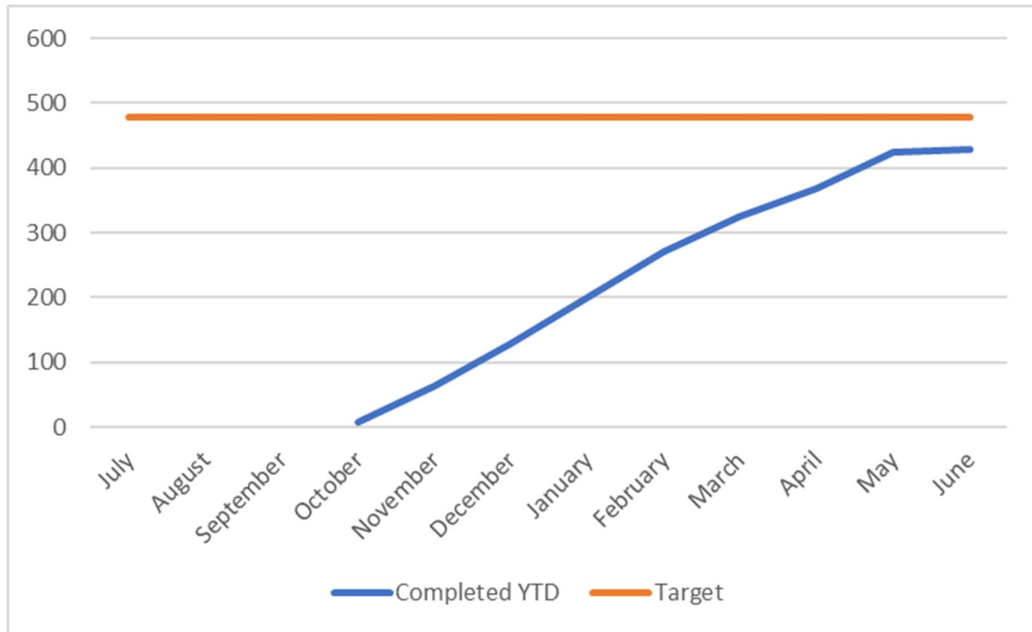
**Figure 14: Enforcement Action**



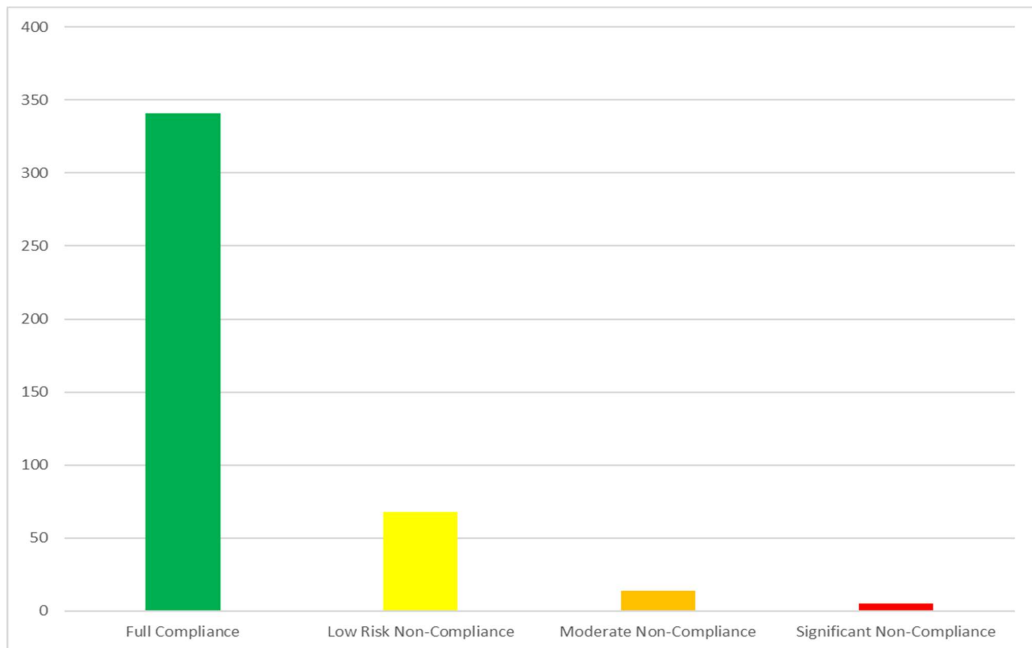
**Figure 15: Enforcement Causes**



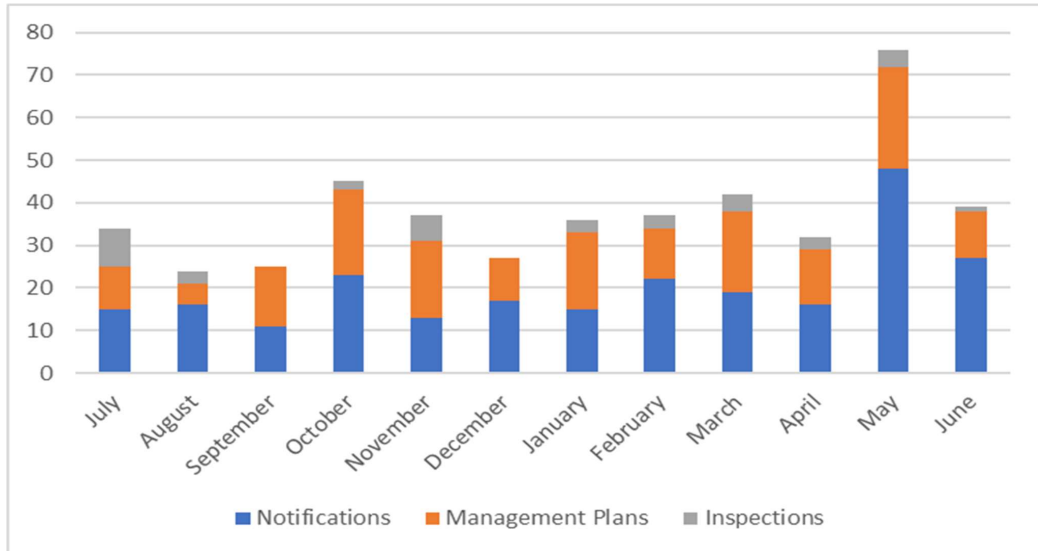
**Figure 16: Dairy Inspections**



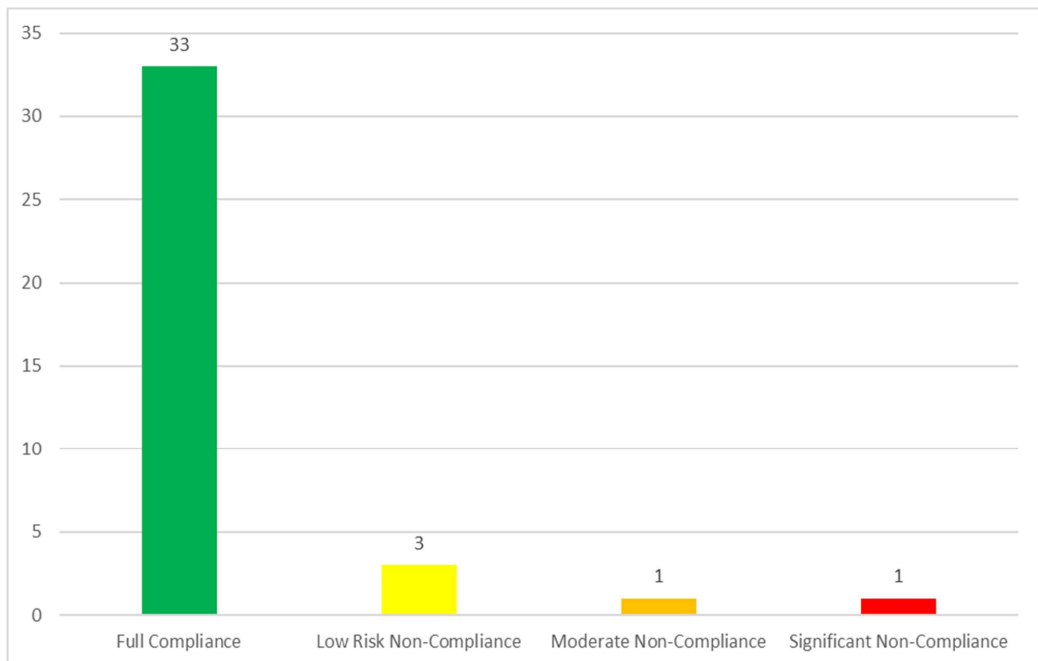
**Figure 17: Dairy Inspection Grades**



**Figure 18: Forestry**



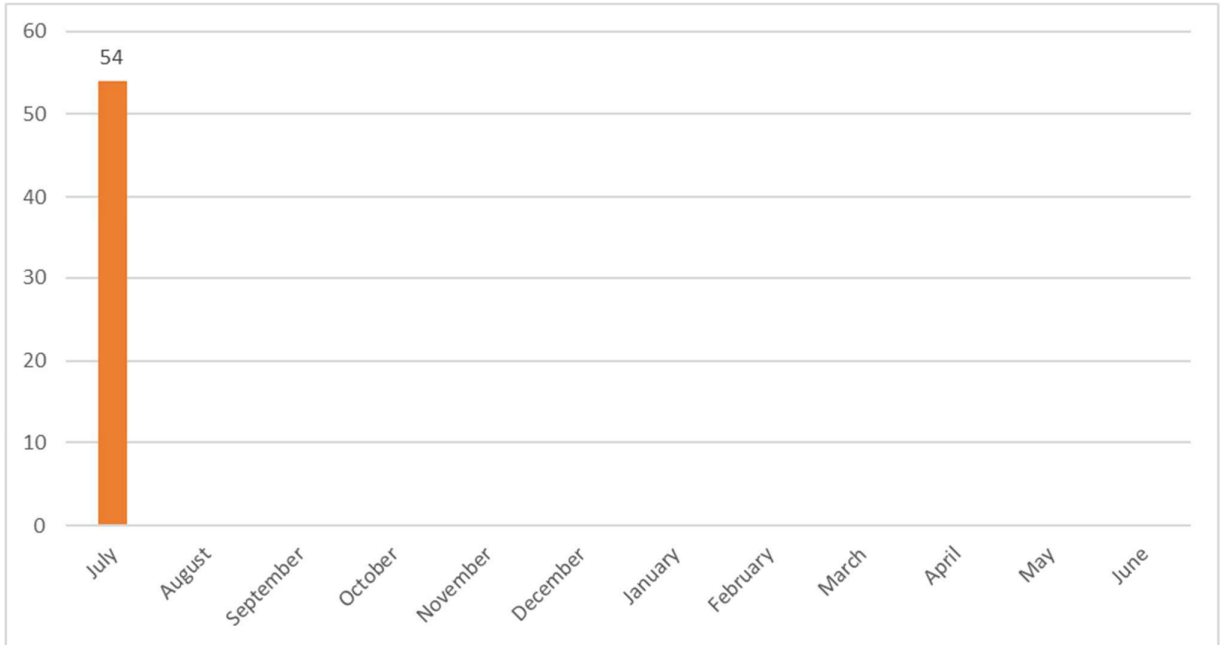
**Figure 19: Forestry Inspection Grades**



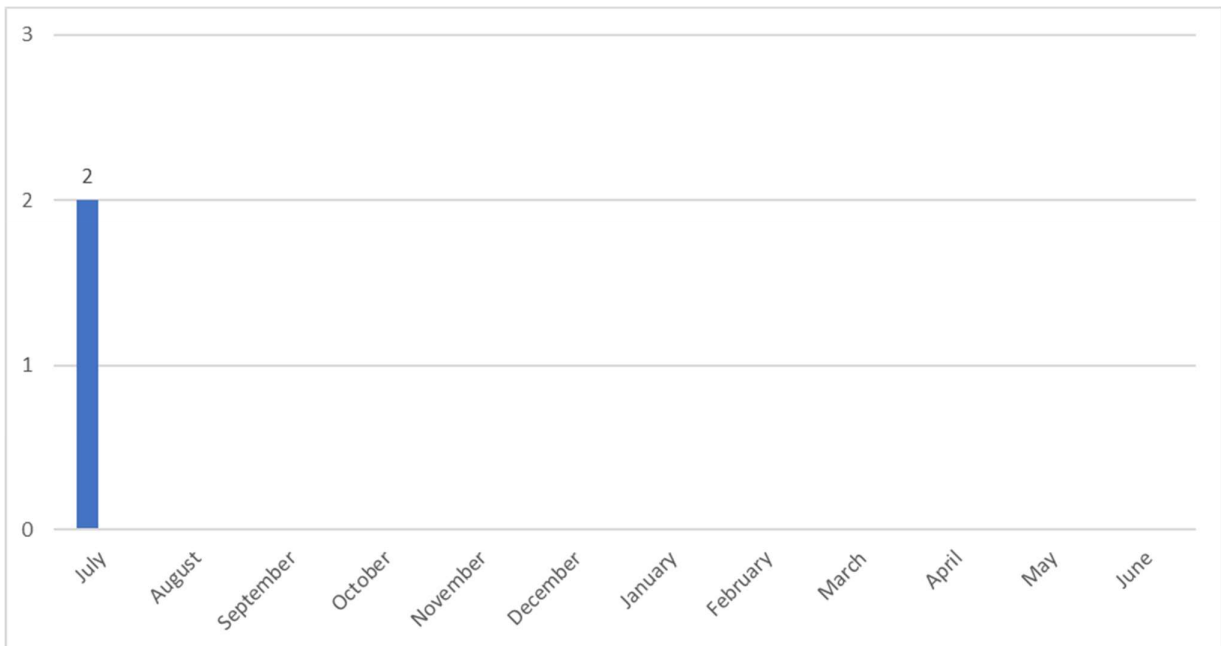
**APPENDIX 2: REGULATORY REPORTING FOR THE PERIOD 1 JULY 2021 TO 31 JULY 2021**

**Consents**

**Figure 1: Resource Consent Applications Received**



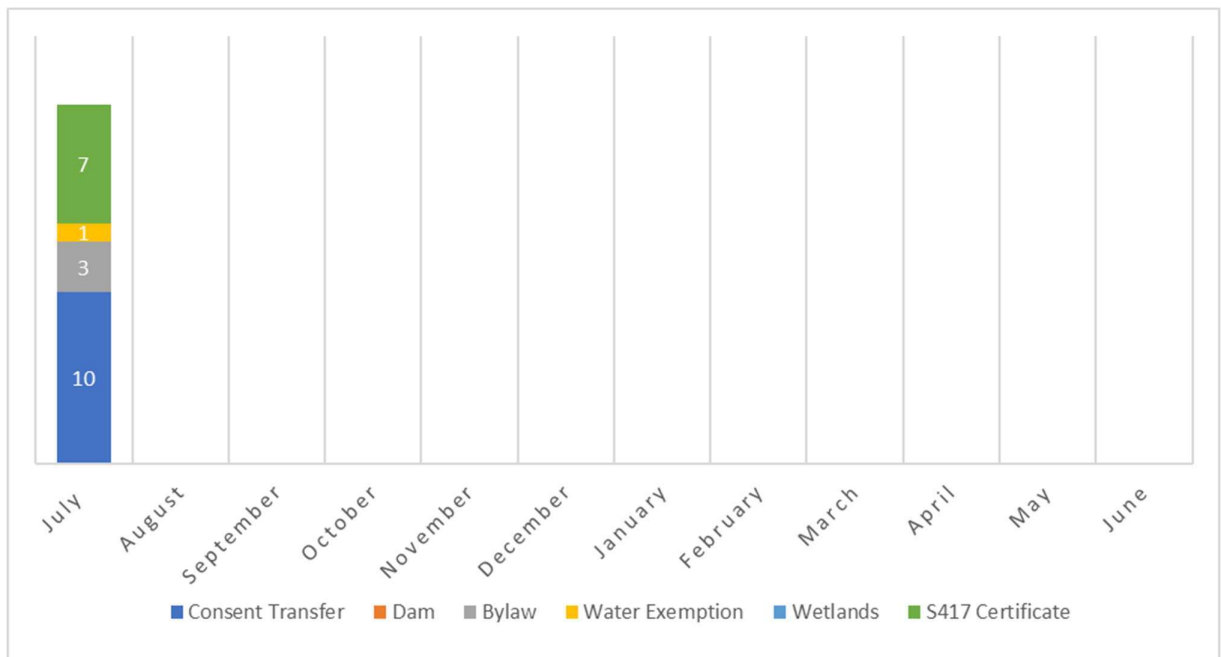
**Figure 2: Notified Applications**



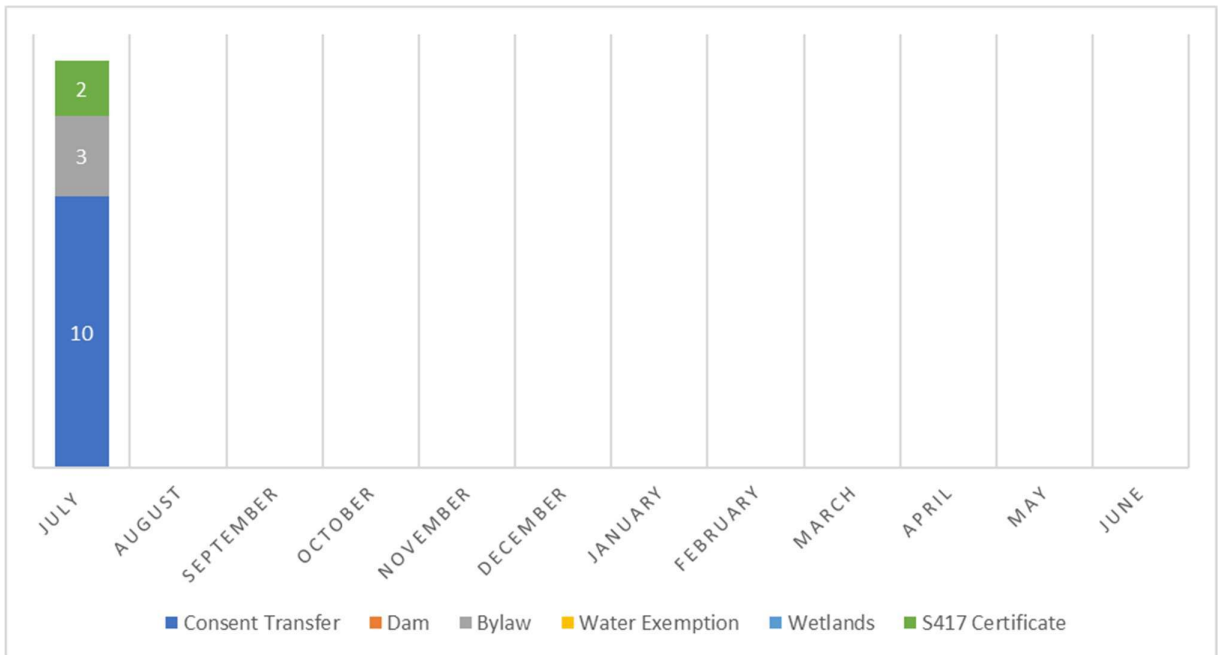
**Figure 3: Resource Consents Issued**

Activity	July	Total
Bore	13	13
CMA Use	1	1
Compliance Certificate	3	3
Dam	2	2
Discharge to Air	2	2
Discharge to Land	8	8
Discharge to Water	1	1
Divert		0
Earthworks	3	3
Effluent Storage		0
General	8	8
Gravel		0
Groundwater take	2	2
Surface Water Take	4	4
Vegetation Clearance		0
<b>Total</b>	<b>47</b>	<b>47</b>

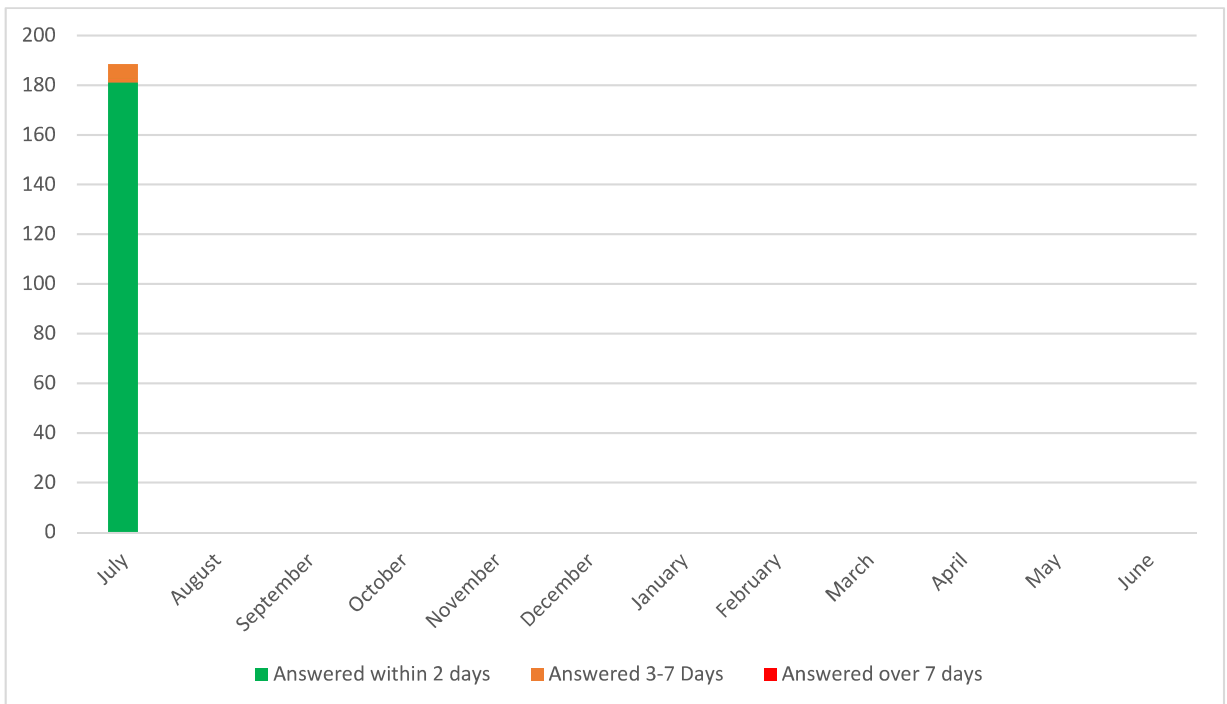
**Figure 4: Other Applications Received**



**Figure 5: Other Applications Processed**



**Figure 6 Consent Enquiry Response Times**



**Figure 7: Consent Public Enquiries**

Type of Enquiry	No.	% of Total
Air Quality	7	4
Boatsheds, Jetties and Slipways	1	0.57
Bores	4	2.28
Coastal Other	1	0.57
Contaminated Sites	1	0.57
Deemed Permits	2	1.14
Discharge to Land	9	5.14
Farming Activities	9	5.14
Historic - Current Consents	1	0.57
Historic – Mining Privileges	1	0.57
Historic – Pre-application	1	0.57
Land Use Other	6	3.42
Moorings	1	0.57
Plantation Forestry	1	0.57
Specific Consent Enquiry	107	61.14
Water Other	4	2.28
Water Quality	1	0.57
Water Take	13	7.48
Working in a Waterway	5	2.85

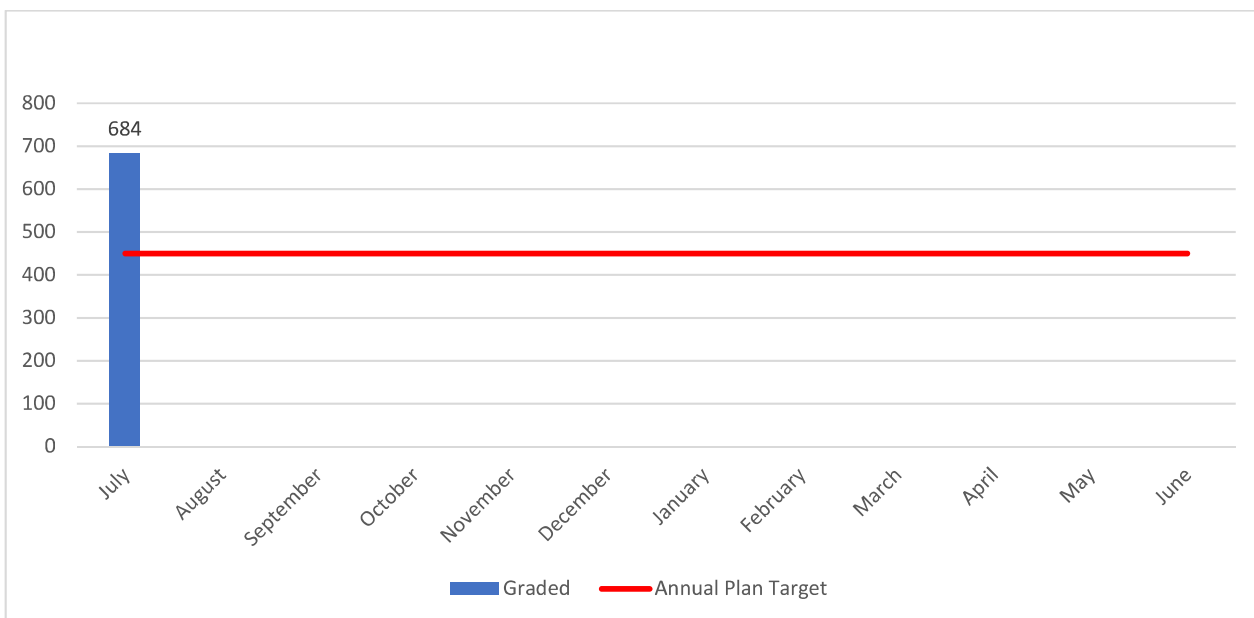
Method of Enquiry	No.	%
Counter	25	14.28
Email	123	70.28
Internet	3	1.72
Telephone	24	13.72



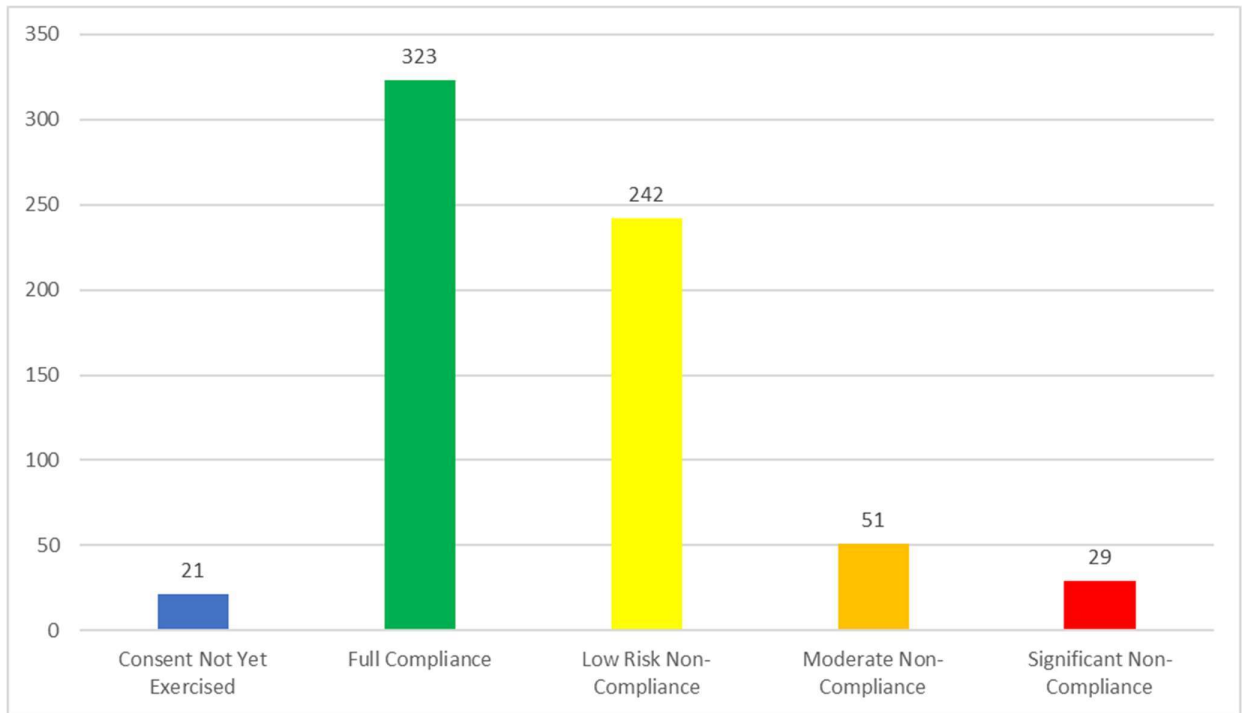
Enquiry Location	No.	%
Central Otago District Council	38	21.7
Clutha District Council	16	9.14
Dunedin City Council	12	6.85
Outside Otago	1	.57
Queenstown Lakes District Council	41	23.42
Throughout Otago	6	3.47
Unspecified	46	26.28
Waitaki District Council	15	8.57

**Compliance**

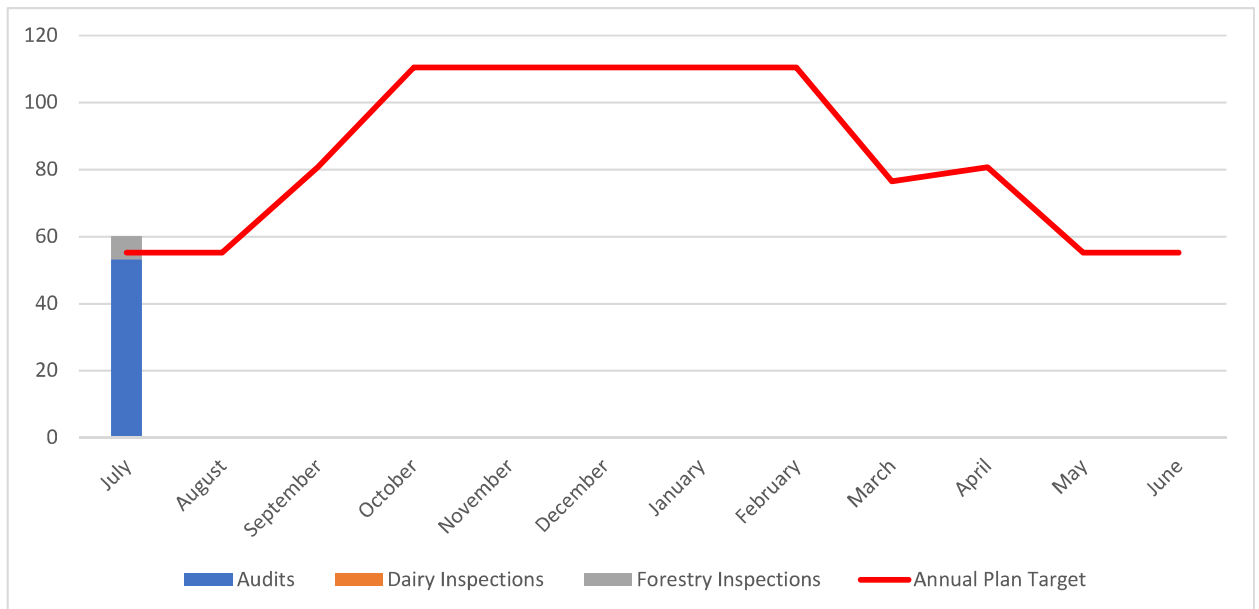
**Figure 8: Performance Monitoring Returns Completed**



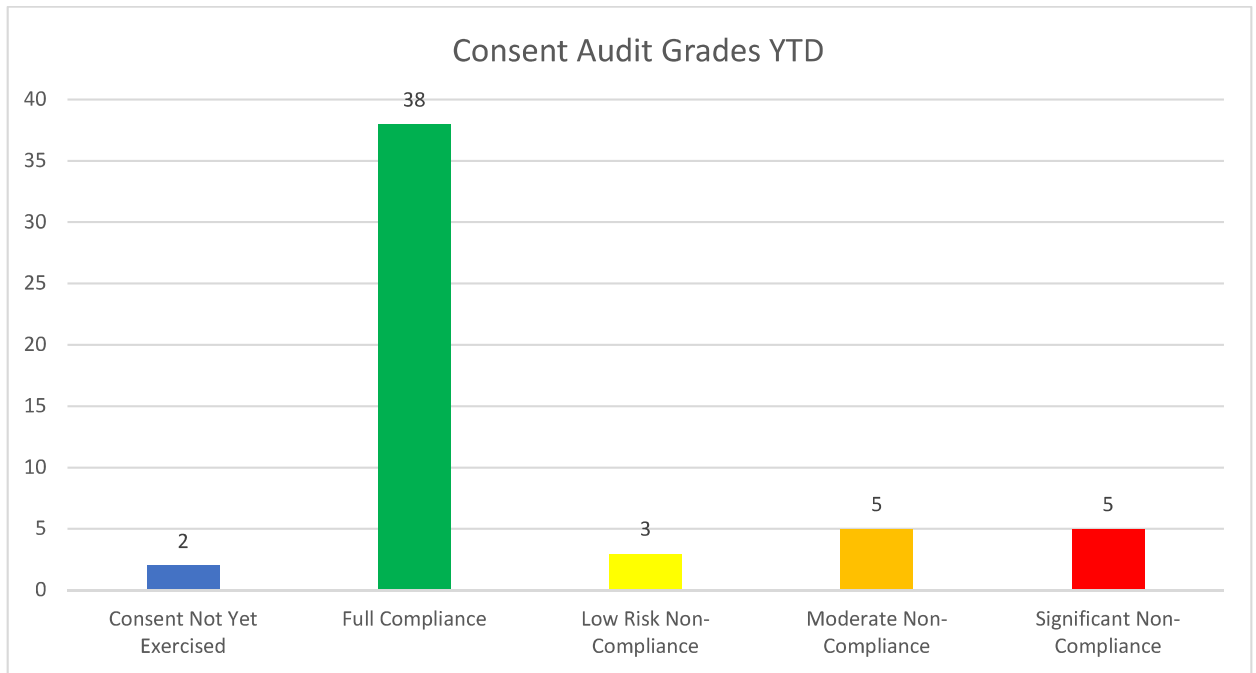
**Figure 9: Performance Monitoring Grades Year to Date**



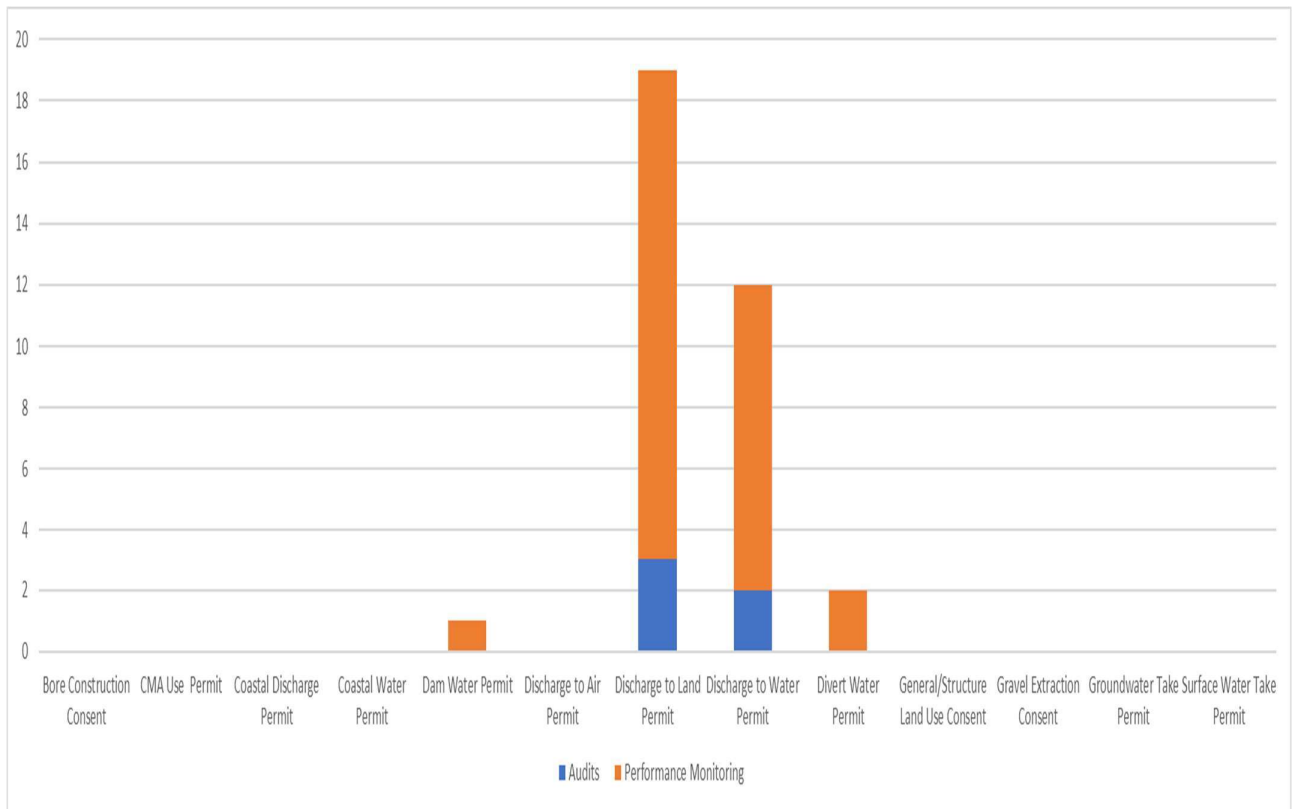
**Figure 10: Compliance Field Visits**



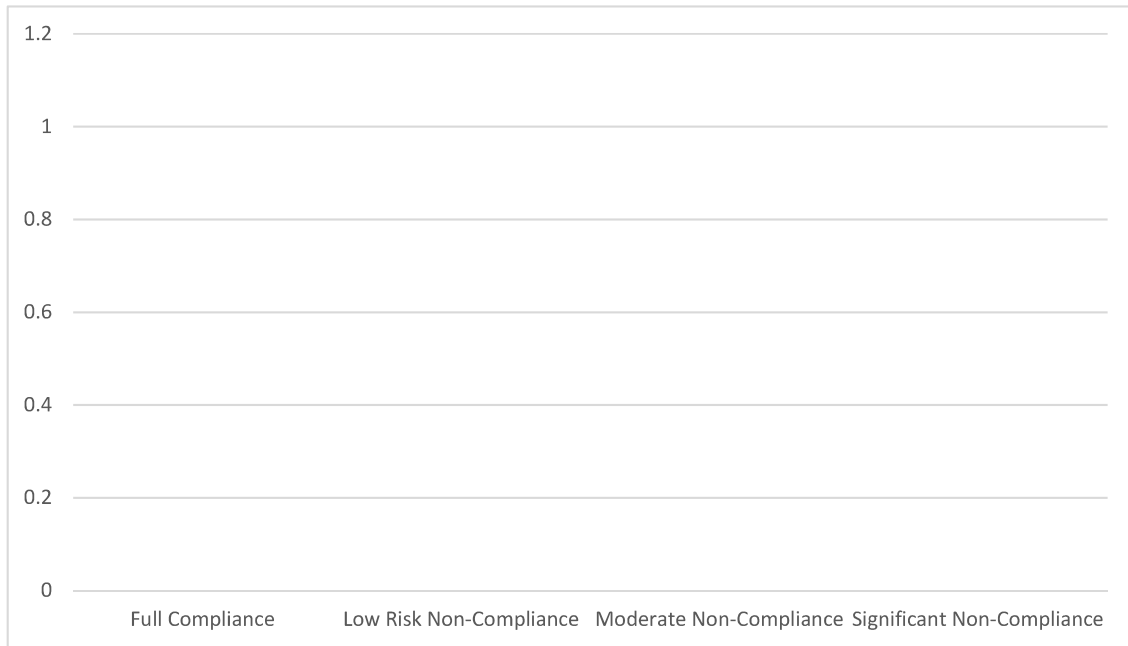
**Figure 11: Consent Audit Grades Year to Date**



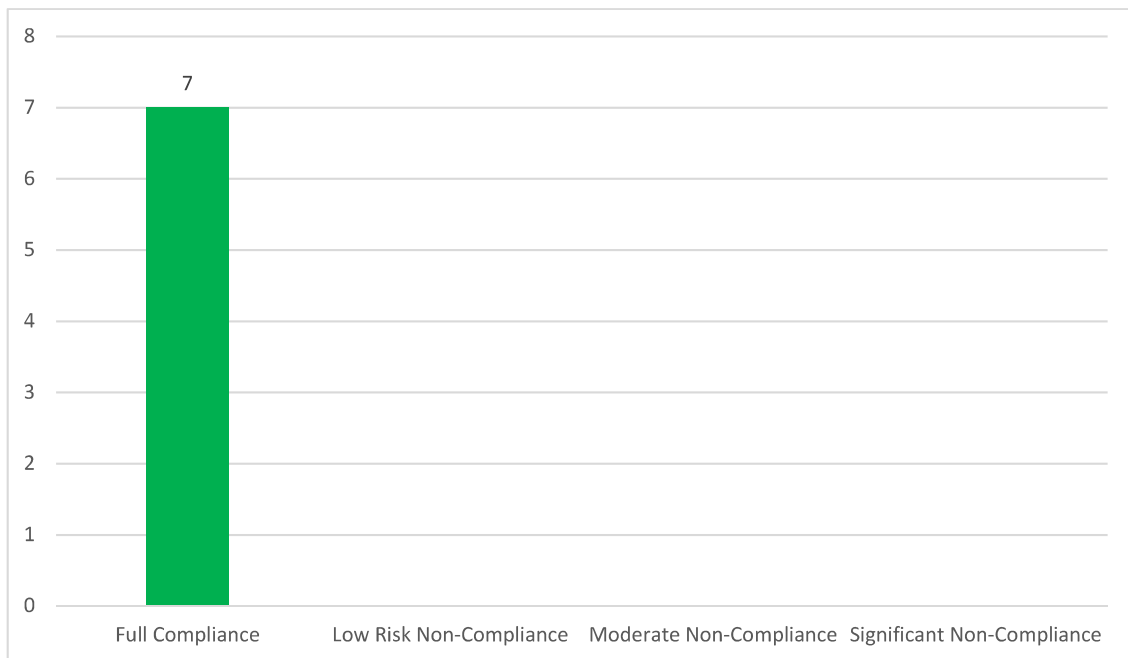
**Figure 12: Significant Non-Compliance by Consent Type**



**Figure 13: Dairy Inspection Grades**



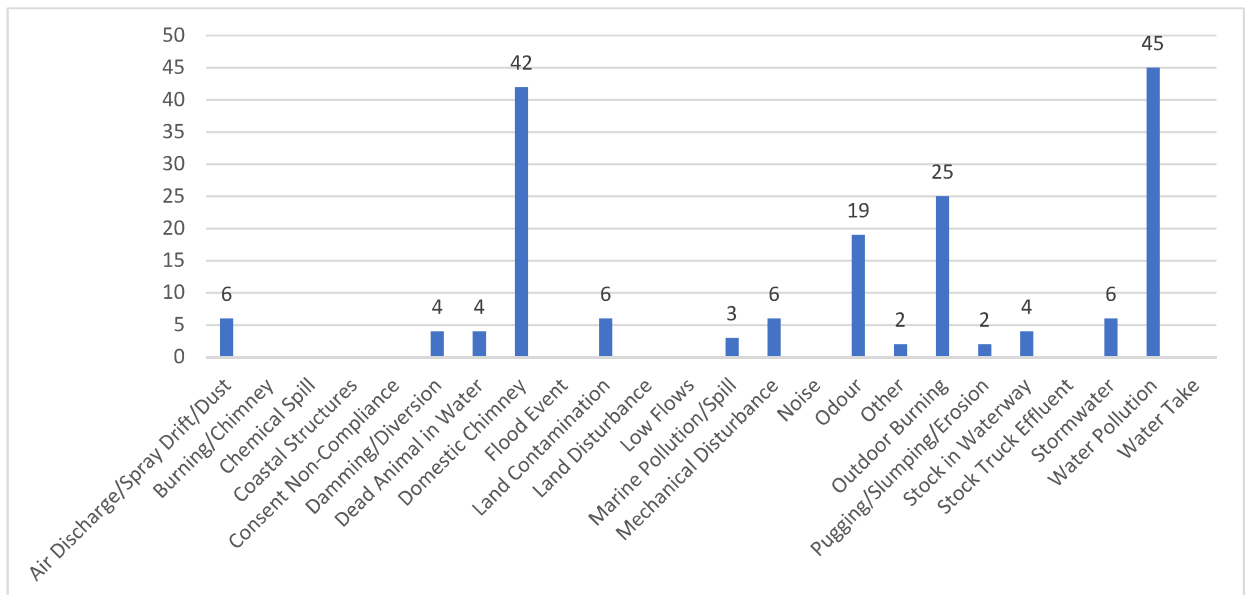
**Figure 14: Forestry Inspection Grades**



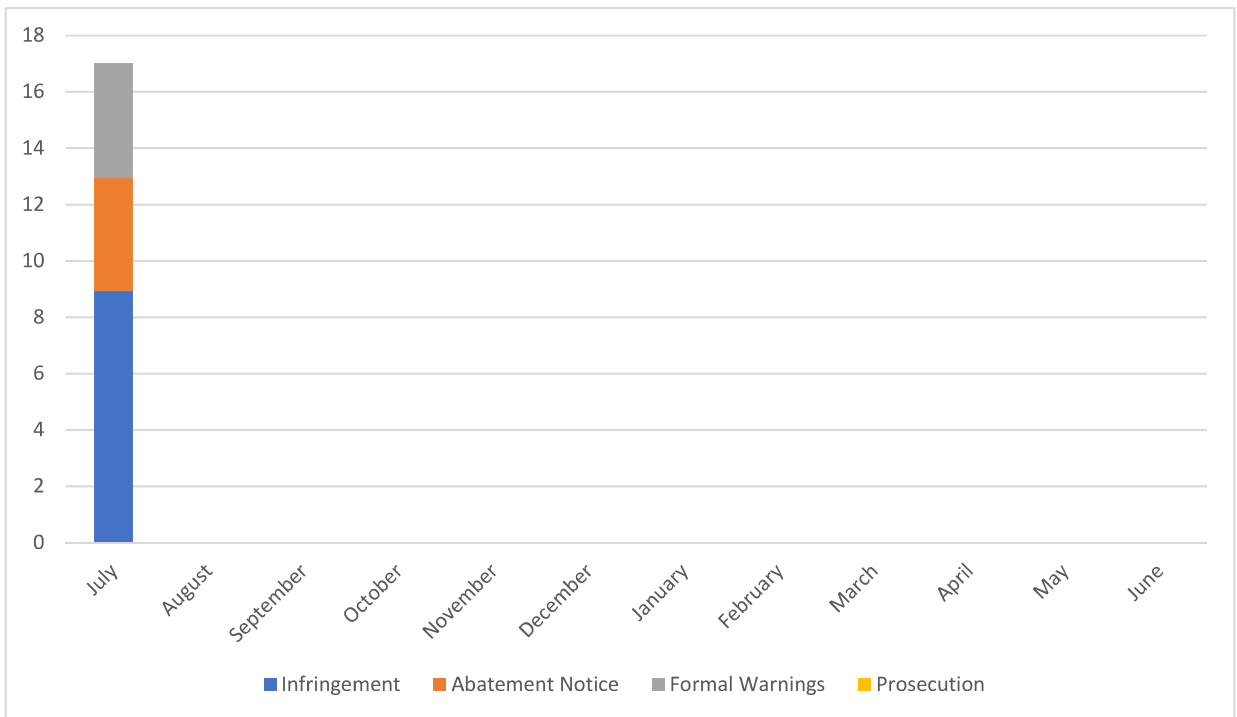
**Figure 13: Service Requests**



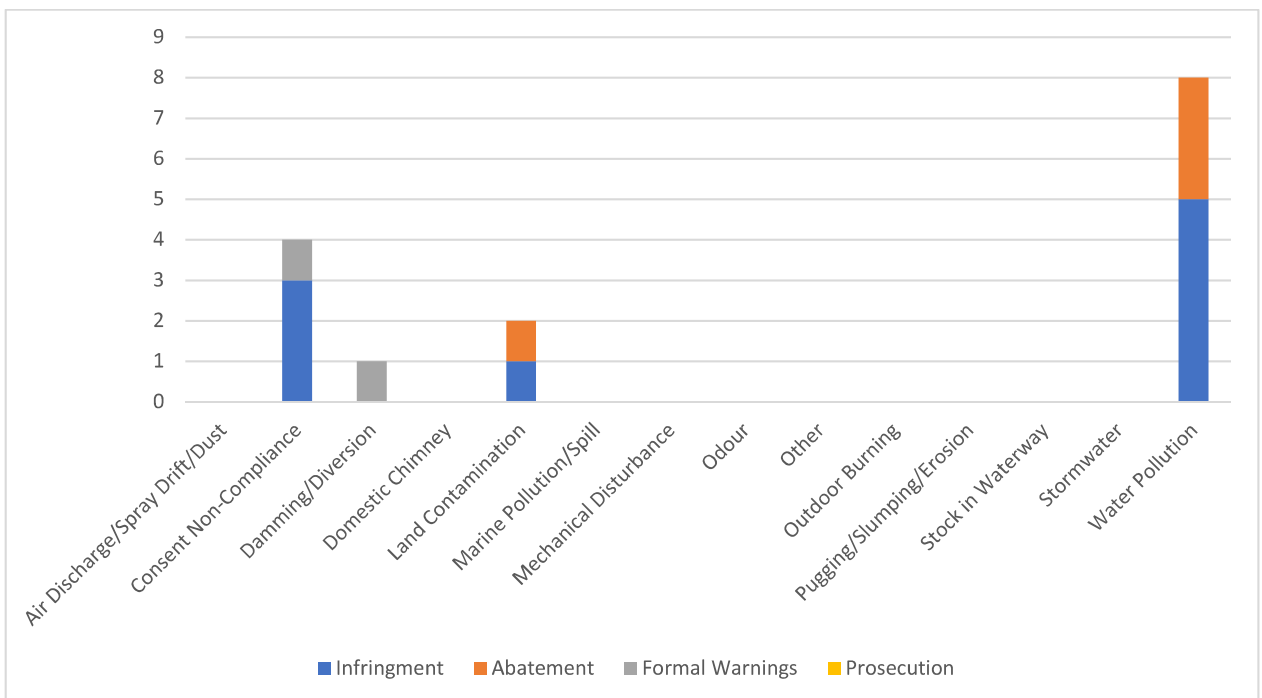
**Figure 14: Service Requests by Type**



**Figure 15: Enforcement Actions**



**Figure 16: Enforcement Causes**



## Deemed Permit Status

The Otago Regional Council's consent database currently contains data for 586 Deemed Permits. Their current status is:

- Cancelled: 23
- Current: 325
- Expired: 46
- In Progress: 1
- Surrendered: 191
- Total: 586

*Note: Of the 325 Current Deemed Permits 36 have been replaced by 20 Resource Consents but have not yet been surrendered. Therefore they maintain a status of current.*

Since 1 January 2016 the Otago Regional Council has granted 37 Resource Consents to replace 85 Deemed Permit. 37 of these Deemed Permits have been surrendered. The terms for the Resource Consents replacing these Deemed Permits are:

- 6 have been granted for a term of six years or less.
- 5 have been granted for a term of more than six years, and up to fifteen years
- 26 have been granted for a term of more than fifteen years.

A further 206 Deemed Permits currently have applications underway to replace them with 161 Resource Consents. The applicants have applied for:

- 16 consents with a term of six years or less.
- 2 consents with a term of more than six years, and up to fifteen years
- 123 consents with a term of more than fifteen years.
- 20 consents with no expiry date currently recorded in the Otago Regional Council's consent database

There are currently 83 Deemed Permits for which no application has been lodged. Those deemed permits include 0 Permits to take and use Groundwater, 12 Permits to Dam Water, and 0 Permits to discharge to water. In addition to these Deemed Permits a further 52 Resource Consents are due to expire between 27 September 2021 and 8 October 2021.

Please note that these numbers present a snapshot of the Otago Regional Council's Resource Consent database on the day that this report was produced. As such, any of these numbers may vary up or down as new applications are received or granted, Deemed Permits are cancelled or surrendered, or applicants are able to prove they can meet the provisions of section 413 of the Resource Management Act (1991).

A summary of deemed permit replacement process in each catchment with current deemed permits is presented below:

<b>Catchment.</b>	<b>Deemed Permits Awaiting Application</b>	<b>Deemed Permit Applications in Progress</b>
Albert Burn (1)	0	1
Amisfield Burn	1	2
Arrow River	1	4
Bannock Burn	0	8
Basin Burn	0	4
Beaumont River	1	0
Bendigo Creek	0	0
Benger Burn	0	0
Burn Cottage Creek	1	3
Butchers Creek (1)	2	0
Cambells Creek	1	0
Camp Creek (1)	0	2
Cardrona River	2	9
Chapmans Gully	1	0
Coal Creek	6	0
Crook Burn (2)	0	1
Donaldsons Creek	0	0
Elbow Creek	0	0
Five Mile Creek (1)	1	0
Franks Creek	1	1
Fraser River	3	2
Kidd Creek	1	0
Lindis River	2	9
Long Gully (1)	0	0
Long Gully (2)	0	0
Lowburn Creek	3	13
Luggate Catchment	0	0
Manuherikia Catchment	9	43
Nevis River	0	2
No Catchment Recorded	14	6
Park Burn	1	1
Pipeclay Gully	0	1
Poison Creek	0	0



Pomahaka River	0	1
Quartz Creek	0	0
Quartz Reef Creek	0	1
Queensberry Hills	0	0
Rees River	0	1
Ripponvale Road	0	0
Roaring Meg	1	1
Schoolhouse Creek	0	1
Shingle Creek	9	0
Shotover River	1	0
Taieri Catchment	8	31
Teviot River	2	0
Tinwald Burn	0	2
Toms Creek	1	1
Unnamed Trib's of Clutha River above Lake Dunstan	2	1
Unnamed Trib's of Clutha River above Lake Roxburgh	0	2
Unnamed Trib's of Clutha River above Tuapeka Mouth	6	1
Unnamed Trib's of Kawarau River	0	2
Unnamed Trib's of Lake Hawea	1	0
Waikerikeri Creek	0	2
Waitahuna Catchment	1	0
Wanaka Township	0	3
Washpool Creek (1)	0	3

## 7.2. Landfill Report

**Prepared for:** Regulatory Committee  
**Report No.** REG2109  
**Activity:** Environmental: Land  
**Author:** Tami Sargeant, Manager Compliance  
**Endorsed by:** Richard Saunders, General Manager Regulatory and Communications  
**Date:** 9 September 2021

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### PURPOSE

- [1] This report provides the Regulatory Committee with a summary of ORC's regulatory role and responsibilities with managing landfill sites and an overview of the landfill information known to ORC.

### EXECUTIVE SUMMARY

- [2] The landowner or occupier of the land is responsible for managing the environmental effects of landfills, including remediation of the land.
- [3] ORC is responsible for regulating the environmental effects of landfills including issuing resource consents, maintaining the HAIL database and ongoing compliance monitoring and enforcement of landfill activities.

### RECOMMENDATION

*That the Committee:*

- 1) **Notes** this report on the management of landfills within the Otago region.

### BACKGROUND

#### Regulatory responsibilities for landfill management

- [4] ORC is responsible for regulating activities affecting water, air, land and the coast to promote the sustainable management of the Otago environment.
- [5] Section 30(1) of the Resource Management Act 1991 (RMA) sets out the functions of regional councils. The key provisions relevant to landfills are:
- (1) *Every regional council shall have the following functions for the purpose of giving effect to this Act in its region:*
- (a) *The establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the natural and physical resources of the region ...*
  - (c) *The control of the use of land for the purpose of ...*
  - (f) *The control of discharges of contaminants into or onto land, air or water and discharges of water into water.*

- [6] Resource consents, issued under the RMA, are the main means of controlling the environmental effects of landfills and remediation of contaminated land. The primary consents issued for landfills are land use consents, discharge of contaminants and disturbance of a contaminated site.
- [7] Under the RMA the owner, occupier or polluter is responsible for managing the environmental effects of landfills. The duty to remediate contaminated land also falls under the responsibility of the landowner. Section 17 of the RMA places a duty on owners of contaminated sites to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person.
- [8] ORC is responsible for issuing resource consents, maintaining the HAIL database and ongoing compliance monitoring and enforcement of landfill activities.
- [9] ORC is also involved in investigating land to identify and monitor contaminated land. This includes direct investigation and facilitating the identification of contaminated land by other parties.

#### **HAIL database**

- [10] The ORC maintains a HAIL database (Hazardous Activities and Industries List), of properties where information is held regarding current or past land uses that have the potential to contaminate land. Landfills are generally considered to be potentially contaminated sites.
- [11] It is possible that there are more landfills than what is included in the HAIL database. The HAIL database is limited to information that ORC has been provided and the absence of a listing of 'landfill' does not necessarily mean that the property is uncontaminated; rather no information currently exists in the database.
- [12] It is important to note that HAIL parcels are often broken up into smaller sections and there may be multiple HAIL sites on one property. The purpose of dividing HAIL sites is to quantify the extent and human health risk of a piece of land within a larger development. For example, where an investigation has demonstrated that an area of land has historically been used as a farm landfill, that land is given an individual HAIL site number and there may also be other HAIL sites on the same property.

#### **Remediation of landfills**

- [13] If there is no evidence of active or ongoing discharges from landfills, the ORC cannot require immediate action. In such cases, the relevant territorial authority is responsible for ensuring that adverse effects from the development, subdivision, or use of contaminated land are prevented or mitigated.
- [14] Remediation of contaminated sites which involve disturbing the land require resource consent under Rule 5.6.1 of the Regional Plan: Waste. Short term consents for the discharge of contaminants to air, land or water may also be required. Once site remediation is completed, an assessment of the site validation report may result in a change of contamination status in the HAIL database.
- [15] MfE administer a Contaminated Site Remediation Fund that provides funding for regional councils and unitary authorities for the remediation of contaminated sites that pose a risk to human health and the environment.

## DISCUSSION

### Landfills in the Otago region

[16] There are currently 270 'landfill sites' recorded in the HAIL database. The following table provides information of the location of the sites and the 'contamination status'.

TLA	Acceptable	At or below background concentrations	Contaminated	Managed	New information received	Not investigated	Partially investigated
CDC	2		1	24	3	6	7
CODC				20		8	2
DCC	4	2		18	3	72	10
QLDC	8	1	7	13	1	28	6
WDC	3			11		9	

- [17] Of the 270 HAIL landfill sites in the Otago Region, the most sites are located in the Dunedin City area (116 sites, or 43% of the sites), followed by Queenstown Lakes district (57 sites, or 21% of the sites) and Clutha district (43 sites, or 16% of the sites). Central Otago district and Waitaki districts have relatively lower number of landfill sites with 30 sites and 23 sites respectively.
- [18] Of the 270 total landfill sites, eight have a current status of 'contaminated'. 103 sites have a status of 'managed' or 'acceptable', while 123 have not been investigated.
- [19] A 'not investigated' status means contamination may have happened at the site, but the landowner has not investigated or supplied information to ORC to confirm status. Site management may include active remediation, monitoring, and management with consents.
- [20] The contamination status of a contaminated site changes as soon the remedial action results is validated. When the soil sampling results contained in a site validation report demonstrate that contaminant concentrations are below the applicable soil contaminant standard, then the contamination status is amended to 'managed' or 'acceptable.'
- [21] 26 sites are 'partially investigated'. This means that while some investigations have been undertaken that demonstrate there are hazardous substances present, there is insufficient information to quantify any adverse effects or risks to human health or the environment. ORC has received 'new information' on seven sites and this information is currently being assessed to determine the appropriate site status.
- [22] Coastal erosion, flood events and rising sea levels are presenting challenges. A mitigation status of 'managed' implies that contamination may still be present on site, but their effects are managed through remedial action and monitoring processes. Consents are in place for managed sites, which means that these sites are constantly monitored.
- [23] A report on 'Environmental Sensitivity Ranking (ESR) of Landfills in the Otago Region' was conducted in 2000. The ESR report included a detailed historical investigation, and identified and classified 160 closed landfill sites.

- [24] The ESR report prioritised the sites based on the risk associated with the potential discharge of landfill leachate and the sensitivity of the receiving surrounding environment. The ESR report identified 24 landfill sites near a surface water body, and five landfill sites within 100m of the Pacific Ocean.
- [25] Following the prioritisation assessment of the ESR, 28 landfill sites were categorised as high priority.

<b>TLA</b>	<b>High priority landfills</b>
CDC	Alliance Textiles, Barrowbox, Finegand Freezing Works, Milton and Telford Farming Institute
CODC	Alexandra, Craigpine Timber Treatment Site, Cromwell, Dunstan Road - ORC Depot, St Bathans, Ettrick, Patearoa, Roxburgh (newer), Roxburgh (old) and Wedderburn
DCC	Dukes Road – Commercial, Fairfield, Macraes Flat, North Taieri, North Taieri Recycle Centre, Sawyers Bay and Wingatui
QLDC	Fernhill Tip, Luggate and Wanaka
WDC	Factory Road and Pukeuri Works

Table 1: High risk landfill sites identified in the Environmental Sensitivity Ranking report 2020

### **Compliance monitoring**

- [26] Compliance monitoring of landfills falls within priorities one and two of the ORC Compliance Plan 2020-22 to “reduce non-compliant discharges to improve freshwater quality” and taking a “proactive and integrated approach to monitoring large-scale activities”.
- [27] The ORC also receives annual monitoring reports for closed landfills and operational landfills from the TLAs as part of the consent conditions. The annual monitoring reports document non-compliance and provide recommendations and actions to the consent holder. Compliance auditing forms part of the ORC monitoring schedule.
- [28] The operational monitoring programme for landfills in Otago requires ORC:
- To monitor active landfills at least annually.
  - To monitor closed landfills at least every three years, and prioritise monitoring based on level of risk to water, the coastal marine area, land, and community concern, based on the risk ranking in the ESR report.
- [29] The Investigations Team respond to reports of alleged environmental non-compliance and pollution incidents related to landfills that are received through the pollution hotline, or from field reports from staff. These service requests are recorded as ‘land contamination’ incidents in the quarterly report to the Regulatory Committee.

### **OPTIONS**

- [30] As this is a report for noting there are no options.

### **CONSIDERATIONS**

#### **Strategic Framework and Policy Considerations**

- [31] There are no strategic framework or policy considerations.

**Financial Considerations**

[32] There are no financial considerations.

**Significance and Engagement Considerations**

[33] There are no implications for significance and engagement.

**Legislative and Risk Considerations**

[34] A number of legislative requirements govern the activities of landfills as discussed in this report.

**Climate Change Considerations**

[35] There are no climate change considerations associated with this report.

**Communications Considerations**

[36] There are no communication considerations for this report.

**NEXT STEPS**

[37] ORC will continue to update HAIL database with landfill information as ORC receives relevant information. Ongoing compliance monitoring of landfills with current consents, and advice provided for disturbance of contaminated land will continue.

[38] In future years, an overview of compliance for landfills will be included in the Annual Compliance Report.

**ATTACHMENTS**

Nil