

# Regulatory Committee Agenda - 11 March 2021

Meeting is held in the Council Chamber, Level 2, Philip Laing House  
144 Rattray Street, Dunedin



## 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

11 March 2021 08:30 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 15 October 2020 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="#">RMA COMPLIANCE AND ENFORCEMENT POLICY</a> ORC is responsible for compliance monitoring and enforcement of legislation and bylaws, including the RMA. This report is to seek the adoption of the RMA Compliance and Enforcement Policy.	8

7.1.1	<a href="#">Attachment 1: ORC RMA Enforcement Policy DRAFT (1 March 2021)</a>	12
7.2	<a href="#">QUARTERLY UPDATE</a>	23
	This report is to update the Committee on activities of the Regulatory Group during the 2020/21 year to 28 February 2021.	
7.2.1	<a href="#">Attachment 1: Regulatory Data Appendix 2020-201 July to January</a>	31
7.2.2	<a href="#">Attachment 2: Deemed Permit Report - 2 March 2021</a>	43
7.2.3	<a href="#">Attachment 3: CME Metrics 2020 Report</a>	46
7.3	<a href="#">HARBOURMASTER SUMMER ACTIVITY UPDATE</a>	122
	This report is to update Council on Harbourmaster activity and operations following the completion of the 2020/2021 summer season.	
8.	CLOSURE	



Minutes of a meeting of the  
Regulatory Committee held in the Council Chamber  
on Thursday, 15 October 2020 at 10:15 a.m.

**Membership**

Cr Gary Kelliher	<i>(Co-Chair)</i>
Cr Andrew Noone	<i>(Co-Chair)</i>
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**

Regulatory Co-Chair Gary Kelliher welcomed Councillors, members of the public and staff to the meeting at 10:15 am.

*For our future*

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## 1. APOLOGIES

### Resolution

*That the apologies for Cr Hope, Cr Laws, Cr Noone be accepted.*

Moved: Cr Wilson  
Seconded: Cr Calvert  
CARRIED

It was also noted that Cr Forbes would be 10 minutes late to the meeting.

## 2. ATTENDANCE

Sarah Gardner (Chief Executive)  
Nick Donnelly (General Manager Corporate Services and CFO)  
Gavin Palmer (General Manager Operations)  
Richard Saunders (General Manager Regulatory)  
Gwyneth Elsum (General Manager Strategy, Policy & Science)  
Amanda Vercoe (Executive Advisor)  
Liz Spector (Committee Secretary)

Also present were Jo Gilroy (Manager Consents), Simon Wilson (Manager Regulatory Data and Systems), and Tami Sargeant (Manager Compliance).

## 3. CONFIRMATION OF AGENDA

The agenda was confirmed as published.

## 4. CONFLICT OF INTEREST

No conflicts of interest were advised.

## 5. PUBLIC FORUM

No requests to speak to the Committee were received.

## 6. CONFIRMATION OF MINUTES

### Resolution

*That the minutes of the meeting held on 9 July 2020 be received and confirmed as a true and accurate record.*

Moved: Cr Calvert  
Seconded: Cr Wilson  
CARRIED

## 7. ACTIONS

The committee members were updated on outstanding actions. It was noted that both actions were now complete.

## 8. MATTERS FOR COUNCIL DECISION

### 8.1. Compliance Plan

The Otago Regional Council Compliance Plan 2020-22 has been drafted setting out priorities for compliance activities across the Otago region. The Compliance Plan supports a responsive and risk-based approach to the allocation of resources for proactive compliance monitoring as well as reactive response to environmental incidents. This report provided the Committee with the draft plan, outlined the next steps for delivering an effective and efficient compliance programme across the Otago region and asked for the Committee's endorsement of the plan.

Tami Sargeant (Manager Compliance) and Richard Saunders (GM Regulatory) spoke to the report and responded to questions. After a discussion of the plan, Cr Robertson moved:

#### Resolution

*That the Committee:*

- 1) **Receives** the report.
- 2) **Endorses** the Otago Regional Council Compliance Plan 2020-22.
- 3) **Notes** that the Otago Regional Council Compliance Plan 2020-22 is consistent with the principles of the Regional Sector Strategic Compliance Framework 2019-24 and the Ministry for Environment Best Practice Guidelines for Compliance Monitoring and Enforcement.
- 4) **Notes** that a Compliance Policy will be prepared for Council approval in 2021, and that the Otago Regional Council Compliance Plan 2020-22 will be updated to reflect the Council direction.
- 5) **Notes** that an annual compliance report will be prepared to show delivery on the Otago Regional Council Compliance Plan 2020-22.

Moved: Cr Robertson

Seconded: Cr Wilson

CARRIED

*Cr Forbes joined the meeting at 10:25 am.*

*Cr Malcolm left the meeting at 10:38 am*

*Cr Malcolm returned to the meeting at 10:40 am.*

## 9. MATTERS FOR NOTING

### 9.1. Regulatory Group - Quarterly Activity Report

This report summarised the activity of the Regulatory Group which includes Consents, Compliance, Consents Systems and Administration and Harbourmaster teams for the current fiscal year to 30 September 2020. Richard Saunders (GM Regulatory), Simon Wilson (Manager Regulatory Data and Systems) Tami Sargeant (Manager Compliance) and Joanna Gilroy (Manager Consents) were present to speak to the report and respond to questions. Following discussion, Cr Wilson moved:

#### Resolution

*That the Committee:*

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- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the period 1 July 2020 to 30 September 2020.
- 3) **Request** the ORC Chairperson and CEO to actively pursue with Central Government and LGNZ better cellular coverage in Otago to ensure staff and residents can fully engage in online data, monitoring and information opportunities and requirements.

Moved: Cr Wilson  
Seconded: Cr Calvert  
CARRIED

### **9.2. Update on Implementation of NES FW and PC8**

This report was provided to inform the Committee of key actions undertaken by the Regulatory Group during the past two months to implement Central Government's Action Plan for Healthy Waterways and Council's Plan Changes. Richard Saunders (GM Regulatory) and Jo Gilroy (Manager Consents) were present to speak to the report and respond to questions. Following discussions, Cr Wilson moved:

#### **Resolution**

*That the Committee:*

- 1) **Receives** this report.
- 2) **Notes** that the Regulatory Group has been working to implement the Action Plan for Healthy Water and Plan Change 8 to the Water Plan.

Moved: Cr Wilson  
Seconded: Cr Forbes  
CARRIED

### **10. CLOSURE**

There was no further business and Co-Chair Kelliher declared the meeting closed at 11:25 am.

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Co-Chairperson

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Date

**ACTION REGISTER – OUTSTANDING RESOLUTIONS OF THE REGULATORY COMMITTEE AT 11 MARCH 2021**

Meeting Date	Item	Status	Action Required	Assignee/s	Action Taken	Due Date	Completed (Overdue)
11/03/2020	GOV1911 Strategic Compliance Framework	Completed	Present a compliance monitoring plan consistent with the principles of the Strategic Compliance Framework 2019-2024 to the Regulatory Committee at the September 2020 meeting.	General Manager Regulatory	<b>4/08/2020</b> UPDATE (Richard Saunders): This report is being prepared for the October Regulatory Committee meeting.  <b>1/10/2020</b> Reported to Committee on 15 October 2020	01/09/2020	15/10/2020
09/07/2020	GOV1928 Regulatory Group - Quarterly Activity Report	Completed	Provide monthly updates on metrics for deemed permits to Councillors to keep them informed.	General Manager Regulatory	<b>15/10/2020</b> Added this to regular report.	31/08/2020	15/10/2020
14/10/2020	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, Chief Executive		11/03/2021	

### 7.1. RMA Compliance and Enforcement Policy

**Prepared for:** Regulatory Committee  
**Report No.** GOV2107  
**Activity:** Regulatory - Resource Consent Compliance and Bylaw Monitoring  
**Author:** Tami Sargeant, Manager Compliance  
**Endorsed by:** Richard Saunders, General Manager Regulatory  
**Date:** 2 March 2021

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#### PURPOSE

- [1] The ORC is responsible for compliance monitoring and enforcement of legislation and bylaws, including the Resource Management Act 1991 (RMA).
- [2] This report seeks the adoption of the RMA Compliance and Enforcement Policy.

#### EXECUTIVE SUMMARY

- [3] The RMA Compliance and Enforcement Policy sets out the approach and principles by which the Otago Regional Council (ORC) promotes and enforces compliance with the RMA and provides an outline of how RMA compliance and enforcement is managed. The policy is intended to ensure a consistent and integrated approach to compliance and enforcement under the RMA by ORC.
- [4] The RMA Compliance and Enforcement Policy is based on RMA requirements, the Regional Sector Strategic Compliance Framework, Ministry for Environment Best Practice Guidelines, case law direction and a review of best sector practice for compliance and enforcement activities and policies.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Adopts** the RMA Compliance and Enforcement Policy 2021.

#### BACKGROUND

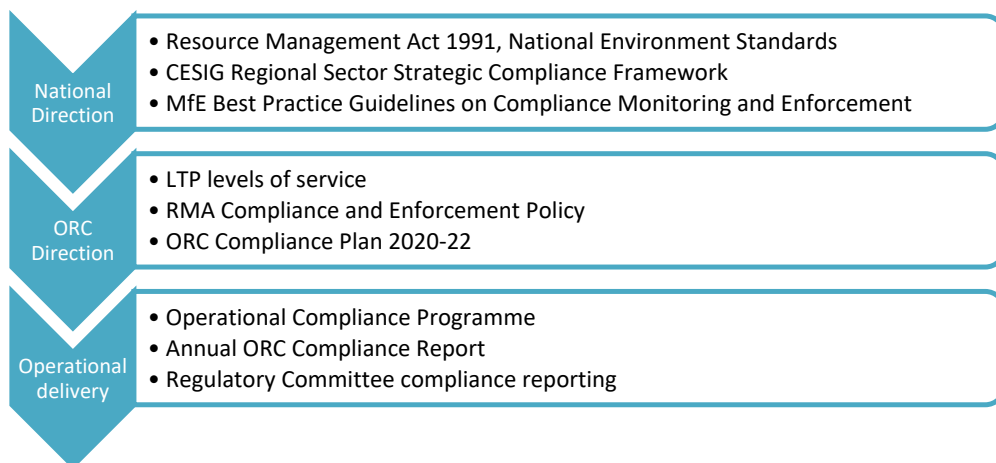
- [5] The ORC is responsible for regulating activities affecting water, air, land and coastal environments to promote the sustainable management of our environment. Compliance monitoring and enforcement is a significant tool in achieving the overarching sustainable management purpose of the Resource Management Act 1991 (RMA).
- [6] While councils have a responsibility to implement the RMA, the Act does not prescribe **how** councils should carry out CME activities, and councils have considerable discretion in how they fulfil their statutory functions.



- [7] In 2018, the Ministry for the Environment (MfE) released Best Practice Guidelines for Compliance Monitoring and Enforcement (Best Practice Guidelines) to support councils with their CME responsibilities under the RMA. The MfE Best Practice Guidelines states that “all councils should have an operational enforcement policy, which the council uses to determine what enforcement action (if any) to take in response to non-compliance”.
- [8] The Best Practice Guidelines states that an enforcement policy may cover:
  - a. How a suspected offence will be responded to, and how an investigation will be conducted, evidence gathered, and an explanation sought from the offender;
  - b. How any actual or potential effects of non-compliance will be addressed;
  - c. How the enforcement response will be determined and what factors will be considered; and
  - d. How the enforcement decision will be monitored for effectiveness, and further enforcement action will be taken.

**ISSUE**

- [9] In October 2021, the Regulatory Committee endorsed the ORC Compliance Plan 2020-22 that sets out the priorities for compliance activities across the Otago region and supports a responsive and risk-based approach to the allocation of resources for proactive compliance monitoring as well as reactive response to environmental incidents. The Compliance Plan is consistent with the principles of the Regional Sector Strategic Compliance Framework 2019-24 and the MfE Best Practice Guidelines.
- [10] The following diagram shows the relationship between the national direction, ORC direction and operational delivery of CME activities in Otago.



- [11] An identified ‘gap’ in the ORC direction is an RMA Compliance and Enforcement Policy to provide clear guidance on the ORC’s approach to non-compliance and enforcement action in the Otago region.
- [12] The CME metrics report for the 2019/20 year identified that all councils except Gisborne and Otago had enforcement policies.

## DISCUSSION

- [13] An RMA Compliance and Enforcement Policy (the Policy) has been developed based on RMA requirements, the Regional Sector Strategic Compliance Framework, the MfE Best Practice Guidelines, case law direction and a review of best sector practice for compliance and enforcement activities and policies.
- [14] The Policy sets out the approach and principles by which the ORC promotes and enforces compliance with the RMA and provides an outline of how RMA compliance and enforcement is managed. The Policy is intended to ensure a consistent and integrated approach to compliance and enforcement by ORC.
- [15] The Policy outlines the ORC's spectrum approach to encouraging and ensuring compliance with the RMA and includes the 'Four Es' of Engage, Educate, Enable and Enforce.
- [16] The Policy outlines the principles underlying the ORC's approach to compliance and enforcement action. The principles have been drawn from the Regional Sector Strategic Compliance Framework of:
- a. transparency;
  - b. consistency of process;
  - c. taking a fair, reasonable and proportional approach;
  - d. evidence-based and informed;
  - e. collaborative;
  - f. being lawful, ethical and accountable;
  - g. targeted; and
  - h. responsive and effective.
- [17] The Policy describes the investigation and enforcement decision process, including:
- Gathering information in keeping with best practice detailed in Basic Investigative Skills for Local Government;
  - Factors for considering enforcement action based on case law direction; and
  - Factors for considering prosecution, based on the 'prosecution test' outlined in the Solicitor-General's Prosecution Guidelines.
- [18] The Policy describes the enforcement options available to deal with non-compliance, including informal actions, directive actions and punitive actions. The Policy provides guidance on when enforcement tools may be appropriate and the potential impacts for the liable party.

## OPTIONS

- [19] It is recommended that the RMA Compliance and Enforcement Policy is adopted. The Policy is based on RMA requirements, the Regional Sector Strategic Compliance Framework, the MfE Best Practice Guidelines, case law and a review of best sector practice for compliance and enforcement activities and policies.

## **CONSIDERATIONS**

### **Policy Considerations**

[20] This report considers the adoption of the RMA Compliance and Enforcement Policy.

### **Financial Considerations**

[21] There are no financial considerations.

### **Significance and Engagement**

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

### **Legislative Considerations**

[23] Compliance, monitoring and enforcement activities are a mandatory function under the RMA, and case law has provided guidance and direction on factors to consider when considering enforcement action. The RMA Compliance and Enforcement Policy is based on case law guidance and RMA requirements.

### **Risk Considerations**

[24] There are environmental, legal, social and reputational considerations associated with compliance, monitoring and enforcement activities and these have been considered in the development of the RMA Compliance and Enforcement Policy.

## **NEXT STEPS**

[25] If adopted, the RMA Compliance and Enforcement Policy will be published on the ORC website.

[26] Standard operating procedures will be updated to reflect the Council direction on non-compliance and enforcement activities.

## **ATTACHMENTS**

1. ORC RMA Enforcement Policy DRAFT 01 03 21 [7.1.1 - 11 pages]



# Otago Regional Council

## RMA Compliance and Enforcement Policy



March 2021

<b>Date approved</b>	
<b>Review date</b>	March 2026
<b>Policy owner</b>	Compliance Manager
<b>Version</b>	1.0

## 1 INTRODUCTION

The Otago Regional Council (ORC) is responsible for regulating activities affecting water, air, land and coastal environments to promote the sustainable management of our environment. Compliance monitoring and enforcement is a significant tool in achieving the overarching sustainable management purpose of the Resource Management Act 1991 (RMA)<sup>1</sup>.

This policy sets out the approach and principles by which the ORC promotes and enforces compliance with the RMA and provides an outline of how RMA compliance and enforcement is managed. This policy is intended to ensure a consistent and integrated approach to compliance and enforcement by ORC.

## 2 APPROACH TO NON-COMPLIANCE

The ORC has a ‘spectrum’ approach to encouraging positive behaviour change and ensuring the highest levels of compliance possible.

The ORC’s approach to ensuring compliance with the RMA is based on ‘4Es model’<sup>2</sup> of Engage, Educate, Enable and Enforce:

- **Engage** – consult with regulated parties, stakeholders and community on matters that may affect them. This will require maintaining relationships and communication until final outcomes have been reached. This will facilitate greater understanding of challenges and constraints, engender support and identify opportunities to work with others.
- **Educate** – alert regulated parties to what is required to be compliant and where the onus lies to be compliant. Education should also be utilised to inform community and stakeholders about what regulations are in place around them, so that they will better understand what is compliant and what is not.

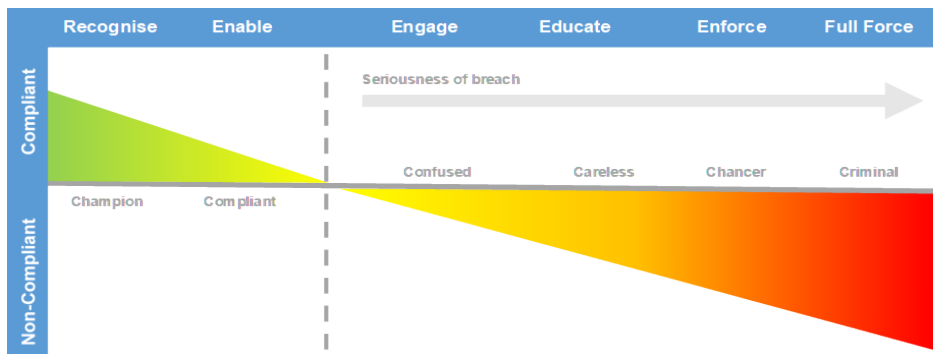
<sup>1</sup> Section 5 of the Resource Management Act 1991

<sup>2</sup> The 4Es model is drawn from the CESIG Regional Sector Strategic Compliance Framework 2019-2024

- **Enable** – provide opportunities for regulated parties to be exposed to industry best practice and regulatory requirements. Link regulated parties with appropriate industry advisors. Promote examples of best practice.
- **Enforce** – when breaches of regulation, or non-compliance, are identified then an array of enforcement tools and actions are available to bring about positive behaviour change. Enforcement outcomes should be proportional to individual circumstances of the breach and culpability of the party.

Non-compliance with the RMA is taken seriously by the ORC. Except in exceptional circumstances some form of action will be taken in response to non-compliance.

ORC’s approach and use of enforcement tools and actions depends on the issue, context and seriousness of the breach as illustrated below<sup>3</sup>:



### 3 PRINCIPLES OF ENFORCEMENT

Underlying the ORC’s approach to compliance and enforcement action are the following principles<sup>4</sup>.

**Transparency** - We will provide clear information and explanations to the community, and those being regulated, about the standards and requirements for compliance. We will ensure that the community has access to information about the change to environmental impacts of industry as well as actions taken by us to address environmental issues and non-compliance.

**Consistency of process**– Our actions will be consistent with the legislation and within our powers. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances. We will ensure that our staff have the necessary skills and are appropriately trained, and that there are effective systems and policies in place to support them.

<sup>3</sup> Influencing behaviour change is based on the CESIG Regional Sector Strategic Compliance Framework

<sup>4</sup> These principles are drawn from the CESIG Regional Sector Strategic Compliance Framework 2019-2024

**Fair, reasonable and proportional approach** – We will apply regulatory interventions and actions appropriate for the situation. We will use our discretion justifiably and ensure our decisions are appropriate to the circumstances, and that our interventions and actions will be proportionate to the seriousness of the non-compliance and the risks posed to people and the environment.

**Evidence-based and informed** – We will use an evidence-based approach to our decision making. Our decisions will be informed by a range of sources, including sound science, the regulated parties, information received from other regulators, members of the community, industry and interest groups.

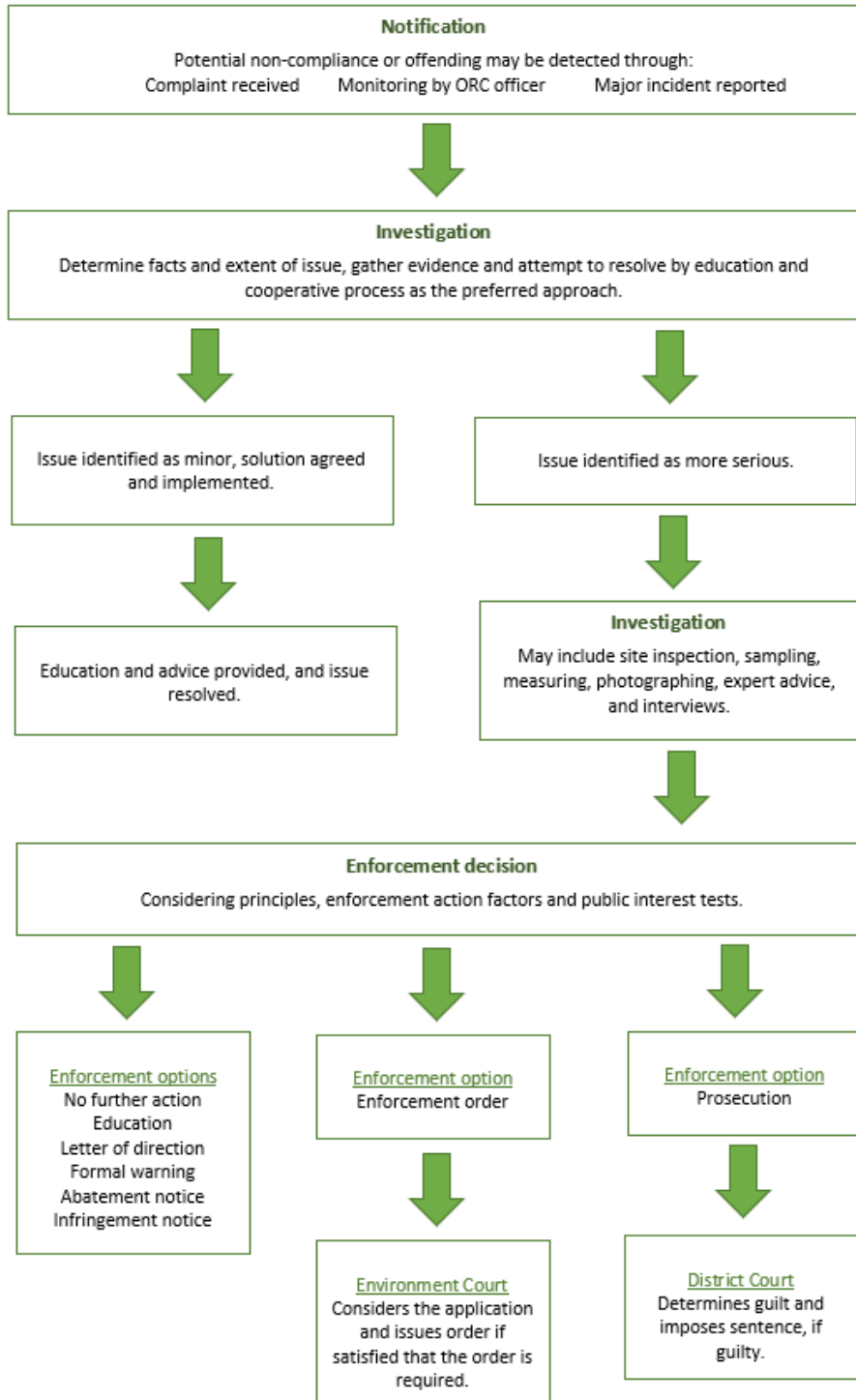
**Collaborative** – We will work with and, where possible, share information with other regulators and stakeholders to ensure the best compliance outcomes for our region. We will engage with the community, those we regulate and government to explain and promote environmental requirements and achieve better community and environmental outcomes.

**Lawful, ethical and accountable** – We will conduct ourselves lawfully and impartially and in accordance with these principles and relevant policies and guidance. We will document and take responsibility for our regulatory decisions and actions. We will measure and report on our regulatory performance.

**Targeted** – We will focus on the most important issues and problems to achieve the best environmental outcomes. We will target our regulatory intervention at poor performers and illegal activities that pose the greatest risk to the environment. We will apply the right tool for the right problem at the right time.

**Responsive and effective** – We will consider all alleged non-compliances to determine the necessary interventions and action to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations.

**4 THE INVESTIGATION AND ENFORCEMENT PROCESS AT A GLANCE**





## 5 GATHERING INFORMATION

If a breach, or potential breach, of the RMA occurs then information must be gathered about how and why the breach occurred. The purpose of an investigation is to establish the truth of what has occurred and enable informed decisions to be made. The depth and scope of the investigation will be dependent on the seriousness of the incident.

### Investigation activities may include:

- Visiting private property to collect information or potential evidence such as samples, photographs, measurements, or ecological assessments.
- Talking to people about what they know about the incident. People interviewed may be witnesses to an incident or potentially liable parties. These conversations will be recorded in writing or by electronic means.
- For serious matters interviews of potentially liable parties are conducted under caution to ensure their rights are understood.

When visiting private property it is vital to respect the rights of the lawful owner or occupier. ORC staff must ensure that all entry to private property is done so lawfully.

The Chief Executive Officer of ORC has the authority to issue staff with warrants of authority. A warranted enforcement officer has the ability to enter private property (excluding dwelling houses) for the purpose of assessing compliance with environmental regulation. This can be completed without providing prior notice to the occupier or land owner.

However, there are times when access to property has to be conducted with informed consent or search warrant. The High Court has given very clear direction as to when an officer can rely upon their warrant of authority and when they need to have informed consent or a search warrant.

Staff must attend specific training<sup>5</sup> and be familiar with all of their statutory obligations before carrying out any enforcement functions.

## 6 ENFORCEMENT DECISION

The ORC takes a rational and principled approach to regulation. In general, the ORC advocates a policy of education and co-operation towards compliance where an offence causes only minor adverse environmental effects. However, the Council recognises that there are times when the use of punitive measures is necessary.

Enforcement of the RMA can be complex. The RMA provides potentially large penalties for those who breach however does not offer any guidance as to determining what is serious and what is less so. The courts have provided helpful guidelines<sup>6</sup> as to what

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<sup>5</sup> Warranted ORC staff gather information in keeping with best practice detailed in *Basic Investigative Skills for Local Government*

factors are appropriate to consider in RMA cases to determine the seriousness of a breach. It is widely accepted across the regional sector that these are the appropriate factors to consider in enforcement decision making.

**Factors to consider when considering enforcement action:**

- What were, or are, the actual adverse effects on the environment?
- What were, or are, the potential adverse effects on the environment?
- What is the value or sensitivity of the receiving environment or area affected?
- What is the toxicity of discharge?
- Was the breach as a result of deliberate, negligent or careless action?
- What degree of due care was taken and how foreseeable was the incident?
- What efforts have been made to remedy or mitigate the adverse effects?
- What has been the effectiveness of those efforts?
- Was there any profit or benefit gained by alleged offender(s)?
- Is this a repeat non-compliance or has there been previous enforcement action taken against the alleged offender(s)?
- Was there a failure to act on prior instructions, advice or notice?
- Is there a degree of specific deterrence required in relation to the alleged offender(s)?
- Is there a need for a wider general deterrence required in respect of this activity or industry?

Not every factor will be relevant every time. On occasion one single factor may be sufficiently aggravating, or mitigating, that it may influence the ultimate decision. It is inappropriate to take a matrix or numerical approach to weighing and balancing these factors. Each case is unique and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome.

The discretion to take enforcement action, or not, sits solely with those delegated to make decisions in the regulatory agency<sup>7</sup>, including:

- The appropriate defendant to pursue;
- The appropriate enforcement tools to use in the circumstances; and

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<sup>6</sup> Machinery Movers Limited v Auckland [1994] 1 NZLR 492 & Selwyn Mews Ltd v Auckland City Council HC Auckland CRI-2003-404-159

<sup>7</sup> New Zealand Law Commission 'Prosecution decisions and the discretion to prosecute'  
<http://www.nzlii.org/nz/other/nzlc/report/R66/R66-5.html>

- Withdrawal of an enforcement action that has been commenced.

ORC is required to exercise this discretion in a way that is reasonable and consistent with the principles of the RMA and the requirements of natural justice.

#### **The prosecution test:**

The Solicitor-General's Prosecution Guidelines provides direction on what factors should be considered before a decision to prosecute is made. The first part of the test is the **evidential test** for prosecution and requires a legal assessment of whether:

- The evidence relates to an identifiable person (whether natural or legal).
- The evidence is credible.
- The Council can produce the evidence before the court and it is likely it will be admitted by the court.
- The evidence can reasonably be expected to satisfy an impartial jury (or judge), beyond a reasonable doubt, that the individual has committed a criminal offence; the individual has given any explanations and, if so, whether the court is likely to find the explanations credible in the light of the evidence as a whole.
- There is any other evidence the Council should seek out which may support or detract from the case.

Once it has been established that there is sufficient evidence to provide a reasonable prospect of conviction, the test for prosecution requires a consideration of whether the **public interest** requires a criminal prosecution. Prosecution is required in the public interest, with the predominant consideration being the seriousness of the offence – the Public Interest Test.

## **7 ENFORCEMENT OPTIONS**

The RMA and case law provide the formal enforcement tools that are available to deal with breaches of the RMA. It is important to ensure these tools are applied consistently across the myriad of activities and resource use across the region.

Enforcement tools can be categorised into three main types.

- **Informal actions** are focused on providing education and incentive-based responses to allow the person to become better informed and develop their own means to improved compliance.
- **Directive actions** are about looking forward and giving direction and righting the wrong.
- **Punitive actions** are about looking back and holding people accountable for what they have done.

	Description of action	Potential impacts for the liable party	When this action may be appropriate
<b>Informal actions</b>	<p><b>Education and engagement</b></p> <p>To prevent further breaches, or to remedy or mitigate the effects of non-compliance, Council can provide information or guidance around rules and regulations or provide assistance to enable parties to achieve compliance.</p>	<p>This is a non-formal process and as such has no legal implication.</p>	<p>Education and other incentive based interactions are reserved for dealing with cooperative parties, who are motivated to do the right thing but lack the knowledge or skills necessary to achieve and maintain compliance.</p>
<b>Directive actions</b>	<p><b>Letter of direction</b></p> <p>To prevent further breaches, or to remedy or mitigate the effects of non-compliance, Council can give a written direction for a party to take or cease a particular action.</p>	<p>Such a direction is not legally enforceable.</p>	<p>Letters of direction should be reserved for dealing with cooperative parties, who are motivated to follow the direction, and where the breach is of a minor nature, consistent with a breach that would perhaps also receive a formal warning.</p>
	<p><b>Abatement notice</b></p> <p>An abatement notice is a formal, written directive. It is drafted and served by Council instructing an individual or company to cease an activity, prohibit them from commencing an activity or requiring them to do something. The form, content and scope of an abatement notice are prescribed in statute.</p>	<p>A direction given through an abatement notice is legally enforceable. To breach an abatement notice is to commit an offence against the RMA and make liable parties open to punitive actions.</p>	<p>An abatement notice may be appropriate any time that there is a risk of further breaches of environmental regulation or remediation or mitigation is required as a result of non-compliance.</p> <p>Other considerations are where no action has been taken to rectify a situation when less formal processes have been used, and/or where non-compliance is ongoing.</p>

	Description of action	Potential impacts for the liable party	When this action may be appropriate
	<p><b>Enforcement order</b></p> <p>Like an abatement notice, an enforcement order can direct a party to take particular action. However, an application for an enforcement order must be made to the Environment Court but can also be made during the course of an RMA prosecution.</p>	<p>A direction given through an enforcement order is legally enforceable.</p> <p>To breach an enforcement order is to commit an offence against the RMA and make liable parties open to punitive actions.</p>	<p>An application for an enforcement order may be appropriate any time there is a risk of further breaches of environmental regulation, or remediation or mitigation is required as a result of non-compliance.</p> <p>Other considerations are for a repeat offence where effects are significant and where no progress has been made when using other enforcement tools.</p>
Punitive actions	<p><b>Formal warning</b></p> <p>A formal warning is documented by way of a letter to a culpable party informing them that an offence against the RMA has been committed, and that they are liable.</p>	<p>No further action will be taken in respect of that breach.</p> <p>However, the warning forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A formal warning may be given when an administrative, minor or technical breach has occurred; and the environmental effect or potential effect, is minor or trivial in nature; and the subject does not have a history of non-compliance; and the matter is one which can be quickly and simply put right; and a written warning would be appropriate in the circumstances.</p>
	<p><b>Infringement notice</b></p> <p>An infringement notice is a written notice which requires the payment of a fee. The amount of the fee is set in law. Depending on the breach the fine will be between \$300 and \$1000.</p>	<p>No further action will be taken in respect of that breach. However, the infringement notice forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>An infringement notice may be issued when:</p> <p>There is prima facie (on the face of it) evidence of a legislative breach; and a one-off or isolated legislative breach has occurred which is of minor impact and which can be remedied easily; and where an infringement notice is considered to be a sufficient deterrent.</p>

	<b>Description of action</b>	<b>Potential impacts for the liable party</b>	<b>When this action may be appropriate</b>
	<p><b>Prosecution</b></p> <p>A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions.</p> <p>RMA matters are heard by a District Court Judge with an Environment Court warrant.</p> <p>All criminal evidential rules and standards must be met In a RMA prosecution.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed and consideration to costs of the Investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A prosecution may be considered appropriate when the factors listed in section 6 indicate that the matter is sufficiently serious to warrant the intervention of the criminal law.</p>

## 7.2. Regulatory Group - Quarterly Activity Report

**Prepared for:** Regulatory Committee  
**Report No.** GOV2108  
**Activity:** Regulatory: Consents and Compliance  
**Author:** Richard Saunders, General Manager Regulatory  
**Endorsed by:** Richard Saunders, General Manager Regulatory  
**Date:** 2 March 2021

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### PURPOSE

- [1] To update the Committee on activities of the Regulatory Group during the 2020/21 year to 28 February 2021

### EXECUTIVE SUMMARY

- [2] This report summarises the activity of the Regulatory Group which includes Consents, Compliance, and the Regulatory Data and Systems teams. A separate report on Harbourmaster activities has been included in the meeting agenda.

### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.
- 2) **Notes** the update report from the Regulatory Group for the period 1 July 2020 to 30 September 2020.

### 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 year to 31 January 2021. This report covers activities between 1 October 2020 and 31 January 2021. At the time the report was due for the agenda the data for February 2021 was not available.

### CONSENTS

#### Consent Processing

- [5] In the reporting period decisions were made on 110 individual consents. All decisions in this reporting period 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.
- [6] At the end of the reporting period there were 272 applications in the system, which is consistent across the reporting period, except for a peak of 288 in progress in December 2020. With this number of consents in the system staff workloads remain high, but

statutory timeframes are being met. Workload will increase for the team over the next reporting period as applications relating to deemed permits will continue to be lodged, as will consents under the NES and PC8 to the Water Plan.

- [7] The number of applications lodged during this reporting period was 154. This is up on the previous period where 126 came in. The highest number of applications lodged in the reporting period was 47 in the month of December 2020.
- [8] One application was publicly notified in the reporting period. This is an application for a new water permit to replace an existing water permit for the Arrow Irrigation Company. The take is from the Arrow River, at the Arrow River Gorge, approximately 5 kilometres north of Arrowtown. Submissions close on the 12 March 2021.
- [9] Four consent hearings were held during the reporting period. No physical hearings are currently scheduled for any applications that have been limited notified. One limited notified application related to deemed permits will have a decision made 'on the papers' by an independent decision maker. This will happen before 15 March 2021.
- [10] Three applications were limited notified during this period. Some of 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. The type of applications limited notified included water permits to take surface water, land use consents and discharge to land permits.
- [11] The team has been processing several new consent types, with applications coming in for residential earthworks, for dairy discharges to land and new effluent ponds. These are all new consents required under Plan Change 8. We have had two consents in for the use of land for dairy farming, which are required under the NES-FW.
- [12] A summary of consents statistics for the period are included in Figures 1 to 6 of Attachment 1.

#### **Deemed Permit Replacements**

- [13] Statistics on the number of deemed permits and their location are shown in Attachment 2. These figures include deemed permits that are not likely to be replaced such as those associated with the operation of a power company (about 90 permits), or that holders no longer want to use. If the deemed permit is not replaced, it will only remain current until 1 October 2021.
- [14] During the reporting period a number of applications relating to the replacement of deemed and water permits in the Manuherekia area have been lodged with Council. An internal project team has been set up to manage the processing of these applications and to ensure consistent communication with stakeholders and applicants. Positive feedback has been received about this approach to date. These applications have not yet been accepted for processing, so there is no clear timeline yet when any decision will be made on notification.
- [15] Applications have been lodged during the reporting period for water permits under Plan Change 7 specifically seeking a consent term of 6 years. Whilst Plan Change 7 applies to these applications, Consents staff must also consider the rules and policies in the



operative plan. Once a decision has been made on Plan Change 7 in the Environment Court, this requirement to consider both plans is removed. The balance to be struck is to ensure that we give effect to the notified and operative plans, are making robust decisions and are providing for the intent of PC7 which is for an efficient and cost-effective consent process. Water permit applications already in the system at the date of notification of PC7 are also covered by the notified and operative plans.

- [16] The key date of 1 April 2021 is approaching for applications relating to deemed permits. This is a key date, as in order to have the automatic ability to continue taking water after 1 October 2021 (if a new permit has not been granted) applications need to be lodged and accepted by this date. For any applications accepted between 1 April and 1 July 2021 this ability to carry on taking water after 1 October 2021 is at Council's discretion. Letters reminding people to apply for their permits have been going out regularly and several advertising campaigns have been run in local papers. Work will continue to ensure that people are aware of the need to reapply, and are aware of the risks associated with leaving the applications to after 1 July 2021.
- [17] One appeal to a decision relating to multiple deemed permits has been received. This was lodged with the Environment Court. Beyond the notice of appeal being lodged the matter will not progress any further until there are directions from the Court.

#### **Public Enquiries**

- [18] Responding to public enquiries remains a significant part of the workload of the Consents Team. 1,306 enquiries were received this year to 31 January 2021. That is a total of 778 for this 4 month period. The high number of enquiries can be attributed to both the significant change to the legislative framework and a more robust recording system to track enquiries. Pre-application advice has been provided about consents being required under Plan Change 8 to the Water Plan and the legislation relating to the Action Plan for Healthy Waterways.
- [19] 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). To date Council has provided comments back on 5 applications. This process is run by the EPA.
- [20] In order to enhance the public enquiries service, we are providing, we are now ensuring that anyone who seeks advice about activities relating to the NES-FW or Plan Change 8 is offered a site visit. We have found that this will be one of the best ways to support those who have not been through the consents process before. We are also further developing our resources on our website so that more information about the consents process is available.

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

- [21] The Consents team and wider Regulatory Group remain heavily involved in the implementation work on the NES-FW and Plan Change 8. Key work completed in the reporting period includes:
- Attendance at catchment group meetings when invited.

- Site visits for applications that relate to wetlands and works in streams. These are areas covered by the NES-FW.
- Developing more responses to frequently asked questions and practice notes on key topics. These are on Council's website.
- 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 Plan Change 8.

[22] Staff have also been involved in the development of conditions, reports and application forms for intensive winter grazing. This work is being undertaken with all other regional councils to try and ensure a common approach is taken to this activity. ORC had previously intended to open the process for winter grazing applications in February 2021 however this is currently on hold awaiting a response from the Ministry for the Environment to the Southland Winter Grazing working group recommendations. Pending the outcome of this staff are confident that the process will be ready to release to the public.

[23] Staff remain involved in the regional sector group providing input into the development of Freshwater Farm Plans. This work is being led by the Ministry of the Environment and will introduce the regulations that guide the preparation, certification and audit process for these plans. As farm plans will be a new tool for Otago it is important that we remain closely connected to this work so we can understand the impact it may have on our business.

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

- [24] In the 2020/21 year to date very little activity has occurred in the building consent area.
- [25] Our annual internal audit of the BCA function was completed in late 2020. No significant issues were found and all areas for improvement have been addressed through updates to the relevant procedure manuals and processes. It is hoped that there will not be a need for another audit by IANZ due to the progression of the work to transfer the BCA function to Environment Canterbury.
- [26] Work continues to transfer the BCA function to Environment Canterbury. This transfer has been agreed to by Council, has been out for consultation under the Local Government Act with no submissions received and a hearing has been held. The draft deed and contract are currently being reviewed. It is anticipated that this will be completed in March 2021, with an item going to Council to finalise the process.

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

- [27] The Consents team is currently responsible for co-ordinating the approval of applications under the Flood Protection Management Bylaw 2012. However, work is underway to have this function carried out by Council's Engineering Team. During the reporting period 10 decisions on Bylaws were issued – nine were granted and one was declined. This is up from decisions being made on 3 bylaws in the preceding reporting period.

## **COMPLIANCE**

### **Performance Monitoring**

- [28] In the 7 months to 31 January 2021 the Regulatory Data and Systems and Compliance teams have graded 3,320 Performance Monitoring returns. This is up from 2,764 Performance Monitoring returns graded over the same time period last financial year. The focus for the teams has been on processing manual water returns and returns from large scale discharges.
- [29] A summary of performance monitoring data is set out in Figures 7 and 8 of Attachment 1.
- [30] A major focus of the Regulatory Data and Systems team is the replacement of Hilltop, the Council's current timeseries database. This project is a joint effort with the Environmental Monitoring and Science teams. As well as working on data migration the team has spent a significant amount of time in training to use the new system, this has had an effect on short term productivity.

### **RMA Consent Audits**

- [31] In this reporting period 370 consent audits have been completed. Generally, overall compliance with consents can be considered high with most consent conditions being considered either fully compliant or low risk non-compliance. All moderate or significant non-compliances have been followed up by staff and either appropriate action has been taken, or investigations are continuing.
- [32] A summary of RMA consent audit data is set out in Figures 9, 10 and 11 of Attachment 1.
- [33] The 248 Significant non-compliances are spread across 101 consents held by 43 different consent holders. Of the 248 significant non-compliances, 46 relate to on site audits conducted by compliance staff. The rest are as a result of performance monitoring. A significant non-compliance for performance monitoring is issued either when monitoring sent in significantly exceeds the limits on a consent, or when a consent holder repeatedly fails to send in the required monitoring.
- [34] Additional staff for compliance monitoring in Oamaru and Balclutha have been recruited. Having dedicated compliance staff in Oamaru and Balclutha will support monitoring activity under the NES-FW and improve incident response across the Coastal Otago area.

### **Forestry**

- [35] In this reporting period 21 forestry site inspections were completed. Generally, forestry activities have been conducted to a high standard. 19 sites were considered fully compliant, one site was considered moderate non-compliance and one site was considered low risk non-compliance. The non-compliances were due to a non-compliant temporary crossing and slash near waterway. Both matters were followed up by staff.

### **Dairy programme**

- [36] The 2020/21 Dairy Inspection Compliance Project commenced in September 2020, and to 31 January 2021 compliance staff had completed 171 dairy inspections. All high-risk farms located in South and West Otago, and the majority of high-risk farms located on the Waitaki Plains have been completed. Overall compliance can be considered high with most farms being considered either fully compliant or low risk non-compliance. Six farms were moderately non-compliant, and three farms were significantly non-compliant. The three 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 three matters have been followed up by staff and either appropriate action has been taken, or investigations are continuing.
- [37] The 2020/21 dairy project has had a particular focus on the storage of effluent pond solids and stone trap clearings, the distances that these have been kept away from waterways and monitoring their potential to discharge to the environment through ponding and overland flow. Emphasis has also been placed on the monitoring of silage leachate ponding and the lack of silage leachate collection facilities on many farms. There has also been a strong focus on providing awareness and engaging with farmers on the new requirements with the NES for Freshwater, the Stock Exclusion Regulations, Water Measuring Regulations and Plan Changes 7 and 8.
- [38] Dairy inspections will continue until approximately mid-May 2021. All 2020/21 dairy project findings will be reported and presented to the Regulatory Committee at the July 2021 meeting.
- [39] A summary of dairy inspection data is set out in Figures 16 and 17 of Attachment 1.

### **Investigations**

- [40] 825 service requests were received on the pollution response line in this reporting period. The most common reasons for requests were outdoor burning (210), water pollution (191), odour (95) and domestic chimney (69).
- [41] Further details on service requests can be found in Figures 12 and 13 of Attachment 1.
- [42] In this reporting period, ORC issued 14 formal warnings, 10 infringement notices, seven abatement notices and initiated one prosecution.
- [43] Further details on enforcement action can be found in Figures 14 and 15 of Attachment 1.

### **Contaminated Sites**

- [44] In this reporting period, 159 complaints and enquiries were responded to, 73 HAIL sites were registered or updated, and 38 audits of contaminated sites were undertaken. Compliance monitoring of landfill consent conditions is also ongoing.
- [45] ORC administers the Ministry for Environment Contaminated Sites Remediation Fund for the remediation of contaminated sites and staff are currently working with two applicants on remediation projects.

### **COMPLIANCE MONITORING AND ENFORCEMENT METRICS**

- [46] The Compliance and Enforcement Special Interest Group (CESIG) is a regional sector group with a focus on promoting best practice in compliance monitoring and enforcement (CME).
- [47] CESIG has prepared a CME metrics report for the 2019/20 year. This is included as Attachment 3. This is the third annual CME metrics report, capturing performance of the regional sector as it relates to CME activities associated with the RMA. While the report acknowledges limitations due to the different ways in which councils collect data, it does provide a good insight into CME activity across the sector.
- [48] A snapshot of ORC CME metrics can be found on page 60 of the report. While the ORC metrics have improved from the 2018/19 year, there are areas for improvement. Some improvements that have already been implemented this year include:
- A Compliance Plan 2020-22 has been developed and endorsed by the Regulatory Committee in October 2020. The Compliance Plan is consistent with the principles of the CESIG Strategic Compliance Framework 2019-24 and the Ministry for Environment Best Practice Guidelines for CME and establishes the priorities for CME activities.
  - An operational compliance programme has been developed that sets out and prioritises work programmes at a team, project, and individual level.
  - A range of process and system improvements have been implemented, including recording formal warnings, trialling online surveys during on-site audits.
- [49] Next steps in the CME improvement plan include:
- Preparing an RMA Compliance and Enforcement Policy to provide a clear understanding of ORC's management, purpose and principles of RMA compliance and enforcement actions and to ensure a consistent and integrated approach to compliance and enforcement by ORC. The draft RMA Compliance and Enforcement Policy is another item on this agenda.
  - Preparing an annual compliance report to show delivery of the Compliance Plan and provide greater transparency and accountability in the ORC's CME activities.
  - Proposing additional resourcing for CME activities through the LTP 2021-31 process.
  - Ongoing process and system improvements.

[50] The full impact of the CME improvement plan will take at least 18 months to be reflected in the CME metrics report as the changes are embedded.

#### **OPTIONS**

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

#### **CONSIDERATIONS**

##### **Policy Considerations**

[52] There are no policy considerations.

##### **Financial Considerations**

[53] There are no financial considerations.

##### **Significance and Engagement**

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

##### **Legislative Considerations**

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

##### **Risk Considerations**

[56] There are no risk considerations.

#### **NEXT STEPS**

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

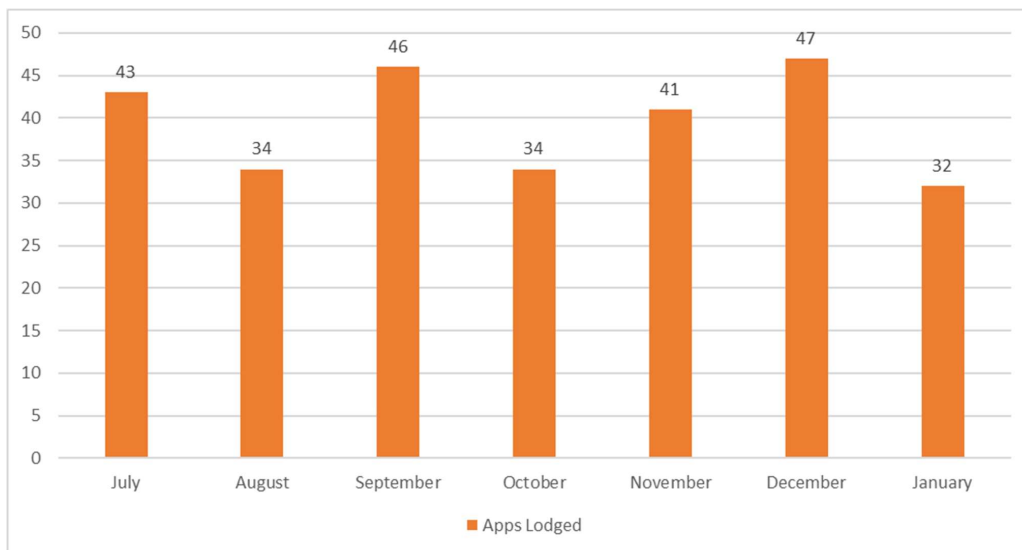
#### **ATTACHMENTS**

1. Regulatory Data Appendix 2020-21 July to January [7.2.1 - 12 pages]
2. Deemed Permit Report - 2 March 2021 [7.2.2 - 3 pages]
3. CME Metrics 2020 Report [7.2.3 - 76 pages]

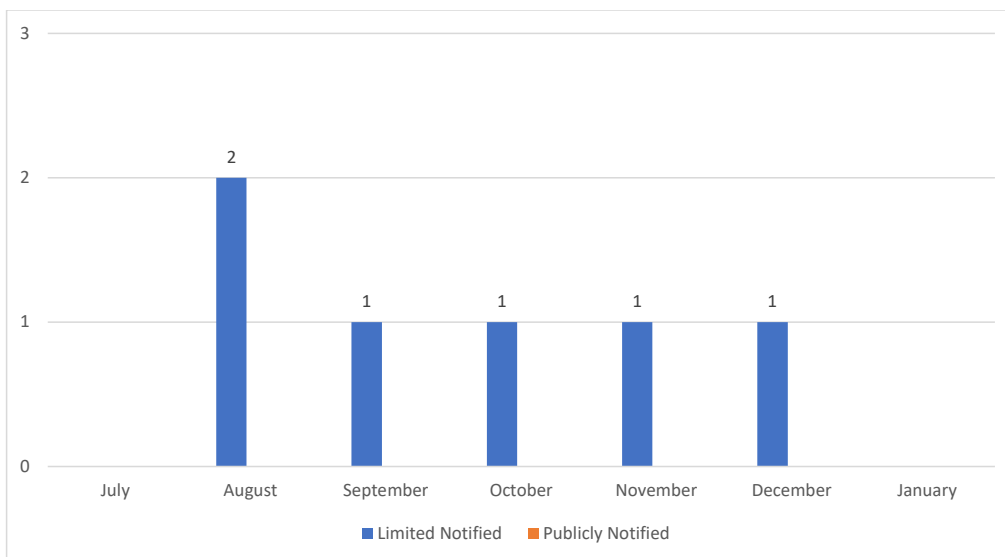
**APPENDIX 1: REGULATORY REPORTING FOR THE PERIOD 1 JULY 2020 TO 31 January 2021**

**Consents**

**Figure 1: Resource Consent Applications Received**



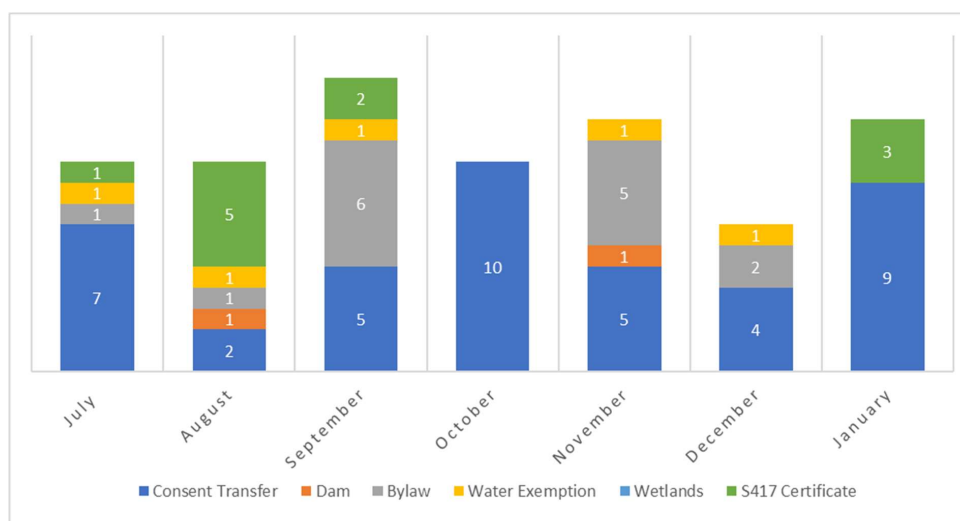
**Figure 2: Notified Applications**



**Figure 3: Resource Consents Issued**

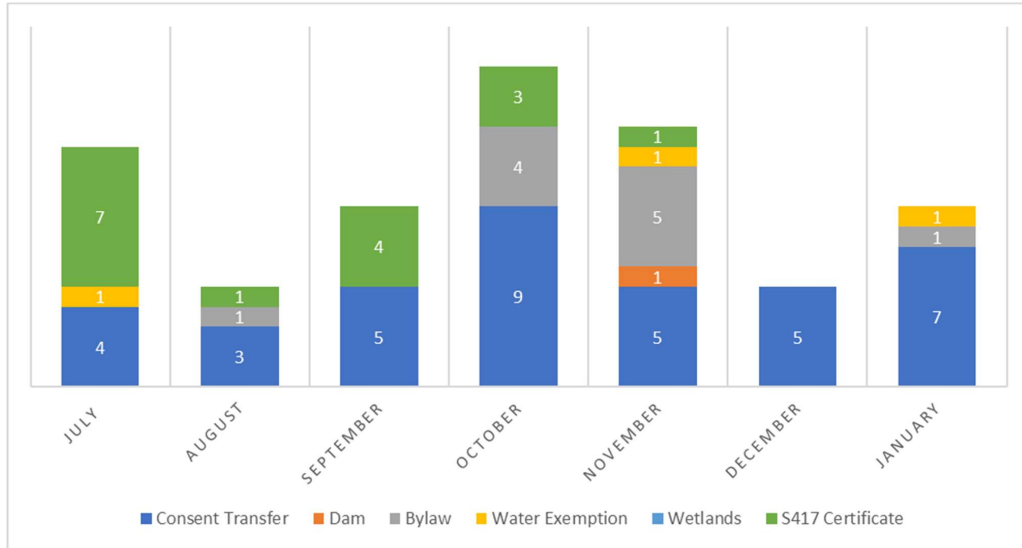
Activity	July	August	September	October	November	December	January	Total
Bore	4	5	10	8	9	5	4	45
CMA Use	2	3			1	1		7
Compliance Certificate		1				1		2
Dam		2	1	1			1	5
Discharge to Air	1		1	3	3			8
Discharge to Land	6	6	5	13	5	8	1	44
Discharge to Water	2	1	3	2	1	1	1	11
Divert		1	2	1		1	1	6
Earthworks						1	1	2
Effluent Storage								0
General	5	4	7	6	4	9	5	40
Gravel	1	1			1			3
Groundwater Take	1	4	3	4	4	1		17
Surface Take	12	2	4	4	4	3	1	30
Vegetation Clearance			1					1
<b>Total</b>	<b>34</b>	<b>30</b>	<b>37</b>	<b>42</b>	<b>32</b>	<b>31</b>	<b>15</b>	<b>221</b>

**Figure 4: Other Applications Received**





**Figure 5: Other Applications Processed**



**Figure 6: Consent Public Enquiries**

Total 1306

Type of Enquiry	No.	% of Total
Air Quality	29	2.22
Boatsheds, Jetties and Slipways	14	1.07
Bores	32	2.45
Coastal Other	12	0.91
Contaminated Sites	4	0.30
Current Consents	221	16.92
Deemed Permits	17	1.30
Discharge to Land	19	1.45
Dust Suppressants	3	0.22
Farming Activities	40	3.06
Gravel Extraction	3	0.22
Historic – Current Consents	3	0.22
Historic Mining Privileges	1	0.07
Historic Other	3	0.22
Land Use Other	12	0.91
Mining Privileges	12	0.91
Moorings	6	0.45
Other	91	6.96
Permitted Activities	210	16.07
Plantation Forestry	3	0.22

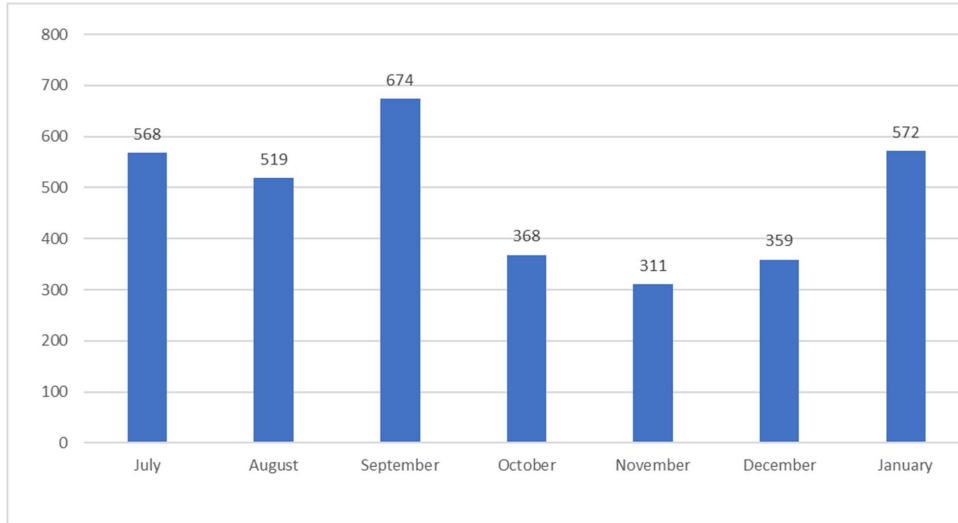
Pre-application	139	10.64
Property Enquiries	38	2.90
Residential Earthworks	5	0.38
Specific Consent Enquiry	225	17.22
Transfers	6	0.45
Water Other	30	2.29
Water Quality	12	0.91
Water Take	81	6.20
Wetlands	3	0.22
Working Waterways	32	2.45

Method of Enquiry	No.	% of Total
Counter	92	7.04
E-mail	914	69.98
Internet	28	2.14
Telephone	272	20.82

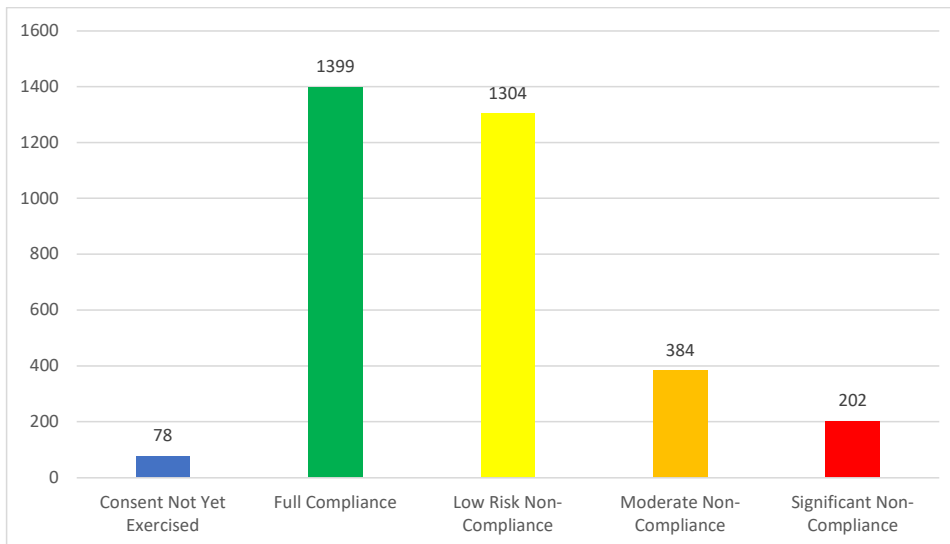
Enquiry Location	No.	% of Total
Central Otago DC	342	26.18
Clutha DC	93	7.12
Dunedin CC	261	19.98
Queenstown Lakes DC	230	17.61
Throughout Otago	85	6.50
Unspecified	182	13.93
Waitaki DC	111	8.49
Outside Otago	2	0.15

**Compliance**

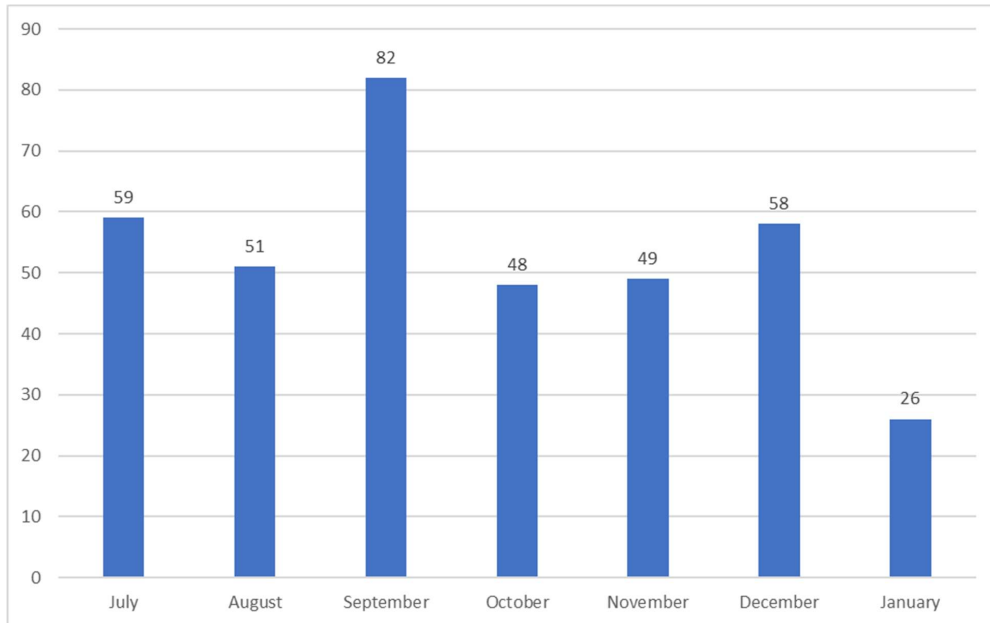
**Figure 7: Performance Monitoring Returns Completed**



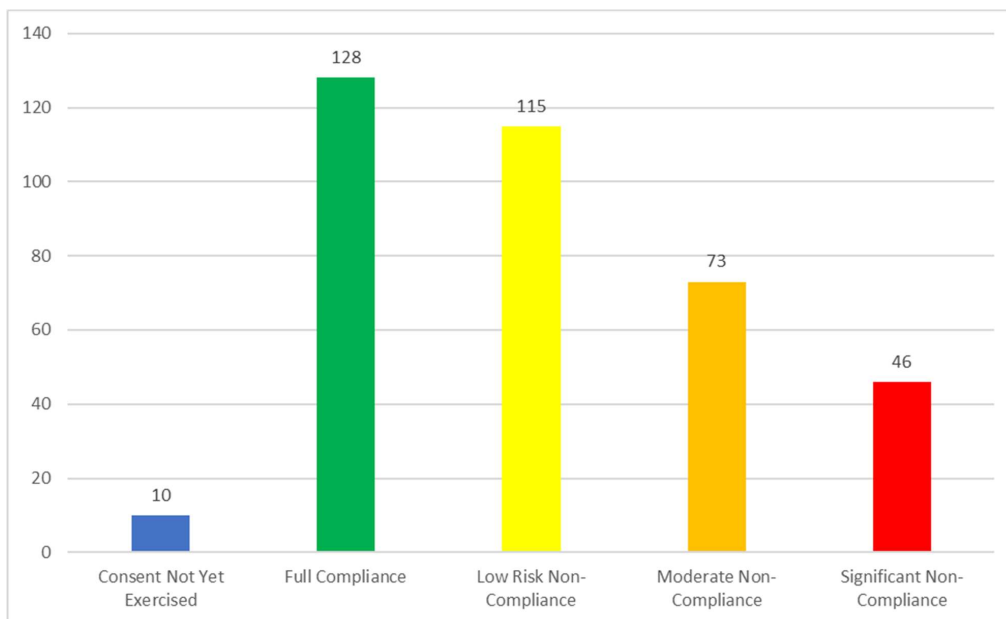
**Figure 8: Performance Monitoring Grades Year to Date**



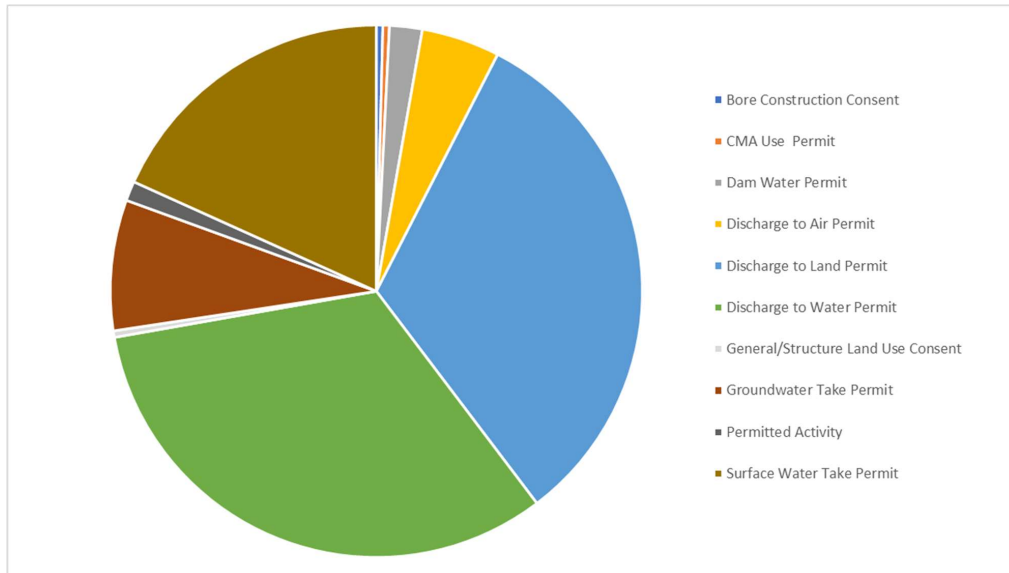
**Figure 9: RMA Consent Audits Completed**



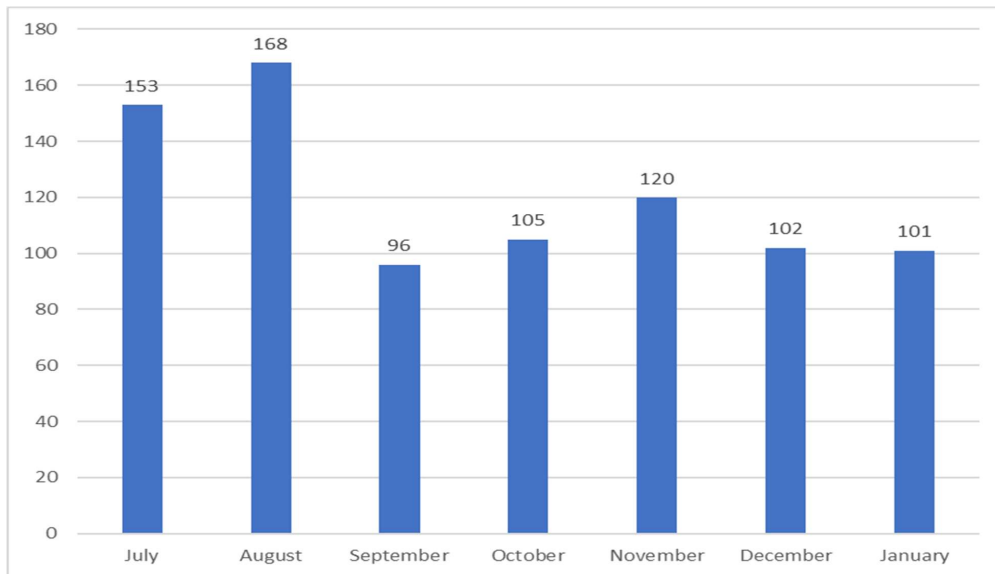
**Figure 10: Audit Grades Year to Date**



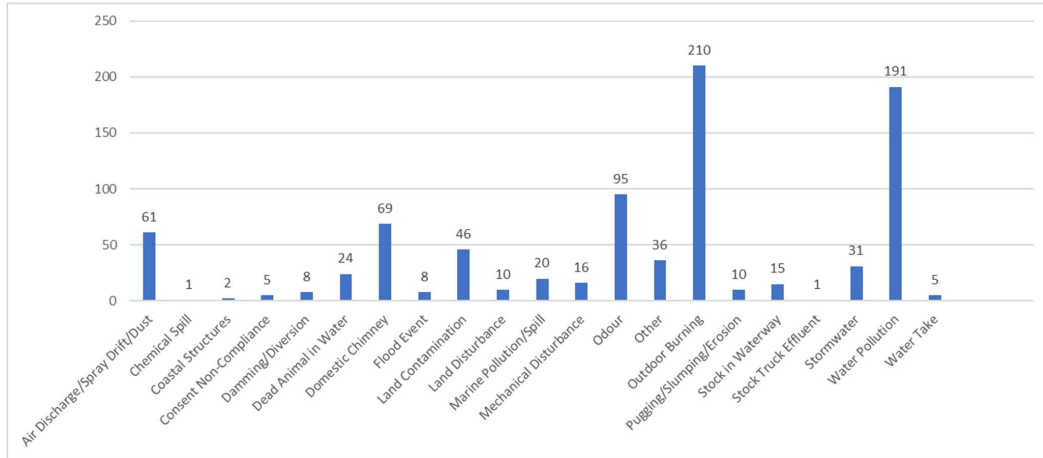
**Figure 11: Types of Significant Non-Compliance**



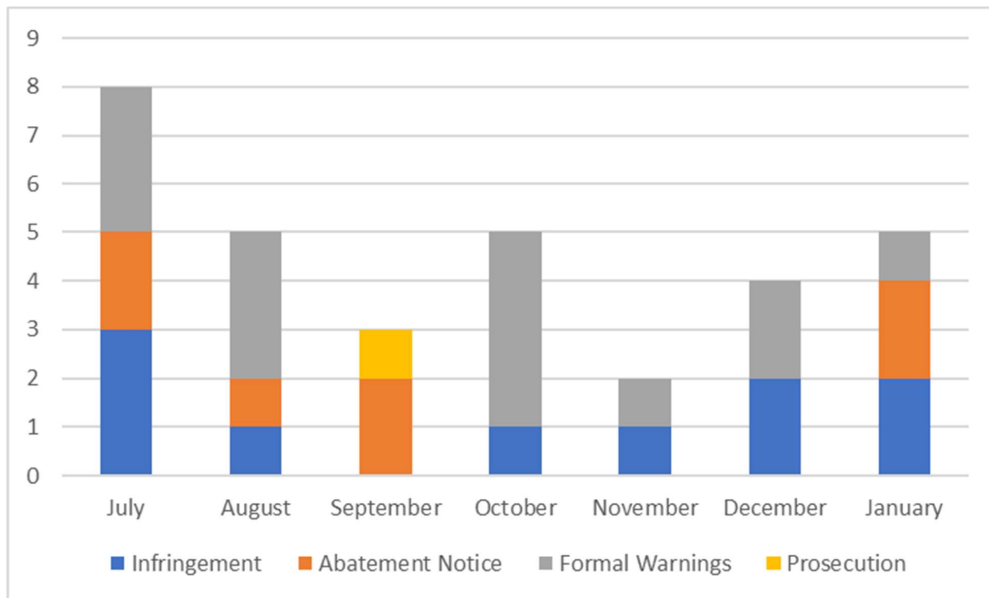
**Figure 12: Service Requests**



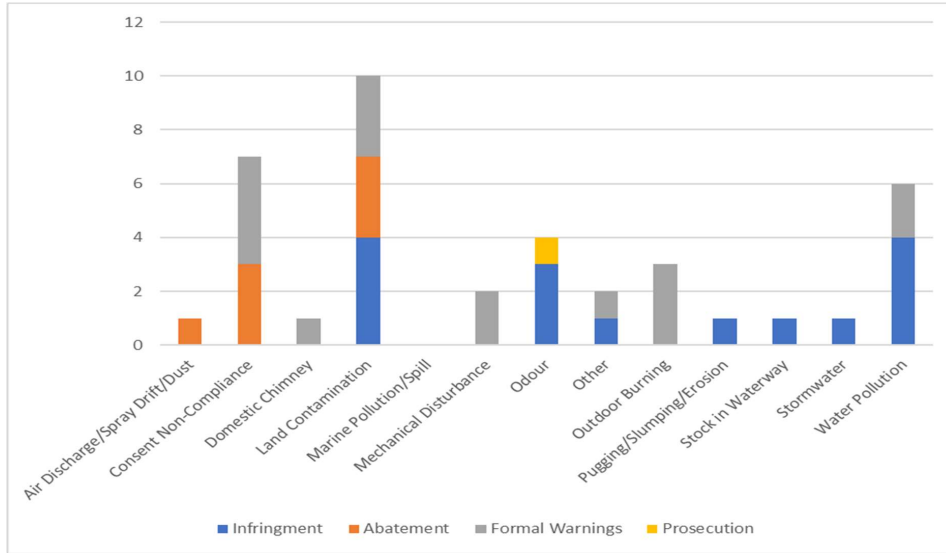
**Figure 13: Service Requests by Type**



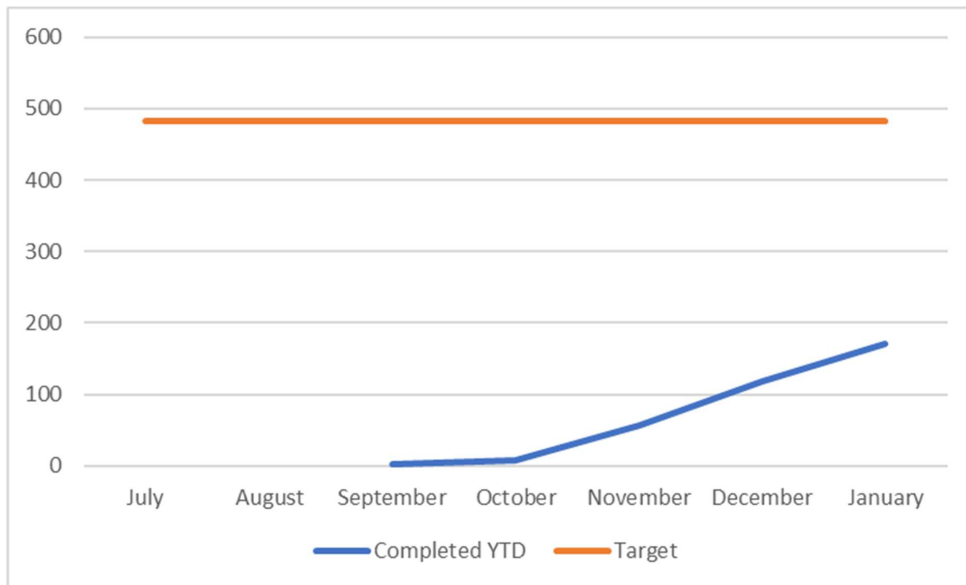
**Figure 14: Enforcement Action**



**Figure 15: Enforcement Causes**

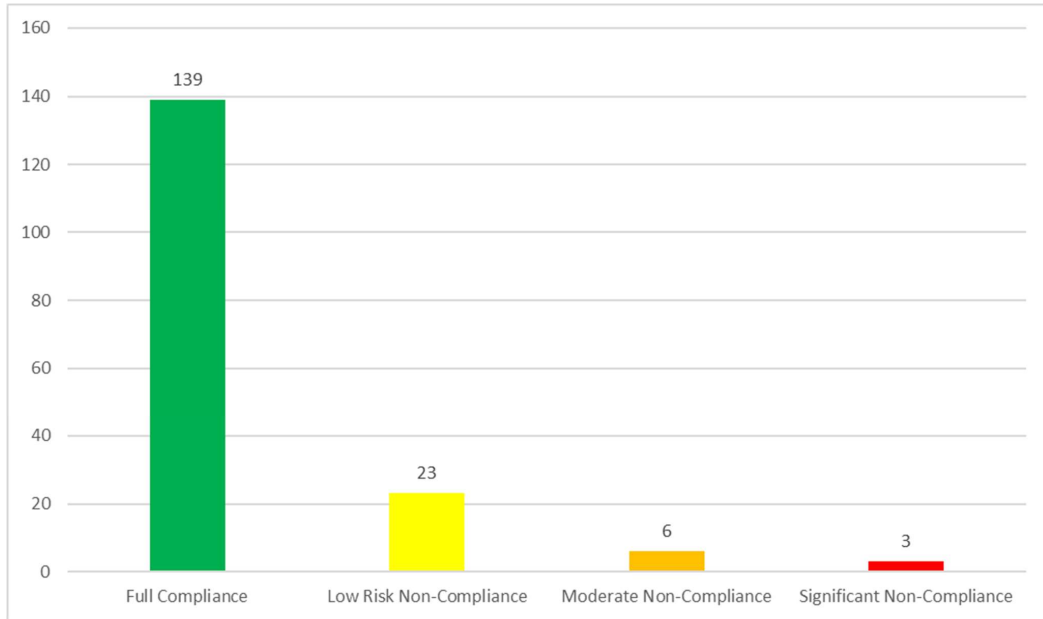


**Figure 16: Diary Inspections**

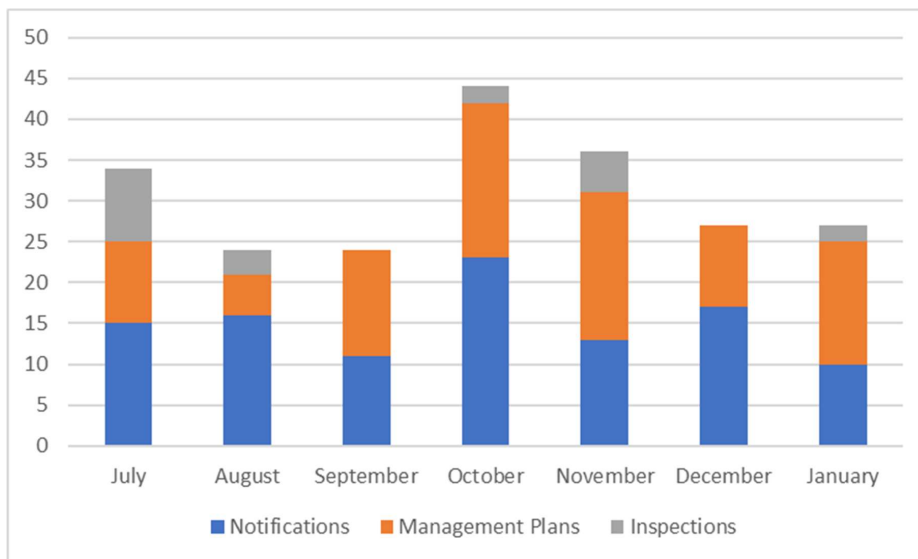




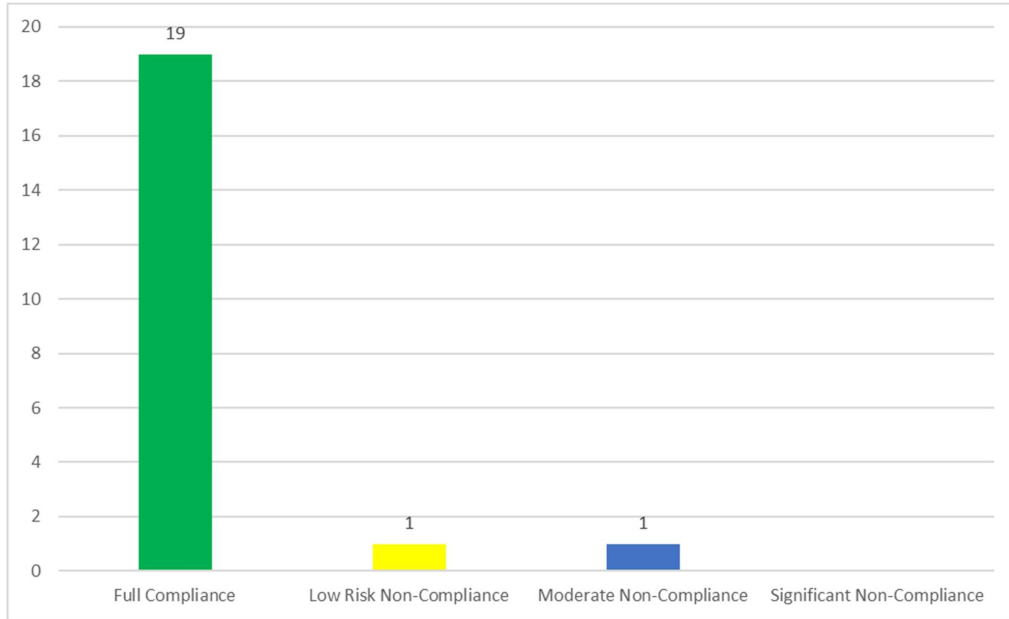
**Figure 17: Diary Inspection Grades**



**Figure 18: Forestry**



**Figure 19: Forestry Inspection Grades**



## Deemed Permit Status

The Otago Regional Council's consent database currently contains data for 585 Deemed Permits. Their current status is:

- Cancelled: 23
- Current: 332
- Expired: 45
- Surrendered: 185
- Total: 585

*Note: Of the 332 Current Deemed Permits 20 have been replaced by 15 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 31 Resource Consents to replace 79 Deemed Permit. 36 of these Deemed Permits have been surrendered. The terms for the Resource Consents replacing these Deemed Permits are:

- 1 have been granted for a term of six years or less.
- 4 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 104 Deemed Permits currently have applications underway to replace them with 68 Resource Consents. The applicants have applied for:

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

There are currently 208 Deemed Permits for which no application has been lodged. Those deemed permits include 0 Permits to take and use Groundwater, 15 Permits to Dam Water, and 0 Permits to discharge to water. In addition to these Deemed Permits a further 93 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	4	1
Arrow River	4	5
Bannock Burn	9	0
Basin Burn	4	0
Beaumont River	1	0
Bendigo Creek	0	1
Benger Burn	0	0
Black Jacks Creek	1	0
Burn Cottage Creek	4	0
Butchers Creek (1)	2	0
Cambells Creek	1	0
Camp Creek (1)	2	0
Cardrona River	11	1
Chapmans Gully	1	0
Coal Creek	6	0
Crook Burn (2)	1	1
Donaldsons Creek	0	0
Elbow Creek	0	0
Five Mile Creek (1)	1	0
Franks Creek	2	0
Fraser River	4	0
Kidd Creek	1	0
Lindis River	2	9
Long Gully (1)	0	0
Long Gully (2)	0	0
Lowburn Creek	10	3
Luggate Catchment	1	3
Manuherikia Catchment	44	17
Nevis River	2	0
No Catchment Recorded	17	3
Park Burn	2	1

Pipeclay Gully	1	0
Poison Creek	0	1
Pomahaka River	0	1
Quartz Creek	0	0
Quartz Reef Creek	1	0
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
Taiari Catchment	33	14
Teviot River	1	1
Tinwald Burn	2	0
Toms Creek	1	1
Unnamed Trib's of Clutha River above Lake Dunstan	2	1
Unnamed Trib's of Clutha River above Lake Roxburgh	1	0
Unnamed Trib's of Clutha River above Tuapeka Mouth	8	0
Unnamed Trib's of Kawarau River	2	0
Unnamed Trib's of Lake Hawea	1	0
Waikerikeri Creek	1	1
Waitahuna Catchment	1	0
Wanaka Township	2	0
Washpool Creek (1)	3	0

# ANALYSIS OF THE 2019/2020 COMPLIANCE MONITORING AND ENFORCEMENT METRICS FOR THE REGIONAL SECTOR



Prepared by  
**SPROUT**



## FOREWORD

Welcome to the third annual CME Metrics report, capturing performance of the regional sector as it relates to compliance, monitoring and enforcement associated with the Resource Management Act.

We continue to hone our approach to measuring our own performance. In our first two years we were fortunate enough to engage an independent subject matter expert analyse our data providing commentary on our strengths and areas for improvement. These reports attracted considerable attention and have assisted us to focus on being 'better', particularly as it relates to achieving consistency of best practice.

This year's report marks the first in a different approach, in that it collects and collates three years of data, without providing detailed analysis from the previous two reports. This provides a platform for the regional sector, and others, to focus in on particular areas of interest. It is expected that future reports will include independent analysis from time to time, in order to "check in" on trends emerging from the data set, as it builds over time.

If you have time to look at nothing else, I invite you to view the graphic representation of our sectors collective work over the 2019/2020 period (page 51). It is my view that the scope and scale of the CME related work by the regional sector is substantial and would be very interesting to compare with national regulatory agencies. I believe it would be a favorable comparison for the regional sector. Over quarter of a million resource consents are administered. More than 31,000 individual environmental incidents were reported with a response rate nationally of over 99%. There were over 7,000 individual enforcement actions taken for breaches of the RMA. All available enforcement tools in the RMA toolbox are being utilised in what appears to be a proportionate manner.

The Compliance and Enforcement Special Interest Group (CESIG) has an absolute focus on continuous improvement and will spend some time analysing the content of this report, focusing on the trends developing over the last few years to continue to inform their program of work.



Patrick Lynch  
Regional Compliance Manager – Waikato Region  
Lead for the CME Metrics Working Group of CESIG

## TABLE OF CONTENTS

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	Page
<b>PART 1 INTRODUCTION</b>	5
Reading this report	5
How does this reporting process differ year on year?	5
Data limitations	5
CME under the Resource Management Act New Zealand	6
<b>PART 2 ANALYSIS</b>	7
<b>Regional Context</b>	7
<b>Working with Iwi</b>	8
<b>CME Operations (managing the workload)</b>	9
Registering notifications	10
Complaints received	11
Complaints responded to & attended	12
Confirmed breaches	13
Monitoring resource consents	14
Compliance gradings	16
Compliance assessment	17
Monitoring permitted activities	22
Making decisions on priorities	23
Staffing levels	24
<b>CME Policies and Procedures</b>	30
<b>Educating and Engaging with the Regulated Community</b>	35
<b>Acting on Non-Compliance</b>	36
Prosecutions	41
Penalties	45
<b>CME Reporting</b>	49
<b>PART 3 REGIONAL SCORECARDS</b>	50
<b>APPENDIX 1 – METRICS SURVEY QUESTIONS</b>	68
<b>APPENDIX 2 - LONG FORM RESPONSES (QUESTION 3)</b>	73



## TABLE OF CONTENTS

	Page
<b>Table 1:</b> <i>Regional context data</i>	7
<b>Table 2:</b> <i>Recording conventions for incoming complaints across the regional sector</i>	10
<b>Table 3:</b> <i>Number of individual complaints and incidents</i>	11
<b>Table 4:</b> <i>Number of individual complaints and incidents responded to</i>	12
<b>Table 5:</b> <i>Number and types of breaches</i>	13
<b>Table 6:</b> <i>Monitoring workload from consents</i>	15
<b>Table 7:</b> <i>Percentages of consents in full compliance and low risk/ technical non compliance of compliance on a per monitoring event basis</i>	18
<b>Table 8:</b> <i>Percentages of consents in moderate non-compliance and significant non-compliance of compliance on a per monitoring event basis</i>	19
<b>Table 9:</b> <i>Percentages of consents in different categories of other compliance gradings on a per monitoring event basis</i>	20
<b>Table 10:</b> <i>Council FTEs for different aspects of the CME role</i>	25
<b>Table 11:</b> <i>Council FTEs for different aspects of the CME role continued</i>	26
<b>Table 12:</b> <i>Comparison of council FTEs, population and number of formal actions (excluding prosecutions but including warnings)</i>	27
<b>Table 13-16:</b> <i>Council decision-making and delegations for prosecutions</i>	31-34
<b>Table 17:</b> <i>Total use of formal instruments against relevant section of the Act</i>	37
<b>Table 18:</b> <i>Total formal warnings and abatement notices</i>	38
<b>Table 19:</b> <i>Total infringement notices and enforcement orders</i>	39
<b>Table 20:</b> <i>Total use of formal instruments (excluding prosecution)</i>	40
<b>Table 21:</b> <i>Prosecutions across the regional sector for the 2018/2019 and 2019/2020 year</i>	42
<b>Table 22:</b> <i>Individuals convicted across the regional sector for the 2019/2020 year</i>	43
<b>Table 23:</b> <i>Corporates convicted across the regional sector for the 2019/2020 year</i>	44
<b>Table 24:</b> <i>Other sanctions handed down under the RMA</i>	45
<b>Table 25:</b> <i>Prosecution outcomes: fines</i>	46
<b>Table 26:</b> <i>Prosecution outcomes</i>	47
<b>Table 27:</b> <i>Prosecution outcomes continued</i>	48
<b>Table 28:</b> <i>CME reporting channels</i>	49
<b>Figure 1:</b> <i>Proportion of permitted activity monitoring programmes for different industries</i>	22
<b>Figure 2:</b> <i>Comparison of CME resourcing and number of formal enforcement actions</i>	28
<b>Figure 3:</b> <i>Comparison of CME resourcing and GDP</i>	29

## PART 1 INTRODUCTION

The RMA is New Zealand's environmental legislation with the purpose of sustainably managing natural and physical resources. Regional councils, unitary authorities and territorial local authorities have the primary role in compliance, monitoring and enforcement of the Resource Management Act 1991 (RMA). CME is a tool in achieving the purpose of the RMA. Monitoring and understanding that implementation is critical to understanding our nations guardianship and protection of the environment. The success of that management is largely dependent on the quality of implementation.

Improving the availability of CME functions information is a sector-led initiative, under the leadership of CESIG. This report is the third report in an annual series, acting in response to concerns over poor information availability.

The questions are designed by the regional sector to improve and complement the present national monitoring system's compliance, monitoring and enforcement related questions and analysis. All 16 of New Zealand's regional councils and unitary authorities (collectively referred to as the 'regional sector') participated in this third edition.

### Reading this report

Each council was sent an online survey comprising 46 questions (Appendix 1). They were given 3 weeks to collect and input the data into an online platform. After inputting the initial data they were sent a link that allowed them to log in and change their information at any time.

This report sets out data provided for each section of the survey, as follows:

- A boxed section containing the exact questions relevant to that section
- An overview of the purpose of the questions
- The tables and graphs of the information
- A short analysis of the findings, at both a regional and national scale
- Responses to open-ended questions have been aggregated and analysed and the theme of the response presented in this report.
- Verbatim answers are provided where responses can not be summarised

### How does this reporting process differ year on year?

There were significant learnings and improvements made to the questionnaire following the first year, the questionnaire was refined based on these improvements. To track the successes and improvements over time it is critical question consistency is maintained. Keeping this in mind, there were minimal changes between the core questions this year, allowing comparability over time.

Throughout this document we have aimed to report data from previous years so we can see patterns when they are arising. In year two questions were condensed and rearranged, with the purpose of enriching the data by ensuring clarity in wording. This year's format follows year two, meaning all results are directly comparable.

In previous years the report has been analysed by an independent consultant Dr Marie Doole. This year data collection and reporting was conducted by Sprout Customer Research.

### Data limitations

Reporting of activities in complex, reflective measures can be difficult. When reading the report keep in mind the following aspects and data:

- Not all requested information can be provided by all councils which results in gaps in the dataset.
- The project does not include any data auditing and it is therefore unknown how accurate the information provided by councils is. Each council had a representative that sense checked and was responsible for the final data points entered into the survey.

## CME under the Resource Management Act New Zealand

Implementation of CME and the way it is adopted and exercised is up to individual councils under the broad framework of the RMA. Implementation in a robust manner leads to positive environmental outcomes. Limited national direction has placed an emphasis on individual councils to develop their own operations under the relatively broad framework of the RMA. This role has developed differently over the jurisdictions. The regions also differ based on GDP, area, population and population growth.

As the sector develops, formalisation and standardisation of parameters have been developed. In 2018, the Ministry released Best Practise Guidelines, this has been influential in forming standardised and comparable measures.

This report is a sector led effort by the Compliance and Enforcement Special Interest Group (CESIG). It aims to improve the quality of information available on the CME functions. Whilst the data set is not perfect it provides interesting insight into CME operations under the RMA and, it's value increases year on year. As we enter the third year we are starting to see trends arising, we are also starting to see the outcomes of improvements made by individual councils to improve how they implement CME.

### Key definitions

**Compliance:** adherence to the RMA, including the rules established under regional and district plans and meeting resource consent conditions, regulations and national environmental standards.

**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 (seek to deter or punish the offender) and/or directive (e.g. direct remediation of the damage or ensure compliance with the RMA).

## PART 2 ANALYSIS

### REGIONAL CONTEXT

This section sets out the context around differences between regions. It highlights that regions are extremely variable. The population, growth rates and regional GDP vary from region to region. Auckland has almost 50 times the population of the West Coast. For some regions population growth is as high as 14%, whilst others have negative population change.

GDP is also significantly different, for some regions GDP is lower than \$2 million, for Auckland it is \$114 million. Auckland differs from others as it has a much higher GDP and population.

**Table 1: Regional context data**

Regional Council	Population Estimates 2019	% change 2014-2019	Geographical Area (square KM)	Regional GDP (\$million) to March 2019
Northland Regional Council	186,700	13	13,778	7,861
Waikato Regional Council	477,300	12	24,147	25,835
Bay of Plenty Regional Council	321,100	14	12,303	17,243
Hawkes Bay Regional Council	172,600	9	14,138	8,673
Taranaki Regional Council	121,900	7	7,256	8,902
Horizons Regional Council	248,000	7	22,220	11,598
Greater Wellington Regional Council	525,200	7	8,142	38,997
Environment Canterbury	624,100	10	44,633	37,509
Otago Regional Council	234,300	11	31,280	13,583
West Coast Regional Council	32,600	-1	23,277	1,861
Southland Regional Council	100,800	5	32,184	6,359
<b>Unitary Authorities</b>				
Auckland Council	1,631,300	9	5,945	114,148
Gisborne District Council	49,100	4	8,386	2,161
Nelson City Council	52,900	9	477	5,458
Marlborough District Council	49,000	9	10,773	3,248
Tasman District Council	54,800	9	9,764	5,458

## WORKING WITH IWI

**Q4:** In no more than 300 words describe your regional key commitments to work with iwi/Māori on CME. For example, joint management agreements or other co-management agreements.

*Note: The report author may contact you for further information or clarification of your response.*

Qualitative analysis reveals the relationship between local government and iwi and hapū continues to demonstrate a positive trend. Relationships and engagement between agencies and iwi is developing and diversifying.

We can see this through

- Iwi representation on committees and operational meetings
- Engagement with Iwi over prosecutions and victim impact statements
- Development of Iwi relationship agreements and engagement plans
- Special status
- Commitment to improved working practices with Iwi
- Joint work programmes and working parties
- Co-governance/ co-management and formalized agreements
- Collaborative strategies

Majority have a formalized commitment or working group. A full set of responses is available in appendix 2.

## CME OPERATIONS (MANAGING THE WORKLOAD)

### Responding to Complaints (Questions 4-9)

**Q5.** Does your council register/count:

- An individual “incident” per notification?
- One incident per event, regardless of the number of separate complainants?

**Q6.** How many notifications (complaints) were received from members of the public (or other sources, but excluding information from council monitoring activity) relating to environmental incidents or potential breaches of environmental regulation?

*This might include information from, for example, emergency services attending an incident or perhaps a council staff member observing something while on other duties but excludes information from council monitoring activity. Please note answer unknown if your council does not record the information requested.*

**Q7.** How many of these notifications were responded to by council?

*This response may be in any form – e.g. phone call, site visit, desktop audit*

**Q8.** How many of these notifications were physically attended by council staff?

*If one incident had multiple visits, only count this as one.*

**Q9.** How many of these notifications were confirmed as breaches of the RMA or subsidiary instruments?

**Q10.** How many of the breaches were for:

- Breach of a resource consent?
- Breach of permitted activity rules?

## Registering notifications

Complaints are registered by individual councils in one of two ways, either as individual incidents or by event. Last year the ways in which they were registered were evenly split. This year Hawkes Bay, Greater Wellington and Gisborne have all moved to recording per incident. While Otago has moved from reporting individual incidents to one incident per event. The 2017/2018 report recommends it would be optimal for the sector to work towards a standardised approach.

**Table 2:** *Recording conventions for incoming complaints across the regional sector*

An individual "incident" per notification	One incident per event, regardless of the number of separate complainants
Waikato	Northland
Bay of Plenty	Taranaki
Hawkes Bay	Horizons
Greater Wellington	Environment Canterbury
West Coast	Otago
Southland	Marlborough
Auckland	
Gisborne	
Nelson	
Tasman	



### Complaints received

Nationwide complaints and incidents vary considerably. For unitary authorities the individual complaints have remained consistent. However when we look at the regional complaints they have increased year on year. Individual incidents decrease for regional councils, while they increase for unitary authorities.

**Table 3:** Number of individual complaints and incidents

	Individual complaints			Individual incidents		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council				1,052	1,026	1,019
Waikato Regional Council	1,543	1,838	1,712			
Bay of Plenty Regional Council	2,834	3,519	3,862			
Hawkes Bay Regional Council			983	1,095	1,116	
Taranaki Regional Council				414	452	529
Horizons Regional Council				792	1,298	1,168
Greater Wellington Regional Council		1,244	1,398	1,308	1,192	1,258
Environment Canterbury		4,225	4,602	4,735	3,599	3,877
Otago Regional Council			1,936	1,913	2,056	1,184
West Coast Regional Council	102	233	199			13
Southland Regional Council	742	813	718			
<b>REGIONAL SUBTOTAL</b>	<b>5,221</b>	<b>11,872</b>	<b>15,410</b>	<b>11,309</b>	<b>10,739</b>	<b>9,048</b>
<b>Unitary authorities</b>						
Auckland Council	9,022	11,743	11,402			
Gisborne District Council				147	539	1,837
Nelson City Council	472	537	496			
Marlborough District Council				557	633	587
Tasman District Council	2,562	2,631	1,135			
<b>UNITARY SUBTOTAL</b>	<b>12,056</b>	<b>14,911</b>	<b>13,033</b>	<b>704</b>	<b>1,172</b>	<b>2,424</b>





### Complaints

#### responded to & attended

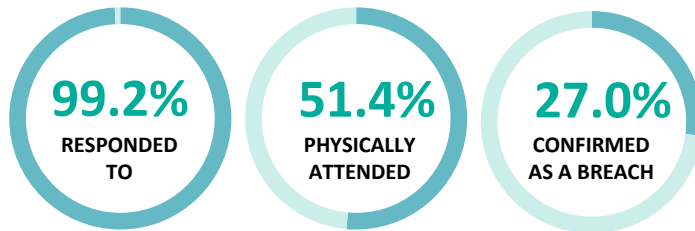
Nearly all complaints made to councils were responded to. Councils responded to 100% of complaints with the exception of 2 regional councils. In line with previous years unitary councils responded to 100% of complaints.

About half of all complaints are physically attended, depending on the council this varies from 1/3 to all complaints.

**Table 4: Number of individual complaints and incidents responded to**

	Responded to			Physically attended				
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020		
<b>Regional councils</b>								
Northland Regional Council	100%	100%	100%	1,019	67%	68%	68%	694
Waikato Regional Council	100%	100%	100%	1,712	20%	28%	33%	570
Bay of Plenty Regional Council	100%	100%	100%	3,862		48%	39%	1,496
Hawkes Bay Regional Council	100%	100%	100%	983				
Taranaki Regional Council	100%	100%	100%	529	100%	100%	100%	529
Horizons Regional Council	100%	100%	100%	1,168	23%	31%	33%	389
Greater Wellington Regional Council	83%	100%	100%	1,398	42%	39%		
Environment Canterbury	80%	89%	85%	3,314	39%	37%	31%	1,206
Otago Regional Council		100%	100%	1,936				
West Coast Regional Council	100%	100%	100%	212		52%	63%	133
Southland Regional Council	91%	86%	97%	700	51%	38%	59%	427
<b>REGIONAL SUBTOTAL</b>	<b>95.4%</b>	<b>97.7%</b>	<b>98.5%</b>	<b>16,833</b>	<b>48.8%</b>	<b>49.0%</b>	<b>53.3%</b>	<b>5,444</b>
<b>Unitary authorities</b>								
Auckland Council	100%	100%	100%	11,402	43%			
Gisborne District Council	100%	100%	100%	1,837	100%			
Nelson City Council	100%	100%	100%	496	70%			
Marlborough District Council	100%	100%	100%	587	48%	51%	49%	287.0
Tasman District Council	100%	100%	100%	1,135				
<b>UNITARY SUBTOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>15,457</b>	<b>65%</b>	<b>51%</b>	<b>49%</b>	<b>287.0</b>
<b>TOTAL/OVERALL AVERAGE</b>	<b>97.7%</b>	<b>98.9%</b>	<b>99.2%</b>	<b>32,290</b>	<b>57.0%</b>	<b>49.8%</b>	<b>51.4%</b>	<b>5,731</b>

\* It should be noted the change in Environment Canterbury's physically attended figures, they are calculated using incidents this year.



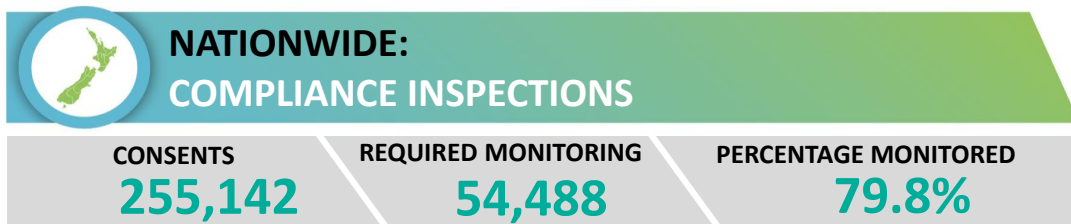
**Confirmed breaches**

The average confirmed breaches resulting from complaints from members of the public is on par with last year. Highest validation rate is Environment Canterbury, the number of validations for Environment Canterbury was more than double previous years. West Coast Regional Council halved the number of validations. Unitary authorities remained static.

**Table 5: Number and types of breaches**

	Confirmed as a breach			Resource consent		Non-consented activity		
	2017/2018	2018/2019	2019/2020	% of breaches 2019/2020	# of breaches 2019/2020	% of breaches 2019/2020	# of breaches 2019/2020	
<b>Regional councils</b>								
Northland Regional Council		48%	42%	426	6%	25	90%	385
Waikato Regional Council	24%	7%	26%	443				
Bay of Plenty Regional Council		25%	20%	775				
Hawkes Bay Regional Council								
Taranaki Regional Council	37%	37%	40%	209	19%	39	80%	167
Horizons Regional Council								
Greater Wellington Regional Council	17%	15%	18%	232				
Environment Canterbury	23%	29%	68%	2,640	18%	462	83%	2,178
Otago Regional Council								
West Coast Regional Council	50%	41%	17%	35	57%	20	43%	15
Southland Regional Council	17%	18%	29%	206	12%	25	0	0
<b>REGIONAL SUBTOTAL</b>	<b>28.1%</b>	<b>27.5%</b>	<b>32.5%</b>	<b>4,966</b>	<b>22%</b>	<b>571</b>	<b>59%</b>	<b>2,745</b>
<b>Unitary authorities</b>								
Auckland Council		29%	22%	2,494				
Gisborne District Council								
Nelson City Council	70%							
Marlborough District Council	34%	23%	21%	123	7%	8	93%	115
Tasman District Council								
<b>UNITARY SUBTOTAL</b>	<b>52%</b>	<b>26%</b>	<b>21%</b>	<b>2,617</b>	<b>7%</b>	<b>8</b>	<b>93%</b>	<b>115</b>
<b>TOTAL/OVERALL AVERAGE</b>	<b>40.0%</b>	<b>26.6%</b>	<b>27.0%</b>	<b>7,583</b>				

\*It should be noted that resource consents on a site do not usually cover all activities on a site. So a resource consent and a breach of a permitted rule or an unlawful activity can obviously occur in the same location. There may be subtle variation in how councils account for this which should be kept in mind, there is likely some grey area in between. In future surveys it is suggested that 'non-consented' is used in place of permitted as has been used here.



### Monitoring resource consents

- Q11.** How many individual, active resource consents exist in your region?  
*Exclude Land Use Consents where the activity is completed e.g., Land use subdivisions where the subdivision is complete, and certificates issued or land use – building where the building has been constructed.*
- Q12.** How many consents required monitoring during this period, in accordance with your monitoring prioritisation model/strategy?
- Q13.** How many of these consents were monitored (including desktop audit) in the period?

Councils administered 255,142 consents during the 2019/2020 period, of those 54,488 required monitoring (21%). The number of consents administered continues to increase annually. Most regional councils recorded an increase in consents with the exception of Bay of Plenty, Taranaki and West Coast. Most unitary councils recorded declines (except Marlborough).

Overall the sector continues to increase, eight of eleven regional councils recorded a similar or improved proportion of consents monitored. For the unitary councils there is an overall decline, the main reason for this is Tasman District councils 39% increase in the number of consents that required monitoring. Nine of eleven regional councils and two unitary authorities monitored over 80% of consents that required monitoring.

<sup>3</sup> Gisborne District Council is currently going through a change in how they manage information relating to compliance and enforcement. The CME function now has dedicated admin support which is helping to provide better processes to allow better capture of data. This will enable Council to respond and answer fully to this survey in coming years.

**Table 6: Monitoring workload from consents**

	Total consents			Required monitoring			Number monitored			
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020	2017/2018 (%)	2018/2019 (%)	2019/2020 (%)	2019/2020
<b>Regional councils</b>										
Northland Regional Council	3,812	9,738	9,910	3,724	3,847	3,731	94	93	88	3,296
Waikato Regional Council**	4,500	4,787	11,419	1,500^	525	1,674	77	100+	100	1,674
Bay of Plenty Regional Council	5,500	9,057*	8,458	1,900	2,380	3,316	69	70	85	2,808
Hawkes Bay Regional Council	3,144	5,928	8,300	3,144	3,446	3,550	94	93	93	3,304
Taranaki Regional Council	4,837	4,784	4,625	2,930	2,743	2,788	100	100	100	2,788
Horizons Regional Council	4,700	5,204	5,468	1,700	1,648	1,367	82	80	81	1,112
Greater Wellington Regional Council	6,375	6,604	6,863	1,544	1,782	1,633	94	95	94	1,539
Environment Canterbury	20,417	18,500	22,051	20,417	4,625	4,410	28	72	89	3,941
Otago Regional Council	5,984	5,588	5,656	3,827	1,161	3,256	66	52	64	2,069
West Coast Regional Council		3,474	3,000		868	900		100+	87	782
Southland Regional Council	5,376	5,590	5,824	3,188	4,586	4,127	100	78	73	3,019
<b>REGIONAL SUBTOTAL</b>	<b>64,645</b>	<b>79,254</b>	<b>91,574</b>	<b>43,874</b>	<b>27,611</b>	<b>30,752</b>	<b>80</b>	<b>85</b>	<b>87</b>	<b>26,332</b>
<b>Unitary authorities</b>										
Auckland Council	103,690	108,326	115,723	17,759	11,778	13,162	71	60	72	9,480
Gisborne District Council	1,250		10,500	699			34			76
Nelson City Council	1,200	784	656	550	619	656	100	100	100	656
Marlborough District Council	20,802	21,377	29,459	2,686	3,261	3,529	83	89	93	3,270
Tasman District Council	15,764	13,042	7,230	4,250	2,478	6,389	46	75	26	1,691
<b>UNITARY SUBTOTAL</b>	<b>142,706</b>	<b>143,529</b>	<b>163,568</b>	<b>25,944</b>	<b>18,136</b>	<b>23,736</b>	<b>67</b>	<b>81</b>	<b>73</b>	<b>15,173</b>
<b>TOTAL</b>	<b>207,351</b>	<b>222,783</b>	<b>255,142</b>	<b>69,818</b>	<b>45,747</b>	<b>54,488</b>	<b>74</b>	<b>83</b>	<b>80</b>	<b>41,505</b>

\* Significant increase in total consents granted by Bay of Plenty Regional Council is linked to a change in reporting and data collection.

^ Waikato Regional Council records consents and determines monitoring priority on a 'per site' basis

\*\* The monitoring prioritisation model at Waikato Regional Council was amended after the 2017/18 year resulting in resources being focused more on high priority consented sites resulting in a reduction in the total number of sites monitored. More consents were monitored than 'required' under the new prioritisation model

## Compliance gradings

**Q14.** In the 2018/19 year, did you use the four compliance grades as recommended by Ministry for the Environment?

- Yes
- No

**Q16.** When will your council be adopting the four compliance grades recommended by Ministry for the Environment?

In 2018 the MfE released Best Practise Guidelines, including a suite of recommended compliance categories. The intention of this is to make data on compliance levels nationally comparable. Uptake of the framework has been rapid with 14 out of 16 councils integrating the framework into their recording system, an increase of 6 from the 2018/2019 reporting period. The remaining 2 councils intend to implement the framework in the coming year.



## Compliance assessment

**Q15.** What grades do you apply to non-compliance? (e.g., technical non-compliance, significant non-compliance)

- Fully Compliant
- Technical/Low Non-Compliance
- Moderate Non-Compliance
- Significant Non-Compliance
- Other (please specify)

**Q17.** What were the levels of compliance with consents according to the grades you use?

*Note 1: Numbers provided under each grade is per monitoring event not per consent. E.g. a consent may be monitored four times in the year: on one occasion it may be Technically Non-Compliance and on three occasions it may be Fully Compliant, this would add three to the total of Fully Compliant and one to the total for Technical Non-compliance.*

*Note 2: The compliance grade is based on the condition with the worst compliance grade. e.g. a consent with five conditions Fully Compliant and one condition Moderate Non-Compliance has an overall compliance grade of Minor Non-Compliance*

*Note 3: Daily telemetry water readings where compliance with water take limits is continuously monitored are to be excluded from compliance grade totals.*

There is variation in the ways councils record compliance. This section focuses on the levels of compliance amongst those monitored based on the MfE framework. Numbers provided will not equate to the consents totals earlier in this report as some sites had more than one monitoring visit over the year. The tables below relate to the percentage of monitoring visits that fit within different grades. It is difficult to validate and compare levels of compliance until the framework is standardised and everyone is working of the same framework.

This year there was more consent monitoring events in the regional sector, with a similar amount for unitary authorities. The regional councils are seeing a downward trend in the percentage of full compliance consents monitored, with more low risk/ technical non compliance. Although we are seeing a lower percentage of fully compliant consents monitored, they still make up 2/3 of all consents monitored in the regional sector. They make up over half of all consents for unitary authorities. Hawkes Bay and West Coast continue to report the highest levels of full compliance for regional councils. Year on year Nelson City Council are reporting a lower proportion of full compliance, with Tasman District Council reporting more. Those reporting significant non compliance remains low, with 4 councils reporting no significant non compliance. Horizons and Southland both have the highest significant non-compliance.

**Table 7: Percentages of consents in full compliance and low risk/ technical non compliance of compliance on a per monitoring event basis**

	Total number of consents			Full compliance (%)			Low risk/Technical non-compliance (%)		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>									
Northland Regional Council	3,803	3,561	5,833	73	76	70	0	0	12
Waikato Regional Council*	1,078	1,157	1,674	44	25	39	22	35	23
Bay of Plenty Regional Council	1,842	3,059	4,027	76	75	84	14	19	9
Hawkes Bay Regional Council	2,943	3,198	3,304	93	96	92	0	1	4
Taranaki Regional Council	4,119	2,743	6,168	94	89	62	0	4	1
Horizons Regional Council	1,131	916	1,112	84	45	61	0	22	14
Greater Wellington Regional Council	1,457	1,692	1,633	76	64	58	18	15	18
Environment Canterbury	7,274	3,315	5,339	63	85	64	5	4	3
Otago Regional Council	7,025	607	5,909	60	36	43	10	6	43
West Coast Regional Council	1,309	1,126	767	96	95	88	0	3	5
Southland Regional Council	3,188	3,594	3,019	71	77	62	0	8	17
<b>REGIONAL SUBTOTAL</b>	<b>35,169</b>	<b>24,968</b>	<b>38,785</b>	<b>75</b>	<b>69</b>	<b>66</b>	<b>6</b>	<b>11</b>	<b>14</b>
<b>Unitary authorities</b>									
Auckland Council	18,732	20,188	19,430	22	59	31	21	18	25
Gisborne District Council									
Nelson City Council	550	1,245	1,707	86	60	34	0	0	11
Marlborough District Council	2,219	2,359	2,212	65	64	78	2	3	2
Tasman District Council	1,940	1,870	1,691	63	65	83	7	28	10
<b>UNITARY SUBTOTAL</b>	<b>23,441</b>	<b>25,662</b>	<b>25,040</b>	<b>59</b>	<b>62</b>	<b>56</b>	<b>8</b>	<b>12</b>	<b>12</b>

\* The non-compliance rating system used at WRC considers multiple factors, and not solely whether the non-compliance results in actual significant environmental effect. As such the data is not directly comparable to those Councils that apply the MfE compliance rating system

**Table 8: Percentages of consents in moderate non-compliance and significant non-compliance of compliance on a per monitoring event basis**

Regional councils	Total number of consents			Moderate non-compliance (%)			Significant non-compliance (%)		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
Northland Regional Council	3,803	3,561	5,833	20	19	8	8	5	3
Waikato Regional Council*	1,078	1,157	1,674	31	25	16	3	12	3
Bay of Plenty Regional Council	1,842	3,059	4,027	7	5	6	2	1	1
Hawkes Bay Regional Council	2,943	3,198	3,304	7	2	3	0	1	1
Taranaki Regional Council	4,119	2,743	6,168	0	5	3	1	2	1
Horizons Regional Council	1,131	916	1,112	8	10	7	8	9	8
Greater Wellington Regional Council	1,457	1,692	1,633	0	0	7	0	8	0
Environment Canterbury	7,274	3,315	5,339	8	9	15	1	1	5
Otago Regional Council	7,025	607	5,909	8	36	10	2	2	3
West Coast Regional Council	1,309	1,126	767	0	1	3	0	1	4
Southland Regional Council	3,188	3,594	3,019	0	7	13	0	8	8
<b>REGIONAL SUBTOTAL</b>	<b>35,169</b>	<b>24,968</b>	<b>38,785</b>	<b>8</b>	<b>11</b>	<b>8</b>	<b>2</b>	<b>5</b>	<b>3</b>
<b>Unitary authorities</b>									
Auckland Council	18,732	20,188	19,430	3	3	5	1	1	1
Gisborne District Council									
Nelson City Council	550	1,245	1,707	0	0	1	0	0	0
Marlborough District Council	2,219	2,359	2,212	31	27	17	0	0	0
Tasman District Council	1,940	1,870	1,691	5	5	7	1	2	0
<b>UNITARY SUBTOTAL</b>	<b>23,441</b>	<b>25,662</b>	<b>25,040</b>	<b>10</b>	<b>9</b>	<b>8</b>	<b>1</b>	<b>1</b>	<b>0</b>

\* The non-compliance rating system used at WRC considers multiple factors, and not solely whether the non-compliance results in actual significant environmental effect. As such the data is not directly comparable to those Councils that apply the MfE compliance rating system

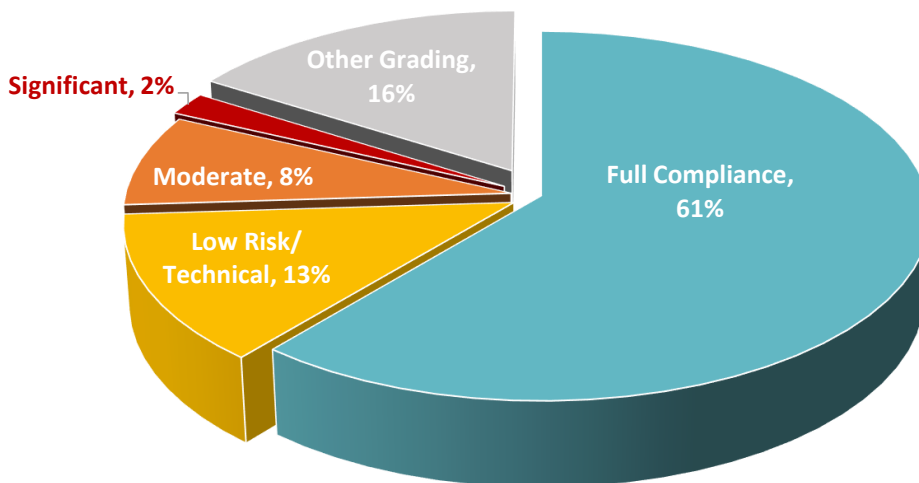


**Table 9: Percentages of consents in different categories of other compliance gradings on a per monitoring event basis**

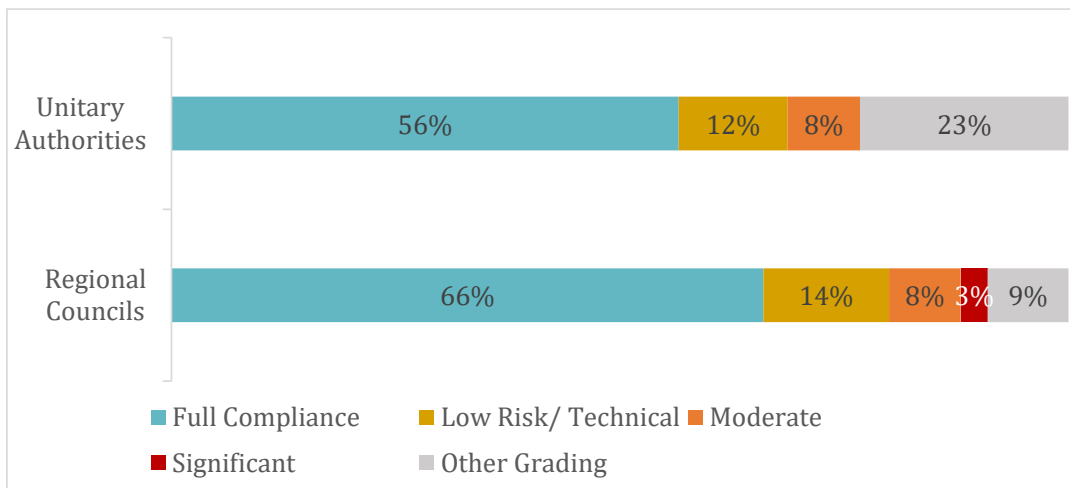
Regional councils	Total number of consents			Other compliance grading (%)		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
Northland Regional Council	3,803	3,561	5,833	0	0	5
Waikato Regional Council*	1,078	1,157	1,674	0	3	19
Bay of Plenty Regional Council	1,842	3,059	4,027	0	0	0
Hawkes Bay Regional Council	2,943	3,198	3,304	0	0	0
Taranaki Regional Council	4,119	2,743	6,168	5	0	34
Horizons Regional Council	1,131	916	1,112	0	14	10
Greater Wellington Regional Council	1,457	1,692	1,633	6	14	16
Environment Canterbury	7,274	3,315	5,339	22	0	13
Otago Regional Council	7,025	607	5,909	21	20	2
West Coast Regional Council	1,309	1,126	767	4	0	0
Southland Regional Council	3,188	3,594	3,019	29	0	0
<b>REGIONAL SUBTOTAL</b>	<b>35,169</b>	<b>24,968</b>	<b>38,785</b>	<b>8</b>	<b>5</b>	<b>9</b>
<b>Unitary authorities</b>						
Auckland Council	18,732	20,188	19,430	52	19	37
Gisborne District Council						
Nelson City Council	550	1,245	1,707	14	40	53
Marlborough District Council	2,219	2,359	2,212	2	5	3
Tasman District Council	1,940	1,870	1,691	23	0	0
<b>UNITARY SUBTOTAL</b>	<b>23,441</b>	<b>25,662</b>	<b>25,040</b>	<b>23</b>	<b>16</b>	<b>23</b>

\* The non-compliance rating system used at WRC considers multiple factors, and not solely whether the non-compliance results in actual significant environmental effect. As such the data is not directly comparable to those Councils that apply the MfE compliance rating system

**NATIONWIDE:**  
**COMPLIANCE RATING OF CONSENTS MONITORED**



**TOTAL CONSENTS MONITORED**  
**63,825**



### Monitoring permitted activities

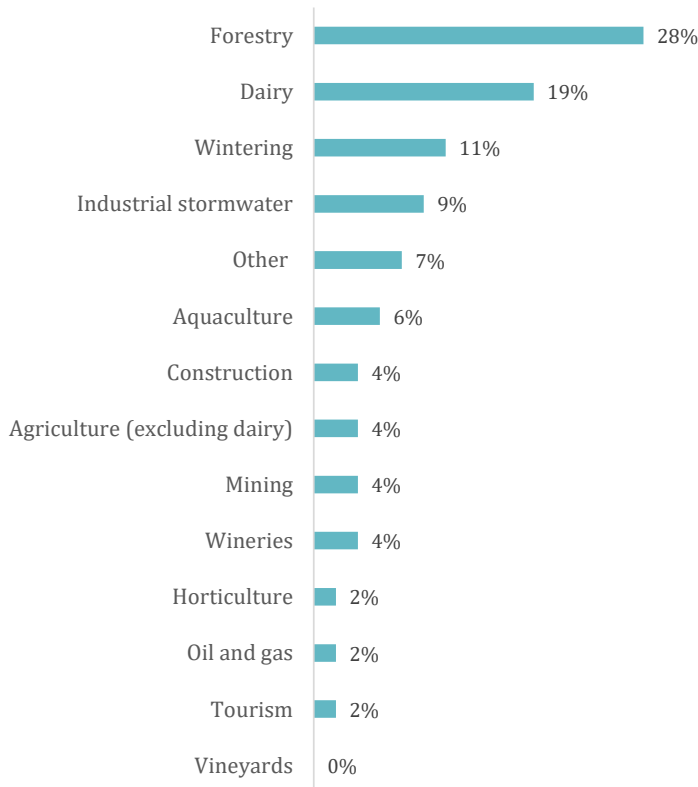
**Q18.** Which permitted activities do you have a monitoring programme for?

List of activities with tick box if yes:

- Agriculture (excluding dairy)
- Aquaculture
- Construction
- Dairy
- Forestry
- Horticulture
- Mining
- Oil and gas
- Tourism
- Vineyards
- Wineries
- Wintering
- Other (please specify)

Forestry and dairy made up nearly half of all permitted activities. All of the regional councils apart from Greater Wellington Regional Council and all unitary authorities have monitoring programs for forestry, which likely reflects the implementation of the National Environmental Standard for Plantation Forestry. Six regional councils and four unitary authorities had monitoring programs for dairy.

Compared to last year there is an increase in the number of permitted activities being monitored. Other permitted activities include moorings, domestic onsite effluent systems and small scale earthworks/construction/fill (erosion and sediment control).



**Figure 1:** Proportion of permitted activity monitoring programmes for different industries

## Making decisions on priorities

- Q19.** What basis is used for determining what notifications/complaints/incidents are physically attended and with what urgency or priority?
- Q20.** Describe how you determine which consents are monitored and how frequently? If there is a prioritisation model or compliance strategy, add link
- Q21.** Describe the basis, which was used for determining what, if any, permitted activities were monitored. If there is a prioritisation model or compliance strategy, add link

Most councils had established formalised prioritisation assessment for complaints, notifications and incidents, with many having a response time. The following factors were mentioned across different councils as part of that prioritisation assessment:

- If it was still happening/ duration
- Severeness/ adverse effect/ consequence
- Clean up/ mitigation
- Quality of the information provided
- Reliability of the source
- Frequency of notifications
- If it can be prevented

Risk based assessments, strategies and categorisation were commonly mentioned to determine which consents and permitted activities were monitored and how frequently.

## Staffing levels

*Note: FTEs should only be counted once under each of these categories. However, if a team member has more than one role then calculate what portion of their time is generally spent in each role, or only answer question 24 if your officers do a combination of roles. An example of an answer to each of the questions in this section might look like 22 FTEs spread across 40 individuals. Exclude any in-house or contract lawyers. Include managers in your count. Include any vacant positions in your counts.*

**Q22.** How many FTEs does your council have who carry out monitoring roles?

**Q23.** How many FTEs does your council have who carry out environmental incident or pollution response roles?

**Q24.** How many FTEs does your council have who carry out investigation or enforcement roles?

**Q25.** How many FTEs does your council have who carry out a combination of the above roles?

*Note 1: Include contractors*

*Note 2: Only answer this question if you have not included these staff in questions 21, 22 or 23*

**Q26.** How many FTEs does your council have in CME support roles?

*This includes administrative roles, e.g. staff who assist with issue of notices, reminder notices, upload of unpaid infringements to Ministry of Justice.*

The total number of FTE's differs significantly across regions, this is to be expected given differences in population, area, development type and intensity and council funding base. Regional councils show differences in the staffing relative to population ranging between 0.03 and 0.34.

The number of FTE's has increased this year, for both regional and unitary authorities. Across the sector the number of FTE's has increased to 499, an increase of 4.2% on last year. There are no significant decreases in the number of FTE's.

FTE numbers for Auckland council remain stable following last years increase. Although Auckland has a higher overall number of staff, their numbers remain close to the national average per 1000.

**Table 10: Council FTEs for different aspects of the CME role**

	Total			Monitoring		Combination	
	2017/2018	2018/2019	2019/2020	2018/2019	2019/2020	2018/2019	2019/2020
<b>Regional councils</b>							
Northland Regional Council	22	23	25	0		20	21
Waikato Regional Council*	47	45	44	20	20	0	
Bay of Plenty Regional Council	31	36	35	17	16	0	
Hawkes Bay Regional Council	10	14	14	9	9	0	0
Taranaki Regional Council	36	38	42	27	29	2	2
Horizons Regional Council	10	12	12	0		10	10
Greater Wellington Regional Council	16	14	16	0	0	13	15
Environment Canterbury	44	44	46	31	31	0	0
Otago Regional Council	23	24	28	15	15	8	3
West Coast Regional Council	6	6	6	0	0	5	5
Southland Regional Council	13	13	15	8	8	0	0
<b>REGIONAL SUBTOTAL</b>	<b>257</b>	<b>267</b>	<b>282</b>	<b>126</b>	<b>128</b>	<b>57</b>	<b>56</b>
<b>Unitary authorities</b>							
Auckland Council	146	179	182	65	69	19	16
Gisborne District Council	8	6	7	4	0	0	7
Nelson City Council	5	6	7	0	0	5	6
Marlborough District Council	9	10	11	2	2	7	8
Tasman District Council	11	12	11	0	0	10	9
<b>UNITARY SUBTOTAL</b>	<b>179</b>	<b>213</b>	<b>217</b>	<b>71</b>	<b>71</b>	<b>41</b>	<b>46</b>
<b>UNITARY SUBTOTAL MINUS AUCKLAND</b>	<b>33</b>	<b>34</b>	<b>35</b>	<b>6</b>	<b>2</b>	<b>22</b>	<b>30</b>
<b>TOTAL</b>	<b>436</b>	<b>479</b>	<b>499</b>	<b>197</b>	<b>198</b>	<b>98</b>	<b>102</b>
<b>TOTAL MINUS AUCKLAND</b>	<b>290</b>	<b>300</b>	<b>317</b>	<b>132</b>	<b>129</b>	<b>79</b>	<b>86</b>

\* Questionnaire changes were made following 2017/2018. Differences between 2017/2018 and other years may reflect changes in the way roles are classified.

**Table 11: Council FTEs for different aspects of the CME role**

	Environmental incident or pollution		Investigation or enforcement		Support	
	2018/2019	2019/2020	2018/2019	2019/2020	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	0		1	1	2	3
Waikato Regional Council*	9	8	10	10	7	6
Bay of Plenty Regional Council	4	4	4	3	12	12
Hawkes Bay Regional Council	2	2	1	1	2	2
Taranaki Regional Council	3	4	4	5	2	2
Horizons Regional Council	0		1	1	1	1
Greater Wellington Regional Council	0	0	0	0	1	1
Environment Canterbury	8	5	4	4	1	6
Otago Regional Council	0	3	0	3	1	4
West Coast Regional Council	0	0	0	0	1	1
Southland Regional Council	1	1	2	3	3	3
<b>REGIONAL SUBTOTAL</b>	<b>26</b>	<b>27</b>	<b>26</b>	<b>31</b>	<b>32</b>	<b>40</b>
<b>Unitary authorities</b>						
Auckland Council	32	41	49	43	14	13
Gisborne District Council	0	0	1	0	1	0
Nelson City Council	0	0	0	0	1	1
Marlborough District Council	0	0	1		0	1
Tasman District Council	0	0	0	0	2	2
<b>UNITARY SUBTOTAL</b>	<b>32</b>	<b>41</b>	<b>51</b>	<b>43</b>	<b>18</b>	<b>17</b>
<b>UNITARY SUBTOTAL MINUS AUCKLAND</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>	<b>4</b>
<b>TOTAL</b>	<b>58</b>	<b>68</b>	<b>77</b>	<b>74</b>	<b>50</b>	<b>57</b>
<b>TOTAL MINUS AUCKLAND</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>31</b>	<b>36</b>	<b>44</b>

\* Questionnaire changes were made following 2017/2018. Differences between 2017/2018 and other years may reflect changes in the way roles are classified.

**Table 12:** Comparison of council FTEs, population and number of formal actions (excluding prosecutions but including warnings)

	FTE/1000			FTE	Population Estimates	Formal actions per 1000
	2017/2018	2018/2019	2019/2020	2019/2020	2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	.13	.13	.13	24.50	186,700	2.06
Waikato Regional Council	.10	.10	.09	44.36	477,300	1.08
Bay of Plenty Regional Council	.10	.11	.11	35.00	321,100	.44
Hawkes Bay Regional Council	.06	.08	.08	14.40	172,600	.59
Taranaki Regional Council	.31	.32	.34	42.00	121,900	2.39
Horizons Regional Council	.04	.05	.05	11.50	248,000	.74
Greater Wellington Regional Council	.03	.03	.03	16.00	525,200	.27
Environment Canterbury	.07	.07	.07	45.50	624,100	.99
Otago Regional Council	.10	.10	.12	27.80	234,300	.20
West Coast Regional Council	.17	.16	.17	5.50	32,600	2.15
Southland Regional Council	.13	.13	.15	15.00	100,800	1.11
<b>REGIONAL SUBTOTAL/AVERAGE</b>	<b>.11</b>	<b>.12</b>	<b>.12</b>	<b>25.60</b>	<b>276,781</b>	<b>1.09</b>
<b>Unitary authorities</b>						
Auckland Council	.09	.11	.11	182.00	1,631,300	2.50
Gisborne District Council	.18	.13	.14	7.00	49,100	.26
Nelson City Council	.10	.10	.12	6.50	52,900	.79
Marlborough District Council	.20	.20	.21	10.50	49,000	2.02
Tasman District Council	.15	.22	.20	11.00	54,800	1.19
<b>UNITARY SUBTOTAL</b>	<b>.15</b>	<b>.15</b>	<b>.16</b>	<b>43.40</b>	<b>367,420</b>	<b>1.35</b>
<b>AVERAGE</b>	<b>0.12</b>	<b>0.13</b>	<b>0.13</b>			



Taranaki has the highest ratios of FTE's per thousand, this transfers through to formal actions with one of the highest per 1000.

Wellington continues to have the lowest relative resourcing. Horizons, Environment Canterbury, Hawkes Bay and Waikato all have lower ratios below 0.1.

Figure 2 shows the relationships between staffing and formal actions taken compared to population. Here we can see a trend between the number of staff and the number of formal actions taken, increased staffing levels results in an increase in formal actions.

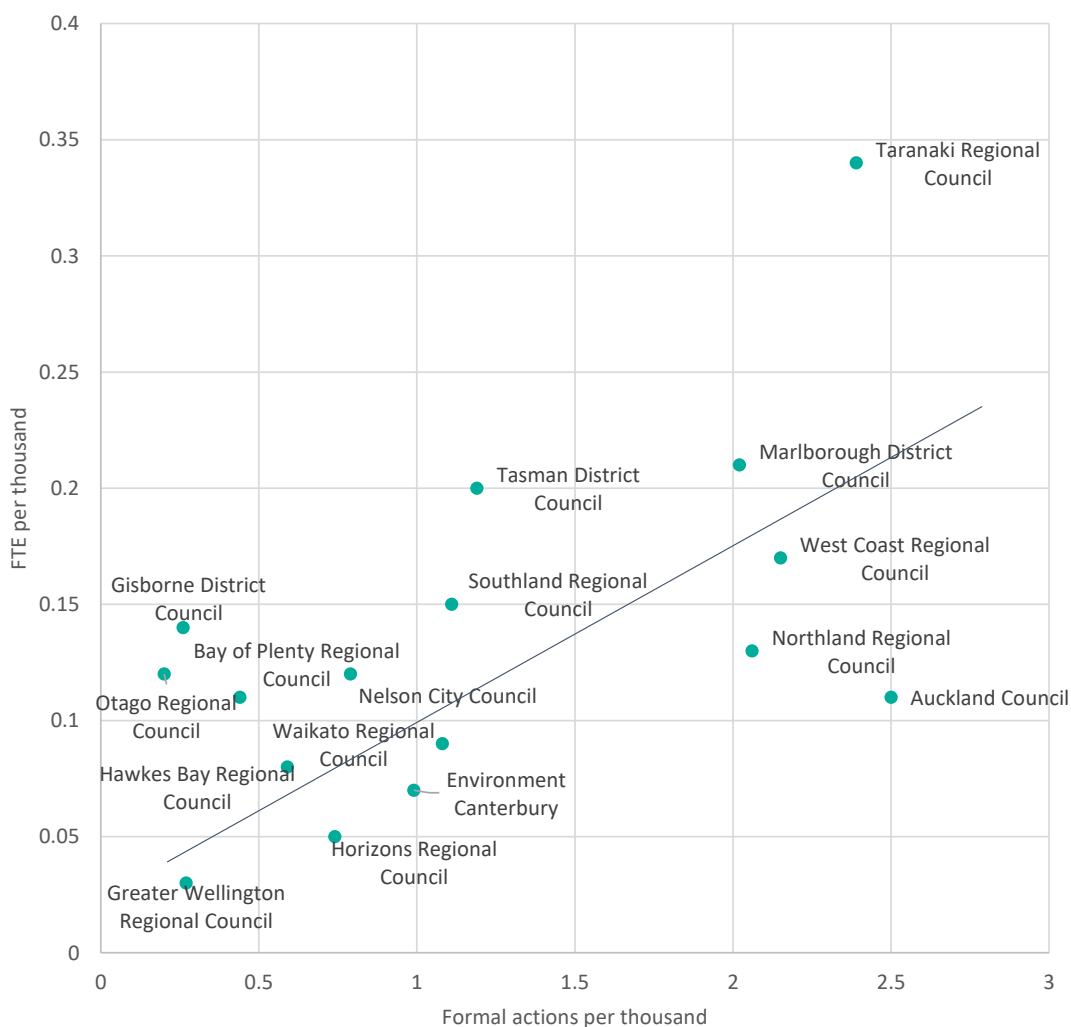


Figure 2: Comparison of CME resourcing and number of formal enforcement actions

Figure 3 shows the relationship between GDP and the number of FTE's. Five of the 6 councils with the highest GDP, also have the highest number of FTE's. Those councils with a GDP under \$10M tended to have a lower number of FTE's.

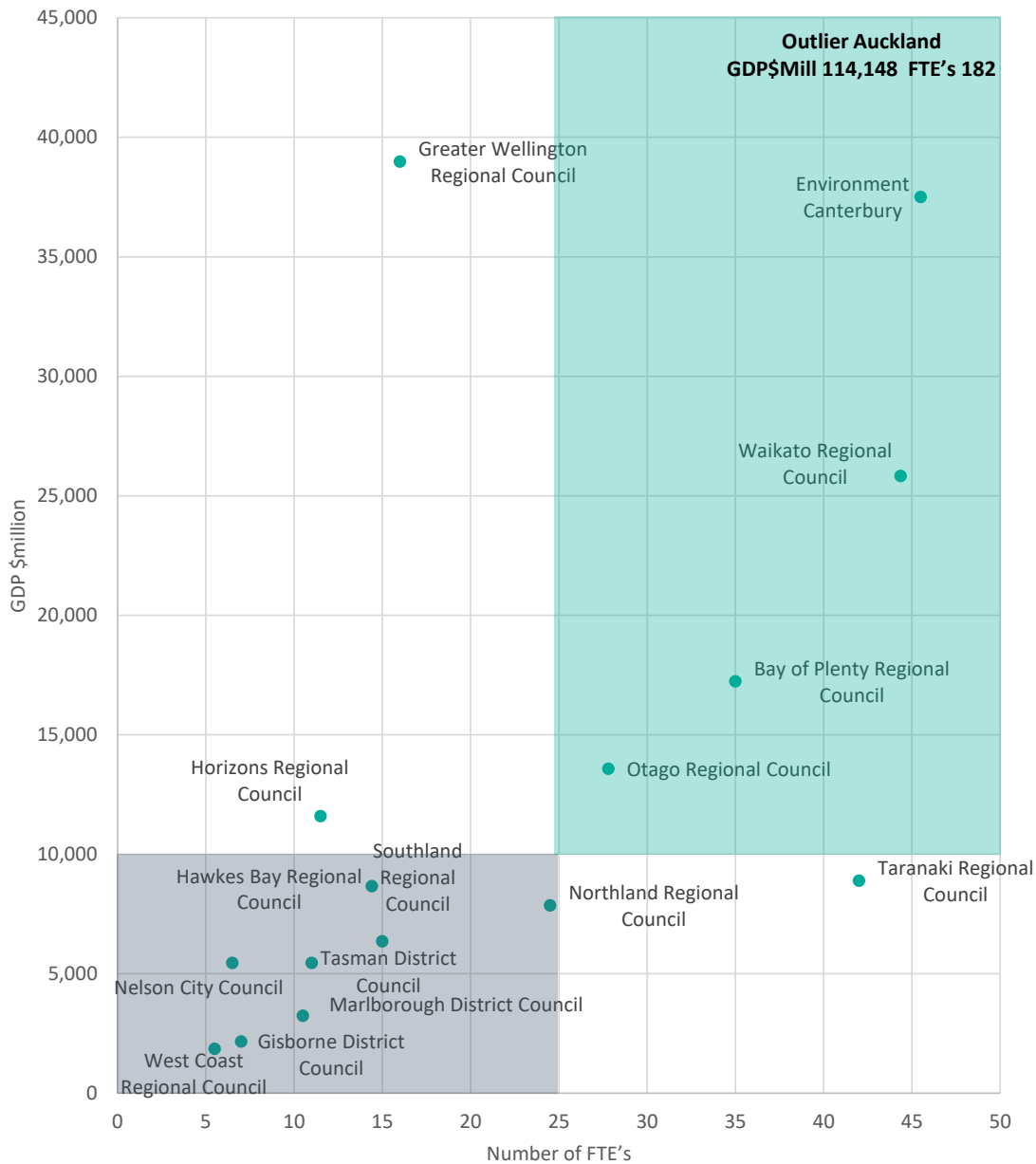


Figure 3: Comparison of CME resourcing and GDP

## CME POLICIES AND PROCEDURES

**Q27.** Does your council have an enforcement policy? Yes No

**Q28.** What is your process for making decisions on prosecutions?

**Q29.** Who has the delegation to authorise filing of charges for a prosecution at your council?

**Q30.** Does your council have a conflict of interest policy? Yes No

Credibility of regulators is maintained through having coherent policy in place. These questions help us understand how policy informs CME operations and the decision making process with regulators.

The Guidelines state that all councils *'should have an operational enforcement policy, which the council uses to determine what enforcement action (if any) to take in response to non-compliance'*.\*

The need for an active enforcement policy is set out in the best practise guidelines. All councils except Gisborne and Otago had enforcement policies. 2018/2019 results report Gisborne Council is currently preparing an enforcement policy. Gisborne has implemented a conflict of interest policy this year.

All councils have more than one party considering prosecutions. Usually this is a panel or decision group.

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\* MfE Best Practice Guidelines at p73

**Table 13:** Council decision-making and delegations for prosecutions

And, is this for	Enforcement policy	Decisions on prosecution	Delegation	Conflict of interest policy?
Northland Regional Council	Yes	An enforcement decision meeting is held to consider the facts and make a decision. The composition of the group changes depending on the activity which is being considered for prosecution. But the group always consists of the officer(s) who have done the investigation, at least 2 managers (one of which is the GM or the Deputy GM) and usually the enforcement specialist.	Two GMs and the Regulatory Services Deputy GM.	Yes
Waikato Regional Council	Yes	Investigating officer reports to a panel of 3 senior managers with recommendations. If the panel authorises prosecutions, this will be conditional on an independent legal review, which studies the file in entirety and applies the Evidential and Public Interest Tests. If the legal review is satisfied that the tests are met, charges are filed.	Investigating officer reports to a panel of 3 senior managers with recommendations. If the panel authorises prosecutions, this will be conditional on an independent legal review, which studies the file in entirety and applies the Evidential and Public Interest Tests. If the legal review is satisfied that the tests are met, charges are filed.	Yes
Bay of Plenty Regional Council	Yes	Investigation outcomes presented to an enforcement decision group made up of senior compliance staff and management; EDG makes recommendation to proceed (or not) pending legal review. Legal advice presented to GM for Regulatory Services for decision	General Manager for Regulatory Services	Yes

**Table 14:** Council decision-making and delegations for prosecutions

And, is this for	Enforcement policy	Decisions on prosecution	Delegation	Conflict of interest policy?
Hawkes Bay Regional Council	Yes	Enforcement Decision Group makes recommendations through to Compliance Manager, then Group Manager and then to CEO. Legal review may be undertaken prior to consideration by CEO.	CEO	Yes
Taranaki Regional Council	Yes	Chief Executive in collaboration with Director Resource Management and Compliance Manager	Chief Executive	Yes
Horizons Regional Council	Yes	Upon completion of a formal investigation, staff make a recommendation to the Regulatory Manager and Strategy and Regulation Group Manager, which is also accompanied by a legal review of the file by the Crown Solicitor. The review assesses both the evidential sufficiency and public interest matters. The matter is then put to the Chief Executive, for a formal report, for consideration.	CE and Group Manager Strategy and Regulation.	Yes
Greater Wellington Regional Council	Yes	<p>GWRC will generally take the following steps as part of its prosecution process under the Act:</p> <ul style="list-style-type: none"> <li>Investigation of the incident</li> <li>Correspondence with the person/s suspected of breaching the Act, during which an opportunity is provided to respond to the allegations</li> <li>Incident presented to the Enforcement Decision Group</li> <li>Obtaining external legal advice about the merits of prosecution</li> <li>Final decision made by Prosecution Decision Group</li> </ul>	General Manager - Environment Group in conjunction with Manager - Environmental Regulation	Yes

**Table 15:** Council decision-making and delegations for prosecutions

And, is this for	Enforcement policy	Decisions on prosecution	Delegation	Conflict of interest policy?
Environment Canterbury	Yes	Follow MfE CME Guidelines, and an internal enforcement Decision Panel make a recommendation	Chief Executive	Yes
Otago Regional Council	No	Council has an Enforcement Decision Group (EDG). The case is presented by the Team Leader Investigations with the Investigating Officer in attendance. The EDG is made up of Compliance Manager, Legal Counsel, Group Manager Regulatory and the CEO.	The CEO in consultation with the other members of the EDG.	Yes
West Coast Regional Council	Yes	Prosecution recommendations are made by the Compliance Team Leader and go to an Enforcement Decision Group which must include the CEO and one other delegated senior manager.	The CEO or the Consents and Compliance Manager.	Yes
Southland Regional Council	Yes	Incident response – investigation – enforcement decision group meeting – legal opinion – CEO approval	Chief Executive	Yes

**Table 16:** Council decision-making and delegations for prosecutions

And, is this for	Enforcement policy	Decisions on prosecution	Delegation	Conflict of interest policy?
Auckland Council	Yes	Officer in charge presents the case to a panel consisting of Regulatory Compliance Manager, Investigations Manager and Legal Team Leader	Manager	Yes
Gisborne District Council	No	Enforcement Decision Group	Director - Environmental Services & Protection Chief Executive	Yes
Nelson City Council	Yes	Recommendation by investigating officer to team leader, manager then group manager (tier 2) for approving after receiving legal advice	Group Manager (tier 2) after receiving legal advice	Yes
Marlborough District Council	Yes	Stage 1 QA peer review panel Stage 2 Enforcement and Prosecution Committee Stage 3 Legal Counsel review	Officers, Compliance Manager or Consents & Compliance Group Manager following approval from the Enforcement & Prosecution Committee.	Yes
Tasman District Council	Yes	Investigating officer prepares a report to a decision-making group. If a recommendation meets the tests the decision to prosecute goes to group manager to approve as delegated authority.	The group manager of environment and planning (level 2).	Yes

## EDUCATING AND ENGAGING WITH THE REGULATED COMMUNITY

**Q42.** Does your council have, or support, any education or engagement projects relating to compliance with the RMA or any of its derivative regulation? For example, workshops for earthworks contractors around erosion and sediment controls. Yes No  
*If yes, briefly describe*

Inline with the 'four E approach' giving clear direction on what is expected to the regulated community creates a robust approach. This question helps us understand the programs councils have in place. All councils had at least one initiative in place. Some of the key methods of delivery are:

- Workshops and presentations
- Industry stakeholder meetings
- Compliance meetings
- Attendance and presentations at Fieldays
- Group creation e.g. Freshwater management groups
- Attendance at industry groups
- Making staff available for meetings
- Hui
- General outreach
- Superhero programs
- Skills courses
- Advertising campaigns
- Education campaigns
- Pocket guides
- Newsletters and emails
- Factsheets
- Website

Topics covered included silt and sediment control, rural and farming activities, wetlands, fish and game, farming, air quality, forestry, building/construction, storm water, wastewater, erosion and sediment control, earthworks and the National Resources Plan.



## ACTING ON NON-COMPLIANCE

**Q31.** Question 31 relates to the instruments issued in relation to the different sections of the Act (listed once for brevity)

- Section 9 Use of land
- Section 12 Coastal marine area
- Section 13 Beds of lakes and rivers
- Section 14 Water
- Section 15 Discharges of contaminants
- Section 17 Duty to avoid, remedy & mitigate
- Other breach e.g., Section 22

Formal warnings issued

Abatement notices issued

Infringement notices issued

Enforcement orders applied for

The following question 31 helps us identify what at sector level is occupying the largest proportion of resources and how/ if that resource allocation is shifting over time. In turn this helps with understanding priority areas and challenges for compliance programs.

In total there were nearly 7,000 breaches this year, this is on par with last year. Majority of the cases were resolved with abatement notices. With 4,133 abatement notices, 978 formal warnings, 1,783 infringement fines and 14 enforcement orders.





Formal warnings are the main area of change with an increase of over 50% on last year. There was a drop in the 2018/2019 period then they increased to above 2017/2018 levels. Environment Canterbury was the main driver behind this change, between them and Waikato they made up 80% of all warnings issued. Unitary authorities had an increase in formal warnings, particularly Marlborough, however compared to the regional sector had minimal warnings issued.

Section 15-Discharges of contaminants into the environment had the most formal actions, 4,438 of the 6,908 breaches fell under this section.

Individual councils are highly variable in the number of formal actions. Auckland council being the largest council dominated the councils. Aside from Environment Canterbury's increase in formal warnings the remainder of the sector was similar to the 2018/2019 reporting period.



## NATIONWIDE: ENFORCEMENT ACTIONS AND SECTIONS BREACHED

	 Formal warnings	 Abatement notices	 Infringement fines	 Enforcement orders	TOTAL ACTIONS
	978	4133	1783	14	6908
<b>SECTION 9</b> Use of land	93	333	157	4	587
<b>SECTION 12</b> Coastal marine area	4	19	20	0	43
<b>SECTION 13</b> Beds of lakes and rivers	49	82	27	0	158
<b>SECTION 14</b> Water	274	69	26	0	369
<b>SECTION 15</b> Discharges of contaminants	531	2,914	983	10	4,438
<b>SECTION 17</b> Duty to avoid, remedy & mitigate	0	3	0	0	3
<b>OTHER</b> e.g. Section 22	27	713	570	0	1,310

**Table 17:** Total use of formal instruments against relevant section of the Act (i. e., group of possible offences - summary of Table 18-20).

**Table 18: Total formal warnings and abatement notices**

	Total formal warnings			Total abatement notices		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	6	4		373	271	230
Waikato Regional Council	198	301	305	89	134	134
Bay of Plenty Regional Council		0		106	87	117
Hawkes Bay Regional Council	14	0	12	46	40	20
Taranaki Regional Council	0	0	0	200	240	187
Horizons Regional Council	46	52	48	41	82	54
Greater Wellington Regional Council	57	43	54	11	17	24
Environment Canterbury	415	172	479	72	39	69
Otago Regional Council	5	5		12	14	20
West Coast Regional Council	50	28	15	24	20	20
Southland Regional Council	19	31	35	80	29	29
<b>REGIONAL SUBTOTAL</b>	<b>810</b>	<b>636</b>	<b>948</b>	<b>1054</b>	<b>973</b>	<b>904</b>
<b>Unitary authorities</b>						
Auckland Council		0		648	3,186	3,122
Gisborne District Council	50	0	4	19	11	9
Nelson City Council	41	0		28	18	29
Marlborough District Council	4	6	26	45	56	38
Tasman District Council		0		33	67	31
<b>UNITARY SUBTOTAL</b>	<b>95</b>	<b>6</b>	<b>30</b>	<b>773</b>	<b>3338</b>	<b>3229</b>
<b>TOTAL (excluding Auckland)</b>	<b>905</b>	<b>642</b>	<b>978</b>	<b>1179</b>	<b>1125</b>	<b>1011</b>
<b>TOTAL</b>	<b>905</b>	<b>642</b>	<b>978</b>	<b>1827</b>	<b>4311</b>	<b>4133</b>

**Table 19: Total infringement notices and enforcement orders**

	Total infringement notices			Total enforcement orders		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	253	187	154	0	1	0
Waikato Regional Council	100	107	71	0	3	6
Bay of Plenty Regional Council	29	31	25	2	1	
Hawkes Bay Regional Council	91	101	69	0	1	1
Taranaki Regional Council	67	112	104	1	0	0
Horizons Regional Council	23	69	81	0	0	0
Greater Wellington Regional Council	25	27	66	0	0	0
Environment Canterbury	127	71	67	1	0	1
Otago Regional Council	22	36	26	0	1	1
West Coast Regional Council	10	27	35	0	0	0
Southland Regional Council	35	32	48	3	0	0
<b>REGIONAL SUBTOTAL</b>	<b>782</b>	<b>800</b>	<b>746</b>	<b>7</b>	<b>7</b>	<b>9</b>
<b>Unitary authorities</b>						
Auckland Council	456	1,210	956	10	2	4
Gisborne District Council	4	1	0	1	0	0
Nelson City Council	13	17	13	1	0	0
Marlborough District Council	11	50	34	2	2	1
Tasman District Council	23	63	34	0	0	0
<b>UNITARY SUBTOTAL</b>	<b>507</b>	<b>1341</b>	<b>1037</b>	<b>14</b>	<b>4</b>	<b>5</b>
<b>TOTAL (excluding Auckland)</b>	<b>833</b>	<b>931</b>	<b>827</b>	<b>11</b>	<b>9</b>	<b>10</b>
<b>TOTAL</b>	<b>1289</b>	<b>2141</b>	<b>1783</b>	<b>21</b>	<b>11</b>	<b>14</b>

**Table 20: Total use of formal instruments (excluding prosecution)**

	Total formal actions (including warnings)			Total formal actions (excluding warnings)		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	632	463	384	626	459	384
Waikato Regional Council	387	545	516	189	244	211
Bay of Plenty Regional Council	137	119	142	137	119	142
Hawkes Bay Regional Council	151	142	102	137	142	90
Taranaki Regional Council	268	352	291	268	352	291
Horizons Regional Council	110	203	183	64	151	135
Greater Wellington Regional Council	93	87	144	36	44	90
Environment Canterbury	615	282	616	200	110	137
Otago Regional Council	39	56	47	34	51	47
West Coast Regional Council	84	75	70	34	47	55
Southland Regional Council	137	92	112	118	61	77
<b>REGIONAL SUBTOTAL</b>	<b>2653</b>	<b>2416</b>	<b>2607</b>	<b>1843</b>	<b>1780</b>	<b>1659</b>
<b>Unitary authorities</b>						
Auckland Council	1,114	4,398	4,082	1,114	4,398	4,082
Gisborne District Council	74	12	13	24	12	9
Nelson City Council	83	35	42	42	35	42
Marlborough District Council	62	114	99	58	108	73
Tasman District Council	56	130	65	56	130	65
<b>UNITARY SUBTOTAL</b>	<b>1389</b>	<b>4689</b>	<b>4301</b>	<b>1294</b>	<b>4683</b>	<b>4271</b>
<b>TOTAL (excluding Auckland)</b>	<b>2928</b>	<b>2707</b>	<b>2826</b>	<b>2023</b>	<b>2065</b>	<b>1848</b>
<b>TOTAL</b>	<b>4042</b>	<b>7105</b>	<b>6908</b>	<b>3137</b>	<b>6463</b>	<b>5930</b>

## Prosecutions

**Q32.** How many RMA prosecutions were:

*Note: For this question please consider an entire case (regardless of number of charges and defendants) as one prosecution.*

- Concluded in the period?
- Still in progress in the period?

**Q33.** What is the total number of individual (person) defendants convicted as a result of RMA prosecutions concluded in this period?

**Q34.** For all of these (person) defendants what is the total number of convictions entered against them? *For example, there may be a total of 27 separate convictions entered against a total of nine 'individual' defendants.*

**Q35.** What is the total number of corporate (e.g., Crown, company, body corporate etc.) defendants convicted as a result of RMA prosecutions concluded in this period?

**Q36.** For all of these (corporate) defendants what is the total number of convictions entered against them? *For example, there may be a total of 30 separate convictions entered against a total of 12 corporate defendants.*

**Q37.** Total number of convictions against an individual [see categories for sections of the Act as above] Total fine potential (Total x \$300,000)

Total number of convictions against a corporate entity [see categories for sections of the Act as above]  
Total fine potential (Total x \$600,000)

Questions 32 to 37 address prosecutions, defendants and convictions. Prosecutions work to deter offenders and the use of these tools where appropriate, is valuable in encouraging compliance and behaviour change. Where councils are unlikely to prosecute it may be perceived that non compliance is unlikely to result in consequence.

Overall this period there were 70 prosecutions concluded and 118 in progress. Both these figures have increased on last year. For most councils the number concluded is relatively similar to last year. Greater Wellington, Hawkes Bay, Southland all had an increase in more than 5 prosecutions, while Bay of Plenty and Gisborne recorded a decrease. Auckland has doubled the number of prosecutions in progress this year, however prosecutions are still less than Waikato.

There are noted differences region to region with some having one or two in progress/ concluded and others having as many as 43. This year only Nelson concluded no prosecutions, West Coast and Tasman only had 1. Understanding why these differences occur is challenging, there are many factors that may affect these figures. Reluctance to prosecute is unlikely to result in behaviour change because of the lack of consequence.

The number of individuals convicted increased, it was on par with 2017/2018. Despite the number of individuals increasing the number of convictions entered remains similar to last year, potentially this is an indicator of less serious offences. The number of corporates convicted increased to be on par with 2017/2018, convictions entered also increased.

**Table 21:** Prosecutions across the regional sector for the 2018/2019 and 2019/2020 year

	Number concluded		Number in progress	
	2018/2019	2019/2020	2018/2019	2019/2020
<b>Regional councils</b>				
Northland Regional Council	0	4	4	3
Waikato Regional Council	15	21	27	22
Bay of Plenty Regional Council	12	3	17	13
Hawkes Bay Regional Council	1	0	4	12
Taranaki Regional Council	1	1	0	4
Horizons Regional Council	5	4	2	4
Greater Wellington Regional Council	0	4	3	6
Environment Canterbury	2	5	7	8
Otago Regional Council	4	3	2	3
West Coast Regional Council	3	0	0	1
Southland Regional Council	6	10	5	8
<b>REGIONAL SUBTOTAL</b>	<b>49</b>	<b>55</b>	<b>71</b>	<b>84</b>
<b>Unitary authorities</b>				
Auckland Council	7	10	12	21
Gisborne District Council	0	4	12	7
Nelson City Council	0	0	0	0
Marlborough District Council	4	1	4	5
Tasman District Council	1	0	0	1
<b>UNITARY SUBTOTAL</b>	<b>12</b>	<b>15</b>	<b>28</b>	<b>34</b>
<b>TOTAL</b>	<b>61</b>	<b>70</b>	<b>99</b>	<b>118</b>



**Table 22:** Individuals convicted across the regional sector for the 2019/2020 year

	Number of individuals convicted			Number of convictions entered		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	1	0	5	1	0	14
Waikato Regional Council	3	8	12	4	25	21
Bay of Plenty Regional Council	6	4	4	6	8	5
Hawkes Bay Regional Council	1	0	0	2	0	18
Taranaki Regional Council	3	0	2	3	0	3
Horizons Regional Council	0	1	3	0	3	8
Greater Wellington Regional Council	0	0	0	0	0	0
Environment Canterbury	1		1	2		2
Otago Regional Council	10	0	1	12	0	2
West Coast Regional Council	0	0	0	0	0	0
Southland Regional Council	11	5	6	41	11	8
<b>REGIONAL SUBTOTAL</b>	<b>36</b>	<b>18</b>	<b>34</b>	<b>71</b>	<b>47</b>	<b>81</b>
<b>Unitary authorities</b>						
Auckland Council	11	7	5	35	47	10
Gisborne District Council	0	0	1	0	0	2
Nelson City Council	0	0	0	0	0	0
Marlborough District Council	0	2	1	0	6	2
Tasman District Council	2	2	0	8	6	0
<b>UNITARY SUBTOTAL</b>	<b>13</b>	<b>11</b>	<b>7</b>	<b>43</b>	<b>59</b>	<b>14</b>
<b>TOTAL</b>	<b>49</b>	<b>29</b>	<b>41</b>	<b>114</b>	<b>106</b>	<b>95</b>





**Table 23:** Corporates convicted across the regional sector for the 2019/2020 year

	Number of corporates convicted			Number of convictions entered		
	2017/2018	2018/2019	2019/2020	2017/2018	2018/2019	2019/2020
<b>Regional councils</b>						
Northland Regional Council	0	0	4	0	0	7
Waikato Regional Council	8	12	11	18	37	21
Bay of Plenty Regional Council	2	10	2	2	12	3
Hawkes Bay Regional Council	3	0	11	5	0	1
Taranaki Regional Council	1	3	0	2	8	0
Horizons Regional Council	0	5	5	0	5	11
Greater Wellington Regional Council	0	0	7	0	0	47
Environment Canterbury	4		4	8		16
Otago Regional Council	10	5	3	13	5	4
West Coast Regional Council	1	1	0	1	1	0
Southland Regional Council	11	4	4	25	9	6
<b>REGIONAL SUBTOTAL</b>	<b>40</b>	<b>40</b>	<b>51</b>	<b>74</b>	<b>77</b>	<b>116</b>
<b>Unitary authorities</b>						
Auckland Council	16	4	6	18	15	17
Gisborne District Council	0	0	3	0	0	5
Nelson City Council	1	0	0	3	0	0
Marlborough District Council	1	2	0	2	7	0
Tasman District Council	2	1	0	5	3	0
<b>UNITARY SUBTOTAL</b>	<b>20</b>	<b>7</b>	<b>9</b>	<b>28</b>	<b>25</b>	<b>22</b>
<b>TOTAL</b>	<b>60</b>	<b>47</b>	<b>60</b>	<b>102</b>	<b>102</b>	<b>138</b>



**NATIONWIDE:  
PROSECUTIONS**

CONCLUDED  
**70**

IN PROGRESS  
**118**

## Penalties

- Q38.** What is the total amount of fines imposed by the courts as a result of RMA prosecutions concluded in this period? Individual / Corporate
- Q39.** What other sanctions, if any, have been imposed by the courts as a result of RMA prosecutions concluded in this period? Prison sentence / Enforcement order / Reparation / Community Service / Discharge without conviction / Other
- Q40.** How many prosecutions involved restorative justice, diversion or other alternative justice process?
- Restorative justice
  - Diversion
  - Alternative justice
- Q41.** Describe any outcomes relating to these processes.

Nearly double the fines were handed down this year totalling over \$3.5 million. This year includes Gisborne's fine data which accounts for \$637,750, majority of those are corporate fines. Five councils had no individual fines, five councils had no corporate fines.

Waikato Regional Council collected significantly more fines than other councils accounting for for over \$1M of fines. In the regional sector Waikato accounted for around half of all individual fines, and just over 40% of corporate fines. Similar to the last reporting period several councils did not have any penalties as there were no prosecutions.

**Table 24:** Other sanctions handed down under the RMA

	Number
Reparation	36
Enforcement order	13
Discharge without conviction	6
Restorative justice	2
Community service	2
Diversion	0
Alternative justice	0
Prison sentence	0
Other	0
<b>TOTAL</b>	<b>59</b>

**Table 25: Prosecution outcomes: fines**

What is the total amount of fines imposed by the courts as a result of RMA prosecutions concluded in this period?	Individual fines \$	Corporate fines \$
<b>Regional councils</b>		
Northland Regional Council	97,650.00	127,800.00
Waikato Regional Council	432,254.00	757,137.00
Bay of Plenty Regional Council	71,837.50	66,837.50
Hawkes Bay Regional Council	0	12,555.00
Taranaki Regional Council	45,500.00	0
Horizons Regional Council	28,500.00	56,500.00
Greater Wellington Regional Council		302,300.00
Environment Canterbury	97,000.00	212,725.00
Otago Regional Council	30,000.00	136,500.00
West Coast Regional Council		
Southland Regional Council	86,950.00	146,200.00
<b>REGIONAL SUBTOTAL</b>	<b>889,691.50</b>	<b>1,818,554.50</b>
<b>Unitary authorities</b>		
Auckland Council	69,675.00	106,412.00
Gisborne District Council	20,000.00	617,750.00
Nelson City Council		
Marlborough District Council	18,000.00	
Tasman District Council	0	0
<b>UNITARY SUBTOTAL</b>	<b>107,675.00</b>	<b>724,162.00</b>
<b>TOTAL</b>	<b>\$997,366.50</b>	<b>\$2,542,716.50</b>



**Table 26: Prosecution outcomes**

What other sanctions, if any, have been imposed by the courts as a result of RMA prosecutions concluded in this period?	Prison sentence	Enforcement order	Reparation	Community Service	Discharge without conviction	Other
<b>Regional councils</b>						
Northland Regional Council	0	0	0	1	0	0
Waikato Regional Council	0	6	34	0	0	0
Bay of Plenty Regional Council	0	1	0	0	0	0
Hawkes Bay Regional Council	0	0	0	0	0	0
Taranaki Regional Council	0	0	0	0	0	0
Horizons Regional Council	0	0	0	0	0	0
Greater Wellington Regional Council	0	0	0	0	4	0
Environment Canterbury	0	1	1	0	0	0
Otago Regional Council	0	1	0	0	0	0
West Coast Regional Council	0	0	0	0	0	0
Southland Regional Council	0	4	0	0	1	0
<b>REGIONAL SUBTOTAL</b>	<b>0</b>	<b>13</b>	<b>35</b>	<b>1</b>	<b>5</b>	<b>0</b>
<b>Unitary authorities</b>						
Auckland Council	0	0	1	1	1	0
Gisborne District Council	0	0	0	0	0	0
Nelson City Council	0	0	0	0	0	0
Marlborough District Council	0	0	0	0	0	0
Tasman District Council	0	0	0	0	0	0
<b>UNITARY SUBTOTAL</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>13</b>	<b>36</b>	<b>2</b>	<b>6</b>	<b>0</b>

**Table 27: Prosecution outcomes**

How many prosecutions involved restorative justice, diversion or other alternative justice process?	Restorative justice	Diversion	Alternative justice
<b>Regional councils</b>			
Northland Regional Council	0	0	0
Waikato Regional Council	1	0	0
Bay of Plenty Regional Council	0	0	0
Hawkes Bay Regional Council	0	0	0
Taranaki Regional Council	0	0	0
Horizons Regional Council	0	0	0
Greater Wellington Regional Council	0	0	0
Environment Canterbury	0	0	0
Otago Regional Council	0	0	0
West Coast Regional Council	0	0	0
Southland Regional Council	0	0	0
<b>REGIONAL SUBTOTAL</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>Unitary authorities</b>			
Auckland Council	0	0	0
Gisborne District Council	0	0	0
Nelson City Council	0	0	0
Marlborough District Council	1	0	0
Tasman District Council	0	0	0
<b>UNITARY SUBTOTAL</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>2</b>	<b>0</b>	<b>0</b>

## CME REPORTING

**Q44.** What mechanisms do your council use to report CME data to the public? (e.g., annual reports, reports to councillors) Provide links or examples.

- Annual Report
- Report to Councillors
- Snapshot
- Report(s) to Council committee meetings (open to public)
- Other (please specify)

Except for the contribution of data to the National Monitoring System, councils are responsible for determining the scope and content of the reporting on their RMA CME functions. Question 44 addressed the ways in which this operational function was carried out, providing a range of 'standard' options and giving council respondents space to describe alternate approaches.

Commonly most councils reported at committee meetings that were open to the public, only Northland, Waikato, Greater Wellington and Southland did not use this mechanism. Bay of Plenty, Environment Canterbury, Hawkes Bay and Marlborough report across all standard reporting approaches.

**Table 28:** CME reporting channels

	Annual Report	Report to Councillors	Snapshot	Report(s) to Council committee meetings (open to public)	Other	TOTAL REPORTING CHANNELS
<b>Regional councils</b>						
Northland Regional Council	1	1	1	0	1	4
Waikato Regional Council	0	1	1	0	0	2
Bay of Plenty Regional Council	1	1	1	1	0	4
Hawkes Bay Regional Council	1	1	1	1	0	4
Taranaki Regional Council	1	1	0	1	1	4
Horizons Regional Council	0	0	0	1	0	1
Greater Wellington Regional Council	1	1	0	0	1	3
Environment Canterbury	1	1	1	1	1	5
Otago Regional Council	0	0	0	1	0	1
West Coast Regional Council	1	1	0	1	0	3
Southland Regional Council	0	0	0	0	1	1
<b>Unitary authorities</b>						
Auckland Council	0	0	0	1	1	2
Gisborne District Council	1	1	0	1	0	3
Nelson City Council	0	0	0	1	0	1
Marlborough District Council	1	1	1	1	0	4
Tasman District Council	1	0	0	1	0	2

## PART 3 REGIONAL SCORECARDS

The following pages are summaries of the key data for the regional and unitary councils on an individual basis. They enable councils to quickly and easily communicate the findings of the national scale analysis as it applies to them, and to use these figures as a basis for regional scale performance improvement. All pages contain identical categories of information, all of which is based on tables found elsewhere throughout the report.

# CME METRICS REPORT 2019/2020

## NATIONAL SUMMARY



**4,881,100**  
New Zealand population estimate 2019



**9.1%**  
Population growth 2014 - 2019



**268,021km<sup>2</sup>**  
Geographic area



**\$303,436m**  
GDP to March 2019



### CME STAFF

Full time employees **499**

FTE/1000 **0.13**

### POLICY CHECKLIST

Conflict of interest policy **16/16**  
Education / engagement programmes **16/16**  
Enforcement policy **14/16**

### CONSENTS



**255,142**  
Administered



**54,488**  
Required monitoring



Consents monitored of those requiring it  
**79.8%**

### INCIDENTS



**31,979**  
ENVIRONMENTAL INCIDENTS REPORTED



**99.2%**  
RESPONSE RATE

### ENFORCEMENT

**978**

Warnings issued

**4,133**

Abatement notices issued

**1,783**

Infringement fines issued

**14**

Enforcement order applications

**70**

Prosecutions concluded

**118**

Prosecutions in progress



# CME METRICS REPORT 2019/2020

## NORTHLAND REGIONAL COUNCIL

 **186,700**  
Population estimates 2019

 **12.5%**  
Population growth 2014 - 2019

 **13,778 km<sup>2</sup>**  
Geographic area

 **\$7,861m**  
Regional GDP to March 2019



### CME STAFF

Full time employees **25**


FTE/1000 **0.13**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **9,910**  
Administered

 **3,731**  
Required monitoring

 Consents monitored of those requiring it  
**88.3%**  
National average > 79.8%

### INCIDENTS

 **1,019**  
ENVIRONMENTAL  
INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**No data**  
Warnings issued

**230**  
Abatement notices issued

**154**  
Infringement fines issued

**0**  
Enforcement order applications

**4**  
Prosecutions concluded

**3**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## WAIKATO REGIONAL COUNCIL

- 477,300**  
Population estimates 2019
- 11.5%**  
Population growth 2014 - 2019
- 24,147 km<sup>2</sup>**  
Geographic area
- \$25,835m**  
Regional GDP to March 2019



**CME STAFF**

- Full time employees **44**
- FTE/1000 **0.09**
- National average > 0.13

**POLICY CHECKLIST**

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

**CONSENTS**

- 11,419**  
Administered
- 1,674**  
Required monitoring
- Consents monitored of those requiring it **100%**  
National average > 79.8%

**INCIDENTS**

- 1,712**  
ENVIRONMENTAL INCIDENTS REPORTED
- 100%**  
RESPONSE RATE  
National average > 99.2%

**ENFORCEMENT**

<b>305</b> Warnings issued	<b>134</b> Abatement notices issued	<b>71</b> Infringement fines issued
<b>6</b> Enforcement order applications	<b>21</b> Prosecutions concluded	<b>22</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## BAY OF PLENTY REGIONAL COUNCIL

 **321,100**  
Population estimates 2019

 **13.7%**  
Population growth 2014 - 2019

 **12,303 km<sup>2</sup>**  
Geographic area

 **\$17,243m**  
Regional GDP to March 2019



### CME STAFF

Full time employees **35**

FTE/1000 **0.11**

National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **8,458**  
Administered

 **3,316**  
Required monitoring

 Consents monitored of those requiring it  
**84.7%**  
National average > 79.8%

### INCIDENTS

 **3,862**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**No data**  
Warnings issued

**117**  
Abatement notices issued

**25**  
Infringement fines issued

**No data**  
Enforcement order applications

**3**  
Prosecutions concluded


**13**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## HAWKES BAY REGIONAL COUNCIL

-  **172,600**  
Population estimates 2019
-  **8.6%**  
Population growth 2014 - 2019
-  **14,138 km<sup>2</sup>**  
Geographic area
-  **\$8,673m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **14**

FTE/1000 **0.08**

*National average* > 0.13

**POLICY CHECKLIST**

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

<b>CONSENTS</b>	 <b>8,300</b> Administered	 <b>3,550</b> Required monitoring	 Consents monitored of those requiring it <b>93.1%</b> <i>National average</i> > 79.8%
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<b>INCIDENTS</b>	 <b>983</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>100%</b> RESPONSE RATE <i>National average</i> > 99.2%
------------------	--	--

<b>ENFORCEMENT</b>	<b>12</b> Warnings issued	<b>20</b> Abatement notices issued	<b>69</b> Infringement fines issued
	<b>1</b> Enforcement order applications	<b>0</b> Prosecutions concluded	<b>12</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## TARANAKI REGIONAL COUNCIL

 **121,900**  
Population estimates 2019

 **6.6%**  
Population growth 2014 - 2019

 **7,256 km<sup>2</sup>**  
Geographic area

 **\$8,902m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **42**

FTE/1000 **0.34**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **4,625**  
Administered

 **2,788**  
Required monitoring

 Consents monitored of those requiring it  
**100%**  
National average > 79.8%

### INCIDENTS

 **529**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**0**  
Warnings issued

**187**  
Abatement notices issued

**104**  
Infringement fines issued

**0**  
Enforcement order applications

**1**  
Prosecutions concluded

**4**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## HORIZONS REGIONAL COUNCIL

 **248,000**  
Population estimates 2019

 **6.9%**  
Population growth 2014 - 2019

 **22,220 km<sup>2</sup>**  
Geographic area

 **\$11,598m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **12**

FTE/1000 **0.05**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **5,468**  
Administered

 **1,367**  
Required monitoring

 Consents monitored of those requiring it  
**81.3%**  
National average > 79.8%

### INCIDENTS

 **1,168**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**48**  
Warnings issued

**54**  
Abatement notices issued

**81**  
Infringement fines issued

**0**  
Enforcement order applications

**4**  
Prosecutions concluded

**4**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## GREATER WELLINGTON REGIONAL COUNCIL

 **525,200**  
Population estimates 2019

 **7.4%**  
Population growth 2014 - 2019

 **8,142 km<sup>2</sup>**  
Geographic area

 **\$38,997m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **16**

FTE/1000 **0.03**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **6,863**  
Administered

 **1,633**  
Required monitoring

 Consents monitored of those requiring it  
**94.2%**  
National average > 79.8%

### INCIDENTS

 **1,398**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**54**  
Warnings issued

**24**  
Abatement notices issued

**66**  
Infringement fines issued

**0**  
Enforcement order applications

**4**  
Prosecutions concluded

**6**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## ENVIRONMENT CANTERBURY

 **624,100**  
Population estimates 2019

 **9.7%**  
Population growth 2014 - 2019

 **44,633 km<sup>2</sup>**  
Geographic area

 **\$37,509m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **46**

FTE/1000 **0.07**

National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

<b>CONSENTS</b>	 <b>22,051</b> Administered	 <b>4,410</b> Required monitoring	 Consents monitored of those requiring it <b>89.4%</b> National average > 79.8%
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<b>INCIDENTS</b>	 <b>3,877</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>85.5%</b> RESPONSE RATE National average > 99.2%
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<b>ENFORCEMENT</b>	<b>479</b> Warnings issued	<b>69</b> Abatement notices issued	<b>67</b> Infringement fines issued
	<b>1</b> Enforcement order applications	<b>5</b> Prosecutions concluded	<b>8</b> Prosecutions in progress



# CME METRICS REPORT 2019/2020

## OTAGO REGIONAL COUNCIL

 **234,300**  
Population estimates 2019

 **11.3%**  
Population growth 2014 - 2019

 **31,280 km<sup>2</sup>**  
Geographic area

 **\$13,583m**  
Regional GDP to March 2019



### CME STAFF

Full time employees **28**

FTE/1000 **0.12**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **5,656**  
Administered

 **3,256**  
Required monitoring

 Consents monitored of those requiring it  
**63.5%**  
National average > 79.8%

### INCIDENTS

 **1,184**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**No data**  
Warnings issued

**20**  
Abatement notices issued

**26**  
Infringement fines issued

**1**  
Enforcement order applications

**3**  
Prosecutions concluded


**3**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## WEST COAST REGIONAL COUNCIL

-  **32,600**  
Population estimates 2019
-  **-0.9%**  
Population growth 2014 - 2019
-  **23,277 km<sup>2</sup>**  
Geographic area
-  **\$1,861m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **6**

FTE/1000 **0.17**

*National average* > 0.13

**POLICY CHECKLIST**

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

<b>CONSENTS</b>	 <b>3,000</b> Administered	 <b>900</b> Required monitoring	 Consents monitored of those requiring it <b>86.5%</b> <i>National average</i> > 79.8%
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<b>INCIDENTS</b>	 <b>199</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>100%</b> RESPONSE RATE <i>National average</i> > 99.2%
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<b>ENFORCEMENT</b>	<b>15</b> Warnings issued	<b>20</b> Abatement notices issued	<b>35</b> Infringement fines issued
	<b>0</b> Enforcement order applications	<b>0</b> Prosecutions concluded	<b>1</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## SOUTHLAND REGIONAL COUNCIL

 **100,800**  
Population estimates 2019

 **4.7%**  
Population growth 2014 - 2019

 **32,184 km<sup>2</sup>**  
Geographic area

 **\$6,359m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **15**

FTE/1000 **0.15**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **5,824**  
Administered

 **4,127**  
Required monitoring

 Consents monitored of those requiring it  
**73.2%**  
National average > 79.8%

### INCIDENTS

 **718**  
ENVIRONMENTAL INCIDENTS REPORTED

 **97.5%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**35**  
Warnings issued

**29**  
Abatement notices issued

**48**  
Infringement fines issued

**0**  
Enforcement order applications

**10**  
Prosecutions concluded

**8**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## AUCKLAND COUNCIL

 **1,631,300**  
Population estimates 2019

 **8.5%**  
Population growth 2014 - 2019

 **5,945 km<sup>2</sup>**  
Geographic area

 **\$114,148m**  
Regional GDP to March 2019



 **CME STAFF**  
Full time employees **182**

FTE/1000 **0.11**

National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

### CONSENTS

 **115,723**  
Administered

 **13,162**  
Required monitoring

 Consents monitored of those requiring it  
**72%**  
National average > 79.8%

### INCIDENTS

 **11,402**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**No data**  
Warnings issued

**3,122**  
Abatement notices issued

**956**  
Infringement fines issued

**4**  
Enforcement order applications

**10**  
Prosecutions concluded


**21**  
Prosecutions in progress

# CME METRICS REPORT 2019/2020

## GISBORNE DISTRICT COUNCIL

-  **49,100**  
Population estimates 2019
-  **4.2%**  
Population growth 2014 - 2019
-  **8,386 km<sup>2</sup>**  
Geographic area
-  **\$2,161m**  
Regional GDP to March 2019



 **CME STAFF**


Full time employees **7**

FTE/1000 **0.14**

*National average* > 0.13

**POLICY CHECKLIST**

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

<b>CONSENTS</b>	 <b>10,500</b> Administered	 <b>unknown</b> Required monitoring	 Consents monitored of those requiring it <b>unknown</b> <i>National average</i> > 79.8%
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<b>INCIDENTS</b>	 <b>1,837</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>100%</b> RESPONSE RATE <i>National average</i> > 99.2%
------------------	--	--


<b>ENFORCEMENT</b>	<b>4</b> Warnings issued	<b>9</b> Abatement notices issued	<b>0</b> Infringement fines issued
	<b>0</b> Enforcement order applications	<b>4</b> Prosecutions concluded	<b>7</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## TASMAN DISTRICT COUNCIL

-  **54,800**  
Population estimates 2019
-  **9.2%**  
Population growth 2014 - 2019
-  **9,764 km<sup>2</sup>**  
Geographic area
-  **\$5,458m**  
Regional GDP to March 2019



 **CME STAFF**

Full time employees **11**

FTE/1000 **0.20**

*National average* > 0.13

**POLICY CHECKLIST**

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

<b>CONSENTS</b>	 <b>7,230</b> Administered	 <b>6,389</b> Required monitoring	 Consents monitored of those requiring it <b>26.5</b> <i>National average</i> > 79.8%
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<b>INCIDENTS</b>	 <b>1,135</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>100%</b> RESPONSE RATE <i>National average</i> > 99.2%
------------------	--	--


<b>ENFORCEMENT</b>	<b>No data</b> Warnings issued	<b>31</b> Abatement notices issued	<b>34</b> Infringement fines issued
	<b>0</b> Enforcement order applications	<b>0</b> Prosecutions concluded	<b>1</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## NELSON CITY COUNCIL

- 
**52,900**  
 Population estimates 2019
- 
**9.2%**  
 Population growth 2014 - 2019
- 
**477 km<sup>2</sup>**  
 Geographic area
- 
**\$5,458m**  
 Regional GDP to March 2019




**CME STAFF**  
 Full time employees **6.5**  
 FTE/1000 **0.12**  
*National average > 0.13*

**POLICY CHECKLIST**

- Conflict of interest policy ✓
- Education / engagement programmes ✓
- Enforcement policy ✓

<b>CONSENTS</b>	 <b>656</b> Administered	 <b>656</b> Required monitoring	 Consents monitored of those requiring it <b>100%</b> <i>National average &gt; 79.8%</i>
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<b>INCIDENTS</b>	 <b>496</b> ENVIRONMENTAL INCIDENTS REPORTED	 <b>100%</b> RESPONSE RATE <i>National average &gt; 99.2%</i>
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<b>ENFORCEMENT</b>	<b>No data</b> Warnings issued	<b>29</b> Abatement notices issued	<b>13</b> Infringement fines issued
	<b>0</b> Enforcement order applications	<b>0</b> Prosecutions concluded	<b>0</b> Prosecutions in progress

# CME METRICS REPORT 2019/2020

## MARLBOROUGH DISTRICT COUNCIL

 **49,000**  
Population estimates 2019

 **8.9%**  
Population growth 2014 - 2019

 **10,773 km<sup>2</sup>**  
Geographic area

 **\$3,248m**  
Regional GDP to March 2019



### CME STAFF

Full time employees **11**

FTE/1000 **0.21**


National average > 0.13

### POLICY CHECKLIST

- Conflict of interest policy
- Education / engagement programmes
- Enforcement policy

### CONSENTS

 **29,459**  
Administered

 **3,529**  
Required monitoring

 Consents monitored of those requiring it  
**92.7%**  
National average > 79.8%

### INCIDENTS

 **587**  
ENVIRONMENTAL INCIDENTS REPORTED

 **100%**  
RESPONSE RATE  
National average > 99.2%

### ENFORCEMENT

**26**  
Warnings issued

**38**  
Abatement notices issued

**34**  
Infringement fines issued

**1**  
Enforcement order applications

**1**  
Prosecutions concluded

**5**  
Prosecutions in progress



## APPENDIX 1 – METRICS SURVEY QUESTIONS

1. Which council are you completing this survey on behalf of? [Regional/ Unitary]
2. And this is for?
  - Northland Regional Council
  - Waikato Regional Council
  - Bay of Plenty Regional Council
  - Hawkes Bay Regional Council
  - Taranaki Regional Council
  - Horizons Regional Council
  - Greater Wellington Regional Council
  - Environment Canterbury
  - Otago Regional Council
  - West Coast Regional Council
  - Southland Regional Council
  - Auckland Council
  - Gisborne District Council
  - Nelson City Council
  - Marlborough District Council
  - Tasman District Council
3. What is your name and contact details?

### Comments to Iwi

*Post 2017/2018 regional context data from common national sources (e.g. Statistics New Zealand) instead of requiring councils to submit it. This also helped ensure comparability*

4. In no more than 300 words describe your regional key commitments to work with iwi/Maori on CME. For example, joint management agreements or other co-management agreements.  
*Note: The report author may contact you for further information or clarification of your response.*

### CME Operations (managing the workload)

#### Complaints

5. Does your council register/count:
  - an individual “incident” per notification?
  - one incident per event, regardless of the number of separate complainants?
6. How many notifications (complaints) were received from members of the public (or other sources, but excluding information from council monitoring activity) relating to environmental incidents or potential breaches of environmental regulation?  
*This might include information from, for example, emergency services attending an incident or perhaps a council staff member observing something while on other duties, but excludes information from council monitoring activity.*
  - No. of individual complaints/calls?
  - No. of individual incidents logged?
  - Unknown

7. How many of these notifications were responded to by council?  
*This response may be in any form – e.g. phone call, site visit, desktop audit*
8. How many of these notifications were physically attended by council staff?  
*If one incident had multiple visits, only count this as one.*
9. How many of these notifications were confirmed as breaches of the RMA or subsidiary instruments?
10. How many of the breaches were for:
  - Breach of a resource consent?
  - Breach of permitted activity rules?

### Monitoring Resource Consents & Permitted Activities

#### Resource Consents

11. How many individual, active resource consents exist in your region?  
*Exclude Land Use Consents where the activity is completed e.g. Land use subdivisions where the subdivision is complete and certificates issued or land use – building where the building has been constructed.*
12. How many consents required monitoring during this period, in accordance with your monitoring prioritisation model/strategy?
13. How many of these consents were monitored (including desktop audit) in the period?

#### Compliance Gradings

14. In the 2019/20 year, did you use the four compliance grades as recommended by Ministry for Environment?  
Yes/No
15. What grades do you apply to non-compliance? (e.g. technical non-compliance, significant non-compliance)
  - Fully Compliant
  - Technical/Low Non-Compliance
  - Moderate Non-Compliance
  - Significant Non-Compliance
  - Other (please specify)
16. When will your council be adopting the four compliance grades recommended by Ministry for Environment?
17. What were the levels of compliance with consents according to the grades you use?  
*Note 1: Numbers provided under each grade is per monitoring event not per consent. E.g. a consent may be monitored 4 times in the year on one occasion it may be Technically Non-Compliance and on three occasions it may be Fully Compliant, this would add 3 to the total of Fully Compliant and one to the total for Technical Non-compliance.*  
*Note 2: The compliance grade is based on the condition with the worst compliance grade. (e.g. a consent with five conditions Fully Compliant and one condition Moderate Non-Compliance has an overall compliance grade of Minor Non-Compliance*  
*Note 3: Daily telemetry water readings where compliance with water take limits is continuously monitored are to be excluded from compliance grade totals.*
  - Fully Compliant
  - Technical/Low Non-Compliance
  - Moderate Non-Compliance
  - Significant Non-Compliance
  - Other (please specify)

### Monitoring Permitted Activities

18. Which permitted activities do you have a monitoring programme for?
- Agriculture (excluding dairy)
  - Aquaculture
  - Construction
  - Dairy
  - Forestry
  - Horticulture
  - Industrial Stormwater
  - Mining
  - Oil and gas
  - Tourism
  - Vineyards
  - Wineries
  - Wintering
  - Other (please specify)

### Making Decisions on Priorities

19. What basis is used for determining what notifications/complaints/incidents are physically attended and with what urgency or priority?
20. Describe how you determine which consents are monitored and how frequently?  
*If there is a prioritisation model or compliance strategy, add link*
21. Describe the basis, which was used for determining what, if any, permitted activities were monitored.  
*If there is a prioritisation model or compliance strategy, add link*

### Staffing Levels

22. How many FTEs does your council have who carry out monitoring roles?  
*Include contractors.*
23. How many FTEs does your council have who carry out environmental incident or pollution response roles?  
*Include contractors.*
24. How many FTEs does your council have who carry out investigation or enforcement roles?
25. How many FTEs does your council have who carry out a combination of the above roles? *Note 1: Include contractors*  
*Note 2: Only answer this question if you have not included these staff in questions 21, 22 or 23*
26. How many FTEs does your council have in CME support roles?  
*This includes administrative roles, e.g. staff who assist with issue of notices, reminder notices, upload of unpaid infringements to MoJ.*

### CME Policies and Procedures

27. Does your council have an enforcement policy?  
Yes/ No
28. What is your process for making decisions on prosecutions?
29. Who has the delegation to authorise filing of charges for a prosecution at your council?
30. Does your council have a conflict of interest policy?  
Yes/ No

### Acting on Non-Compliance

31. What was the total number of actions taken during the period for:

- Formal warnings issued
- Abatement notices issued
- Infringement notices issued
- Enforcement orders applied for

*Note: This relates to the instruments issued in relation to the different sections of the Act (listed once for brevity)*

- Section 9 Use of land
- Section 12 Coastal marine area
- Section 13 Beds of lakes and rivers
- Section 14 Water
- Section 15 Discharges of contaminants
- Section 17 Duty to avoid, remedy & mitigate
- Other breach e.g. Section 22

### Prosecution

32. How many RMA prosecutions were:

*Note: For this question please consider an entire case (regardless of number of charges and defendants) as one prosecution.*

- Concluded in the period
- Still in progress in the period

33. What is the total number of individual (person) defendants convicted as a result of RMA prosecutions concluded in this period?

34. For all of these (person) defendants what is the total number of convictions entered against them?

*For example, there may be a total of 27 separate convictions entered against a total of nine 'individual' defendants.*

35. What is the total number of corporate (e.g. Crown, company, body corporate etc) defendants convicted as a result of RMA prosecutions concluded in this period?

36. For all of these (corporate) defendants what is the total number of convictions entered against them?

*For example, there may be a total of 30 separate convictions entered against a total of 12 corporate defendants.*

37. Total number of convictions against: [see categories for sections of the Act as above]

- an individual
- a corporate entity

*Total fine potential (Individual total x \$300,000, corporate entity total x \$600,000)*

38. What is the total amount of fines imposed by the courts as a result of RMA prosecutions concluded in this period?

- Individual fines
- Corporate fines

39. What other sanctions, if any, have been imposed by the courts as a result of RMA prosecutions concluded in this period?

- Prison sentence
- Enforcement order
- Reparation
- Community Service
- Discharge without conviction
- Other

40. How many prosecutions involved restorative justice, diversion or other alternative justice process?

- Restorative justice
- Diversion
- Alternative justice

41. Describe any outcomes relating to these processes.

#### Educating and Engaging with the Regulated Community

42. Does your council have, or support, any education or engagement projects relating to compliance with the RMA or any of its derivative regulation? For example, workshops for earthworks contractors around erosion and sediment controls. Yes/No
43. If yes, briefly describe

#### CME Reporting

44. What mechanisms do your council use to report CME data to the public? e.g. annual reports, reports to councillors
  - Annual Report
  - Report to Councillors
  - Snapshot
  - Report(s) to Council committee meetings (open to public)
  - Other (please specify)

## APPENDIX 2 - LONG FORM RESPONSES (QUESTION 3)

NORTHLAND REGIONAL COUNCIL	<p>NRC has a range of initiatives to work in partnership with Maori. A key one is the Te Tai Tokerau Maori &amp; Council Working Party (TTMAC), which is an advisory committee established in 2014. Membership of this standing committee consists of 16 hapu/iwi representatives and all councilors. This group meet monthly. Four of councils five other working also have an equal number of Maori representatives sitting alongside councilors. This includes the Planning and Regulatory Working Party, which has oversight of CME as part of its purpose. Council has approved a Mana Whakahono ā Rohe and is progressing a programme of jointly signing with hapū groups. (Mana Whakahono ā Rohe are a binding statutory arrangement that provides for a structured relationship under the Resource Management Act 1991 between tangata whenua and councils). It includes an agreed process for hapū signatories to meet with the Northland Regional Council to discuss opportunities for hapū to be involved in council compliance and monitoring activities. In recent years council has provided support to 'kaitiaki rangers' in some coastal communities.</p>
WAIKATO REGIONAL COUNCIL	<p>The WRC has operative Joint Management Agreements (JMAs) with five 'River' Iwi – Waikato-Tainui, Raukawa, Te Arawa, Ngati Maniapoto and Ngati Tuwharetoa – as required by legislation. A key purpose of JMAs is to provide a framework for Iwi and the Council to discuss and agree processes for enabling co-management of planning, regulatory and other functions within the relevant Iwi's geographic area of interest. For all currently operative JMAs, this includes RMA compliance, monitoring and enforcement (CME) functions of Council. Whilst each of the JMAs was individually negotiated, there are common themes across all in relation to CME. The key commitments relating to CME within the JMAs generally include biannual operational meetings to discuss monitoring priorities, extent and methods; the potential for Iwi involvement in monitoring and enforcement processes; responses to non-compliance; consent review opportunities; the effectiveness of conditions and the effectiveness of compliance policies and procedures generally. The JMAs require various CME-related information to be provided, at different times – for example, summary updates of enforcement actions (prosecutions, enforcement orders, abatement notices and infringement notices) undertaken by the Council under the RMA for the JMA area. Agreed outcomes and actions from biannual operational meetings will, where appropriate, be reported up to the corresponding co-governance committees.</p>
BAY OF PLENTY REGIONAL COUNCIL	<p>We do not currently have any formal CME focused arrangements with tangata whenua; however, the role and importance of Māori as kaitiaki is considered in the day to day implementation of our compliance programme. In practical terms, this may include ensuring tangata whenua are notified of incidents in their rohe ('no surprises' approach) and involved in project where appropriate (e.g. marae wastewater). CME information is also formally reported to co-governance groups (eg. Rangitaiki River Authority and Te Maru o Kaituna)</p>

HAWKESBAY REGIONAL COUNCIL	<p>A fundamental relationship exists between HBRC and the Treaty settlement groups within Hawke's Bay. While this is tangibly demonstrated through the Regional Planning Committee (RPC) (a co-governance arrangement created by statute and responsible for the development and review of regional policy statements and regional plans) HBRC regularly meets with the Post settlement governance entities to discuss matters of concern beyond the remit of the RPC. This includes regulatory matters within the relevant rohe and CME issues. In the 2018/19 financial year HBRC created the role of Tumuaki to strengthen our knowledge of Maturanga Maori and to further enhance relationships with tangata whenua within the region on matters of importance to them. The Maori Partnerships Unit now has three fulltime staff who liaise with staff in other areas including CME. HBRC staff and councilors attend hui throughout the region involving particularly marae communities to listen to particular issues that those communities have and to assess where Council can best help. Finally since 1991 we have had a Maori Committee as a representative group of Ngati Kahungunu tangata whenua. This committee is where formal reporting on CME issues, including formal reports, are put forward for discussion and recommendations to Council.</p>
TARANAKI REGIONAL COUNCIL	<p>The Council has 3 iwi appointed representatives on each of its Consents and Regulatory and Policy and Planning Committees. This provides for CME input at this level. In addition the Council engages directly with iwi over prosecutions and obtains victim impact statements for sentencing. The 4 local authorities in the region are currently trying to develop Iwi Relationship Agreements, under the Mana Wakahono a Rohe provisions of the RMA, with 7 iwi in the region, which potentially includes CME provisions.</p>
HORIZONS REGIONAL COUNCIL	<p>No formal agreements at this stage with iwi around CME, however, in the event of a major incident or comprehensive investigation iwi are advised. regarding the latter Council endeavors to obtain cultural impact statements from iwi that are then put before the court as part of the sentencing process.</p>
GREATER WELLINGTON	<p>As well as the items referred to in previous years responses. Introduction Chapter to our proposed Natural Resources Plan lays out the collaborative work and strategy for involving iwi. <a href="http://www.gw.govt.nz/assets/Proposed-Natural-Resources-Plan/Web-update-docs/Chapter-1-Introduction.pdf">http://www.gw.govt.nz/assets/Proposed-Natural-Resources-Plan/Web-update-docs/Chapter-1-Introduction.pdf</a> The Waitua Committee Pages expand on the above and how we will engage and collaborate with Iwi and communities in the CME space <a href="http://www.gw.govt.nz/waitua-committees/">http://www.gw.govt.nz/waitua-committees/</a></p>

ENVIRONMENT CANTERBURY	<p>While the Local Government Act 2002 sets out provisions relating to all Māori, it is recognized that within the Canterbury region, Ngāi Tahu are the tangata whenua. They have special status in terms of Environment Canterbury's resource management activities and are not just another interest group. The Resource Management Act 1991 gives regional councils specific obligations regarding kaitiakitanga, the principles of the Treaty of Waitangi and the relationship between Māori and their culture and their traditions with their ancestral lands, sites, wāhi tapu and other taonga. To give effect to the obligations under the Local Government Act 2002 and the related obligations under the Resource Management Act 1991, we have committed with Ngāi Tahu to improve relations and interaction and integrate improved working practices across Environment Canterbury. The way we do this falls under the umbrella of our joint work programme Tuia. Best practice examples of working with Ngāi Tahu are also included. This is especially noted in our co-governance agreement for Te Waihora and the way we implement improvements under Tuia.</p>
OTAGO REGIONAL COUNCIL	<p>We have used iwi for cultural impact assessment reports on prosecution cases.</p>
WEST COAST REGIONAL COUNCIL	<p>Iwi reps sit on Council's Resource Management Committee and CME activity is reported to this committee monthly. Iwi are provided with a list of all resource consent applications received. WCRC is working towards a Mana Whakahono a Rohe arrangement with iwi and this is close to being formalized.</p>
SOUTHLAND REGIONAL COUNCIL	<p>Ngāi Tahu ki Murihiku (tangata whenua) have a particular interest in the work of Environment Southland. And mutually, the council has responsibilities towards Māori and Māori cultural and spiritual values. The approach we have in Southland today is unique in the South Island. Its aim is to ensure Māori values are reflected in the council's decision-making, so that Southland's mauri is protected for now and generations to come. Te Aō Marama Incorporated (the environmental arm of Ngāi Tahu ki Murihiku) was one of the key facilitators when the relationship between the council and iwi began in the early 90s. Te Aō Marama was delegated the responsibility of dealing with councils on environmental matters, on behalf of the four papatipu rūnanga who hold mana whenua over all ancestral lands in Murihiku – Awarua, Hokonui, Ōraka Aparima and Waihōpai. For 25 years the relationship with Environment Southland continues to grow, with various protocols being developed to ensure smooth and efficient processes for plan development and consents management, a jointly funded iwi policy advisor position, an iwi management plan Te Tangi a Tauri, and a partnership to improve Southland's water and land through the People Water and Land programme – Te Mana o te Tangata, te Wai, te Whenua. The most recent milestone in the council's relationship with iwi is the inclusion of mana whenua positions on two of Environment Southland's committees. The successful candidates for these positions will start their work after the elections in October. Environment Southland, refers to the iwi relationship as te kōura tuia – the 'golden thread' that we weave through all our work. It's just part of how we operate. There is a commitment to the responsibility of improving Southland's local government understanding of all things Māori.</p>



AUCKLAND COUNCIL	Regular contact with 19 Mana Whenua groups through Kaitiaki forum (hosted by AC) and more recently have held a series of wananga to workshop our CVA processes. Work specifically on CME includes assistance with impact statements in enforcement proceedings and remediation
GISBORNE DISTRICT COUNCIL	We are currently looking at ways in which we can work with iwi/Maori on CME issues. One area being looked at is local iwi being able to provide victim impact statements.
NELSON CITY COUNCIL	No formal agreements in place, iwi involved in revising Plan provisions and will request an iwi monitor be on site through resource consents when required
MARLBOROUGH DISTRICT COUNCIL	MDC engage with Iwi and Hapu in relation to a CME with cultural impact and priorities as required. MDC operates a Iwi working group in the development of plans. MDC currently have a draft Iwi Engagement Plan.
TASMAN DISTRICT COUNCIL	No formal agreements under CME responsibility at this stage but being developed. At a very early scoping stage.

### 8.3. Harbourmaster Summer Activity Update

**Prepared for:** Regulatory Committee  
**Report No.** GOV2109  
**Activity:** Regulatory - Harbour Management  
**Author:** Steve Rushbrook  
**Endorsed by:** Richard Saunders, General Manager Regulatory  
**Date:** 28 February 2021

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#### PURPOSE

- [1] The purpose of this report is to update Council on Harbourmaster activity and operations following the completion of the 2020/2021 summer season.

#### EXECUTIVE SUMMARY

- [2] Under the Maritime Transport Act (MTA) 1994 the Otago Regional Council (ORC) takes the role of Harbour Authority for the Otago Harbour and waterways and has committed to properly monitoring and managing maritime risk in the region.
- [3] In 2020 the transfer of Harbourmaster responsibilities for Lake Dunstan from Central Otago District Council back to ORC was completed. Over the recently completed summer period the Otago Harbourmaster undertook several on and off water engagements in both Coastal Otago and on Lake Dunstan.

#### RECOMMENDATION

*That the Council:*

- 1) **Receives** this report.

#### BACKGROUND

- [4] The Harbourmaster was re-established at ORC at the end of 2017. Since this time the team has expanded to two staff and has a vessel (Kaitiaki) in which to undertake a number of its functions.
- [5] With the additional responsibility of Lake Dunstan in 2020 the team has a focus on increasing engagement with the Otago Community and other water users to promote navigational safety.

#### DISCUSSION

- [6] Over the 2020/2021 summer the Harbourmaster has completed a number of pieces of work which all contribute to delivering improved navigational safety across Otago. This work excludes waterways in the Queenstown Lakes area where the Harbourmaster functions are delegated to the Queenstown Lakes District Council.

### **2020/2021 No Excuses National Boating Safety Campaign**

- [7] The Harbourmaster has been actively engaged in the campaign for the second year. This campaign involved the delivery of five days of on the water engagement in association with Maritime New Zealand.
- [8] This year the five days were undertaken in Lake Dunstan (3 days), Otago Harbour and Karitane (1 day), and Taieri Mouth (1 day). We engaged with 106 recreational users to discuss and advise on boating safety.

### **Port and Harbour Marine Safety Code**

- [9] Otago is due for its 3-yearly external review of the Port and Harbour Marine Safety Code (PHMSC) in April 2021. The PHMSC is a national code that covers both the operation of the ORC Harbourmaster and Port Otago in the Otago Harbour.
- [10] ORC was deemed compliant following an external review in 2018. The PHMSC is maintained by the Harbourmaster and self-assessed annually. The external review is undertaken by an independent panel of assessors.

### **Lake Dunstan**

- [11] 14 September 2020 saw the formal transfer of maritime delegation for Lake Dunstan return to the ORC. The merging of two sets of navigational bylaws (CODC and ORC) has seen a more consistent set of rules applied across Otago.
- [12] 130 existing navigational safety marks were inherited on Lake Dunstan. With the exception of one, all of these have been inspected to ensure they are fit for purpose. We have also enhanced safety for water users on the lake with shallow water marks and isolated danger marks as appropriate.
- [13] This season we have spent 11 full days on the lake. The majority of the on-water days coincided with the busy summer holidays which are the peak activity times ensuring the maximum number of engagements.

### **Aids to Navigation**

- [14] This summer has seen a further concerted effort to upgrade the regions navigational aids. Previously these either did not exist or had not been appropriately maintained. The improvements include a range of speed marks, channel markers and other navigational markers or improvements.
- [15] Five knot speed marks have now been placed around a number of busy bays in Otago Harbour as well as at Taieri Mouth, Owaka, Waihola and Lake Dunstan. Navigation Marks on the Eastern channel in Dunedin have had lights added and we have replaced a buoy at Company Bay. A 'gated' channel at Quarantine Island across to Portobello which consists of 5 new marks has been added. A separate 'gated' channel has also been added in the cross channel (upper harbour) and one of the preferred channel marks that had broken away recently was replaced.

### **Incidents**

- [16] Incidents are recorded following reports from third parties or after observations on the water. There is currently one major incident that is open. This relates to a Maritime New Zealand investigation which is ongoing.
- [17] A number of vessels capsizing at Taieri Mouth on the bar crossing have prompted two fully attended safety briefings (held at Brighton) to help improve knowledge in this area. This has also prompted a project to have a CCTV live feed for the bar so that people can access and assess the bar prior to committing to crossing it.
- [18] Generally minor incident numbers are slightly down on previous years. While this is a positive statistic there may be a number of other incidents which are not reported to the Harbourmaster. Encouraging the reporting of these will be a focus for the team in the coming year.

### **Visitor Moorings**

- [19] The two visitors' moorings that were placed in Dunedin Harbour (2018) have been well received and have seen a significant increase in use this season with many visiting yachts and vessels utilising this option for a safe refuge/mooring before continuing their travels

### **Regional Visits**

- [20] The Harbourmaster team have accessed some of our more remote locations this season, in order to gain an understanding of the usage in some of these areas. Visits to Lake Mahinerangi, Moss Swamp, Lake Roxburgh, Poolburn and Lake Onslow. Updated maritime signage has been placed in all of these locations.
- [21] Improving maritime signage across the region in an ongoing exercise. All locations visited are checked for appropriate signage and upgraded as required.

### **Boating Education**

- [22] The Harbourmaster also supported and attended the 'Old for New' lifejacket events in Oamaru and Cromwell run by Coastguard. Nationally there were over 2,790 lifejackets distributed. As well as ensuring that attendees took the chance to upgrade their lifejackets it was a great chance to interact with the boating community and encourage on-water safety.

### **Kaitiaki**

- [23] The Harbourmaster vessel Kaitiaki has seen 114 Hours on the water since 1 July 2020. It is proving a great asset and has accessed a number of different locations across the region. It has been commercially engaged to assist activity on a cost recover basis and used on a number of occasions to support the work of ORC teams.

### **Oil Spill Response**

- [24] Both Harbourmaster and Deputy Harbourmaster have qualified and since been appointed as Regional OnScene Commanders (ROSC) for the ORC in regard to Oil Spill Response. This ensures ORC are able to respond to marine oil spill incidents appropriately where previous there was dependency on a single staff member.

**OPTIONS**

[25] As this is a report for noting there are no options for consideration.

**CONSIDERATIONS**

**Policy Considerations**

[26] There are no policy considerations relevant to this paper.

**Financial Considerations**

[27] There are no financial considerations relevant to this paper.

**Significance and Engagement**

[28] There are no significance and engagement considerations relevant to this paper.

**Risk Considerations**

[29] There are both legal and reputational risks associated with ORC not appropriately carrying out its Harbourmaster functions and duties appropriately.

**NEXT STEPS**

[30] As this is a noting report there are no specific next steps.

**ATTACHMENTS**

Nil