

9.1 ANNUAL COMPLIANCE AND ENFORCEMENT SUMMARY REPORT

Information Only - No Decision Required

Report To:	Environment and Planning Committee
Meeting Date:	18 October 2018
Report Author:	Carl Cheeseman, Co-ordinator Compliance Monitoring
Report Number:	REP18-10-03

1 Summary

- 1.1 Tasman District Council has a statutory obligation to monitor and enforce its legal duties and responsibilities under the Resource Management Act and other Acts it administers.
- 1.2 The council operates a tailored monitoring programme, which is underpinned by a strategic risk based priority-setting framework. This identifies the range of activities seen as significant to the district and where the monitoring effort should be put.
- 1.3 These tailored monitoring programmes not only allow for structured and consistent effects based monitoring but also allows Council the ability to identify trends and respond appropriately to non-compliance and/or environmental effects with appropriate or enforcement strategies.
- 1.4 The need to take enforcement action may arise following routine monitoring or complaint investigation. In both instances, the need to take enforcement action will arise because a breach has arisen.
- 1.5 The process of undertaking enforcement is a staged one of promoting awareness and providing assistance, warnings, issuing of enforcement notices and in serious cases, prosecution, although this may vary from time to time. This spectrum approach encourages positive behaviour change thus ensuring highest levels of compliance
- 1.6 This report summarises the Council's monitoring and enforcement activities for the period 1 July 2017 to 30 June 2018.
- 1.7 Council responded to 2562 complaints in the year. Complaints were up 7% on the same period last year (2389) with the increase predominantly in residential noise and air quality concerns. Most of these discharges were odour from certain activities such as Bells Island and smoke effects from outdoor burning. As always complaint response continues to be first priority and a considerable amount of time is spent responding to the public's concerns.
- 1.8 Despite the substantial impact complaint response had on the section, we continue to put effort into consent and permitted activity monitoring and a total of 1505 resource consents and targeted permitted activities were monitored.
- 1.9 Compliance was reasonably high this year, with 90% of the activities being graded fully compliant. Of those that failed to achieve full compliance with one or more consent

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conditions, 9% were considered to be minor and require no further enforcement action. Examples of these were technical non-compliances such as failure to submit documents or to notify according to conditions of consent. The remaining 2% had non-compliance at a level sufficient to require some type of action given the circumstances.

- 1.10 During the year Council undertook a number of enforcement actions for breaches of consent conditions, plan rules or regulations. The type of response depended on the circumstances behind the offending and the level of adverse effect caused by those actions. Over the year 33 abatement notices and 46 infringements notices were issued. One enforcement order was finalised with the Court issuing orders and costs in favour of the Council. Three prosecutions were also finalised during the period with convictions being entered. One still remains to be sentenced.
- 1.11 Much like complaint response, the requirement to undertake enforcement actions to remedy adverse effects and provide a suitable deterrence does, in itself, have a direct impact on our resources and ability to proactively monitor and provide other key services. This is due to the fact that gaining compliance and ensuring the appropriate response to the offending can take a considerable amount of staff time.
- 1.12 Despite that, it is pleasing to report that the Compliance section had a great deal of success in its monitoring and enforcement actions over the period, particularly with the serious matters that went before the Environment Court either as prosecutions or enforcement orders.

2 Draft Resolution

That the Environment and Planning Committee receives the Annual Compliance and Enforcement Summary Report REP16-09-03

ANNUAL COMPLIANCE AND ENFORCEMENT SUMMARY REPORT**3 Purpose of the Report**

- 3.1 This report summarises Tasman District Council's Compliance section programme of work and achievements for the period 1 July 2017 to 30 June 2018. The report outlines consent monitoring performance and compliance and enforcement response over the period and serves in part to meet Council's obligations under section 35 of the Resource Management Act 1991.
- 3.2 This annual report does not attempt to report on effectiveness and implementation of the Tasman Resource Management Plan (TRMP) rules, resource consents, or state of the environment monitoring.
- 3.3 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.

4 Compliance Monitoring Programmes

- 4.1 Tasman District Council's monitoring programme is delivered using a strategic risk based priority-setting framework. This focuses monitoring efforts according to the activities risk to our natural resources and community wellbeing.
- 4.2 Targeted monitoring programmes allow for structured and consistent effects based monitoring and more efficient use of limited resources. They also provide the ability to report on the individual's compliance performance with rules or resource consents as well as the behaviour of the sector as a whole.
- 4.3 This programme is reviewed every two years to allow us the ability to identify and respond to trends with either a reduction or additional resourcing or enforcement strategies as required.
- 4.4 Currently the section consists of seven warranted officers and an administrator under the direction of a Team Leader. Additional administrative resource is provided from the regulatory department and amounts to approximately 0.6 FTE. Compliance Monitoring Officers have direct responsibility for managing and reporting outcomes under their individual portfolios. Each Compliance Officer holds a number of portfolios.
- 4.5 The current suite of monitoring programmes under their priority settings are listed below in Table 1:

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Compliance Monitoring Activity Area 2018/2020

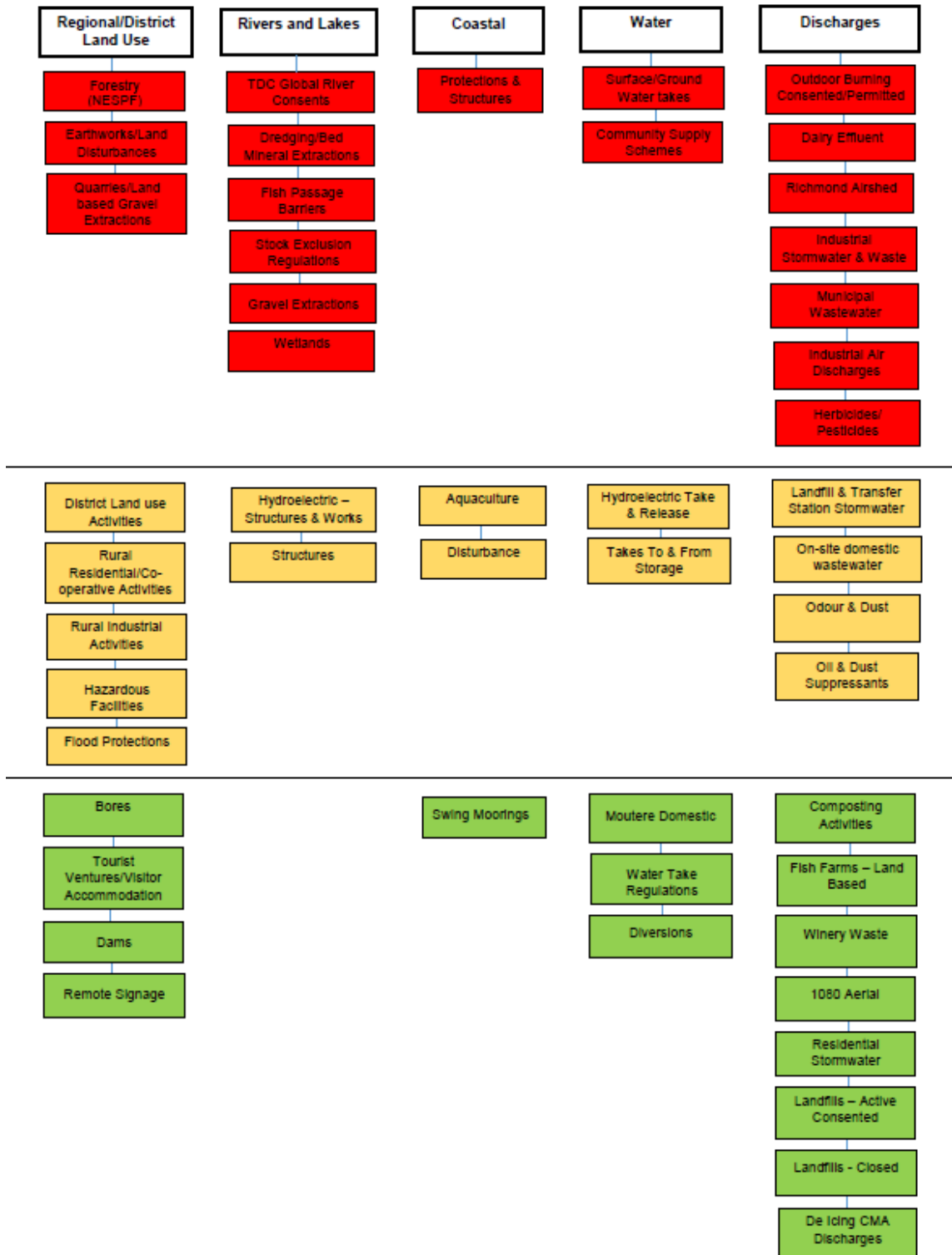


Table 1: Current monitoring programme in Tasman District

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- 4.6 The colour coding in the above table represents where the activity sits in the priority-setting matrix. Monitoring intensity is determined by this priority status and associated monitoring policy.

Priority *
1 - High
2 - Moderate
3 - Low

Compliance officers responsible for these programmes develop a strategy of programme and data management in accordance with these settings. They are also required to develop an effective working relationship with industry and users and participate in liaison committees if set up.

Compliance Grading

- 4.7 At the completion of any inspection a grade is assigned to each condition monitored reflecting the level of compliance achieved at that time. This grading determines the level of enforcement response for those non-complying and also assists in mapping future monitoring through our monitoring strategy.

1	Full compliance	Compliance with all relevant consent conditions achieved at time of inspection or audit.
2	Non Compliance: No action	Non-compliance with consent conditions with no or minor actual environmental effects and no action required.
3	Non Compliance: Action	Non-compliance with consent conditions with minor to moderate adverse effects and where action is required.
4	Significant Non-compliance	Non-compliance with conditions where there is actual or potential <u>significant</u> adverse effects and action is required.
5	Not Monitored	Consent not monitored at time of being exercised and compliance with conditions unable to be determined or not required.

Table 3: Compliance gradings

5 Summary of Consent and Permitted Activity Monitoring in Tasman District 2017/18

- 5.1 Over the 2017/18 year a total of 1,505 resource consents and targeted permitted activities were monitored. This is down on previous years and is primarily a result of staff having to respond to complaints and two complex prosecution cases that occupied a lot of time.
- 5.2 The following table is a breakdown of the number of consents monitored per consent type.

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Consent Type	# Consents
Coastal Disturbance	3
Coastal Marine Farm	9
Coastal Occupation/Structure	1
Coastal Discharge	3
Discharge - Air	6
Discharge - Land	336
Discharge - Water	24
Land Use	64
Land Use - Bore	24
Land Use - Disturbance	30
Land Use - Gravel Extraction	5
Land Use - Hazardous Facilities	3
Land Use - Dam	1
Land Use - Watercourse	1
River - Activity on Surface	3
River - Culvert/Bridge/Ford Structure	4
River - Dam & Weir Structures	3
River - Reclaim & Drain	1
River - Other Structures	1
Water - Divert	2
Water - Dam	1
Water Take - from Storage	71
Water Take - to Storage	27
Water Take - Underground/Surface	882

Table 5: Consent numbers monitored per consent type.

5.3 A summary of the compliance monitoring outcomes for the consents that received monitoring is contained in the following graph.

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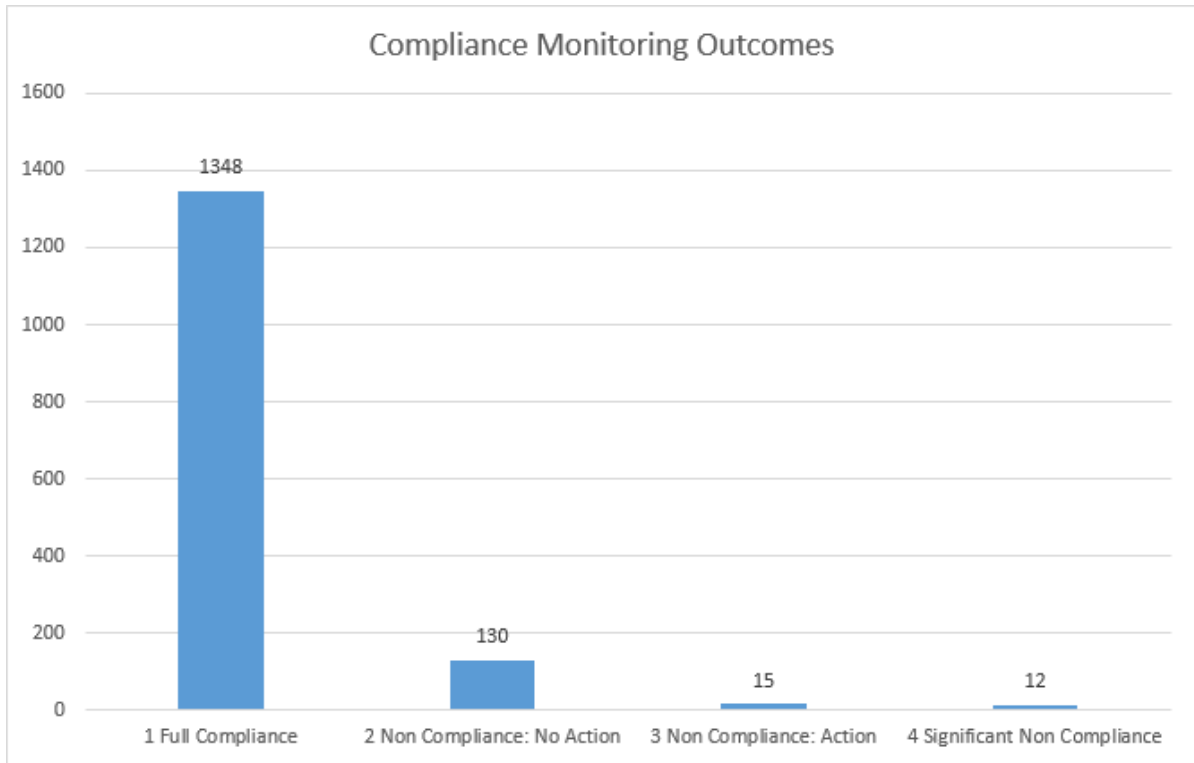


Figure 1: Consent and targeted permitted activity compliance performance for monitoring period

5.4 Compliance with conditions or plan rules was relatively high. Of the consents and permitted activities that were monitored 90% were fully compliant. Of those that failed to achieve full compliance with one or more consent conditions, 9% were considered to be minor and require no further enforcement action. Examples of these were technical non-compliances such as failure to submit documents or to notify according to conditions of consent. The remaining 2% had non-compliance at a level sufficient to require some type of action given the circumstances. These were often addressed through a formal enforcement process commensurate to the level of adverse effect and were likely to include an abatement notice and fines for those receiving a significant non-compliance grade.

Notable Industrial and Regional Consents

5.5 The following section outlines the monitoring of some of the larger or more notable consented activities that occurred around the district during the period.

1080: Sodium Monofluoroacetate Operations

5.5 The Resource Management (Exemption) Regulations 2017 came into effect on 1 April 2017 and now has an influence on the monitoring programme. These Regulations exempt pest control operations discharging 1080, brodifacoum and rotenone from regional council controls under the Resource Management Act 1991 (RMA). The monitoring obligations still fall to Council and the Compliance section will continue to monitor aerial applications in the future. There were no recorded non-compliances from these operations.

Herbicide Spraying Programmes

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5.7 Both Tasman District Council and NZ Transport Agency undertook a range of roadside vegetation spraying operations around the districts roads. These areas are identified through resource consents that carry a sweeping range of conditions in regards to the undertaking and reporting of operations.

Both consent holders exercised these consents over the period and met all conditions.

Wastewater Treatment Plants (WWTP)

5.8 The largest wastewater treatment plant operating in Tasman district is on Bells Island, managing effluent from Nelson and Tasman. The consent holder is the Nelson Regional Sewage Business Unit (NRSBU), a joint venture between Nelson City Council and Tasman District Council. Treated effluent is discharged into the Waimea Estuary and biosolids are applied onto Tasman District Council forested land on Rabbit Island.

5.8.1 NRSBU Bells Island - Discharge to Waimea Estuary.

This resource consent allows the discharge of up to 25,000 m³ of treated effluent per day into the Waimea Estuary. Conditions of the resource consent require sampling of effluent quality on a monthly basis. Routine sampling reports were received as required. No issues of non-compliance reported.

5.8.2 NRSBU Bells Island - Discharge to Air.

All reports received. Bells Island had a number of issues particularly over the summer, which created a high number of odour complaints from residents around Best Island and further afield. The underlying cause was a combination of operational issues and weather events. These were rectified by the contractors in conjunction with the Council owners and compliance.

5.8.3 NRSBU - Discharge of Biosolids on Rabbit Island.

Resource consent allows the discharge of stabilised sludge to approximately 1000 hectares of forest land on Rabbit Island on a rotational basis. Consent conditions require sampling of effluent, groundwater quality, and soil contaminant concentrations on the irrigated land. This activity met all its conditions in the 2017-18 period.

A full report including trends is required to be submitted every six years on anniversary of consent. The six yearly report was received in 2014 and next report is due 2020.

5.8.4 Collingwood WWTP

The Collingwood township WWTP discharges treated effluent into the Burton Ale Stream. The resource consent requires a range of monitoring including discharge quality and periodic surface water monitoring. The consent holder is required to provide sampling data and report non compliance. An annual report is required by 30 November each year covering the period 1 September to 31 August.

All sampling data and annual reports for the period were received. Minor non-compliance was recorded in certain discharge parameters such as suspended solids and BOD⁵. This was attributed to the wetland cell rehabilitation that was occurring at the time. No formal

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enforcement action has been required given the circumstances and low level of effects in the receiving environment.

5.8.5 Takaka WWTP

The Takaka WWTP currently serves Takaka Township and surrounds. A consent allows the discharge of 700 m³ of effluent via rapid infiltration basins. An annual report is required by 30 November each year covering the period 1 September to 31 August

There was a single odour complaint reported on 22 September 2017 related to the dosing of the rapid infiltration basins. The only other non-compliance was technical and related to the calibration of the inlet and discharge flow meters which had not been verified. No compliance action required.

5.8.6 Upper Takaka WWTP

Upper Takaka Wastewater Treatment Plant is a small system that services approximately 26 households and discharges treated effluent into land via a single pond and marsh cell system. The consent holder is required to provide sampling data and report non-compliance. An annual report is required by 30 November each year covering the period 1 September to 31 August.

Minor non-compliance recorded due to exceedances in the discharge volumes. This system remains susceptible to infiltration during rainfall events and when the groundwater table is high.

The Compliance section has noted the non-compliance but environmental effects are considered to be minor and no formal enforcement action has been required at this stage.

5.8.7 Motueka WWTP

The Motueka WWTP services the township of Motueka and surrounding areas, the resource consent allows for a maximum of 10,000 m³ of effluent per day to be discharged through a newly commissioned outfall.

Annual reports and sampling results have been provided. No non-compliance recorded.

5.8.8 Tapawera WWTP

Tapawera's wastewater treatment plant is a small system servicing the township. The consent allows a maximum discharge of up to 500 m³ per day. Sampling results have been received as required. Minor non-compliance has been identified through the sampling in the groundwater monitoring bores where *E.coli* has been found to be greater than <1 cfu/100ml. As this is also evident in the upstream bores and it is likely that this is the influence of surrounding agriculture. No compliance action required.

5.8.9 Murchison WWTP

The resource consent allows for a maximum of 500 m³ of effluent per day to be discharged into the ground via infiltration trenches. Five bores monitor for groundwater effects and consent conditions require a range of monitoring including plant performance and ground water monitoring.

The annual report and all sampling results have been received as required. Consistent minor to moderate non-compliance recorded due to exceedances in *E.coli* and some other measures in groundwater bore sample results throughout the year, also some flow exceedances in high

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rainfall. As upstream sample bores are also elevated it is likely that agricultural activity is having an influence on sampling results and no action is anticipated at this stage.

5.8.10 St Arnaud WWTP

The resource consent allows the discharge of up to 290 m³ per day of effluent from a single aerated oxidation pond feeding a two-stage marsh cell and discharge to land.

The annual report and all sampling results have been received and are compliant.

Landfills and Transfer Stations

5.9 Tasman District Council operates a single landfill and a number of transfer stations in the District under various resource consents.

5.9.1 Eve Valley Landfill

Eves Valley has been operating as an engineered, sanitary landfill since 1989. Stage 1 was capped and closed in 2001. Stage 2 of the landfill covering 4.5 ha was operational up until 30 June 2017 when it was closed.

Monitoring continues with respect to discharges from this site and covers the range of performance conditions including ground, leachate and surface water sampling.

5.9.2 Discharge of Stormwater

All sampling and reporting conditions met over the period. Issues of non-compliance with respect to several leachate discharges into the Eves Valley stream during high rainfall events with minor effects.

5.9.4 Discharge to Air

Annual report received. No issues.

5.9.5 Scott's Quarry Transfer Station: Takaka, Golden Bay

Scott's is subject to two resource consents for the land use for a transfer station and discharge of stormwater. Consents require a comprehensive range of ground and surface water quality sampling and site management.

All sampling received as required. No issues of non-compliance in sampling results.

5.9.6 Richmond Transfer Station

Richmond transfer station is the largest transfer station in the district. The site is subject to the conditions of a consent allowing the discharge of stormwater to the Coastal Marine Area.

Quarterly sampling results and annual report received.

5.9.7 Mariri Transfer Station: Motueka

Mariri transfer station services the area of Motueka and surrounding areas of the Moutere and Mapua/Ruby Bay. The site is subject to a discharge of stormwater consent with conditions requiring sampling and annual reporting.

Full compliance achieved.

5.9.8 Murchison Recovery Centre

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This site is on the former landfill and operates two consents for discharge to air and stormwater. Full compliance achieved.

Timber Treatment Plants

5.10 There are a number of timber treatment plants in the district.

5.10.1 Nelson Pine Industries Ltd

Nelson Pine Industries (NPI) Limited operates MDF and LVL plants at Lower Queen Street, Richmond; they hold a suite of consents including air, stormwater and hazardous facility. During the 2017/18 year, NPI undertook all monitoring as required under their consents and supplied the results to Council. No issues of non-compliance recorded.

5.10.2 Carter Holt Harvey

Carter Holt Harvey (CHH) operates a sawmill complex at Eves Valley. The company holds a suite of consents including air, stormwater and hazardous facility. All reporting has been complied with and sampling programmes have shown all discharges are within the consent parameters. Leakage was detected in an antisap stain tank, which has required the company to undertake additional site testing to ascertain any wider environmental impacts. No effects were found and this tank has been repaired.

5.10.3 AICA Limited

AICA Limited operates a phenol and formaldehyde resin plant at Lower Queen Street, Richmond. The company holds resource consent to discharge contaminants into the air from the production of phenol and formaldehyde resins and resource consent to discharge stormwater into the Waimea Estuary. During 2017/18, no stormwater discharges occurred from the site and there were no exceedances recorded in concentrations of formaldehyde or the other measures required under consents.

5.10.4 Goldpine Industries

Goldpine Industries operates a CCA and Alkaline Copper Quat (ACQ) timber treatment plant on the floodplain of the Upper Motueka River. Goldpine Industries hold a large number of consents for this site including, discharge of stormwater, air discharge, hazardous substance and other land use consents.

All reports and sample data received. No non-compliance reported for this period.

5.10.5 Hunters Laminates 2014 Limited

Hunters Laminates 2014 Limited operated a timber processing facility at Beach Road in the Richmond industrial area.

The company holds resource consents to discharge stormwater and hazardous substance storage. Resource consent conditions for this site include a comprehensive range of tiered sampling and reporting clauses.

In the latter part of 2016, the Council detected a range of offences in relation to activities occurring on this site and the company was prosecuted in the Nelson Environment Court.

This company has now gone into liquidation and council is working with new owners regarding consenting matters.

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Prime Pine operates a timber processing and treatment facility in the Little Sydney Valley. This site has been since purchased by another company.

This site is a CCA treatment plant and holds a suite of consents associated with the operation including stormwater discharge, air and hazardous facility. A suite of new consents have since been granted for this site under the new company.

All monitoring and reporting requirements have been met. No issues reported.

Dairy Processing Factories

5.11 The Fonterra Co-operative Group Limited own and operate two milk-processing factories located in Brightwater and Takaka.

5.11.1 Fonterra - Takaka Plant

The Takaka factory holds a suite of consents related to its operation including:

- Consent to discharge combustion products, odours and particulate matter into the air;
- Consent to discharge wastewater and whey onto land;
- Consent to discharge wastewater and whey into the Takaka River during flood flow;
- Consent to take groundwater.

As part of the resource consent conditions authorising the various discharges, the company is required to supply reports on performance at specified periods. The company has complied with reporting during 2017/18.

Of note is that due to the levels of rainfall occurring in this area over the year, saturated soils have meant the Company has been required to exercise its consent to discharge process water to the Takaka River on a significant number of occasions. The Company has provided all necessary pre and post data and sampling as imposed by the conditions of that consent and no non-compliance has been detected.

It is also worth noting the Takaka Factory has undergone a comprehensive upgrade of its wastewater and stormwater infrastructure, which is now operational.

5.11.2 Brightwater Plant

The Brightwater factory produces hold consents for:

- Resource consents to discharge combustion products, odours and particulate matter into the air;
- Resource consent to discharge stormwater and uncontaminated cooling water;
- Resource consent to store hazardous substances;
- Resource consent to take groundwater.

As part of the resource consent conditions authorising the various discharges, the company is required to supply reports on performance at specified periods and the company has provided the required reports in 2017/18.

Other than some minor system problems over the reporting period, the site was fully compliant with all its environmental discharge restrictions.

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5.12 There are two types of fish processors operating within the district:

5.12.1 Talley's: Port Motueka

Talley's operate a fish processing, fishmeal and ice cream factory at Port Motueka.

During this period, a significant number of non-compliances were detected around the consented discharges to the coastal marine environment and to air and Council undertook a range of enforcement actions.

The company has now completed the resource consent renewal process and from this comes a significant number of plant upgrades and a suite of new consent conditions and monitoring obligations.

5.12.2 Salmon Farms

Two freshwater salmon farms operate in Golden Bay. New Zealand King Salmon (NZKS) is located on the banks of Waikoropupu (Pupu springs) River and Anatoki Salmon is located on the banks of the Anatoki River. Both companies have a variety of resource consents relating to:

- Diverting and taking of water;
- Structures in waterways; and
- Discharge of water and contaminants into receiving waterways.

Both salmon farms are required as part of their discharge consent conditions to supply annual reports on discharge quality. The reports are to detail what effects the discharge may be having on the receiving water quality and macroinvertebrate communities.

During the 2017/18 year both companies undertook all monitoring as required under the consent and supplied annual reports.

Anatoki Salmon continue to have problems meeting water quality measures since the storm events of a number of years ago affected their site. They have sought a new consent to reflect changes occurring in the catchment.

6 Complaints Action 2017/2018

6.1 The Compliance section provides 24-hour complaint response. Each year it investigates a wide range of activities as a result of public complaints. During the reporting period, 2562 complaints were received by Council relating to environmental incidents or littering. This was up from 2389 recorded in the previous year, which represents a 7% increase. Figure 2 displays the current year's data as part of the trend in complaint numbers in Tasman district over last five years.

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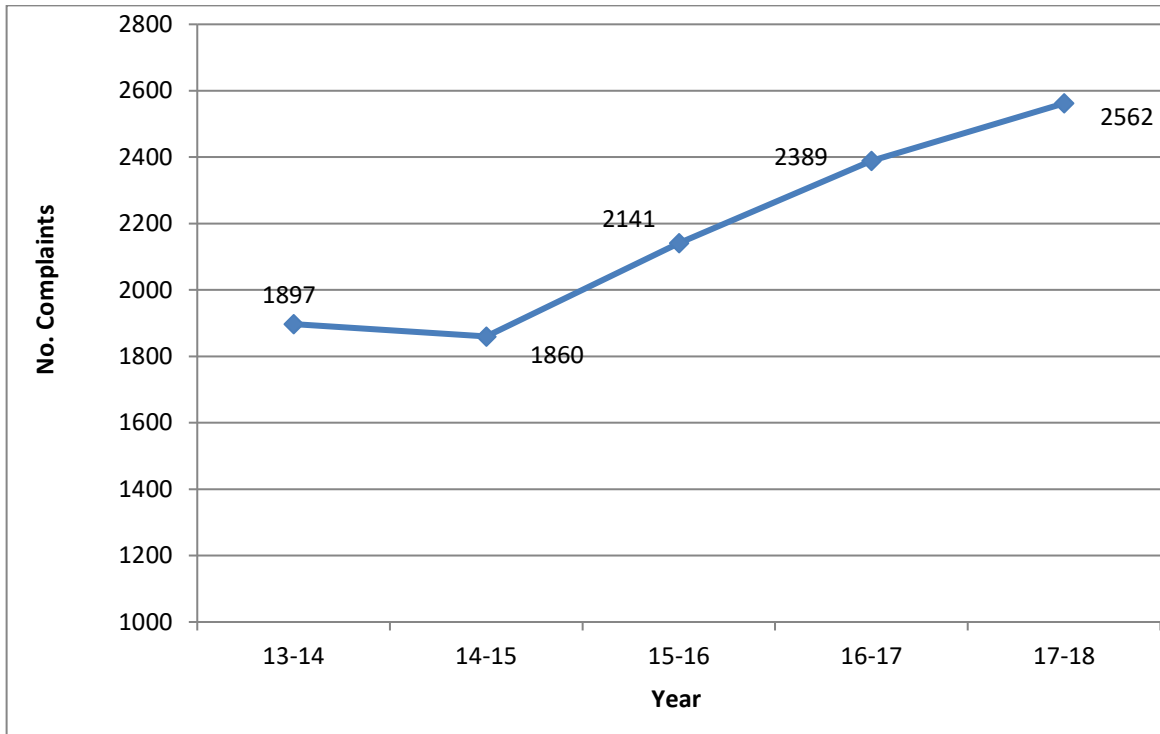


Figure 2: Trend in complaint numbers in Tasman district over last five years

6.2 The following graph provides a breakdown summary of complaints against the eight broad complaint categories used in this annual report summary.

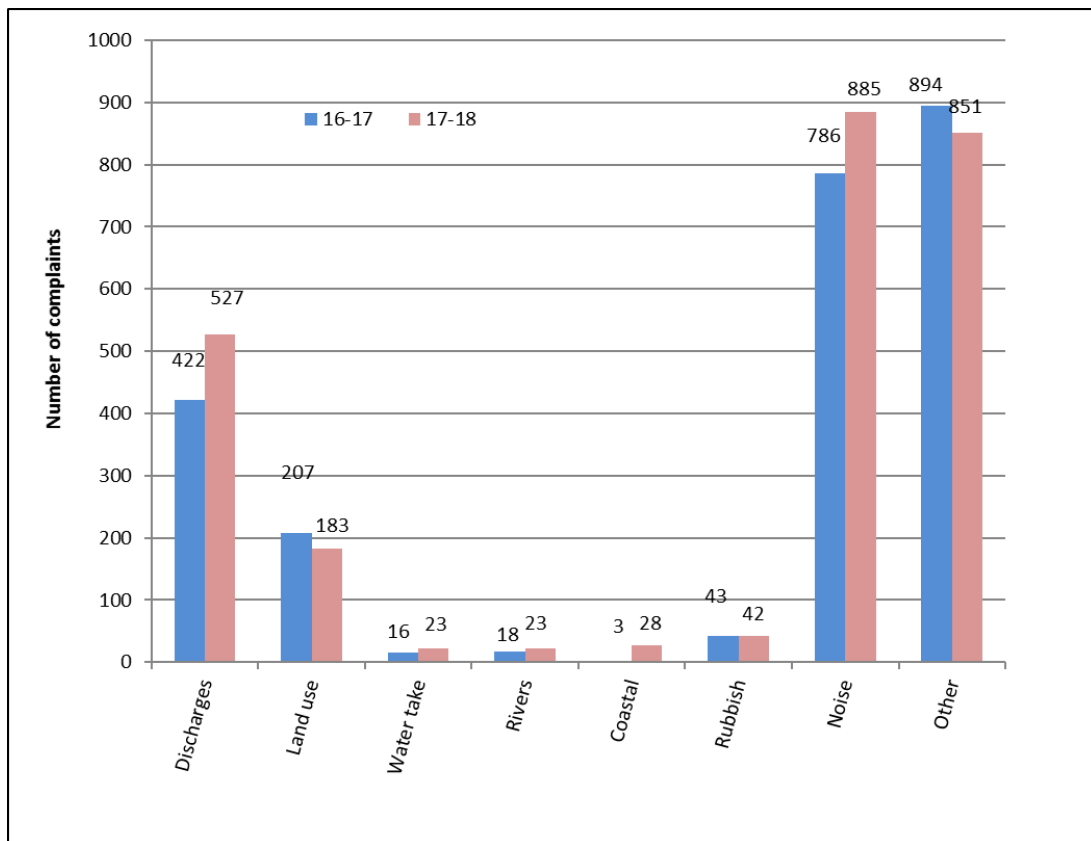


Figure 3: Number of complaints received in comparison to previous year by general category

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- 6.3 While most categories were up, if only slightly in some cases, significant increases were seen in the categories of noise and discharges.
- 6.4 Smoke from outdoor burning and odour from Bells Island accounted for the great number of the complaints in the discharges area. Discharge to land was the other significant contributor and was associated with stormwater complaints.
- 6.5 Analysis of the complaints received showed horticultural burn offs in and around Lower Moutere, Motueka and the Riwaka during late autumn and winter prompted the most concerns however, there was also a number from Richmond urban residents about outdoor burning on the Waimea Plains. These were predominantly around visual effects and NPI received a share of these. Large-scale orchard replacement programmes and associated shelterbelt removal were the main reason the burning was occurring in these areas.
- 6.6 Complaints were dealt with on a case-by-case basis and action taken as and when it could be established that a breach had occurred.
- 6.7 The increase in noise complaints is covered in other regulatory department reports and not covered here.

7 Enforcement Action

- 7.1 One of Council's measures of performance is timely resolution of significant non-compliance with respect to breach of resource consent conditions. Significant non-compliance is graded as a 4. Timely resolution is defined as 80% of all significant non-compliance resolved within nine months and 95% resolved with 12 months.
- 7.2 During the 2017/18 year a total of twelve resource consents were subject to this measure in the reporting year. There were no carryovers from the last period (see Table 6). All were resolved within six months.

	Number of actions	Resolved (nine months)	Resolved (12 months)
Non compliances recorded and resolved this current period	12	12	N/A
Non compliances carried over from the previous year subject to measure*	N/A	N/A	N/A
Non compliances with nine and 12 month deadline beyond this reporting period**	N/A	N/A	N/A
Total	12	12 (100%)	N/A

Table 6: Resolution of non-significant compliance with respect to breach of consent conditions

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NOTES

*Significant non-compliances carried over from the previous year report are those non-compliances that were identified in that period but resolution dates fell beyond.

**This represents significant non-compliances recorded in the reporting period, not yet resolved and where the 9 and 12 month measures fall beyond this current reporting period. These would be reported on in the next annual report.

- 7.3 During the 2017/18 year, Council compliance officers undertook a range of enforcement actions in response to detected non-compliance or breaches. Table 7 provides an overall summary of enforcement action taken and compares this to the same period in the previous year. It should be noted that enforcement action includes response to breaches of consent conditions, non-compliance with rules for a permitted activity in the TRMP, or infringements against the Litter Act.

Enforcement action	2017-18	2016-17
Abatement notices	33	54
Infringement notices	46	68
Enforcement orders	0	2
Prosecutions	1	3

Table 7: Summary of Enforcement action during the 17/18 year including comparison data for previous year

Abatement Notices

- 7.4 33 Abatement notices were issued by the Compliance section over the period, the details of which are contained in the following table. It should be noted that this data excludes those abatement notices issued under Section 16 (noise), but does include those issued by this section in relation to consent condition breaches where noise was the non-complying factor if applicable.
- 7.5 Abatement notices for unauthorised discharges and land use activities dominated the statistics this year. Abatement notices issued for non-complying discharges varied widely without any particular pattern and ranged from failure to comply with wastewater conditions through to unauthorised discharge of sediment from land disturbance.

Again, the majority of the land use activities subject to abatement notice related to a variety of land use breaches mostly associated with failure to comply with resource consent conditions and where an adverse effect occurring. Land disturbance and use of a building or private property outside of what was permitted was a common theme.

RMA Section	Number issued
Section 9 - Land use	16
Section 12 - Coastal	0
Section 13 - Rivers/Lakes	2
Section 14 - Water	0

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Section 15 - Discharges	15
Total	33

Table 8: Number of Abatement Notices relative to each section of the RMA (Sec 9 - 15)

Infringement Fines

7.6 During the period 46 infringement fines were issued for breaches against the Resource Management Act or Litter Act as outlined in the following table including method of recovery

Resource Management Act 1991	Number issued	Paid	Court for recovery	Withdrawn
Contravention of section 9 - (Land use)	5	5	-	-
Contravention of section 13 - (Rivers)	2	1	1	-
Contravention of section 14 - (Water)	3	1	2	
Contravention of section 15(1) (b) (Discharge contaminant to Land)	2	2	-	-
Contravention of section 15(1) (d) (Discharge - Industrial Premises to land)	2	1	1	-
Contravention of section 15(2A) - (Discharge Air - breach rule or regulation)	3	3	-	-
Contravention of an abatement notice	3	2	1	-
Contravention of an excessive noise direction	1	1	-	-
Litter Act 1979				
Deposit and Leave Litter	25	9	18	-
Total	46	25	23	-

Table 9: Infringement notices by type and outcome

Enforcement Orders

7.7 No enforcement orders were initiated during this period however one enforcement order was before the Court and was finalised in late May.

7.7.1: Tasman District Council v Gary Baigent

The Council sought Enforcement Orders in the Nelson Environment Court as a result of damage to two mapped wetlands on a property located at 230 Rangihaeata Road, Golden Bay as a result of drainage works.

The respondent contested the Orders and the matter was finally heard in Nelson Environment Court 14-15 May 2018.

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Evidence was heard from experts on both sides during the hearing. At the completion the Judge delivered a decision in the favour of the council and granted orders. In essence, the orders require the respondents to:

- appoint an appropriately qualified and experienced ecologist, to prepare a plan for the restoration of the two wetland areas contained on his property
- Implement the measures that refer to the restoration plan within 20 working days from the date that the plan is approved
- Engage the ecologist to provide a written report to the Council confirming that the measures have been implemented in accordance with the restoration plan and to provide this report within 25 working days from the date of the approval of the restoration plan
- appoint an ecologist to undertake ongoing regular measures to maintain the restored wetland areas in accordance with the recommendations set out in the restoration plan
- Submit reports every six months to the Council prepared by an ecologist describing progress of restoring the wetlands until such time the ecologist and the Council agree that the wetland areas are restored and no longer require maintenance measures.

Costs have also been awarded in councils favour.

Prosecutions

7.8 Three prosecutions were continuing before the courts in this period. Two were completed and one is adjourned for sentencing.

7.8.1 **Defendant:** Hunter Laminates 2014 Limited

One Representative Charge: Between 1 June 2013 and 22 August 2016 Hunter Laminates 2014 Limited committed an offence against section 338(1)(a) of the Resource Management Act 1991 in that it contravened section 15(1)(d) of the RMA.

The charges related to the discharge of contaminants, namely fumes and fine particulates from the burning of treated wood, from industrial or trade premises, namely a factory manufacturing timber products, into air, when the discharge was not expressly allowed by a national environmental standard or other regulations, a rule in a regional plan, or a resource consent.

The defendant had entered a guilty plea on the 28 June 2017 to this charge however, the company was not sentenced until the 22 August 2018.

In the intervening period the defendants lawyers were replaced by the companies insurers whose appointed counsel entered into a disputed facts hearing which could not be resolved and was destined for a hearing in the Environment Court. However prior to this being heard, the company was put into liquidation in the high court as a result of application by one of the directors.

The liquidators determined that the Company was insolvent. The insurers shortly after withdrew after conceding that the actions of the defendant were deliberate and invoking an exclusion from cover clause.

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On the day of sentencing the company was not represented other than by the attendance of the liquidator.

In summary, the judge accepted on the basis of the evidence that;

1. Hunters was the only source of an industrial CCA signature identified in the Council's air quality monitoring.
2. The duration of the offending was for approximately 2 years from June 2014 to 18 August 2016.
3. During that period of time there had been 113 instances where the level of Arsenic in the air had been greater than the annual average allowed in the National Guidelines - 113 instances where Arsenic was recorded above 5.5ng/cubic metre.
4. During that above period the burning of CCA treated timber waste in the boiler and resultant discharges of contaminants, predominantly Arsenic had presented a public health risk to people in the Richmond Airshed.
5. The judge accepted that the offending was deliberate and duly convicted the company of the offence but as the company had been put into liquidation during the prosecution proceedings he saw no point in awarding a financial penalty as the company did not have the ability to pay the fine.
6. The judge considered the offending to be one of the most serious cases he has had to deal with.
7. The Judge indicated that the level of offending in this case was such that it would have warranted a fine of \$270,000 if the company had the ability to pay.

7.8.2 Defendant: Amberglen Farm Limited & Hayden John Pomeroy

Charges: Nine charges for offences against Section 338(1)(a) of the Resource Management Act 1991 for contravention of Section 15(1)(b) of the Act by the discharge of contaminants namely dairy effluent onto land in circumstances which may have resulted in that effluent entering water.

Amberglen Farms and H J Pomeroy entered guilty pleas to the charges on 8 March 2017.

A third defendant (the farm manager) had pleaded not guilty and elected trial by jury. At this trial held in the District Court in mid July 2018, he was found not guilty on all charges faced.

Amberglen Farms and H Pomeroy are now due for sentencing in early October.

7.8.3 **Defendant:** Travis Langford

Charges: In December 2017 the Council laid charges against the defendant alleging that the defendant committed an offence against section 15(1)(b) of the Act by discharging contaminants, namely dairy farm effluent to land in circumstances which may have resulted in that contaminant entering water, namely an unnamed water course adjacent to the dairy farm, when that discharge was not expressly allowed by a national environmental standard or other regulations, a rule in a regional plan or a resource consent.

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This matter relates to a dairy farm operating in the Takaka Valley.

On the 29th May 2018 the defendant was sentenced in the Nelson environment Court to a fine of \$35,000.

8 Future Strategies

- 8.1 The NES Planation Forestry has now been in force since the 1 May and most forestry companies and contractors are submitting harvest and management plans as required. There is a lot of activity in this sector and the forest companies and woodlot owners have an expectation that council will be in a position to manage this area and provide guidance. The Forestry monitoring programme has been given a high priority and has had resources put into it to manage our obligations. The next step is to further refine and implement a risk based monitoring framework for the permitted activity monitoring aspect, including a cost recovery (charging) fee schedule.
- 8.2 The National Stock exclusion regulations are still at the draft stage and with the Ministry for further consultation and revision. Once these have been ratified they will have a direct impact on us at the regional level. Resourcing including use of technologies such as drones are factors we will need to consider in the future. These regulations are included in the current compliance monitoring activity programme awaiting future implementation. Once it becomes clear what these regulations will impose, a monitoring and enforcement strategy will be developed.

9 Conclusion

- 9.1 Complaint response continues to be our first priority and a considerable amount of time is spent responding to the public and their concerns. This does have a detrimental impact on the more proactive consent monitoring work; however, it is essential that Council responds to community concerns first and foremost.
- 9.2 This year complaints continued to track upwards as they have done over the last few years. The complaint increase was typically in the areas of noise and discharges and outdoor burning was the major contributor to the latter.
- 9.3 Resolving non-compliance has also had a direct impact on what we have been able to achieve in the monitoring of consents and permitted activities. Time spent ensuring that adverse effects are mitigated and that offenders are held to account, particularly in significant cases demands a lot of time and effort. However, enforcement is a critical function of Council to ensure that its rules are maintained and the environment protected.
- 9.4 This year enforcement actions have included successful resolution of four matters before the Environment Court through either convictions or enforcement orders being granted. Abatement and infringement notices have also been employed to good effect gaining compliance, addressing adverse environmental effect and providing low level deterrence in the more minor cases.

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- 9.3 On the monitoring side, the water metering and Dairy effluent programme along with the wastewater and industrial discharge programmes have been priorities and the work going into these has seen good compliance performance.

10 Attachments

Nil