

7.2 2022-2023 ANNUAL COMPLIANCE & ENFORCEMENT REPORT

Information Only - No Decision Required

Report To:	Environment and Regulatory Committee
Meeting Date:	7 September 2023
Report Author:	Carl Cheeseman, Team Leader - Monitoring and Enforcement
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Report Number:	RRC23-09-2

1. Summary / Te Tuhinga Whakarāpoto

- 1.1 Tasman District Council has a statutory responsibility to monitor and enforce to ensure the sustainable management of our natural resources. Council has a dedicated compliance and investigation team within the Environmental Assurance Group that is responsible for undertaking this function.
- 1.2 The Council operates a tailored monitoring programme that is underpinned by a risk-based priority setting framework. This approach provides structured and consistent effects-based monitoring and efficient use of our resources.
- 1.3 The Council also ensures that where a breach of rules or consent is found, appropriate action is taken to gain compliance and address any harm caused. The Council works across the full regulatory spectrum to achieve this, including use of formal enforcement tools.
- 1.4 This report summarises the Council's compliance and enforcement activities for the period from 1 July 2022 to 30 June 2023
- 1.5 A total of 4,111 resource consents and targeted permitted activities received one or more inspections this year. This compares to 3,323 monitored last year and reflects the steady increase (24%) in targeted consent monitoring.
- 1.6 Overall, there was a lift in the number of consents achieving full compliance this year, 83% were deemed fully compliant compared with 75% in the previous year. Of the remaining 16%, most non-compliances were deemed minor and resolved through education and guidance. Only eight consents had significant non-compliance and formal enforcement actions were applied to reach a resolution or provide a deterrent effect.
- 1.7 When enforcement was required, the Council used a range of tools to address adverse effects and promote future compliance. This year we issued 18 formal warnings, 7 abatement notices and 24 infringement fines. One Enforcement Order was also initiated before the Court. One prosecution initiated in 2021 was also finalised resulting in successful convictions of two parties.

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- 1.8 The compliance and enforcement team continues to implement the essential freshwater legislation into its monitoring and enforcement strategies, as well as support colleagues in delivering catchment outcomes and policy settings.
- 1.9 The team must also prepare for the coming changes with the enactment of the Natural and Built Environments Act (NBA), and its effects on the area of compliance and enforcement. The Resource Management Act will remain in force until a region transitions. However, some parts of the NBA will switch on at time of royal assent, including compliance and enforcement, which carries new powers, tools, and obligations. These tools will be available under the RMA through transition powers from the date of enactment, and council must consider how to implement and communicate these changes.

2. Recommendation/s / Ngā Tūtohunga**That the Environment and Regulatory Committee**

1. **receives the 2022-2023 Annual Compliance & Enforcement Report**

3. Purpose

- 3.1 Tasman District Council has a core responsibility through the Resource Management Act (the Act) to ensure the sustainable management of our natural and physical resources. Effective and efficient compliance monitoring and enforcement services are key to achieving that obligation.
- 3.2 Council has a dedicated compliance and investigation team within the Environmental Assurance Group, which monitor activities to ensure that they are being undertaken in a manner that is compliant. They are also tasked with taking appropriate action when they are not. The team provides a 24/7 environmental complaint and incident response service to respond to public concerns.
- 3.3 This report summarises the team's activities for the period from 1 July 2022 to 30 June 2023. The report serves, in part, to meet the Council's obligations under section 35 of the Resource Management Act 1991.
- 3.4 This report does not examine the effectiveness, nor the implementation of the Tasman Resource Management Plan (TRMP) rules, resource consents, or state of the environment monitoring. Nevertheless, by reporting on compliance behaviour the effectiveness of these instruments can be further evaluated.
- 3.5 The structure of the report is as follows:
 - Section 4 Outlines current compliance structure and programmes.
 - Section 5 Reports on performance with consent/permitted activity monitoring.
 - Section 6 Reports on complaint response for the period.
 - Section 7 Reports on enforcement activity for the period.

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4. Setting the Compliance Monitoring Programme

- 4.1 There are several thousand resource consents active in Tasman. There are also a range of activities that, while permitted, require some level of structured monitoring. These types of non-consented activities may be subject to National Environment Standard (NES) regulations and carry monitoring and reporting obligations.
- 4.2 It is not possible for Council to monitor everything, therefore prioritising our effort is critical to ensuring that risks to human health and the environment are minimised. To achieve this, a strategic priority-setting matrix is used to direct our effort into those activities that present the greatest risk. The feedback from this process allows us to re-evaluate and respond with either reduced or additional resourcing as required. It also allows us to target enforcement where required.
- 4.3 Compliance officers are responsible for the supervision of the consented and permitted activities within their programme of work. They tailor the monitoring based on an assigned priority.

5. 2022/2023 Consent & Permitted Activity Monitoring Summary

- 5.1 Over the reporting year, a total of 4,111 resource consents and targeted permitted activities received at least one monitoring event, either as a desktop audit or site visit.
- 5.2 This improves on the previous year's output as seen in Figure 1 and reflects the increasing level of monitoring coming from targeted programmes and additional resources.

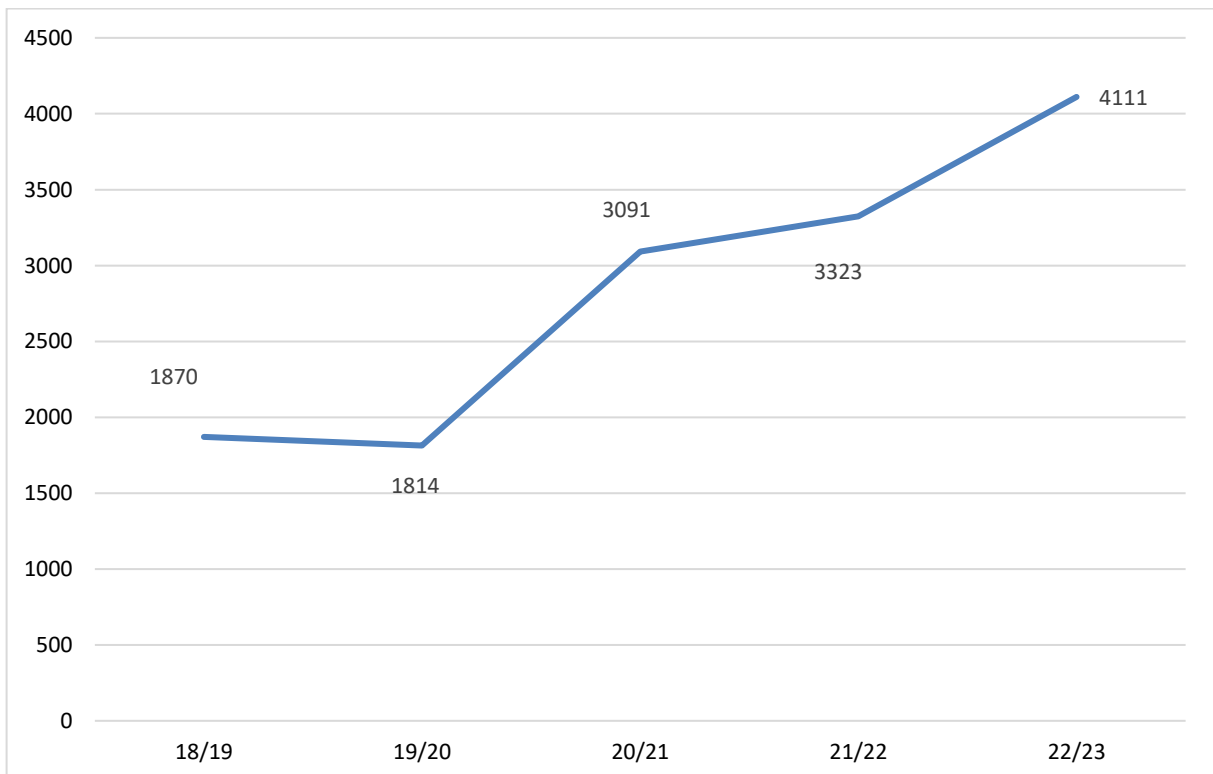


Figure 1: Total consents monitored per annum over the last five years.

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- 5.3 All consents, and certain permitted activity classes, require performance grading and receive a grade depending on compliance at time of inspection.
- 5.4 At the completion of each inspection, a grade is assigned reflecting the level of compliance achieved. The overall compliance grade is derived from the condition with the worst compliance grade.
- 5.5 The team uses a compliance grading system that is described in the Ministry for the Environment’s “Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991”.
- 5.6 Table 1 below describes this grading system with explanation of compliance rating guide.

Compliance Grade

	Full Compliance: All relevant consent conditions, plan rules, regulations, and national environmental standards are upheld.
	Low Risk Non-Compliance: Compliance with most of the relevant consent conditions, plan rules, regulations, and national environmental standards. Non-compliance carries a low risk of adverse environmental effects or is technical in nature (e.g., failure to submit a report)
	Moderate Non-Compliance: Non-compliance with some of the relevant consent conditions, plan rules, regulations, and national environmental standards, where there are some environmental consequences and/or there is a moderate risk of adverse environmental effects.
	Significant Non-Compliance: Non-compliance with many of the relevant consent conditions, plan rules, regulations, and national environmental standards, where there are significant environmental consequences and/or there is a high risk of adverse environmental effects.

Table 1: Four-tier compliance monitoring grading categories used in standard compliance monitoring.

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5.7 This year’s compliance monitoring outcomes compared with last year’s results are displayed in the following graphs (Figure 2).

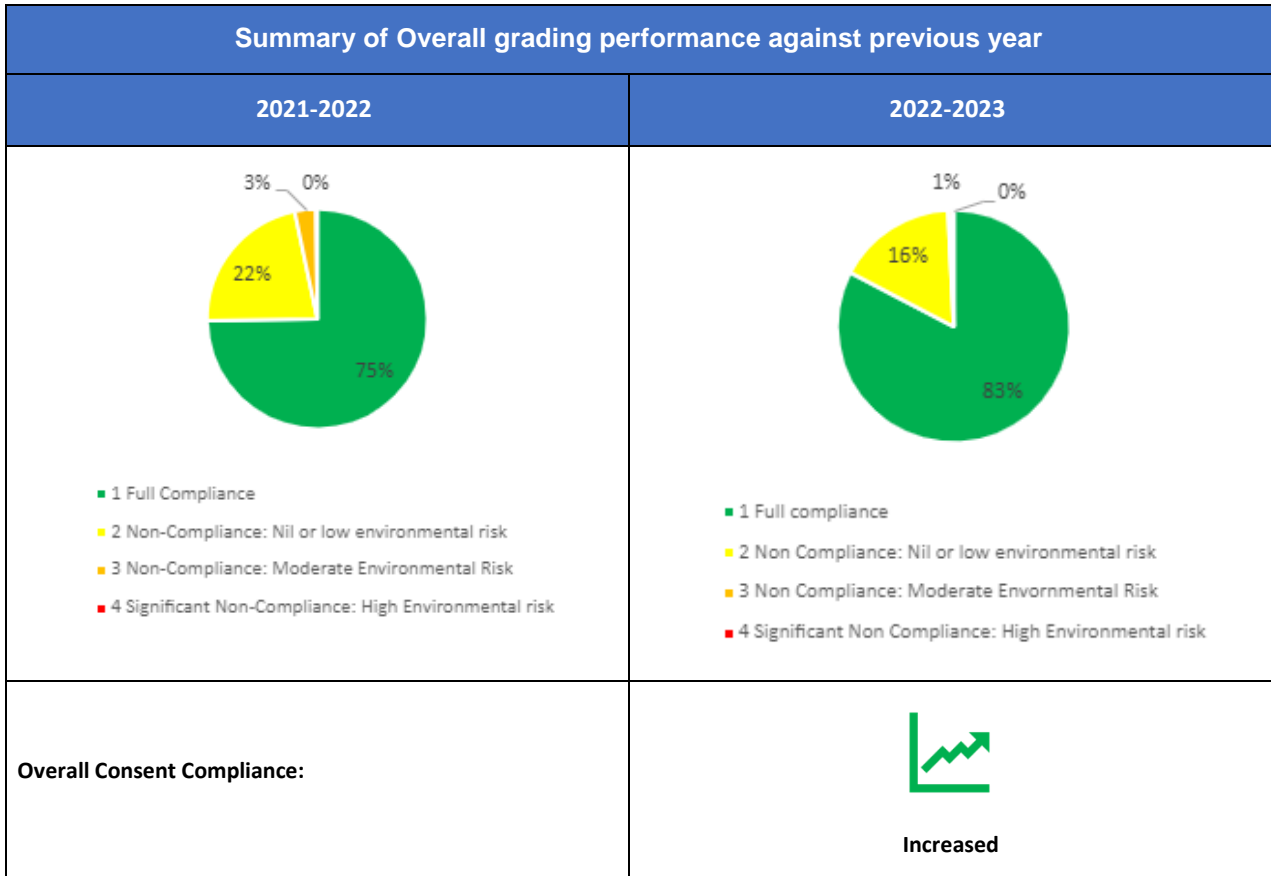


Figure 2: Summary of performance grades as a percentage across all consent and permitted activities over last two years.

5.8 Significant non-compliance was encountered on nine occasions in this reporting year. This is up from six recorded last year and were spread across various activities. **(Note:** The significant non-compliance results were too low to feature in the graph at 0.19%). One of these matters is subject to further enforcement action that is not finalised.

5.9 All other non-compliance was resolved using a range of enforcement tools to promote compliance and address any environmental effects if necessary.

Monitoring Outcome snapshot and summary

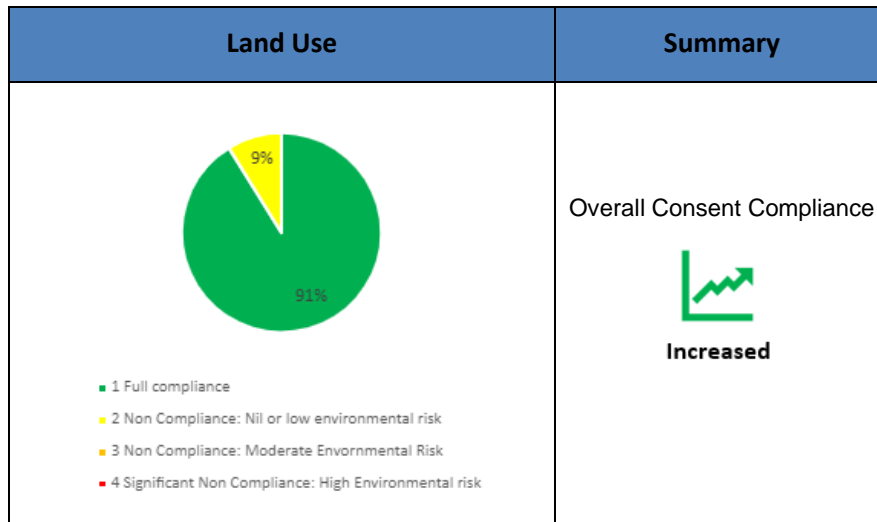
5.10 The following summarises the compliance performance of key monitoring activity areas.

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Land Use

5.11 Overall, there was an uplift in compliance around consented land use activities. 91% of consents monitored achieved full compliance compared with 77% in the previous reporting period. This is significant given that a higher number of consents were monitored this period.



Forestry under National Environment Standard Plantation Forestry (NES-PF)

5.12 Under the NES-PF the Council as the regulatory authority has an obligation to receive a notice of certain plantation activities, as well as receive and review management plans when required for earthworks, forestry quarrying and harvesting. This is done through a Council provided portal.

5.13 Compliance assessment of notified activities involves a combination of desktop audits (i.e. that the management plan includes the details required in the relevant schedule) and site audits (in accordance with the monitoring programme to confirm management practices on-site are consistent with those described in the management plan). During the period, the following number of notices were received relating to activities controlled by the regulations.

2022-23	Previous year
356	185

Table 1: Total number of notices received this year for activities where notices are required under regulations with comparison to previous year.

5.14 The compliance and enforcement team conducted 260 site audits throughout the year. This was more than double the previous year (106). Audits were principally focussed on earthworks, harvesting, river crossing and slash traps. There were 20 instances of non-compliance detected during these audits which required various interventions.

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Land Use under the National Environment Standard Freshwater (NES-F)

5.15 The following is a snapshot summary of activity under key regulations that are linked to the NES-F:

Synthetic Nitrogen Reporting

5.16 The NES Freshwater "application of synthetic nitrogen fertiliser to pastoral land" regulations began on 1 July 2021. This regulation sets a fertiliser application cap of 190kg nitrogen/ha/yr for pastoral land and requires dairy farmers to report their synthetic nitrogen use on farm for the 2021/2022 year by 31 July 2022. As the national reporting tools and data portals were not available for use by this date, Council focussed effort on an education and assistance programme. Our efforts were generally well received.

5.17 As of 31 July, of this year Tasman, recorded 58% of dairy farms having reported nitrogen use, with all under the 190kg Nitrogen/ha/yr. cap. This regions engagement compares to the wider national statistics at around 40% of dairy farms reporting.

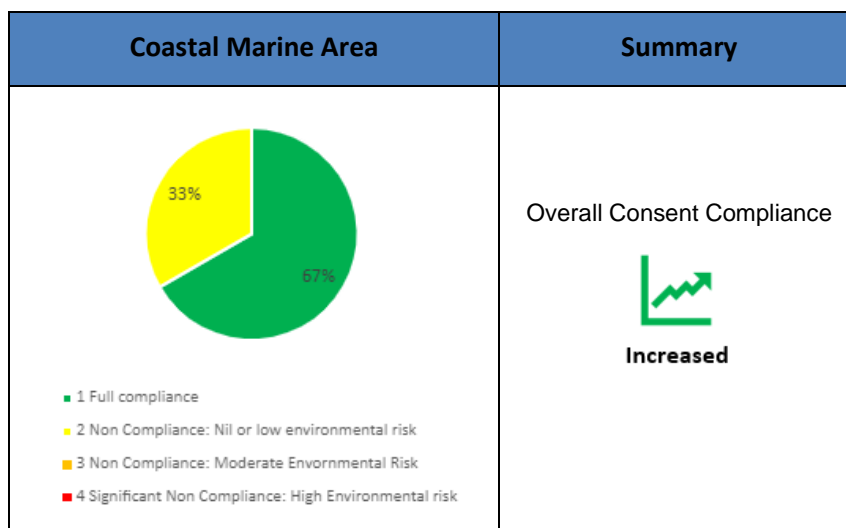
Intensive Winter Grazing

5.18 The intensive winter grazing (IWG) regulations came into effect 1 November 2022. Council processed three resource consents for IWG during the reporting period.

5.19 Prior to this regulation coming into effect, survey flights were undertaken during the late winter period with follow up farm visits of those identified as not meeting the future rules to lift compliance rates. The two main issues identified were critical source areas not clearly identified, and inadequate buffers along waterways.

Coastal Marine Area Activities

5.20 There were a lower number of consents monitored this year. Due to weather disruptions Council was not able to complete the scheduled site monitoring of all marine farms. A total of 21 coastal disturbance activities were monitored. Desktop monitoring was undertaken of marine farm consents due to submission of management plans and environmental monitoring reports. A number of these farms had missed deadlines and extensions have been granted.

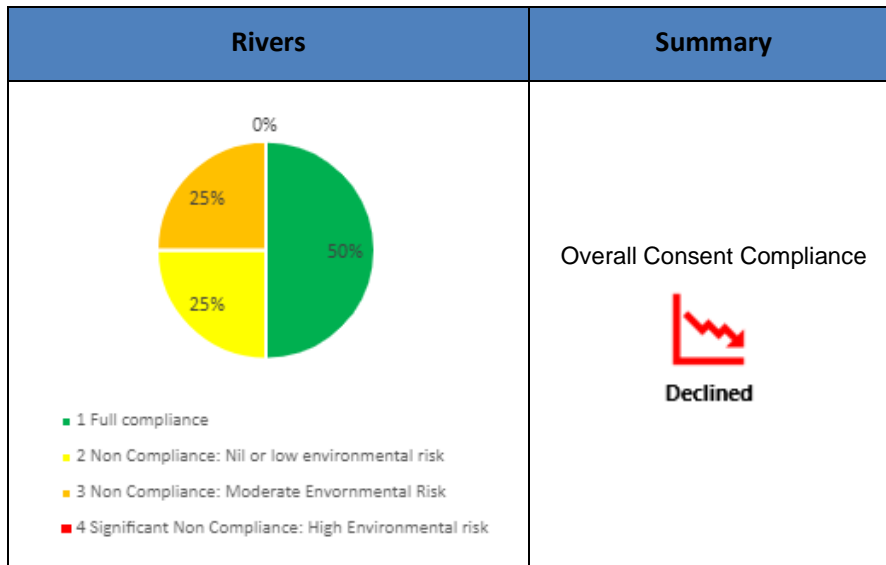


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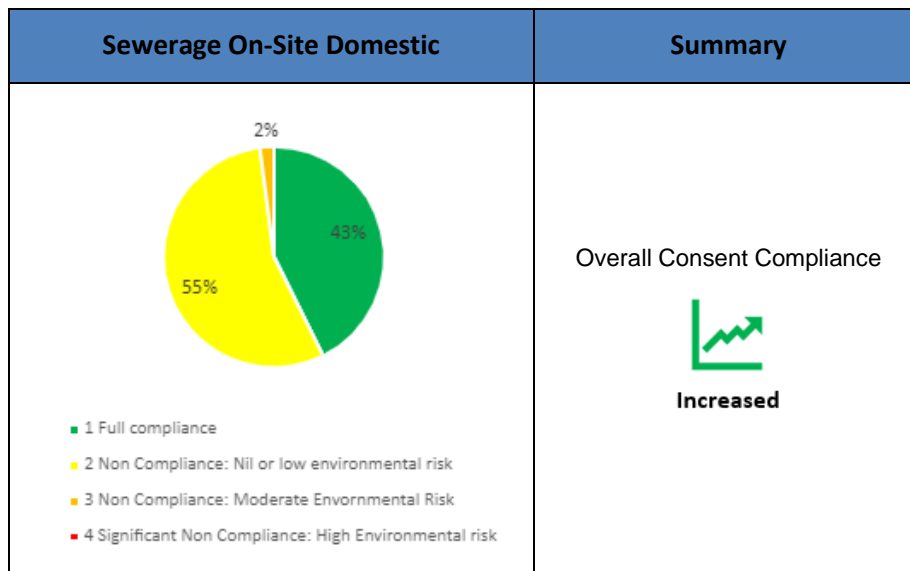
Rivers

5.21 A limited number of consents were monitored in this area as a lot of work involves monitoring activities undertaken through the Global Rivers consent. These individual consents are typically culverts, bridges or instream works. Of the small number (12) assessed this year, only half were found fully compliant. This compared to the 100% fully compliant last year. The typical failings in this area were notifications of start work and completion reports.



Sewage Discharges On – Site Domestic

5.22 Around 600 resource consents for on-site domestic wastewater disposal received some monitoring activity this period. This was a significant uplift from the previous year where around 400 were monitored. At 43% fully compliant this is a modest improvement over last year's results of 37%, however a third more consents were monitored which indicates an improvement in compliance levels in this area.

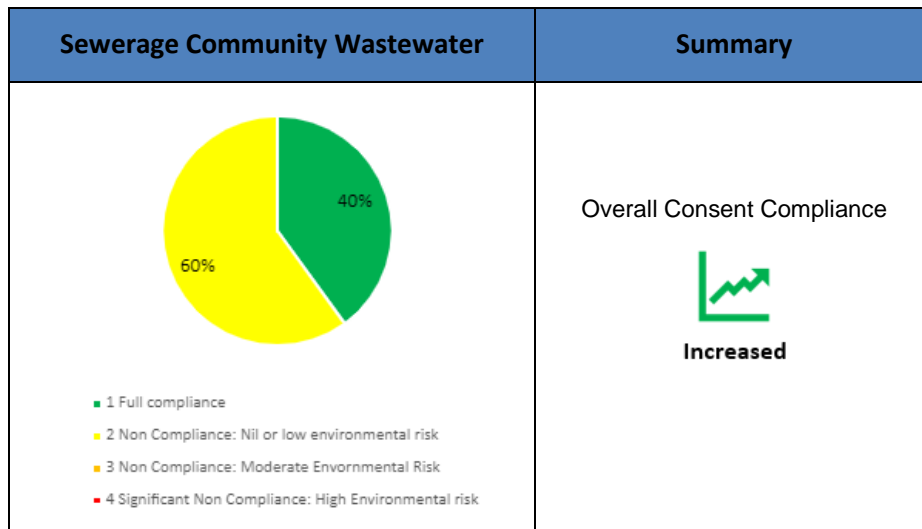


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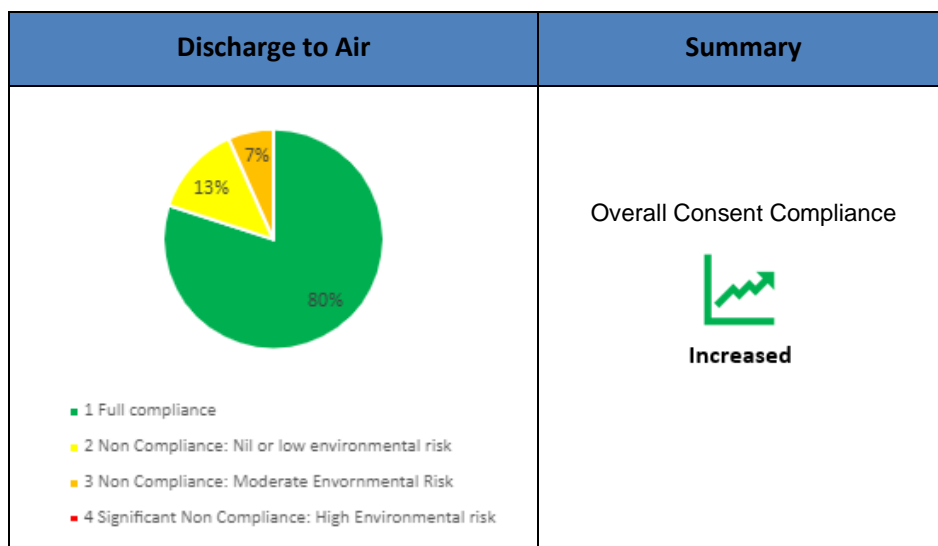
Sewage Discharges - Community Wastewater

5.23 The eight Council owned wastewater treatment plants, with a suite of consents, received periodic monitoring over the reporting year. Non-compliance is still evident with certain systems, although there was an overall lift in compliance across the group, with the Murchison system achieving full compliance.



Discharge to Air

5.24 Monitoring was predominantly associated with boilers and other industrial consented air discharges. Approximately 15 consents are routinely monitored. Overall, the data shows an 18% uplift in consents recording full compliance compared to the previous year.



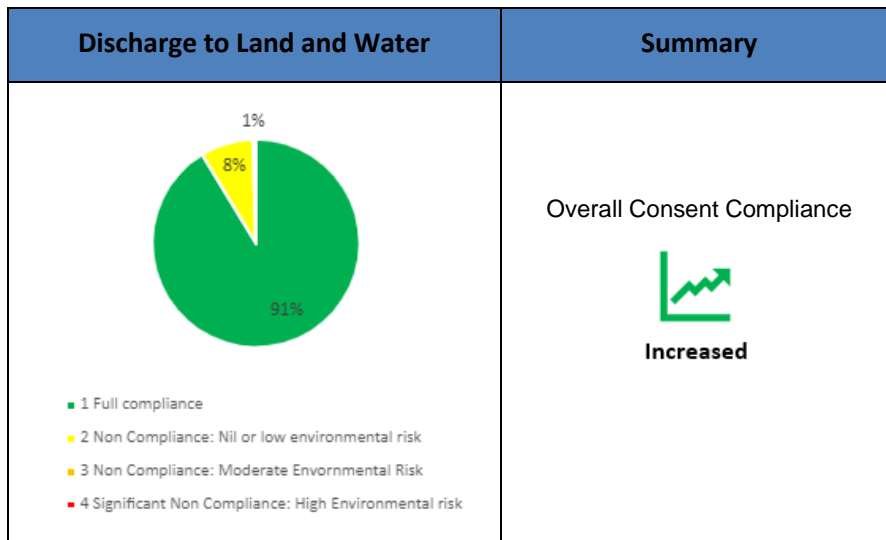
Discharges to land and water

Monitoring involved a broad range of consented discharges to land or water including stormwater, sediment, industrial or agricultural contaminants, herbicides, and pesticides. Overall, the figures show a 20% uplift in consents recording full compliance compared to the previous year. One significant discharge event occurred that is represented in the summary

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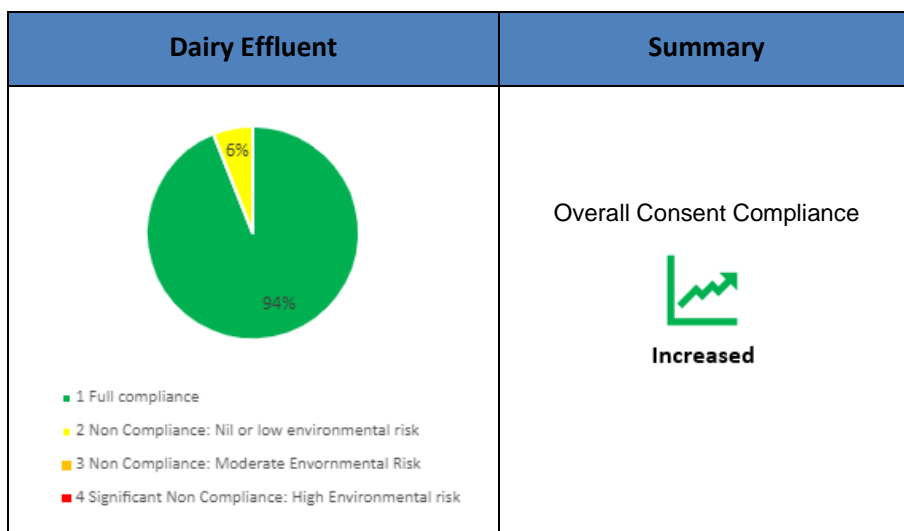
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for industrial consents monitoring outcomes later in the report. This matter is subject to enforcement action not yet resolved.



Dairy Effluent

- 5.25 A full report on farm dairy effluent was covered in a separate report to the Regulatory Committee on 3 August 2023 (Report RRC23-08-2) therefore it is not reported in detail here.
- 5.26 While dairy farm numbers have declined in the district, those that were active all received at least one inspection. Overall compliance was very high, with 94% of farms achieving full compliance, this is a small improvement - up on the 93% achieved last year.



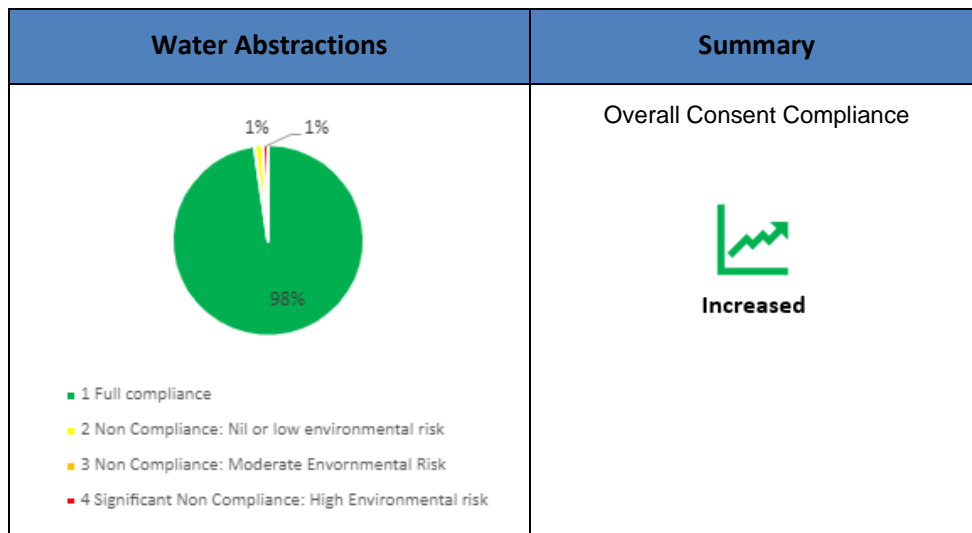
Ground & Surface Water Abstractions

- 5.27 A full report on the 2022/2023 season was covered in a separate report to the Environment & Regulatory Committee on 3rd August 2023 (Report RRC23-08-3) therefore it is not reported in detail here.

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5.28 While the number of consents subject to monitoring was down on the previous year, compliance was up, with data showing a 16% uplift in full compliance compared to the previous year. This was also the area where we did encounter some consent holders with significant non-compliance.



Industrial audits

5.29 The following table (Table 2) provides a summary of overall compliance outcome for industries subject to a monitoring programme with comparison to the previous years' rating.

Timber Treatment/Timber Processing

Nelson Pine Industries Limited			
Medium density fibreboard and LVL plant at Lower Queen Street, Richmond.			
Compliance Summary	2021/2022	2022/2023	

AICA Limited			
Phenol and formaldehyde resin plant at Lower Queen Street, Richmond			
Compliance Summary	2021/2022	2022/2023	

Carter Holt Harvey			
Sawmill and CCA timber treatment complex at Eves Valley			
Compliance Summary	2021/2022	2022/2023	

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Goldpine Industries			
Sawmill and CCA and Alkaline Copper Quat (ACQ) timber treatment complex, Golden Downs, Upper Motueka			
Compliance Summary	2021/2022	2022/2023	

Prowood NZ Limited			
Sawmill and CCA treatment complex in the Little Sydney Valley, Motueka			
Compliance Summary	2021/2022	2022/2023	

Azwood NZ Limited			
Bark and wood processing complex in Eves Valley,			
Compliance Summary	2021/2022	2022/2023	

Note: A major non-compliance has been identified, investigation work is ongoing.

Fish Farming/Processors

Talleys - Port Motueka			
Fish processing, fishmeal, and ice cream factory at Port Motueka			
Compliance Summary	2021/2022	2022/2023	

Anatoki Salmon			
Salmon hatchery and fish farm as well as the associated onsite commercial business adjacent to the Anatoki River, Golden Bay			
Compliance Summary	2021/2022	2022/2023	

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New Zealand King Salmon Company Limited			
Salmon hatchery and fish farm adjacent to the Waikoropupū River, Golden Bay			
Compliance Summary	2021/2022	2022/2023	

Hydroelectric Power Generators

Manawa Energy Limited			
Hydroelectric power generating facility on the Cobb River Takaka			
Compliance Summary	2021/2022	2022/2023	

Electric Waters Limited			
Hydroelectric power generating facility on the Onekaka River Takaka			
Compliance Summary	2021/2022	2022/2023	

Dairy Processing Factories

Fonterra Co-operative Group – Takaka			
Compliance Summary	2021/2022	2022/2023	

Fonterra Co-operative Group – Brightwater			
Compliance Summary	2021/2022	2022/2023	

Table 2: Overall compliance outcome for industries subject to monitoring programme with comparison to previous years with rating.

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6. Complaint and Incident Response

- 6.1 The Council is available to receive complaints 24 hours a day seven days a week and endeavours to respond as soon as possible.
- 6.2 All complaints received are immediately uploaded into the system and prioritised according to the nature of the incident and environmental threat posed. All after hours calls are forwarded by the councils call centre to the designated Environmental Assurance on call staff for response.
- 6.3 This year 1,798 environmental complaints or incidents were received and actioned. This number relates only to customer contacts requiring council investigation. Outside of this the team also receive and responded to a large number of enquiries.
- 6.4 The number of complaints received this year are consistent with the previous four years. Figure 4 below displays the level of complaints over the last five years.

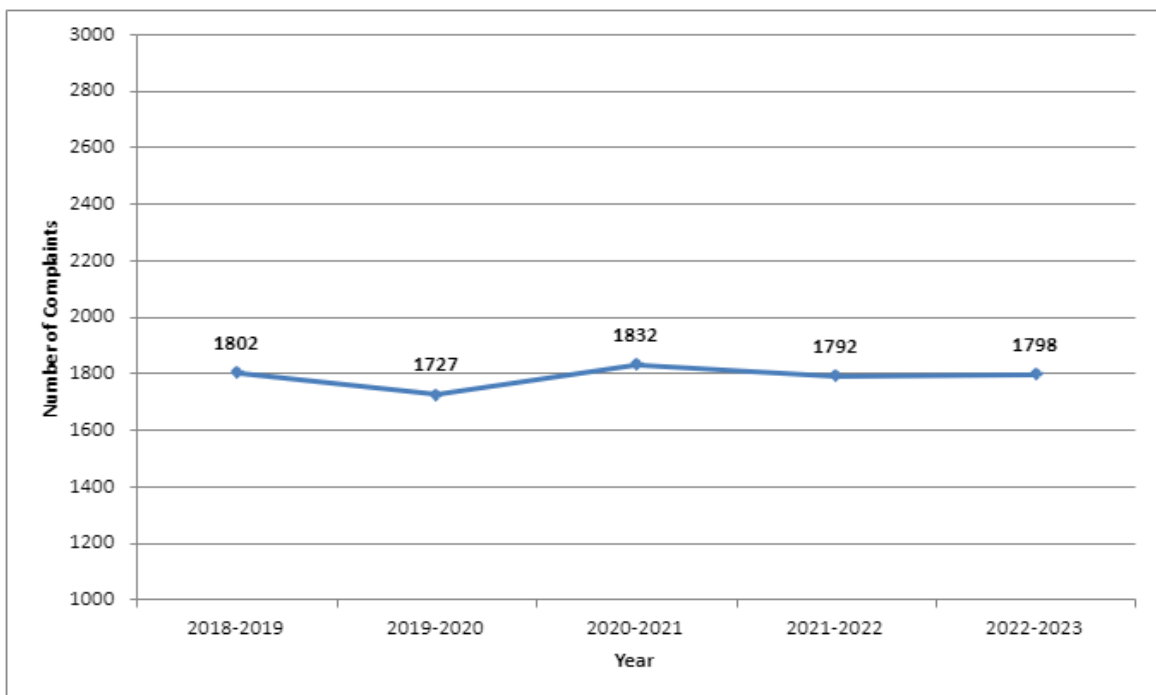


Figure 4: Trend in complaint numbers in Tasman district over last 5 years

- 6.5 The numbers alone do not provide a full picture of what is affecting the community. Some activities generate more complaints than others due to their nature, scale, or frequency. Analysing underlying data and comparison against previous years can provide insight into changing patterns and emerging issues in resource use or user behaviour.

We have collated the complaints received into categories based on the nature of the complaint and compared them with the last four years in figure 5 below.

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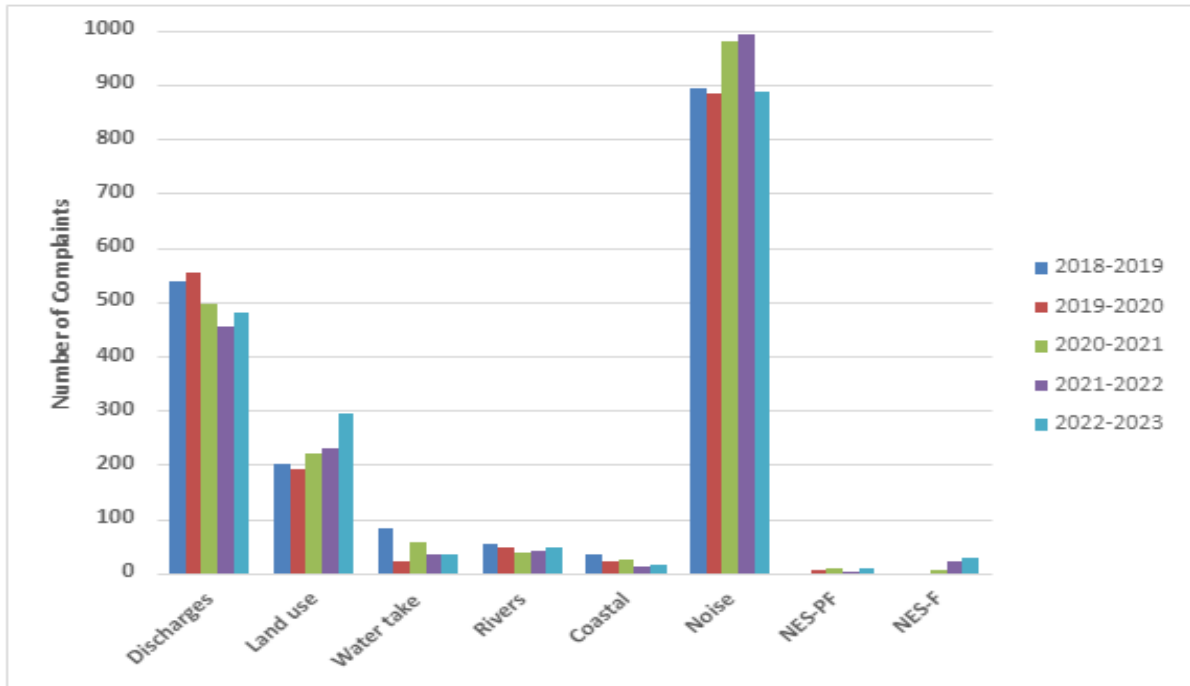
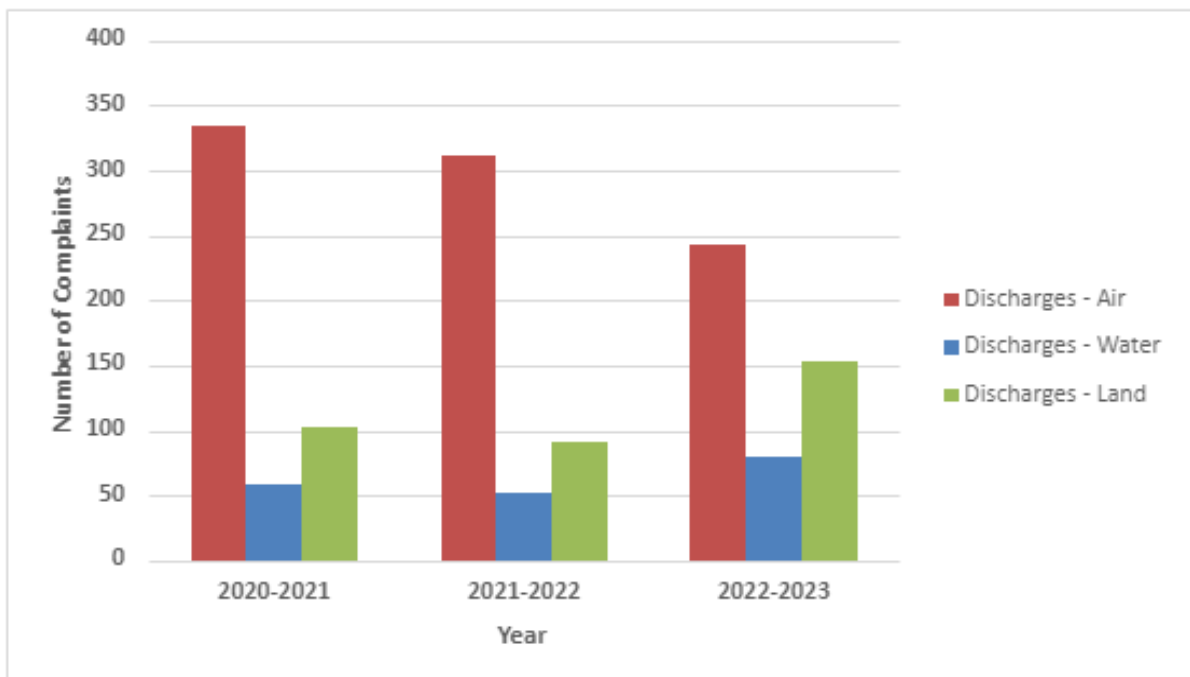


Figure 5: 2022-2023 environmental complaint numbers as type and in comparison, to previous years

6.6 From the data, other than noise, discharges into the environment typically generate the highest level of complaints. Smoke effects from outdoor burning have always been the principal reason behind high numbers in this category. However, a change in land management practices over recent years has underpinned a downward trend which this year has trended back upwards.

The uplift in the number of complaints prompted further analysis into the principal complaint type. This is displayed in figure 6 below.



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Figure 6: Environmental Discharge complaints received in year as a category type across three years.

- 6.7 While air discharges are still the greatest proportion, they continue to decline, complaints in the other two classes have risen this year. Uncontrolled stormwater and flooding reflect the impacts of significant weather events. This is seen in the discharge to land category. Sediment and pollution complaints, particularly around the urban areas underpin the rise in the other category.
- 6.8 The data in figure 6 also reinforces the continuing increase in complaints regarding land use activities this year, a significant uplift. These complaints can be broad ranging in nature, and not easy to break out into a subset of data like discharges. However, the data does show a high number of complaints alleging breach of zone rules. This is usually associated with use of buildings or land for residential or commercial activities including setbacks.
- 6.9 The NES-Freshwater category was created three years ago to capture, measure and report complaints against activities controlled by freshwater regulations. Some activity is being recorded in this category now, with stock access to riverbeds and reported concerns around winter grazing practices the predominant complaint.
- 6.10 All complaints were dealt with on a case-by-case basis and action taken in accordance with the Council's enforcement procedures and guidelines when a breach was detected.

7. Enforcement

- 7.1 During the year, enforcement officers undertook a range of enforcement actions in response to detected non-compliance or breaches. Table 3 is a summary of enforcement action taken compared to the previous year.

Enforcement action	2022-2023	2021-2022
Formal Warning	18	N/A
Abatement notices	7	18
Infringement notices	24	39
Enforcement order applications	1	0
Prosecutions initiated	0	1
Prosecutions concluded	1	1

Table 3: Summary of Enforcement action during the 22/23 year including comparison to previous year.

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Abatement Notices

7.2 There were 7 abatement notices issued this year. Table 4 notes the reduction in notices.

RMA Section	2022-2023	2021-2022
Section 9 - Land use	2	4
Section 12 - Coastal	-	1
Section 13 - Rivers/Lakes	-	1
Section 14 - Water	1	3
Section 15 - Discharges	4	9
Total	7	18

Table 4: Number of Abatement Notices relative to each section of the RMA (Sec 9-17).

7.3 Less abatement notices were issued this year compared to last year. The numbers do fluctuate year on year and are often dependent on the response of the offender or the level of action required to address the harm caused. This year a contributing factor was the reduction in the number of outdoor fires, along with changing practices, that has meant Council has not issued as many Notices.

Infringement Fines

7.4 Over the year, infringement fines were used as an appropriate response to breaches against the RMA or Litter Act as outlined in Table 5. The column headed outstanding are fines not paid in the statutory timeframe and subsequently lodged in the Court for recovery.

Resource Management Act 1991	Number issued	Paid	Outstanding	Withdrawn
Contravention of section 13 - (Rivers)	1	-	1	-
Contravention of section 15(1) (b) (Discharge contaminant to water or land)	1	1	-	-
Contravention of section 15(2A) - (Discharge Air - breach rule or regulation)	9	6	1	2
Contravention of section 15(2) (Discharge Air - breach of NES)	1	-	1	-

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Resource Management Act 1991	Number issued	Paid	Outstanding	Withdrawn
Contravention of Section 22 – Fail to give particulars	1	-	1	-
Litter Act 1979				
Deposit and Leave Litter	11	6	4	1
Total	24	13	8	3

Table 5: Infringement notices by type and outcome

Enforcement Orders

7.5 One enforcement order was issued for a breach of zone rules, where the use of a tiny home triggered the need for a resource consent for a second residential activity in a rural zone. Due to the response from the landowner, Council was unable to gain compliance and was required to apply for an enforcement order. This matter is going to hearing in the Environment Court following an application from the respondent.

Prosecutions

- 7.6 One prosecution before the court was resolved on 26 June 2023. At this hearing two defendants, C J Industries Limited and Rapid Ridge Trust Limited, appeared for sentencing on charges laid under the Resource Management Act 1991 relating to burning in breach of the rules of the Tasman Resource Management Plan and contravention of an abatement notice. Both parties pleaded guilty.
- 7.7 The discharge occurred in the context of the burning of a pile of mixed material on a property owned by Rapid Ridge Trust Limited at 105 Douglas Road, Motueka on 3 June 2021.
- 7.8 The defendants were sentenced to fines totalling \$33,000 between them.

8. Future Strategies

Essential Freshwater

8.1 The Resource Management (National Environment Standards for Freshwater), Resource Management (Stock Exclusion) Regulations and Resource Management (Freshwater Farm Plans) Regulations are all in force, with various trigger dates bringing into practice key elements of the regulations using a phased in approach across the country. Our Council is not an early adopter in either category, so we are gearing up for going live. While systems and strategies are already in place around some activity areas, we continue to map future compliance obligations and develop additional monitoring and enforcement strategies in anticipation, taking on board learnings from the early adopter regions.

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- 8.2 The alignment of our freshwater compliance officers to freshwater catchment boundaries is one part of this response. This will allow for more effective and consistent connection to landowners, as well as support to our catchment facilitators. This work is now underway in the dairy sector, where officers are tailoring monitoring programmes to provide an integrated approach, incorporating dairy effluent, synthetic nitrogen use, intensive winter grazing, stock exclusion and reporting.
- 8.3 We need to widen our focus to include the sheep, beef and deer sectors. We will be unfamiliar to them, as such, effective engagement will be the initial challenge. The objectives in the horticultural sector over the next two years will be to identify and establish relationships with rural industry, business leaders and agents to promote positive compliance outcomes.
- 8.4 Focus will also need to be given to the implementation of a fees and charges schedule as provided for under these regulations. This is part of an increased focus on recovering the cost of compliance services from those who receive them.

Natural and Built Environment Act (NBA)

- 8.5 Officially recognised by the acronym NBA, the passing of this Act marks a transition to a new resource management system.
- 8.6 The Resource Management Act, as it currently stands, will remain in force until a region transitions. Nevertheless, some parts of the NBA will switch on at the time of royal assent, including compliance and enforcement which carries new powers and tools. These tools will be available under the RMA through transition powers.
- 8.7 The Council will need to consider how to implement these new tools and powers into our strategies, operational procedures and practices. The Ministry for the Environment is tasked with developing guidance material for compliance practitioners and, along with the regional sector and ministry, have agreed to work on developing templates and strategies.

Te Uru Kahika compliance & enforcement independent analysis report

- 8.8 The data that is collected for this report contributes to the regional sector metrics report that has been published over the last five years. This data set provides valuable insights into the compliance and enforcement activity across the regional council sector.
- 8.9 A recent independent analysis, commissioned by Te Uru Kahika, of this data collection model highlighted some emerging challenges and opportunities for regional councils. This report has now been circulated and given the green light to be published.
- 8.10 The report provided useful feedback and recommendations for regional sector compliance and enforcement practitioners and a commitment has been given to scope opportunities.
- 8.11 Given the information being received, and the forecasted change, it is considered prudent to present the committee a more in-depth discussion on these matters in an accompanying report.

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- 9.1 Complaint and incident response is set out as a key priority in our compliance and enforcement strategy. This does tend to have an impact on planned work, but it is essential that the Council responds to community concerns, first and foremost.
- 9.2 While overall complaint numbers are relatively consistent with the prior years, some activities generate more activity than others. Land use is one area that appears to be rising. The underlying area of complaint is around land development and building use. Stormwater and flooding complaints also spiked this year, mostly due to severe weather events.
- 9.3 Consent and permitted activity monitoring increased again this year as result of compliance staff effort. Interestingly, the level of full compliance being encountered also lifted. That said, some consent holders failed to meet obligations and our response reflected the level of non-compliance and called on a range of tools. Mostly, this was minor offending, and the Council was able to change behaviour using non statutory approaches such as education and advice.
- 9.4 For those that required more formal enforcement, a range of tools were used depending on the circumstances. Fortunately, there was a low level of significant non-compliance and as a result the use of infringements and abatement notices was down on last year.
- 9.5 The compliance and enforcement team must continue to implement the essential freshwater legislation into its monitoring and enforcement strategies, as well as support colleagues in delivering catchment outcomes and policy settings. We will need to do this, alongside the amendments that will be made to the Tasman Resource Management Plan. The team must also prepare for coming changes with the enactment of the NBA.

10. Attachments / Tuhinga tāpiri

1. Independent analysis of CME for the regional sector