

Report No.	21-18
Information Only - No Decision Required	

## REGULATORY MANAGEMENT REPORT - NOVEMBER 2020 TO JANUARY 2021

### 1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period November 2020 to January 2021. It also provides a summary of the compliance monitoring programme associated with the Te Ahu A Turanga and Mercury Windfarm projects and work undertaken in relation to the implementation of the National Environmental Standards for Freshwater Regulations 2020.

### 2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 21-18 and Annex.

### 3. FINANCIAL IMPACT

- 3.1. As with previous years, we are still anticipating there will be significant costs associated with processing large and complex applications, which may in turn be subject to appeal. On-going investigations and prosecutions within the compliance monitoring programme are likely to have an impact on both expenditure and revenue. In addition to the above, we are also anticipating costs to be incurred in relation to the implementation of **National Environmental Standard – Freshwater (NES-FW)** and **Plan Change 2 (PC2)**.

### 4. COMMUNITY ENGAGEMENT

- 4.1. This is a public item and therefore Council may deem this sufficient to inform the public.

### 5. SIGNIFICANT BUSINESS RISK IMPACT

- 5.1. There is no significant business risk associated with this item.

### 6. CLIMATE IMPACT STATEMENT

- 6.1. As this report relates to statutory functions of Council. There is no direct climate change impact.

### 7. REGULATORY ACTIVITY 2019-2020

#### Consent Processing

- 7.1. Year to date 200 applications have been lodged, resulting in 139 applications being granted. Eighty nine percent (89%) of applications were processed within the required statutory timeframes and 19 administrative discounts have been applied as required under the **Resource Management (Discount on Administrative Charges) Regulations 2010 (Discount Regulations)**.

**RESOURCE CONSENT APPLICATION PROCESSING OVERVIEW (BY YEAR)**



**Figure 1. Resource consent processing year to date.**

7.2. During the reporting period progress continues to be made on a number of significant applications. These are reported to Council on a regular basis and the following provides an update on these:

**7.2.1. Department of Conservation**

i. The **Department of Conservation (DOC)** is progressing the Whakapapa **Wastewater Treatment Plant (WWTP)** application. DOC has now moved to plan for the relocation of the wastewater treatment plant out of the Tongariro National Park to a less sensitive (both culturally and environmentally) receiving environment. This is a positive move and one Horizons has advocated. A move outside the park will take 2-4 years to go through consenting and construction. In the meantime, Horizons is requiring investment into the existing plant to improve, as far as possible, its environmental performance.

7.2.2. Since the last Committee meeting both DOC and iwi have advised that they require more time to engage in relation to the long-term solution. Horizons agrees this is appropriate particularly given the location of the wastewater plant in a dual world heritage Area and the potential location of a replacement plant.

**7.2.3. Tararua District Council**

- i. The appeals regarding the Pahiatua and Eketahuna WWTP have now been resolved and we are now waiting on decisions from the Environment Court.
- ii. Regarding the Woodville WWTP, we are also awaiting a response from **Tararua District Council (TDC)** in relation to a section 92 request in relation to groundwater monitoring information, which is due on 28 February. In the event a hearing is required this will occur in May.

**7.2.4. Horowhenua District Council**

- i. The application seeking to discharge stormwater into Koputaroa Stream catchment is proceeding to a hearing that is to commence in early April.
- ii. Regarding the application seeking to discharge stormwater from the Levin Township into Lake Horowhenua, further information has been requested and HDC has asked for time to engage with the relevant parties. The COVID-19 pandemic has impacted on when HDC will be providing the further information requested and HDC is to

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provide an updated timeframe for provision of this information. Given the values of Lake Horowhenua, this is not expected to be a simple process.

- iii. HDC is preparing a consent application seeking to discharge stormwater from the Foxton Township to the Manawatū River. At the time of writing this report staff were waiting on an update from HDC as to the progress being made to lodge the required application.

#### 7.2.5. Ruapehu District Council

- i. **Ruapehu District Council (RDC)** has lodged a consent application in relation to the National Park WWTP. RDC are currently consulting with the Wai Group in relation to the proposed activity and is considering growth implications on the existing consent. RDC is proposing to re-submit a revised set of conditions for consideration.
- ii. Regarding the Ohakune and Raetihi WWTP applications RDC have advised that a feasibility report for the combined WWTP is due in June 2021. RDC are aware both applications have been on hold for some time and that engagement with Ngāti Rangī and Whanganui iwi and hapū is needed before any options can progress.
- iii. The application associated with the Taumarunui water supply is currently on hold for further information, including assessing water efficiency. RDC have advised they are actively engaging with Ngā Tangata Tiaki to develop a relationship agreement on engagement between the parties and are close to having a signed agreement. Until this agreement is finalised. Ultimately though RDC's engagement will need to ensure that iwi and hapū are appropriately involved and that they give appropriate effect to Te Awa Tupua as well as the RMA.
- iv. Rangataua WWTP application was publically notified and received three submissions, of which one wanted to be heard. Accordingly consultation is occurring with Ngāti Rangī who submitted on the application.

#### 7.2.6. Manawatu District Council

- i. The MDC objection to Horizons' decision on its application seeking to amend the Feilding WWTP consents, to allow for centralisation of discharges from other WWTP into the Feilding WWTP, has now been resolved.

#### 7.2.7. Te Ahu a Turanga

- i. The **Special Projects Team (SPT)** has been established and is now operational. The focus of the SPT over the period has been undertaking compliance inspections and reporting of activities occurring under the granted enabling consents, and certifying a number of management plans. The compliance programme associated with the project is discussed further on this report.

### Implementation of NES-FW

- 7.3. The **National Environmental Standard – Freshwater (NES-FW)** and **Resource Management (Stock Exclusion) Regulations 2020 (Regulations)** came into effect on 3 September 2020. This section of the report provides an update on implementation occurring at Council.
- 7.4. During the reporting period the main focus of the implementation team was preparing for and hosting a workshop on the consenting process for **Intensive Winter Grazing (IWG)**.
- 7.5. The workshop was held in December and involved representatives from Dairy NZ, Beef and Lamb, Open Country Dairy, Federated Farmers, consultants and HRC staff. The purpose of the workshop was to “road test” a consenting process for IWG activities of low, medium and high risk. The workshop was beneficial in that it enabled parties to ‘test’ the consenting process for these different risk IWG activities.

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- 7.6. The main outcomes of the workshop were that:
- The primary sector needed to approach iwi to start the conversation about how the engagement process with iwi and hapū will proceed; and
  - It was accepted that whilst it was desirable that farmers prepare applications, there will be instances where experts will be required to assist with the preparation of applications, the latter being those IWG that are high risk and fall into the Discretionary Activity pathway under the NES-FW
- 7.7. Since the workshop, staff have continued to meet with representatives from industry and have with other Councils being developing consent application forms and decision templates.
- 7.8. Horizons, along with other councils, is now awaiting consideration by ministers of recommendations from the Southland winter grazing group established by Ministers Parker and O'Connor. The group has recommended a number of changes which would significantly change the consents process.
- 7.9. Work continues at a national level in relation to implementation. The main focus is to ensure the NES-FW is implemented consistently, whilst allowing for regional variations. At present, this work has focused on looking at how councils can develop a consistent approach to consent processing, consent conditions and interpretation of key terms within the NES-FW.
- 7.10. Horizons has also established a designated page on its website where information on the NES-FW and regulations are held. This is being constantly updated and added to as new information comes available. The page can be accessed at:  
<https://www.horizons.govt.nz/managing-natural-resources/water/freshwater-policy>
- 7.11. In addition to this, the Ministry for the Environment has also made available a number of fact sheets and guides. This information can be accessed at:  
<https://www.mfe.govt.nz/fresh-water/freshwater-guidance/factsheets-policies-and-regulations-essential-freshwater>

## 8. Compliance Monitoring and Enforcement

The intention of this section is to focus on one key part of the compliance programme and also provide an overall summary of the programme for the reporting period. The focus for this report is to provide a summary of the compliance programme for the Te Ahu A Turanga and Mercury Windfarm projects.

### Te Ahu A Turanga

- 8.1.1. The Te Ahu A Turanga project is significant infrastructure project. It includes earthworks amounting to 6 million cubic metres of cut, 5 million cubic metres of fill and 1 million cubic metres of disposed waste across five construction zones. This year the construction season is focused on undertaking establishment works, with major works commencing in the 2021-2022 earthworks season. Year to date has seen 10,000m<sup>3</sup> metres of earthworks undertaken.
- 8.1.2. The programme (including enabling and the main works) includes monitoring of the 46 activities that have been authorised, under consents with these activities ranging from earthworks, installation of structures, to diversions and water takes. As a result of these consents there are currently 29 management plans in place. Each required certification from Horizons as either part of the consent process or as part of the resource consent conditions. A summary of these consents and the general management plan structure for the main alignment works are detailed below.

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Regime Subjects		
Subject Details	IRIS ID	From
<a href="#">Ashhurst-Woodville New State Highway Construction Water Abstraction (Manawatu River)</a>	ATH-2020203626.00	8/09/2020
<a href="#">Bridge BR02 Access Track &amp; Temporary Western Car Park Cleanfill Discharge</a>	ATH-2020203655.00	19/10/2020
<a href="#">Bridge BR02 Access Track &amp; Temporary Western Car Park Construction</a>	ATH-2020203616.00	19/10/2020
<a href="#">Bridge BR02 Access Track Culvert No.0600 Construction</a>	ATH-2020203656.00	19/10/2020
<a href="#">Cantilevered Boom Water Pump Platform Construction</a>	ATH-2020203627.00	8/09/2020
<a href="#">Cantilevered Boom Water Pump Platform Construction Vegetation Clearance</a>	ATH-2020203693.00	8/09/2020
<a href="#">Cook Road Access Track Construction</a>	ATH-2020203920.00	29/01/2021
<a href="#">Cook Road Access Track Culvert ACU-07A Waterway Diversion (Manawatu River Tributary)</a>	ATH-2020203930.00	29/01/2021
<a href="#">Cook Road Access Track Culvert Construction Sediment Discharge</a>	ATH-2020204033.00	29/01/2021
<a href="#">Cook Road Access Track Culvert Extensions</a>	ATH-2020203921.00	29/01/2021
<a href="#">Early Main Alignment Sediment Retention Ponds Construction (SRP 1-4)</a>	ATH-2020203783.00	17/11/2020
<a href="#">Eastern Access Track Construction</a>	ATH-2020203615.00	22/01/2021
<a href="#">Eastern Access Track Construction Cleanfill Discharge</a>	ATH-2020203925.00	22/01/2021
<a href="#">Eastern Access Track Construction Sediment Discharge</a>	ATH-2020203989.00	4/12/2020
<a href="#">Eastern Access Track Intermittent Tributaries Diversion (Mangamanaia Stream)</a>	ATH-2020203927.00	22/01/2021
<a href="#">Eastern Access Track Multiple Culvert Crossing Construction (Mangamanaia Stream)</a>	ATH-2020203926.00	22/01/2021
<a href="#">Geotechnical Investigation Core Sample Drilling (Bore 2005-2031A)</a>	ATH-2019203034.00	18/03/2020
<a href="#">Geotechnical Investigation Core Sample Drilling (Bore 202)</a>	ATH-2019202482.00	11/04/2019
<a href="#">Geotechnical Investigation Core Sample Drilling Fluid Discharge (Bore 2005-2031A)</a>	ATH-2019203119.00	18/03/2020
<a href="#">Geotechnical Investigation Core Sample Drilling Rig Access Routes Land Disturbance</a>	ATH-2019203121.00	18/03/2020
<a href="#">Meridian High Voltage Cable Relocation (MR01)</a>	ATH-2020203832.00	7/10/2020

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<a href="#">Saddle Road Left-Hand Loop Vehicle Access Track Construction</a>	ATH-2020203618.00	18/08/2020
<a href="#">Secondary Treated Domestic Blackwater Subsurface Irrigation Discharge (Site Office Compound)</a>	ATH-2020203568.00	14/08/2020
<a href="#">Site Office Compound Preparation Compaction Layer Cleanfill Discharge</a>	ATH-2020203634.00	14/08/2020
<a href="#">Site Office Compound, Car Park &amp; Access Road Development</a>	ATH-2020203567.00	14/08/2020
<a href="#">Stuart Bolton Western Access Track Construction</a>	ATH-2019202852.00	3/12/2019
<a href="#">Stuart Bolton Western Access Track Culverts Construction (Pohangina River Tributary)</a>	ATH-2019202854.00	3/12/2019
<a href="#">Stuart Bolton Western Access Track Formation Cleanfill Discharge</a>	ATH-2019202855.00	3/12/2019
<a href="#">Stuart Bolton Western Vehicle Access Track Extension (Stage B)</a>	ATH-2020203515.00	18/08/2020
<a href="#">Te Āpiti Wind Farm Temporary Culvert Cloth Line Channel Diversion (Manawatu River Tributary)</a>	ATH-2020203780.00	26/10/2020
<a href="#">Te Āpiti Wind Farm Turbine TAP06-TAP07 Temporary Access Track Construction (Cable MR04)</a>	ATH-2020203464.00	5/10/2020
<a href="#">Te Āpiti Wind Farm Turbine TAP06-TAP07 Temporary Access Track Culverts</a>	ATH-2020203792.00	26/10/2020
<a href="#">Vehicle Access Road Compaction Layer Cleanfill Discharge</a>	ATH-2020203619.00	18/08/2020

**Table 1: Enabling works resource consents**

<a href="#">Te Ahu A Turanga Highway Connection Roundabouts Construction (RC1)</a>	ATH-2020203332.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Construction (RC2)</a>	ATH-2020203333.00	4/12/2020
<a href="#">Te Ahu a Turanga Highway Construction Land Development &amp; Fill Discharge (RC9)</a>	ATH-2020203341.00	4/12/2020
<a href="#">Te Ahu a Turanga Highway Construction Sediment Discharge (RC4)</a>	ATH-2020203336.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Construction Stream Diversion &amp; Drainage (RC7)</a>	ATH-2020203339.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Cross &amp; Access Culvert Placement (RC13)</a>	ATH-2020203345.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Eco-Experience &amp; Safe Stopping Rest Areas Development (RC3)</a>	ATH-2020203335.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Four Lane Manawatu River Bridge BR02 Construction (RC11)</a>	ATH-2020203343.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Four Lane Mangamanaia Bridge BR07 Construction (RC12)</a>	ATH-2020203344.00	4/12/2020

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<a href="#">Te Ahu A Turanga Highway Slope Cut Dewatering Abstraction (RC5)</a>	ATH-2020203337.00	4/12/2020
<a href="#">Te Ahu A Turanga Highway Storm Water Treatment Wetlands Discharge (RC8)</a>	ATH-2020203340.00	4/12/2020
<a href="#">Te Ahu a Turanga Highway Stream Diversion (RC10)</a>	ATH-2020203342.00	4/12/2020
<a href="#">Te Ahu a Turanga Eco Bridge BR03 Construction &amp; Culverts Placement (RC6)</a>	ATH-2020203338.00	4/12/2020

**Table 2. Main Alignment Resource Consents**



**Figure 1. Te Ahu A Turanga Management Plan structure**

- 8.1.3. Council’s compliance programme to date has been two-fold. Firstly it has focused on certifying all the relevant management plans and secondly undertaking site visits to ensure works are occurring in accordance with the conditions of consent and certified management plans.
- 8.1.4. When undertaking site visits, Council uses a grading system of 1 to 4 to assist in assessing compliance in relation to **Erosion and Sediment Control (ESC)**, which in turn is used to guide decisions on compliance gradings. The ESC grading system and its relationship to compliance ratings is summarised in table 1 below and a compliance report is attached as **Annex 1**.

ESC Grade	Compliance rating
1	Full Compliance
2	Comply At-Risk
3	Low to Moderate Non-Compliance
4	Moderate to Significant Non-Compliance

**Table 3. ESC grades and compliance ratings**

8.1.5. Since commencement of the monitoring programme, Council has undertaken 25 inspections. This has resulted in 29 management plans being certified as well as 905, 7, 1, 1 inspection results respectively for each of the one, two, three and four ESC grade levels. This has translated to 29 Full Compliance and 1 Moderate Non-Compliance report gradings. Figures 2-5 below show some of the ES controls used on the site.



Figure 2. Temporary diversion as culverts are constructed off-line



Figure 3. Sediment retention ponds in Construction Zone 2



Figure 4. overview of construction Zone 1

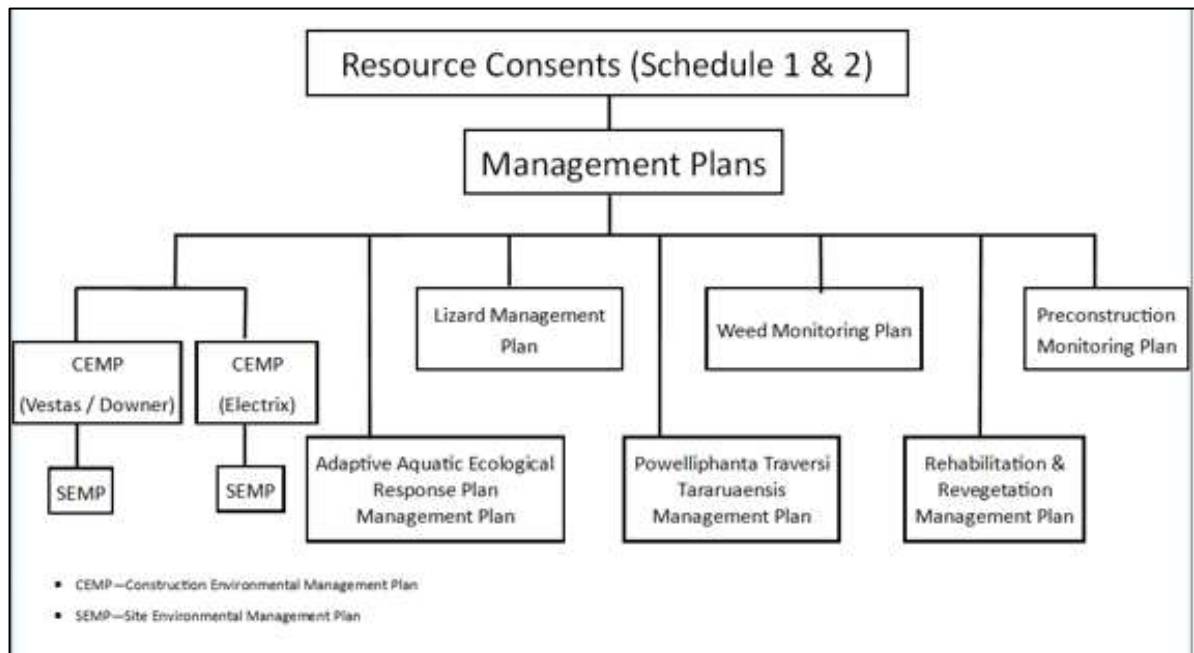


Figure 5. Sediment retention Pond in Construction Zone 2.



**Mercury Windfarm**

- 8.2. Construction of the windfarm commenced in October 2019. The site effectively covers two main work areas run by two different contractors across a northern and southern sector. The windfarm site and associated works are being undertaken by Vestas/Downer whilst the construction of the transmission lines is being undertaken by Electrix.
- 8.3. Horizons is undertaking weekly site inspections to assess compliance with resource consents and numerous management plans. Given the structure of the consents works fall under the jurisdiction of Horizons, Palmerston North City Council and Tararua District Council. Horizons is effectively monitoring conditions for all three councils.
- 8.4. Inspections focus on ensuring the environmental controls in place are appropriate and comply with the required certified **Construction Environmental Management Plans (CEMP)** and **Site Environmental Management Plans (SEMP)**. They involve inspection of the site and various work areas within the site, assessing compliance and where appropriate providing direction to the contractor in relation corrective action.
- 8.5. Inspections take approximately 4-6 hours. The associated reporting and administration takes a further day to complete.
- 8.6. To date 30 management plans have been certified with all plans requiring changes and re-certification by Council. This is not uncommon for projects of this size and complexity. For example the Vestas CEMP for the northern part of the site has had 14 version changes. Figure 1 below shows the general management plan structure that forms part of the project.
- 8.6.1. Since July 2020 there has been a total 29 inspections that has resulted in 4 Low Risk Non-Compliance reports being issued, resulting in 1743, 31, 9 and 0 one, two, three and four ESC ratings respectively. There are approximately 109 active erosion and sediment controls on the site, some of which are shown in figures 6-9 below.



**Figure 6. Windfarm Management Plan Structure**

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Figure 7. Impact of high winds on a silt fence.



Figure 8. Chemically dosed sediment retention pond



Figure 9. Decanting Earthbund installed in steep terrain



Figure 10. looking along southern access track/road

**COMPLIANCE PROGRAMME SUMMARY FOR AUGUST TO OCTOBER 2020**

- 8.7. This section of the report provides a summary on the compliance programme for the period.
- 8.8. During the reporting period, there were 101 compliance monitoring assessments. Of the 101 completed assessments, 34 Comply Full, 31 Comply At-Risk, 7 Low Risk Non-Compliance, 10 Moderate Non-Compliance and 19 Significant Non-compliance gradings were issued. Overall, this equates to a 64% compliance rate across the entire programme for the reporting period.

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- 8.9. Below is a breakdown of the non-compliances by consent area, for the reporting period:  
**Industry:** One Low risk non-compliance, six moderate non-compliance and 15 significant non-compliances; and  
**Rural:** Six Low risk non-compliance, four moderate non-compliance and three significant non-compliances.
- 8.10. Horizons currently has five prosecutions before the District Court and one appeal before the High Court. There is also one significant investigation underway. Table 1 provides a summary of the prosecutions currently before the Court.

Defendant	Summary
Huka View Dairies and Derek Berendt	Sentenced and fined \$103,000. Appeal to High Court.
John Turkington Limited and Mr Kim Speedy	Charges laid before the Court.
John Turkington Limited, Mr William Findlay and Mr Kim Speedy	Charges laid and before the Court.
John Turkington Limited	Charges laid before the Court.
Mr Leslie Fugle, Mr Kane Davidson and Pacific Farms Development Limited	Charges laid before the Court.
PFDL (5) Limited	Sentenced and fined \$20,000.

**Table 4. Summary of Court proceedings**

## 9. INCIDENTS

- 9.1. Over the reporting period, a total of 303 complaints were received. For this reporting period, the majority of these complaints related to discharges to air (201). The remainder of the complaints related to discharges to land (60) and water (71).

All complaints are categorised and responded to accordingly. A response can include an immediate or planned inspection, a phone call, or being referred to another agency such as a territorial authority or Civil Aviation.

## 10. REGULATORY ACTION

- 10.1. During the reporting period, 10 abatement and 12 infringement notices were issued. Table 2 below provides a summary of the formal regulatory action taken during the reporting period.

Recipient	Enforcement	District	Date Notice Served	Section of Act contravened	Nature of Offence / Action required
Alexander Harris	Abatement Notice	Tararua	6/11/20	15 (2A)	Cease discharge of objectionable smoke and burning of prohibited items
Owen Kelvin Giles	Abatement Notice	Horowhenua	24/11/20	9(1)	Cease unauthorised earthworks in relation to One Plan forestry.
Natural Bark and Compost Limited	Abatement Notice	Horowhenua	16/12/20	15(1)(b)	Cease unauthorised discharge of leachate
Palmerston North	Abatement	Palmerston	8/12/20	15(1)(b)	Cease discharge of

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City Council	Notice	North			sewerage
New Zealand Forest Asset Management Limited	Abatement Notice	Whanganui	4/12/20	15 (1)(b) and 9(1)	Forestry activity - Cease discharge of sediment.
Green Estate Holdings Limited	Abatement Notice	Palmerston North	15/12/20	9(2), 15(1)(b)	Cease unauthorised earthworks
Greens Estate Holdings Limited	Abatement Notice	Palmerston North	15/12/20	9(2), 15(1)(b), and 13(1)(a)	Undertake Stabilisation
Kakariki Proteins Limited	Abatement Notice	Manawatu	27/01/21	15 (1)(d) and 15 (2A)	Cease excess treated stickwater discharge to land of more than 100m <sup>3</sup> /day
Kakariki Proteins Limited	Abatement Notice	Horowhenua	27/01/21	15 (1)(d) and 15 (2A)	Cease excess nitrogen loading of greater than 150kg per calendar year
New Zealand Forest Asset Management Limited	Abatement Notice	Whanganui	11/12/20	15(1)(b) and 9(1)	Forestry activity - To Do - Stabilise
Natural Bark and Compost Limited	Infringement Notice	Horowhenua	16/12/20	338 (1)(c)	Breach of Abatement Notice
Natural Bark and Compost Limited	Infringement Notice	Horowhenua	16/12/20	15(1) (c)	Offensive odour beyond boundary
Michelle Christine Allan	Infringement Notice	PNCC	24/11/20	15(2A)	Objectionable smoke across property boundary
Natural Bark and Compost Limited	Infringement Notice	Horowhenua	16/12/20	15(1)(b)	Discharge of compost leachate to ground not allowed by resource consent.
JCB Holdings	Infringement Notice	Tararua	26/01/20	15(1)(b)	Discharge of Effluent to land that may enter water
Palmerston North Industrial & Residential Developments Limited	Infringement Notice	Palmerston North	16/12/20	9(2)	Multiple SNC's against consents - commencing Earthworks with an uncertified ESCP
Palmerston North Industrial & Residential Developments Limited	Infringement Notice	Palmerston North	16/12/20	15(1)(b)	Discharge of sediment to land where it may enter water
Palmerston North Industrial & Residential Developments Limited	Infringement Notice	Palmerston North	16/12/20	338(1)(c)	Breach of abatement notice AN1158
Greens Estate Holdings	Infringement Notice	Palmerston North	15/12/20	9(2)	Unauthorised Earthworks

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Greens Estate Holdings	Infringement Notice	Palmerston North	15/12/20	15(1)(b)	Discharge of sediment to land that may enter water
O'Leary Holdings LTD	Infringement Notice	Whanganui	22/01/21	15(1)(c)	Objectionable odour beyond the boundary
O'Leary Holdings LTD	Infringement Notice	Whanganui	22/01/21	338(1)(c)	Non compliance with AN1121 for odour beyond the boundary

Table 5. Regulatory action taken during reporting period.

## 11. SIGNIFICANCE

11.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

Greg Bevin  
REGULATORY MANAGER

Nic Peet  
GROUP MANAGER STRATEGY & REGULATION

## ANNEXES

A Te Ahu A Turanga Compliance Report