

Report No.	21-71
Information Only - No Decision Required	

REGULATORY MANAGEMENT REPORT - FEBRUARY TO APRIL 2021

1. PURPOSE

- 1.1. This report updates Members on regulatory activity, for the period February to April 2021. It also provides a summary of the Incident Response and work being undertaken in relation to the implementation of the National Environmental Standards for Freshwater Regulations 2020 and Plan Change 2.

2. RECOMMENDATION

That the Committee recommends that Council:

- a. receives the information contained in Report No. 21-71 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, 305 applications have been lodged, resulting in 204 applications being granted. Eighty four percent (84%) of applications were processed within the required statutory timeframes and 38 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. DOC and iwi continue 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 heard and we have received interim decisions from the Environment Court. We are now waiting on final decisions from the Environment Court.
- ii. Regarding the Woodville WWTP, a hearing was held on 12 May 2021. The Applicant is to provide a right of reply to the Hearings Panel, who will then make a decision on the application.

7.2.4. **Horowhenua District Council**

- i. The application seeking to discharge stormwater into Koputaroa Stream catchment is proceeding to a hearing. The hearing has been rescheduled for August due to additional information being considered.
- ii. 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.

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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 Rangi 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. RDC is proposing to provide updated information to submitters and progress to a hearing later in the year if matters cannot be resolved.

7.2.6. Manawatu District Council

- i. Works are progressing on the centralization project.

7.2.7. Te Ahu a Turanga

- i. The focus 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. Staff are also looking forward to the next construction season (commencing on 1 September) to scope the increased workload associated with the significant increase in works that will be occurring on site.

Implementation of NES-FW and PC2

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. The Minister for the Environment has made an announcement in relation to the **Intensive Winter Grazing (IWG)** regulations. A copy of this announcement is attached as **Annex A** but in summary notes:

- There is a deferment in relation to IWG regulations for permitted activities and related resource consents for a period of one year (from 1 May 2021 to 30 April 2022);
- The deferment is on the basis both the farming sector and regional councils commit to improving IWG practice during the year by rapidly deploying the IWG module and there is increased monitoring and reporting to ensure there are measurable improvements in IWG during the year;
- The regulations that relate to further expansion of IWG will not be deferred and will need to be enforced;
- Clear expectation from the Minister that councils will carry out more monitoring of IWG practices and take compliance action against breaches of the law;

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- More effective monitoring by councils of receiving environments such as rivers and estuaries to show their health is improving;
 - Councils monitor total hectares in IWG and enforcement of the rule against the area in IWG increasing on any one farm; and
 - Councils and the farming sector provide quarterly updates to the Minister that need to include information on progress towards implementing the IWG module and Councils compliance monitoring, and enforcement of IWG.
- 7.5. In response to this, Horizons is now actively developing a compliance monitoring programme around IWG. This programme will include both reactive and proactive components, with the former being based around complaints received, whilst the latter will see the proactive identification and monitoring of IWG activities. This amount of effort will need to be balanced against competing priorities.
- 7.6. At the end of the 12 month deferral the Minister intends to re-apply the regulations from 1 May 2022. It is expected the certified **Freshwater Farm Plan (FW-FP)** regime, including the IWG module, will be in place by this time and farmers will then have the option of undertaking IWG through a certified FW-FP as an alternative to complying with the default permitted activity pathway, or obtaining a resource consent.
- 7.7. 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. There is also work occurring in relation to FW-FP and how these plans and the process around certification and auditing are to be implemented.
- 7.8. Horizons has also established a designated page on its website where information on the NES-FW and regulations are held. This is being 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>
- 7.9. 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>
- 7.10. At the time of writing this report the decision of the commissioners relating to PC2 was still within the appeal period. Nonetheless, staff have commenced work on preparing for when resource consent applications will start to be lodged for Intensive Land Use Consents. This work has included:
- Reviewing current ILU resource consent application forms;
 - Drafting up explanatory material on the different consenting pathways under PC2; and
 - Engaging external expertise to assist with developing guidance material around good and best management practice and the use of overseer in a consent application process, and discussing these matters with the various sector groups.

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 incidents programme for the year to date.

Incident Response

- 8.1.1. 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 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.

8.1.2. As noted above, incidents can vary from the large and complex to the simple and small. They cover the spectrum of environmental activities including discharges to air, discharges to water, land use and vegetation clearance and requests to attend emergency situations, such as vehicle crashes and fires from police and fire service. Figures 1 and 4 below represent some of the incidents responded to during the reporting period.



Figure 1. Offal onto State Highway as a result of a truck accident.



Figure 2. Complaint regarding burning of whiteware



Figure 3. Unauthorised earthworks



Figure 4. Burning prohibited material such as PVC pipes.

8.1.3. Year to date, Horizons has received 1129 complaints (see figure 5). It is likely that complaints received will exceed those received last year and will be closer to the 2018/19 year where a total of 1298 complaints were received. The high number of complaints does

impact on Horizons proactive compliance programmes as resource is diverted away from these programmes as complaints are responded to.

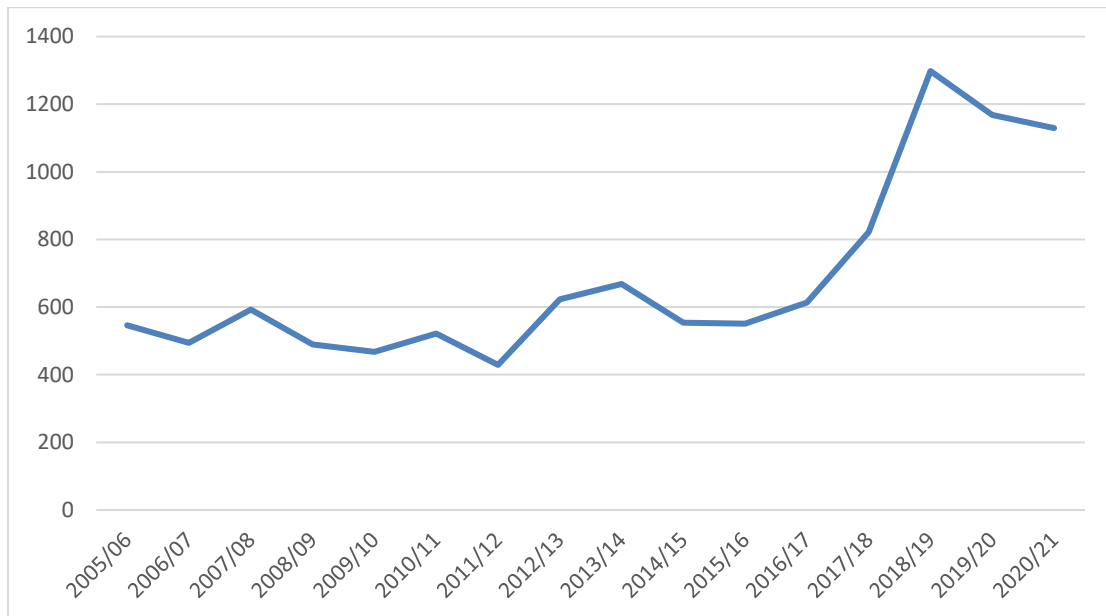


Figure 5. Complaints received 2005 to May 2021.

8.1.4. Currently incidents are categorized according to the resource affected (i.e. whether it relates to air, water or land). Figure 6 below shows the number of complaints by percentage resource affected for the year to date.

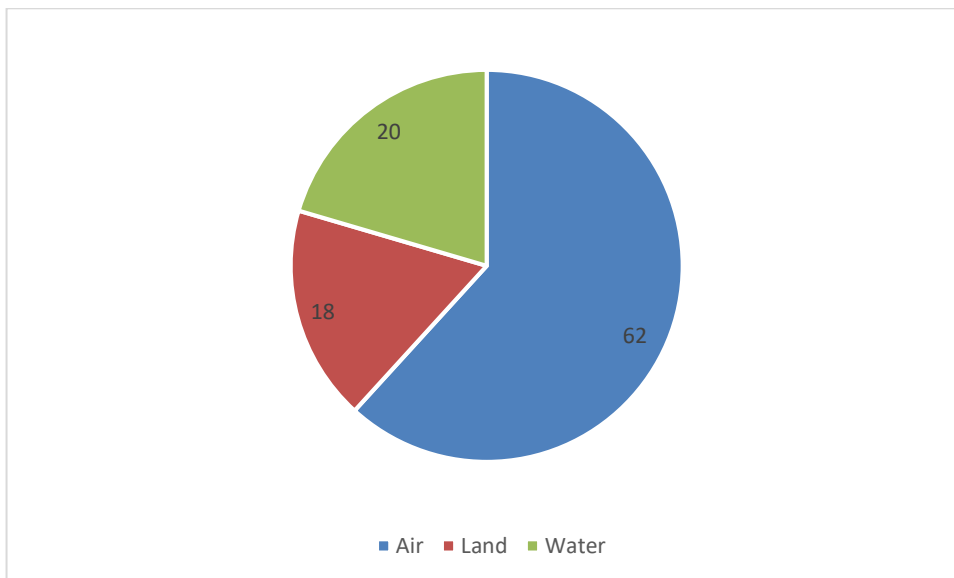


Figure 6. Percentage of resource type by complaint for 2020-2021

8.1.5. The majority of complaints received relate to air, which primarily relates to complaints regarding odour.

8.1.6. There is often a time delay from when a complainant is first affected by an odour and when Horizons Regional Council staff can complete their own odour assessment. Due to this time delay the nature of the odour (particularly its intensity and character) can change (i.e. can become less intense or disappear altogether).

8.1.7. To this end, in determining whether an odour is offensive or objectionable requires an overall judgement to be made that considers the Frequency, Intensity, Duration,

Offensiveness/character and Location of the odour event. These are known as the FIDOL factors and are summarized below.

- 8.1.8. Council can rely on a number of factors in determining whether an odour is offensive or objectionable including Council officer assessments, information provided by complainants in the form of statements and/or odour dairies, and expert advice or review of a particular sites practices and odour mitigation measures. A copy of an odour assessment form is attached as **Annex B**.

Frequency	How often an individual is exposed to the odour.
Intensity	The strength of the odour.
Duration	The length of exposure.
Offensiveness/character	The character relates to the 'hedonic tone' of the odour, which may be pleasant, neutral or unpleasant.
Location	The type of land use and nature of human activities in the vicinity of an odour source.

Figure 7. Description of the FIDOL factors. Source: Ministry for the Environment 2016. Good Practice Guide for Assessing and Managing Odour.

COMPLIANCE PROGRAMME SUMMARY FOR FEBRUARY TO APRIL 2021

- 8.2. This section of the report provides a summary on the compliance programme for the reporting period.
- 8.3. During the reporting period, there were 215 compliance monitoring assessments. Of the 215 completed assessments, 131 Comply Full, 39 Comply At-Risk, 21 Low Risk Non-Compliance, 16 Moderate Non-Compliance and 13 Significant Non-compliance gradings were issued. Overall, this equates to a 79% compliance rate across the entire programme for the reporting period.
- 8.4. Below is a breakdown of the non-compliances by consent area, for the reporting period:
Industry: 11 Low risk non-compliance, eight moderate non-compliance and 4 significant non-compliances; and
Rural: 10 Low risk non-compliance, eight moderate non-compliance and nine significant non-compliances.
- 8.5. Horizons currently has four 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.

Table 1. Summary of Court proceedings

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 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.

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9. INCIDENTS

- 9.1. Over the reporting period, a total of 413 complaints were received the majority of which related to discharges to air (304). The remainder of the complaints related to discharges to land (64) and water (83). It is important to note, the total number of complaints may not necessarily match the number of complaints per resource type. This is because one complaint may result in two resource types being affected (e.g. a discharge of a contaminant onto land may also result in a discharge of a contaminant onto or into water).
- 9.2. 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.

10. REGULATORY ACTION

- 10.1. During the reporting period, 5 abatement and 11 infringement notices were issued. Table 2 below provides a summary of the formal regulatory action taken during the reporting period.

Table 2. Regulatory action taken during reporting period.

Recipient	Enforcement	District	Section of Act contravened	Nature of Offence / Action required
Terry Edward Yates	Abatement Notice	Tararua	15(1)(b)	Overflow of sump causing significant effluent ponding.
Rachael Summers, Collin Wheeler	Abatement Notice	Palmerston North	15 (2) (a)	Burning of prohibited items
Nestle Purina Petcare Marton	Abatement Notice	Rangitikei	15(1)(c)	Offensive Odour beyond property boundary
Venison Packers Feilding Limited	Abatement Notice	Manawatu	15 (1) (b)	Discharge of unauthorised contaminants (paunch material) to land
Farmgear Limited	Abatement Notice	Palmerston North	15(1)(b)	Discharge of contaminant (sewage) to land
Chris Satherley	Infringement notice	Palmerston North	14(2)(a) and 14(3)(a)	Stream Diversion
Chris Satherley	Infringement notice	Palmerston North	338(1)(c)	Failure to comply with Abatement Notice.
Julian Dalefeild	Infringement notice	Palmerston North	15(2A)	Odour
Terry Edwards Yates	Infringement notice	Tararua	15(1)(b)	Ponding of Farm Dairy Effluent
Drymix New Zealand Limited	Infringement notice	Manawatu	15(1)(c)	Discharge of objectionable dust beyond the boundary from an industrial trade premise
Drymix New Zealand Limited	Infringement notice	Manawatu	338(1)(c)	Failure to comply with an Abatement Notice.
Crowley Farms	Infringement notice	Whanganui	15(1)(b)	Ponding of Farm Dairy Effluent
Rachael Summer	Infringement notice	Palmerston North	15 (2A)	Burning prohibited items
Nestle New Zealand Ltd	Infringement notice	Rangitikei	15 (1)(c)	Discharging objectionable odour beyond the boundary
Venison Packers	Infringement notice	Manawatu	15(1)(b)	Discharging contaminants to land and water.
Farmgear Limited	Infringement notice	Palmerston North	15(1)(b)	Discharge of contaminant (sewage) to land

11. SIGNIFICANCE

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

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ANNEXES

- A Intensive Winter Grazing - Minister's announcement
- B Odour Assessment Form