

Report No.	20-98
Information Only - No Decision Required	

REGULATORY MANAGEMENT REPORT - MAY TO JULY 2020

1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period May to July 2020. It also summarises outputs from the 2019-2020 year, looks forward to key aspects of the 2020-2021 work programme and includes an independent review of compliance and enforcement across the regional sector.

2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 20-98 and Annexes.

FINANCIAL IMPACT

- 2.1. 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)**

3. COMMUNITY ENGAGEMENT

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

4. SIGNIFICANT BUSINESS RISK IMPACT

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

5. OVERVIEW

- 5.1. The purpose of this report is to summarise:
- Regulatory activity for the 2019-2020 year;
 - The regulatory programme and key operational issues for 2020-2021 year; and
 - The latest Independent **Compliance Enforcement Special Interest Group (CESIG)** report.

6. REGULATORY ACTIVITY 2019-2020

Consent Processing

- 6.1. During the year 340 applications were lodged, resulting in 287 applications being granted and 351 activities being authorised. Eighty Four percent (84%) of applications were processed within the required statutory timeframes and 49 administrative discounts were applied as required under the **Resource Management (Discount on Administrative**

Charges) Regulations 2010 (Discount Regulations). Figure one provides a summary of the year.

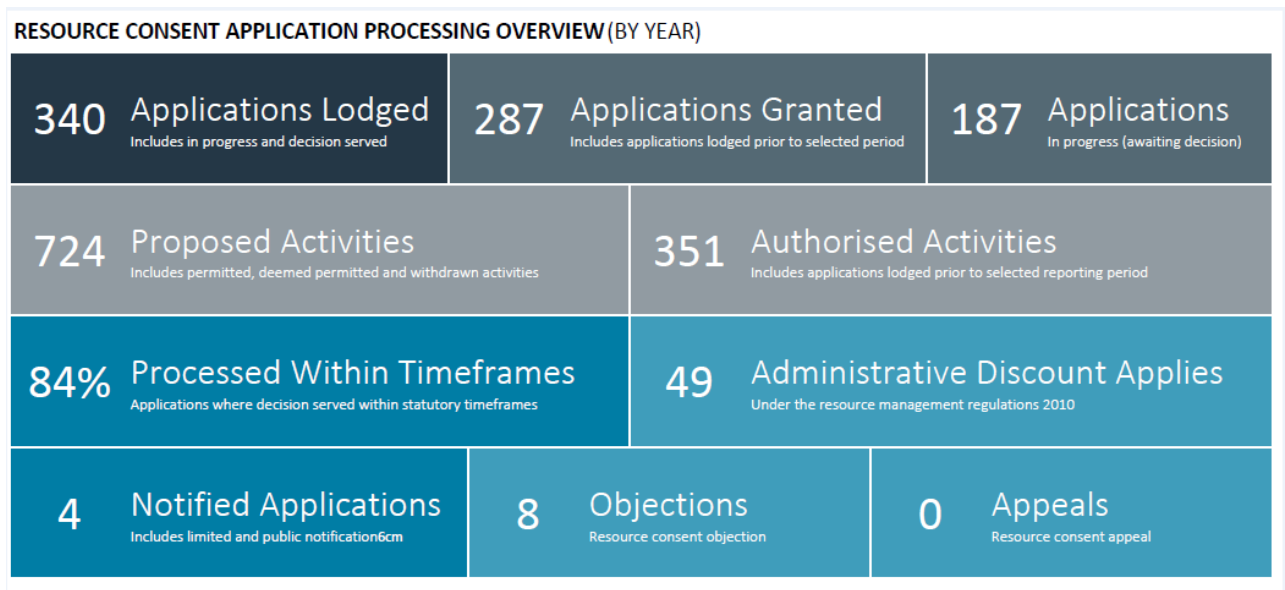


Figure 1. Consent processing summary

6.2. During the year progress has been made a number of significant applications. These have been reported to Council on a regular basis and the following provides an update on these:

6.2.1. 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.
- ii. DOC has confirmed that it will be lodging a resource consent application for the new proposal in December 2020. With this in mind, Horizons has suspended work on seeking an Enforcement Order. However, if the timeframes slip then the Enforcement Order will be lodged with the Court.

6.2.2. Tararua District Council

- i. Re-consenting of Pahiatua and Eketahuna WWTP is now before the Environment Court with evidence being exchanged between the parties.
- 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. At this stage we are still anticipating a hearing will be required.

6.2.3. Horowhenua District Council

- i. The Tokomaru WWTP is set down for a hearing on 28 July, as resolution has been unable to be reached with two outstanding submitters.
- ii. The application seeking to renew the Tokomaru water supply abstraction was granted on 9 July 2020. The consent was granted for a term of 18 years, expiring in July 2038.
- iii. The application seeking to discharge stormwater into Koputaroa Stream catchment has been notified in accordance with section 95 of the **Resource Management Act 1991 (RMA)**, with the submission period closing on 29 October 2019. HDC has been

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consulting with the Horizons River Management Group and has resolved their concerns. The next step in the process is to prepare draft conditions and then circulate these to the remaining submitters. If submitter concerns cannot be resolved, the application will proceed to a hearing.

- iv. Regarding the consent application process for the Levin WWTP discharges (commonly known as 'The Pot'), following the hearing the commissioners released their decision on 2 June, which has not been appealed. The consents were granted for a 25 year duration. **Horowhenua District Council (HDC)** are now required to operate the associated activities in accordance with the new consents.
- v. 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 provide an updated timeframe for provision of this information. Given the values of Lake Horowhenua, this is not expected to be a simple process.
- vi. HDC is preparing a consent application seeking to discharge stormwater from the Foxton Township to the Manawatū River.

6.2.4. 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. Ohakune and Raetihi WWTP applications may be impacted by the submission of an additional **Tourism Infrastructure Fund (TIF)** application to **Ministry of Business Innovation and Employment (MBIE)**. RDC is looking to provide an update on the applications and the impact growth implications may have on these applications.
- iii. The application associated with the Taumarunui water supply is currently on hold for further information, including assessing water efficiency.

6.2.5. Manawatu District Council

- i. As previously reported, the **Manawatu District Council (MDC)** have a number of WWTP whose discharges are currently authorised under the existing use rights of the RMA; including the Sanson, Cheltenham, Halcombe, Awahuri and Kimbolton. The applications relating to these WWTP have been placed on hold as MDC progresses its centralisation project, which is aiming to have discharges from these and other WWTP centralised into the Feilding WWTP. To this end, MDC lodged a consent application that is seeking to amend the Feilding WWTP consents to allow for centralisation of these discharges into the Feilding WWTP. A decision has now been made on the application; however, MDC have objected to a number of the conditions. This is currently being worked through with MDC
- ii. MDC have also lodged a consent application to enable expansion to the current land disposal area for the Feilding WWTP. This application is currently being assessed.

6.2.6. Te Ahu a Turanga

- i. The Manawatu Gorge replacement project "Te Ahu a Turanga" is progressing.
- ii. The project is being processed via the Direct Referral Process allowed for under the RMA.
- iii. The focus over the reporting period has been providing assistance to the Court, with mediation occurring between various experts. At present we are anticipating a hearing at the end of August 2020.

- iv. In addition to the direct referral process, a number of enabling consents have been and are to be lodged, with the expectation the activities associated with these consents will commence in October 2020. These enabling consents will include activities such as construction of access roads into the main alignment and extraction of gravel from the Pohangina River.

Compliance Monitoring and Enforcement

- 6.3. During the year a total of 1,112 resource consents were assessed, resulting in 429 non-compliances (including 88 significant non-compliances). This equates to a compliance rate of 71 % for the year.

Rural Programme

- 6.4. This programme focuses on assessing compliance of those resource consents associated with **Farm Dairy Effluent (FDE), Intensive Land Use (ILU) and Shed and Stock Water (SSW)** activities.
- 6.5. During the year a total of 162 FDE consents were inspected. Due to the impact of the COVID 19 and staff resource being redeployed to support Councils response, this is lower than the anticipated 300 inspections. Table 1 below summarises the FDE programme for the year.

Compliance Grading	No. Consents
Comply Full	97
Comply At Risk	40
Low Risk Non Compliance	2
Moderate Non Compliance	10
Significant Non Compliance	13
Total Consents Monitored	162
Follow Up Inspection Completed	6
Total Inspection (Incl Follow up)	168

Table 1. Summary of FDE Programme

- 6.6. In relation to the non-compliance gradings, Low Risk Non-Compliances were due to minor exceedances in herd numbers and failure to submit pond lining verifications; Moderate Non-Compliance gradings were due to herd number exceedances, minor to moderate pond overflows or effluent ponding; whilst Significant Non-Compliance gradings were given due to significant ponding and run-off, sump or pond overflows and insufficient infrastructure. Figures 2-6 show examples of some of the Significant Non-Compliances identified during the year.



Figure 2: Effluent ponding result of effluent hose disconnecting and stalled irrigator.



Figures 3 & 4: Effluent ponding – application to saturated soils.



Figure 5: Slurry wagon spill



Figure 6: Sump Overflow

6.7. The ILU programme consists of two main areas, being undertaking physical inspections of farms and assessing nutrient budgets. Overall a total of 14 ILU were inspected and 257 nutrient budgets were assessed. Tables 2 and 3 summarise the compliance gradings for this programme.

Compliance Rating	No. Consents
Comply Full	7
Comply at Risk	2
Low Risk Non Compliance	1
Moderate Non Compliance	1
Significant Non Compliance	3
Total Assessed	14

Table 2. ILU Inspections

Compliance Rating	No. Consents
Comply Full	156
Comply at Risk	34
Low Risk Non Compliance	20
Moderate Non Compliance	20
Significant Non Compliance	27
Total Assessed	257

Table 3. Nutrient Budgets

- 6.8. Non-compliance in this programme is primarily due to consent holders failing to supply nutrient budgets by 31 October. Of the 27 Significant Non-Compliances and 20 moderate non-compliances, 11% and 10% respectively related to failure to comply with their required nitrogen leaching rates. In these instances the consent holder has been asked to provide an explanation for the exceedance, which will be followed up.
- 6.9. Fifteen (15) farms failed to supply any nutrient budgets for the season and these have all received some form of enforcement action. However, due to the impact of the COVID 19 pandemic on the programme, these are to be followed up in the next reporting period.
- 6.10. As part of the FDE compliance inspection programme, shed and stock water consents are also assessed. Table 4 summarises the compliance ratings associated with these resource consents.

Compliance Rating	No. Consents
Comply Full	23
Comply At Risk	6
Low Risk Non Compliance	11
Moderate Non Compliance	10
Significant Non Compliance	5
Total Assessed	55
Not Assessed	16
Permitted Activity	86
Require Consent	5

Table 4. Shed and Stock Water Compliance

- 6.11. Typically, the non-compliances relate to failures to install flow meters, exceeding consented volumes and failing to have meter verifications undertaken. Regarding those identified as requiring resource consent, timeframes have been set for those applications to be made. Failure to meet these timeframes may result in enforcement action being taken.

Industry Programme

- 6.12. This programme consists of monitoring those resource consents associated with industrial and municipal activities, including discharges to land, air and water. It also includes the monitoring of land disturbance activities associated with residential sub-divisions, windfarms, industrial developments and works associated road construction activities.

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- 6.13. The consents associated with this programme range from the small and simple to large and complex, with the latter generally being associated with major activities such as WWTP discharges, industry discharges and windfarm developments. The consents generally authorise numerous activities and can contain conditions spanning numerous pages of varying complexity.
- 6.14. Given the breadth of the programme, activities in this programme are categorised based on risk, with the following factors being considered when assessing site risk:
- Actual and potential effects¹;
 - Natural and scale;
 - Compliance History;
 - Public profile or interest, including tangata whenua expectations; and
 - Complexity of resource consent(s).
- 6.15. Consideration of these factors will determine whether the activity is high, medium or low risk, which in turn will determine the frequency by which an activity is monitored, with higher risk activities being subjected to more intensive monitoring than lower risk activities. This ensures Horizons finite resources are directed to those activities that pose a greater risk to the environment.
- 6.16. Compliance reporting in this programme is based on a site as opposed to individual consent basis as is the case in the Rural Programme. Therefore, a single site assessment, typically includes an assessment of numerous consents.
- 6.17. Considering this, over the year 83 sites were assessed for compliance. This included 11, 30 and four C1, C2 and C3 sites respectively, and 39 inspections associated with land disturbance activities. Over the reporting period, 37 received significant non-complaint, 30 moderate risk non-compliant, 55 low risk non complaint, 25 comply at risk and 161 fully compliant gradings. This represents an overall compliance rate for sites monitored in this programme of 42%, whilst the compliance rate for individual consents assessed is 60%. It is also important to note that whilst two and six C1 and C2 sites, respectively were not assessed in the year, these were at the time of writing this report being assessed.
- 6.18. In relation to non-compliances, these related to low and moderate risk non-compliances and significant non-compliances. The first two include one off or first time failures to comply with reporting requirements or minor exceedances in discharge volumes, whilst the latter is due to repeated failure to comply with monitoring requirements, continued non-compliance with water quality standards, failure to follow management plans and failure to report non-compliances. Whilst some of these have been on-going and are being addressed via consent renewals, a number have resulted in enforcement action being taken, including the issuing of Abatement and Infringement Notices.

Water Programme

- 6.19. This programme focuses primarily on those water consents (951 authorisations) associated with hydro electricity generation, municipal water supplies, irrigation takes and stockwater takes. This programme also undertakes compliance monitoring against the National Water Regulations which applies to all water takes greater than five litres per second. The programme is characterised by a mixture of automated monitoring, assessing manual records and undertaking physical inspections, and in the case of consents associated with hydro-electricity generation and some municipal water supplies, assessing annual reports. The programme is currently prioritised along assessing large water takes and/or takes that occur within fully allocated catchments. During the reporting period, 357 consents were monitored, of which 95 non-compliances were identified. Of these, 4 were assessed as being significant non-compliant, 11 moderate non-compliant, and 80 low risk non-compliant.

¹ This includes assessing the toxicity of any discharge, value of the receiving environment and any actual or potential adverse effects.

- 6.20. Currently there are 415 water abstractions that are monitored via automated measuring systems (Telemetry and File Transfer Protocol (FTP)). Activities subject to this automated monitoring system include large irrigation takes, takes within fully allocated catchments, municipal water supplies and hydro electricity generation. This system of monitoring involves compliance staff receiving automated notification reports in the event that a potential non-compliance has occurred with the amount of water taken by a consent holder. This process identified 43 exceedances (included in the overall 95 non-compliances) related to system leaks, poor management and emergency situations.
- 6.21. Compliance monitoring has also occurred against the National Water Regulations requirements and other consent conditions. The primary issues during the reporting period have been the failure to have water meters installed, and flow meter verifications/ re-verifications not undertaken within the required timeframes. To date, 122 water takes are yet to have confirmation of whether a flow meter has been installed. The number of overdue flow meters, verifications and telemetry installations for all water takes greater than five litres per second is constantly changing as new consents are granted, meters are replaced or re-verifications are delayed. This requires working closely with consent holders throughout the process to establish compliance, and taking enforcement action when appropriate. Two abatement notices and one infringement notice were issued during the reporting period in relation to the water programme.

National Environmental Standards

- 6.22. During the year Council has continued to implement the **National Environmental Standard – Plantation Forestry (NES-PF)**. Tables 5 and 6 summarise the number of inspections undertaken, the compliance gradings for the year and what enforcement action has been taken.

	Afforestation	Earthworks	Harvesting	Quarrying	River Crossings	Slash Traps
Compliance Inspections	0	23	21	0	3	1
Non-Compliance	0	5	7	0	0	0

Table 5. Inspections undertaken

	Formal Warning	Infringement Notice	Abatement Notice	Enforcement Order	Investigation
Enforcement Action	0	2	12	0	3

Table 6. Formal action taken

- 6.23. As a result of the programme for the year, the main issues that have arisen relate to lack of, or ineffective water controls being in place and damage to aquatic life and habitat in waterways. Council also embarked on a process of reviewing earthworks and harvesting plans to assess whether these met the requirements of the NES-PF. Overall, the response from the industry has been favourable, in that when issues are highlighted, amended plans are provided to address any issues or gaps in the plans.

Incident Response Programme

- 6.24. This programme focuses on Horizons 24-hour incident response function and involves incidents relating to both consented and unconsented activities. When received, incidents are categorised on priority basis from 1 to 5. The categorisation is based on a number of

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factors, including environmental risk, compliance history and public interest. From an operational perspective, the categorisation means that for:

- Category 1 incidents - there must be an immediate response. These incidents are normally characterised by an organizational wide response, such as the Raetihi diesel spill in 2013;
- Category 2 incidents are to be responded to within one day;
- Category 3 incidents are to be responded to within two weeks;
- Category 4 incidents are to be responded to when an officer is next in the area; and
- Category 5 incidents no physical response is required

6.25. During the 2019-2020 year, 1168 incidents were received and responded to by Horizons. These covered a range of incident types, some of which are depicted in figures 7-10 below. This is a slight decrease from last year (1298), however still significantly higher than other previous years (see figure 11). The slight reduction is partly due to the COVID-19 lockdown, when the number of incidents received was reduced.



Figure 7. Oil spill to stormwater network



Figure 8. Waste truck accident with rubbish spilled across stormwater network



Figure 9. Domestic waste system discharge



Figure 10. Domestic wastewater discharge to waterway being removed via sucker truck

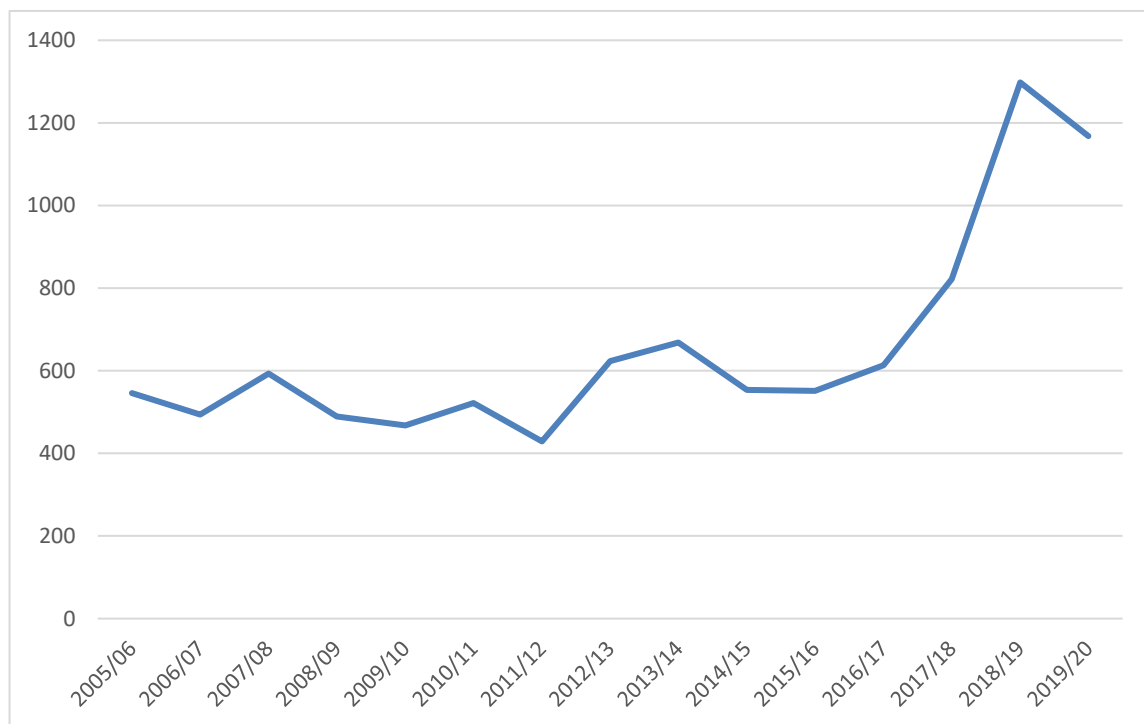


Figure 11. Incidents received 2005-2020.

Investigations and Enforcement

6.26. During the 2019-2020 year, 48 Formal Warnings, 51 Infringement Notices and 84 Abatement Notices were issued. Table 7 provides a summary of the actions taken.

	Section 9 (land)	Section 12(CMA)	Section 13 (beds of lakes/ivers)	Section 14 (water)	Section 15 (Discharges)	S338(1)(c) Abatement Notice
Formal Warnings	44	0	0	0	4	0
Infringement notices	6	0	0	3	34	8
Abatement notices	36	0	1	1	46	0

Table 7. Summary of formal action taken

6.27. Formal warnings are typically used for very minor offending, but are referred to and taken into consideration if further non-compliance occurs. Abatement Notices are issued under section 324 of the Resource Management Act and can be issued on a person to either cease, not undertake or take a certain action, whilst an infringement notice is a fine that can be issued on a person or organisation and is typically used for minor offending. The fines associated with an infringement notice are set by the Infringement Notice RMA Regulations 1999 and range between \$300 and \$1000 depending on what section of the RMA has been contravened.

During the year two prosecutions were resolved, resulting in convictions and fines, and costs of \$109,000. In relation to fines, 90% is paid to Horizons. These cases are summarised in table 8 below.

Prosecution	Section of RMA contravened	Nature of Offence	Fine/Sentence imposed
MWRC v Central Demolition Limited	s15(2)(A)	Discharge of construction and demolition waste onto or into land.	\$28,000
MWRC v LA Landscapes Limited and Mr Toyne	s15(1)(b), s15(1)(c)	Discharge of greenwaste, combustible material and demolition material onto land and discharge contaminants to air.	\$57,000 plus costs of \$24,000

Table 8. Prosecutions concluded during 2019-2020

6.28. Regarding fines, where possible, Horizons endeavours to put money associated with the fine back into the catchment affected, to assist projects that help enhance the overall environmental status catchment.

7. COMPLIANCE PROGRAMME SUMMARY FOR MAY TO JULY 2020

- 7.1. This section of the report will provide an update on the compliance programme.
- 7.2. During the reporting period, there were 330 compliance monitoring assessments, 12 of which are still in progress at the time of writing this report. Of the 330 completed assessments, 194 Comply Full, 38 Comply At-Risk, 33 Low Risk Non-Compliance, 26 Moderate Non-Compliance and 39 Significant Non-compliance gradings were issued. Overall, this equates to a 59% compliance rate across the entire programme for the reporting period.

- 7.3. Below is a breakdown of the non-compliances by consent area, for the reporting period:
Industry: 14 Low risk non-compliance, five moderate non-compliance and 16 significant non-compliances; and
Rural: 19 Low risk non-compliance, 20 moderate non-compliance and 23 significant non-compliances.
- 7.4. Horizons currently has five prosecutions before the District Court, of which one cannot be named at this stage. There is also one significant investigation underway. Table 9 provides a summary of the prosecutions currently before the Court.

Defendant	Summary
Rangitikei District Council	Convicted and fined \$60,000
Huka View Dairies and Derek Berendt	Sentencing to occur in late August 2020
John Turkington Limited and Mr Kim Speedy	Charges laid before the Court
John Turkington Limited	Charges laid and before the Court.
Ray Coles Transport Limited and Mark Coles	Convicted and fined \$101,000
NZL Forestry Limited	Charges laid before the Court
Mr Leslie Fugle, Mr Kane Davidson and Pacific Farms Development Limited	Charges laid before the Court

Table 9. Summary of Court proceedings

8. INCIDENTS

- 8.1. Over the reporting period, a total of 199 complaints were received. For this reporting period, the majority of these complaints related to discharges to air (155). The remainder of the complaints related to discharges to land (30) and water (32).
- 8.2. 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

9. REGULATORY ACTION

- 9.1. During the reporting period, 11 abatement and seven infringement notices were issued. Table 10 below provides a summary of the formal regulatory action taken during the reporting period.

Recipient	Enforcement	District	Section of Act contravened	Nature of Offence
Braedon and Miranda Filluel	Infringement Notice	Palmerston North	15(2A)	Objectionable smoke across property boundary.
Pineland Holdings Limited	Infringement Notice	Palmerston North	15(2A)	Objectionable smoke across property boundary.
HDC - Foxton WWTP	Infringement Notice	Horowhenua	15(1)(a)	ScBOD5 exceedances and failure to notify of the non compliance.
Koputara Farm Limited	Infringement Notice	Horowhenua	14(2)	Exceeding Permitted Activity water take.
Koputara Farm Limited	Infringement Notice	Horowhenua	14(2)	Breach of an abatement notice relating to exceeding Permitted Activity water take.
Natural Bark and Compost Limited	Infringement Notice	Horowhenua	338(1)c	Breach of abatement notice.
Natural Bark and Compost Limited	Infringement Notice	Horowhenua	15(1)(c)	Offensive odour beyond the boundary.
Natural Bark and Compost	Abatement Notice	Horowhenua	15(2A)	Cease the unauthorised discharge to land.
Braedon and Miranda Filluel	Abatement Notice	PNCC	15(2A)	Cease discharge of objectionable smoke.
Lance Cameron Attrill	Abatement Notice	Whanganui	9(2)	To cease unauthorised large scale earthworks.
Lance Cameron Attrill	Abatement Notice	Whanganui	9(2)	To stabilise in accordance with guidelines.
NZL Forestry Holdings Limited	Abatement Notice	Tararua	9(1), 15(1)b & 13(1)(a)	Stabilise unauthorised earthworks.
Craig Barber	Abatement Notice	PNCC	9 (2)	Cease unauthorised earthworks.
Craig Barber	Abatement Notice	PNCC	9 (2)	Stabilise unauthorised earthworks.
Webforge (NZ) Ltd	Abatement Notice	Palmerston North	15 (1)(c)	cease the unauthorised discharge of contaminants to air.
Webforge (NZ) Ltd	Abatement Notice	Palmerston North	15 (1)(c)	Undertake a feasibility study around discharges to air.
Brendon Cole	Abatement Notice	Ruapehu	9(2)	Cease unauthorised earthworks.
Brendon Cole	Abatement Notice	Ruapehu	9(2)	Stabilise unauthorised earthworks.

Table 10. Regulatory action taken during reporting period.

10. THE REGULATORY PROGRAMME FOR 2020-2021

Consent Processing

- 10.1. In addition to processing business as usual applications, continued implementation of the NES-PF, and implementing any new regulation from central government, the focus this year will be on advancing those WWTP that have been on existing use rights for extended periods of time and whose environmental effects are considered more than minor. In setting this priority it must be noted that not all WWTP can be advanced at the same time due to resourcing capacity for both Horizons and the district councils, and the fact the pace at which applications proceed are to certain extent beyond Horizons control as these applications are typically notified, subject to a hearing and then potentially subject to Environment Court appeal.
- 10.2. During the year we are anticipating that time and effort will be required to support significant projects, such as the proposed Whanganui Port and the Kiwi Rail Hub developments, and Otaki to Levin expressway. Whilst these projects may be subject to the Fast Track legislation (see below), our experience with the Te Ahu A Turanga project is that a significant amount of input is required from Horizons prior to consent applications being lodged.

Compliance

- 10.3. The compliance programme has been reviewed against the key risk factors detailed above. To this end, the following priorities have been set:
- Inspect 300 FDE consents. This will focus on those operations that have been assessed as non-compliant and had a comply at risk grading in the 2018-2019 year;
 - Assess 256 nutrient management budgets associated with ILU consents;
 - Undertake aerial monitoring in the Ruapehu districts to assess compliance with the NES-PF;
 - Undertake more proactive on-ground monitoring of forestry operations. This monitoring will initially focus on engaging with the industry to help with improving environmental performance; however, where non-compliance is identified, Horizons will still take appropriate action.
 - Assess Category 1 and Category 2 sites on the industry programme;
 - Assess compliance of water abstraction activities and performance against the National Water Regulations
 - Undertake active monitoring of the Turitea windfarm development and the Te Ahu A Turanga project
 - Follow-up on all significant non-compliances;
 - Respond to environmental incidents as per the existing risk based model, which results in incidents being graded Category 1 to 5; and
 - Investigate and take appropriate enforcement action when non-compliance is detected.
- 10.4. After considering resource capacity, increasing demands in other areas (such as incident response, investigations and enforcement, and continued implementation of the NES-PF) and matching this to the risk framework around compliance monitoring, the review has identified that site inspections associated with ILU consents and proactive monitoring of C3 sites (including C3 WWTP) will only occur in the event there is a complaint.

11. EMERGING ISSUES

- 11.1. The 2020-2021 year will see a number of emerging matters that will need to be considered, including implementation of the proposed **National Environmental Standard for Fresh Water (NES-FW)** and the **COVID-19 Recovery (Fast-Track Consenting) Act 2020 (FTL)**,

providing regulatory support and possible processing resource consents for major projects and responding to the increasing demand for information

Implementation of the NES-FW and fast track consenting legislation

- 11.2. The proposed NES-FW is a significant new piece of legislation and its implementation will have a major impact on the Regulatory business moving forward. In summary, the key regulatory impacts include: the need for consents for a number of activities and the subsequent obligation to monitor compliance, the need to have a monitoring regime around permitted activities and that Horizons has effective systems in place to support the delivery of the regulatory business, including data and information management, and reporting systems.
- 11.3. Regarding the proposed NES-FW the key implementation dates from a regulatory perspective are:
- Protection of Wetlands and Rivers. Effective **from when the NES coming into force**.
 - Freshwater Farm Plans. Mandatory by 2025, but there appears to be a suggestion that these will be rolled out over the country in staged way between the NES coming into effect and 2025. At present the 'roll out' has yet to be determined, but the focus appears to be on those catchments that are highly impacted with nitrogen.
 - Reducing N. Comes **into effect on 1 July 2021** in that consents will required from this point for synthetic N use over 190kg/N/ha/yr; Councils will also be required to gather and maintain records of the amounts of fertiliser applied on individual farms.
 - Intensive Winter grazing. Comes **into effect from 1 May 2021** in that consents will be required for activities that do not meet permitted activity criteria.
 - Stock Holding Areas. Comes into force **from winter 2021** for those activities that do not comply with permitted activity rules.
 - Feedlots. Effective **from when the NES comes into force**, in that resource consents will be required for feedlots that fail to comply with the permitted activity rules.
 - Intensification. Effective **from when the NES comes into force** in that resource consents will be required for a number of activities.
 - Stock exclusion. Comes into force **in 1 July 2023 or 1 July 2025** depending on stock type. For example regulations apply for dairy from 1 July 2023.
- 11.4. It is also important the regulatory implementation of the NES-FW should follow the 4 E's model as promoted by the Ministry for the Environment Best Practice Guidelines for Compliance Monitoring and Enforcement. This model recommends that regulators adopt an approach that encourages the highest level of compliance through understanding what influences behaviour change.

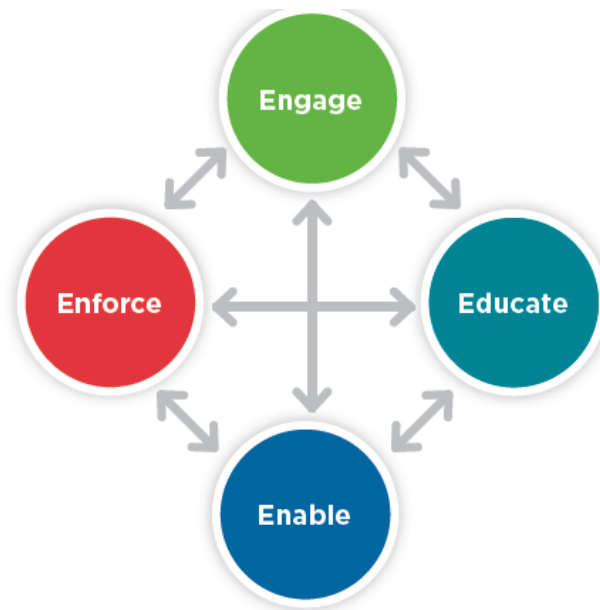


Figure 12. 4E Model. Source: Ministry for the Environment Best Practice Guidelines for Compliance Monitoring and Enforcement, 2018

- 11.5. The FTL came into effect on 9 July 2020 and has the potential to place significantly more work onto the Regulatory Team.
- 11.6. Effectively the fast track consenting legislation (FTL) provides a pathway for resource applications associated with key infrastructure projects to be processed with more certainty and speed. To qualify for the FTL, projects have to be classified as a ‘referred project’, meaning they are either specifically listed in the FTL or approved via the Minister for the Environment. Once this occurs, applications must then be lodged with the **Environmental Protection Agency (EPA)**, who will vet the application for completeness before referring the applications onto the **Expert Consenting Panel (the Panel)** to consider and determine.
- 11.7. The FTL still places an onus of Councils to provide support to the process, including nominating a representative to sit on the panel and providing information to the panel. In relation to compliance monitoring, whilst the panel will determine the relevant resource consents, Councils will still be responsible for undertaking their normal compliance monitoring functions.
- 11.8. The FTL also places a pathway for certain activities to be considered a permitted activity, where they may have otherwise required resource consent. This is only available to Kiwi Rail and the New Zealand Transport Agency. Whilst not explicit, the FTL implies that Councils should monitor some permitted activities and take appropriate action. The FTL also enables Councils to recover costs associated with monitoring permitted activities.

12. COMPLIANCE ENFORCEMENT SPECIAL INTEREST GROUP – 2018/2019 INDEPENDENT REVIEW

- 12.1. The independent report commissioned by the CESIG was released earlier in the year. The report is the second iteration and looks at **Compliance Monitoring and Enforcement (CME)** across both regional and unitary authorities and is attached as **Annexure A**. In summary some of the key findings of the report are:
 - The sector administers more than 220,000 resource consents, up more than 10,000 from the previous year;
 - Councils continue to monitor approximately 89.5% of resource consents targeted for monitoring;

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- Of 26,000 complaints received, the sector responded to 98.7% of complaints;
- Council resourcing for CME remains variable with some council resourcing being “concerning low”;
- There is a general correlation between CME resourcing and the number of formal actions taken; and
- Most Councils (Horizons included) have enforcement policies in place.

12.2. In relation to Horizons, the report notes that resourcing for CME is, with the exception of Greater Wellington Regional Council, the lowest in the sector being at 0.05 FTE per 1000 of population. However, regarding the number of formal actions taken, Horizons is not an outlier. The number of actions taken having increased from 64 in the previous report to 151 for the 2018/2019 year. Also of note is the level of fines imposed (\$290,000). As a result, Horizons prosecutions was the third highest, behind Waikato Regional (\$838,837) and Bay of Plenty (\$520, 525) Regional Councils.

13. SIGNIFICANCE

13.1. 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 CME Metrics For the Regional Sector 2018/19