



AGENDA

Consents & Regulatory

Tuesday 26 April 2022, 9.30am



Purpose of Consents and Regulatory Committee meeting

This committee attends to all matters in relation to resource consents, compliance monitoring and pollution incidents, biosecurity monitoring and enforcement.

Responsibilities

Consider and make decisions on resource consent applications pursuant to the *Resource Management Act 1991*.

Ensure adequate compliance monitoring of resource use consents and receive decisions on enforcement actions in the event of non-compliance, pursuant to the *Resource Management Act 1991*.

Consider and make decisions on monitoring and enforcement matters associated with plant and animal pest management.

Other matters related to the above responsibilities.

Membership of Consents and Regulatory Committee

Councillor D L Lean (Chairperson)	Councillor C S Williamson (Deputy Chairperson)
Councillor M J Cloke	Councillor M G Davey
Councillor C L Littlewood	Councillor D H McIntyre
Councillor E D Van Der Leden	Councillor D N MacLeod (ex officio)
Councillor M P Joyce (ex officio)	

Representative Members

Ms E Bailey	Mr M Ritai
Mr K Holswich	

Health and Safety Message

Emergency Procedure

In the event of an emergency, please exit through the emergency door in the committee room by the kitchen.

If you require assistance to exit please see a staff member.

Once you reach the bottom of the stairs make your way to the assembly point at the birdcage. Staff will guide you to an alternative route if necessary.

Earthquake

If there is an earthquake - drop, cover and hold where possible. Please remain where you are until further instruction is given.

Consents and Regulatory Committee

26 April 2022 09:30 AM

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Whakataka te hau

Karakia to open and close meetings

Whakataka te hau ki te uru	Cease the winds from the west
Whakataka te hau ki tonga	Cease the winds from the south
Kia mākinakina ki uta	Let the breeze blow over the land
Kia mātaratara ki tai	Let the breeze blow over the ocean
Kia hī ake ana te atakura	Let the red-tipped dawn come with a sharpened air
He tio, he huka, he hauhu	A touch of frost, a promise of glorious day
Tūturu o whiti whakamaua kia tina.	Let there be certainty Secure it!
Tina!	Draw together! Affirm!
Hui ē! Tāiki ē!	



Date 26 April 2022

Subject: **Confirmation of Minutes - 15 March 2022**

Approved by: A J Matthews, Director - Environment Quality
S J Ruru, Chief Executive

Document: 3037576

Recommendations

That the Consents and Regulatory Committee of the Taranaki Regional Council:

- a) takes as read and confirms the minutes and resolutions of the Consents and Regulatory Committee meeting of the Taranaki Regional Council held at the Taranaki Regional Council Boardroom, 47 Cloten Road, Stratford on Tuesday 15 March 2022 at 9.30am
- b) notes the recommendations therein were adopted by the Taranaki Regional Council on Tuesday 5 April 2022.

Matters arising

Appendices/Attachments

Document 3007536: Minutes Consents and Regulatory Committee 15 March 2022.



Date 15 March 2022, 9.30am

Venue: Taranaki Regional Council Boardroom, 47 Cloten Road, Stratford

Document: 3007536

Members	Councillor	D L Lean	Chair
	Councillor	C S Williamson	Deputy Chair <i>zoom</i>
	Councillor	M J Cloke	<i>zoom</i>
	Councillor	C L Littlewood	
	Councillor	D H McIntyre	<i>zoom</i>
	Councillor	D N MacLeod	<i>ex officio zoom</i>
	Councillor	E D Van Der Leden	<i>zoom</i>

Representative

Members	Mr	K Holswich	Iwi Representative <i>zoom</i>
	Mr	M Ritai	Iwi Representative <i>zoom</i>
	Ms	E Bailey	Iwi Representative <i>zoom</i>

Attending

Mr	S J Ruru	Chief Executive
Ms	A J Matthews	Director - Environment Quality
Mr	A D McLay	Director - Resource Management
Mr	B Pope	Compliance Manager
Mrs	J Allen	Consents Manager
Ms	V McKay	Manager - Environmental Assurance
Mr	R Phipps	Manager - Science & Technology <i>zoom</i>
Miss	R S Sweeney	Governance Administrator
<i>One member of the public.</i>		

Opening Karakia The meeting opened with a group karakia.

Apologies Apologies were received and sustained from Councillors M P Joyce & M G Davey.

Notification of Late Items There were no late items.

1. Confirmation of Minutes – 1 February 2022

Resolved

That the Consents and Regulatory Committee of the Taranaki Regional Council:

- a) takes as read and confirms the minutes and resolutions of the Consents and Regulatory Committee of the Taranaki Regional Council held at the Taranaki Regional Council, 47 Cloten Road, Stratford on 1 February 2022 at 9.30am.
- b) notes the recommendations therein were adopted by the Taranaki Regional Council on 21 February 2022.

Williamson/Cloke

Matters arising

- 1.1 Councillors C L Littlewood and D N MacLeod declared an interest in Port Taranaki.

2. Resource consents issued under delegated authority and applications in progress

- 2.1 Mrs J Allen, Consents Manager, spoke to the memorandum to advise the Council of consents granted, consents under application and of consent processing actions since the last meeting.
- 2.2 In response to questions, it was advised that the main environmental effect when considering the installation and operation of culverts and instream structures is fish passage. For bridges, flood carrying capacity is also considered. River engineers work with certain return period events for different instream structures.
- 2.3 Iwi representatives noted the additional information shown in regard to iwi input on the processing of each consent allowed greater transparency, and was greatly appreciated.

Recommended

That the Taranaki Regional Council:

- a) receives the report, the schedule of resource consents granted and other consent processing actions, made under delegated authority.

Cloke/Lean

3. Consent Monitoring Annual Reports

- 3.1 Ms V McKay, Manager – Environmental Assurance, advised the Council of 46 tailored compliance monitoring reports that have been prepared since the last meeting.
- 3.2 Ms A J Matthews, Director – Environment Quality, gave an update on Remediation NZ being one of the most monitored and enforced sites in the region. Further, that improvements in works have continued beyond the period of reporting (2020-2021).
- 3.3 Mr A D McLay, Director Resource Management advised that Council compliance staff were appropriately implementing the Council’s Enforcement Policy (2017) and would continue to do so.
- 3.4 Councillor C L Littlewood and D N MacLeod declared an interest in relation to Port Taranaki.

Recommended

That the Taranaki Regional Council:

- a) receives the 46 tailored compliance monitoring reports listed in Table 1 and notes the specific recommendations therein.

McIntyre/Lean

4. Incident, Compliance Monitoring Non-compliances and Enforcement Summary - 12 January 2022 to 22 February 2022

- 4.1 Mr B Pope, Compliance Manager, spoke to the memorandum to consider and receive the summary of the incidents, compliance monitoring non-compliances and enforcement for the period 12 January 2022 to 22 February 2022.

Recommended

That the Taranaki Regional Council:

- a) receives this memorandum Incident, Compliance Monitoring Non-compliances and Enforcement Summary - 12 January 2022 to 22 February 2022
- b) receives the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 12 January 2022 to 22 February 2022, notes the action taken by staff acting under delegated authority and adopts the recommendations therein.

Lean/MacLeod

5. Report on application for second notified applications - Opunake Power Limited

- 5.1 Mrs J Allen, Consents Manager, spoke to the joint memorandum recommending that the Taranaki Regional Council approve an application for seven activities by Opunake Power Limited relating to their small hydroelectric scheme on the Waiau River. The scheme had remained idle for several years while the applications were made and successfully processed.
- 5.2 A successful prehearing process had been held with submitters, including the Department of Conservation, Taranaki Iwi and many local residents, withdrawing their right to be heard.
- 5.3 Councillors queried why the matter had been reported back to the Committee and it was noted the Council's delegations required the Committee to determine the applications.

Recommended

That the Taranaki Regional Council:

- a) receives the memorandum "Report on seven applications for notified applications Opunake Power Limited
- b) notes the extensive pre hearing process that has been undertaken to successfully resolve submissions on the applications
- c) approves the consent application by Opunake Power Limited (consent numbers 1795-5, 1796-4, 1797-4, 4563-3, 4744-3, 5581-2, 5692-2, 10826-1), in accordance with the recommendation in the officers' report
- d) determines that this decision be recognised as not significant in terms of section 76 of the *Local Government Act 2002*

- e) determines that it has complied with the decision-making provisions of the *Local Government Act 2002* to the extent necessary in relation to this decision; and in accordance with section 79 of the Act, determines that it does not require further information, further assessment of options or further analysis of costs and benefits, or advantages and disadvantages prior to making a decision on this matter.
Lean/MacLeod

6. General Business

- 6.1 Mr A D McLay, Director - Resource Management, provided an update on the feedlot monitoring charge included in the recent farm dairy effluent monitoring invoices. The monitoring had been integrated into an existing monitoring programme to reduce costs and was required to determine whether feedlots required a consent, given their proximity to streams. At the end of the monitoring programme costs will be assessed and a partial refund may be made for those who did not have a feedlot on their property.

There being no further business the Committee Chairman, Councillor D L Lean, declared the public meeting of the Consents and Regulatory Committee closed at 10.16am.

Confirmed

**Consents and Regulatory
Committee Chairperson:**_____

**D L Lean
26 April 2022**



Date: 26 April 2022

Subject: **Resource consents issued under delegated authority and applications in progress**

Approved by: A D McLay, Director - Resource Management
S J Ruru, Chief Executive

Document: 3036494

Purpose

1. The purpose of this memorandum is to advise the Council of consents granted, consents under application and of consent processing actions since the last meeting. This information is summarised in attachments at the end of this report.

Executive summary

2. Memorandum to advise the Council of recent consenting actions made under regional plans and the Resource Management Act 1991, in accordance with Council procedures and delegations.

Recommendation

That the Taranaki Regional Council:

- a) receives the schedule of resource consents granted and other consent processing actions, made under delegated authority.

Background

3. The attachments show resource consent applications, certificates of compliance and deemed permitted activities that have been investigated and decisions made by officers of the Taranaki Regional Council. They are activities having less than minor adverse effects on the environment, or having minor effects where affected parties have agreed to the activity. In accordance with sections 87BB, 104 to 108 and 139 of the Resource Management Act 1991, and pursuant to delegated authority to make these decisions, the Chief Executive or the Director – Resource Management, has allowed the consents, certificates of compliance and deemed permitted activities.

4. The exercise of delegations under the Resource Management Act 1991 is reported for Members' information. Under the delegations manual, consent processing actions are to be reported to the Consents and Regulatory Committee.
5. In addition to the details of the activity consented, the information provided identifies the Iwi whose rohe (area of interest) the activity is in. If the activity is in an area of overlapping rohe both Iwi are shown. If the activity is within, adjacent to, or directly affecting a statutory acknowledgement (area of special interest), arising from a Treaty settlement process with the Crown, that is also noted.
6. Also shown, at the request of Iwi members of the Council, is a summary of the engagement with Iwi and Hapū, undertaken by the applicant and the Council during the application process. Other engagement with third parties to the consent process is also shown. The summary shows the highest level of involvement that occurred with each party. For example, a party may have been consulted by the applicant, provided with a copy of the application by the Council, served notice as an affected party, lodged a submission and ultimately agreed with the consent conditions. In that case the summary would show only 'agreed with consent conditions', otherwise reporting becomes very complicated.
7. The attachment titled 'Consent Processing Information' includes the figure 'Consent Applications in Progress' which shows the total number of applications in the consent processing system over the last twelve months. The number of applications for the renewal of resource consents is also shown. The difference between the two is the number of new applications, including applications for a change of consent conditions. New applications take priority over renewal applications. Renewal applications are generally put on hold, with the agreement of the applicant, and processed when staff resources allow. A consent holder can continue to operate under a consent that is subject to renewal. The above approach is pragmatic and ensures there are no regulatory impediments to new activities requiring authorisation.
8. The attachment also includes:
 - Applications in progress table - the number of applications in progress at the end of each month (broken down into total applications and the number of renewals in progress) for this year and the previous two years
 - Potential hearings table outlining the status of applications where a hearing is anticipated and the decision maker(s) (e.g. a hearing panel) has been appointed
 - Consents issued table - the number of consents issued at the end of each month for this year and the previous two years
 - Breakdown of consents issued. This is the number of consents issued broken down by purpose – new, renewals, changes or review
 - Types of consents issued, further broken down into notification types – non-notified, limited notified or public notified
 - Number of times that the public and iwi were involved in an application process for the year so far
 - Application processing time extensions compared to the previous years
 - Consent type process shows the notification type including applications submitted on and the pre-hearing resolution numbers
 - Applications that have been returned because they are incomplete.

Decision-making considerations

9. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

Financial considerations—LTP/Annual Plan

10. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

11. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

12. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Legal considerations

13. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

- Document 3036413: List of non-notified consents
- Document 3036419: List of publicly notified consents
- Document 3036492: Schedule of non-notified consents
- Document 3036434: Schedule of publicly notified consents
- Document 3036800: Consents processing charts for Agenda

Consents and Regulatory Committee - Resource Consents Issued Under Delegated Authority and Applications in Progress

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

Coastal Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/7649-1.3	New Plymouth District Council	Structure - Protection	Local Government		Erosion protection	Change
R2/10994-1.0	NZ Surveys 2020 Limited	Discharge to water (CMA)	Energy	Energy Services	Seismic survey	New
Discharge Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/0763-3.0	B & H Kelly Trust	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/1110-4.0	Sona Chosta Limited	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/1178-4.0	Graejo Trust Partnership (Taranaki)	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/2318-3.0	IW & KD Shearer Family Trusts	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/2989-3.0	The Hyjinks Trust	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/3003-3.0	Clarknic Trusts Partnership T/A Clarknic Farms	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/3611-3.0	Gralyn Family Trust Partnership	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/3650-3.0	B & A Stevenson Family Trust	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/10388-1.1	Greymouth Petroleum Turangi Limited	Air - Industry	Energy	Wellsite	Exploration and Production	Extension of Lapse
R2/10389-1.1	Greymouth Petroleum Turangi Limited	Air - Industry	Energy	Wellsite	Exploration and Production	Extension of Lapse
R2/10390-1.1	Greymouth Petroleum Turangi Limited	Land - Stormwater	Energy	Wellsite	Exploration and Production	Extension of Lapse
R2/10393-1.1	Greymouth Petroleum Turangi Limited	Land - Hydraulic Fracturing	Energy	Wellsite	Exploration and Production	Extension of Lapse
R2/10988-1.0	SOHO Group Limited	Water - Stormwater	Property Development		Land Improvement	New
R2/10990-1.0	Taranaki Civil Construction Limited	Land - Solid Waste	Waste Management		Cleanfill	New
Land Use Consent						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/10958-1.0	Department of Conservation	Dam/Weir	Central Government		Environment protection	New
R2/10999-1.0	Smudgy Developments Limited	Structure - Outlet	Property Development		Subdivision	New
R2/11004-1.0	Joblin Partners Limited	Structure - Bridge	Agriculture	Farming - Dairy	Access	New
Water Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/10391-1.1	Greymouth Petroleum Turangi Limited	Take produced water	Energy	Wellsite	Exploration and Production	Extension of Lapse
R2/11002-1.0	Taranaki Civil Construction Limited	Divert	Waste Management		Cleanfill	New

#3036413-v1

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

Coastal Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/4563-3.0	Opunake Power Limited	Structure - Outfall (Coastal)	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
R2/4744-3.0	Opunake Power Limited	Discharge (Coastal)	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
Discharge Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/1797-4.0	Opunake Power Limited	Water - Industry	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
R2/10826-1.0	Opunake Power Limited	Water - Industry	Energy	Power - Hydro Generation	Power Supply - Commercial	New
Land Use Consent						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/5581-2.0	Opunake Power Limited	Dam/Weir	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
R2/5692-2.0	Opunake Power Limited	Disturb	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
Water Permit						
Consent	Holder	Subtype	Industry Primary	Industry Secondary	Purpose Primary	Activity Purpose
R2/1795-5.0	Opunake Power Limited	Take Surface Water	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace
R2/1796-4.0	Opunake Power Limited	Take Surface Water	Energy	Power - Hydro Generation	Power Supply - Commercial	Replace

Non-notified authorisations issued by the Taranaki Regional Council between 04 Mar 2022 and 07 Apr 2022

[R2/0763-3.0](#)

B & H Kelly Trust

Commencement Date: 17 Mar 2022

Expiry Date: 01 Dec 2047

Review Dates: Jun 2029, Jun 2035, Jun 2041

Activity Class: Non-complying

Location: 390 Lower Duthie Road, Kaponga
To discharge farm dairy effluent onto land

Application Purpose: Replace

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai o Ngāruahine Trust

Response received

Comments from Te Korowai

- *Te Korowai opposes granting of consents for dual discharge to water and then to land.*
- *Te Korowai advocates for the applicant to move solely to land discharge which is consistent with the hierarchy of Te Mana o Te Wai and the prioritisation of the health and well-being of water bodies and freshwater ecosystems.*

Response and considerations during processing of application

- *As Te Korowai had indicated, the applicant had originally proposed a dual discharge both to land and to water. However, the Compliance Team Leader-Primary Industries worked alongside the applicant who subsequently amended their proposal so the discharge would be to land only.*
- *This amended proposal is line with Te Korowai's recommendations*
- *Council relayed this information to Te Korowai.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10388-1.1](#)

Greymouth Petroleum Turangi Limited

Commencement Date: 24 Mar 2022

Expiry Date: 01 Jun 2033

Review Dates: Jun 2027

Activity Class: N/A

Location: Turangi-H wellsite, Epiha Road
Lower, Motunui (Property owner: Gillingham
Downs Trustee Company Limited)

Application Purpose: Extension of Lapse

To discharge contaminants to air from hydrocarbon exploration at the Turangi-H wellsite, including combustion involving flaring or incineration of petroleum recovered from natural deposits, in association with well development or redevelopment and testing or enhancement of well head production flows

Rohe:

Te Atiawa (Statutory Acknowledgement)

- *Section 125 (1A) (b) (ii) is not concerned with the adverse effects of the activity itself, it is concerned with the adverse effects of the extension of time to give effect to the activity authorised by the consent.*
- *The application of Section 125(1A)(b)(ii) requires a two-stage process – ascertaining whether there are any persons who may be adversely affected by the extension (and in what way), and then taking into account any approval and any absence of approval of the extension by those adversely affected. Taking this into consideration, no one is considered affected by the extension.*

[R2/10389-1.1](#)

Greymouth Petroleum Turangi Limited

Commencement Date: 24 Mar 2022

Expiry Date: 01 Jun 2033 *Doc #3036492-v1*

Review Dates: Jun 2027

Activity Class: Discretionary

Location: Turangi-H wellsite, Epiha Road
Lower, Motunui (Property owner: Gillingham
Downs Trustee Company Limited)

Application Purpose: Extension of Lapse

To discharge emissions to air associated with hydrocarbon producing wells at the Turangi-H wellsite

Rohe:

Te Atiawa (Statutory Acknowledgement)

- *Section 125 (1A) (b) (ii) is not concerned with the adverse effects of the activity itself, it is concerned with the adverse effects of the extension of time to give effect to the activity authorised by the consent.*
- *The application of Section 125(1A)(b)(ii) requires a two-stage process – ascertaining whether there are any persons who may be adversely affected by the extension (and in what way), and then taking into account any approval and any absence of approval of the extension by those adversely affected. Taking this into consideration, no one is considered affected by the extension.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10390-1.1](#)

Greymouth Petroleum Turangi Limited

Commencement Date: 24 Mar 2022

Expiry Date: 01 Jun 2033

Review Dates: Jun 2027

Activity Class: N/A

Location: Turangi-H wellsite, Epiha Road
Lower, Motunui (Property owner: Gillingham
Downs Trustee Company Limited)

Application Purpose: Extension of Lapse

To discharge treated stormwater from hydrocarbon exploration and production operations at the Turangi-H wellsite onto land

Rohe:

Te Atiawa (Statutory Acknowledgement)

- *Section 125 (1A) (b) (ii) is not concerned with the adverse effects of the activity itself, it is concerned with the adverse effects of the extension of time to give effect to the activity authorised by the consent.*
- *The application of Section 125(1A)(b)(ii) requires a two-stage process – ascertaining whether there are any persons who may be adversely affected by the extension (and in what way), and then taking into account any approval and any absence of approval of the extension by those adversely affected. Taking this into consideration, no one is considered affected by the extension.*

[R2/10391-1.1](#)

Greymouth Petroleum Turangi Limited

PO Box 3394, Fitzroy, New Plymouth 4341

Commencement Date: 24 Mar 2022

Expiry Date: 01 Jun 2033

Review Dates: Jun 2027

Activity Class: Discretionary

Location: Turangi-H wellsite, Epiha Road
Lower, Motunui (Property owner: Gillingham
Downs Trustee Company Limited)

Application Purpose: Extension of Lapse

To take groundwater, as 'produced water', during hydrocarbon exploration and production activities at the Turangi-H wellsite

Rohe:

Te Atiawa (Statutory Acknowledgement)

- *Section 125 (1A) (b) (ii) is not concerned with the adverse effects of the activity itself, it is concerned with the adverse effects of the extension of time to give effect to the activity authorised by the consent.*
- *The application of Section 125(1A)(b)(ii) requires a two-stage process – ascertaining whether there are any persons who may be adversely affected by the extension (and in what way), and then taking into account any approval and any absence of approval of the extension by those adversely affected. Taking this into consideration, no one is considered affected by the extension.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10393-1.1](#)

Greymouth Petroleum Turangi Limited

Commencement Date: 24 Mar 2022

Expiry Date: 01 Jun 2033

Review Dates: Jun 2022, Jun 2023,
Jun 2024, Jun 2025, Jun 2026, Jun 2027,
Jun 2028, Jun 2029, Jun 2030, Jun 2031

Activity Class: N/A

Location: Turangi-H wellsite, Epiha Road
Lower, Motunui (Property owner: Gillingham
Downs Trustee Company Limited)

Application Purpose: Extension of Lapse

To discharge water based hydraulic fracturing fluids into land at depths greater than 3,300 mTVDss beneath the Turangi-H wellsite

Rohe:

Te Atiawa (Statutory Acknowledgement)

- *Section 125 (1A) (b) (ii) is not concerned with the adverse effects of the activity itself, it is concerned with the adverse effects of the extension of time to give effect to the activity authorised by the consent.*
- *The application of Section 125(1A)(b)(ii) requires a two-stage process – ascertaining whether there are any persons who may be adversely affected by the extension (and in what way), and then taking into account any approval and any absence of approval of the extension by those adversely affected. Taking this into consideration, no one is considered affected by the extension.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10958-1.0](#)

Department of Conservation

Commencement Date: 22 Mar 2022

Expiry Date: 01 Jun 2028

Review Dates:

Activity Class: Discretionary

Location: 177 South Road, Spotswood

Application Purpose: New

To undertake works in a wetland and an unnamed tributary of the Mangaotuku Stream for pest control purposes

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Fish & Game New Zealand	Consulted by applicant
Ngāti Te Whiti Hapū	Consulted by applicant
Spotswood College	Written approval provided
Spotswood Primary School	Written approval provided
Taranaki/Whanganui Conservation Board	Consulted by applicant
Te Kotahitanga o Te Atiawa Trust	Consulted by applicant
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga

- Ngāti Te Whiti Hapū and Te Kotahitanga o Te Atiawa Trust shall be identified as affected parties in accordance with Section 95E of the Resource Management Act 1991;
- The consent holder shall convene and resource a Kaitiaki Forum;
- Ngāti Te Whiti Hapū have indicated they are generally comfortable with the proposal subject to conditions;
- A copy of the Kaitiaki Forum Collaboration Agreement shall be provided to the Taranaki Regional Council.

Response and considerations during processing of application

- The applicant has been engaging with Te Atiawa and has committed to providing hapū with an opportunity to participate in the onsite works and monitoring in the freshwater environment.
- The outcome of consultation was that nga hapū were generally supportive of the proposal and recommendation set out by the applicant.
- The applicant has advised they will ensure that nga hapū are actively engaged in the planning and monitoring of the works and have identified the opportunity for DOC staff to learn about mātauranga Māori i.e. harvesting raupo and harakeke in line with tangata whenua values.
- The applicant will also provide hapū the opportunity to learn about the detrimental effects of gambusia and practical involvement in the operation (e.g. appropriate use of rotenone). The site and receiving environment is not a wāhi tapu, or site of special significance under the RFWP for Taranaki. The applicant is working collaboratively with tangata whenua and are engaging with them in relation to this application.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10988-1.0](#)

SOHO Group Limited

Commencement Date: 11 Mar 2022

Expiry Date: 01 Jun 2027

Review Dates:

Activity Class: Controlled

Location: 64-70 Leach Street, New Plymouth **Application Purpose:** New

To discharge stormwater and sediment from earthworks associated with the development of medium density housing, into the New Plymouth District Council reticulated stormwater network

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

New Plymouth District Council

Written approval provided

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Kotahitanga

- Ngāti Te Whiti are the Te Atiawa hapū with mana whenua over the application site.
- There doesn't appear to be consideration of any other alternatives for the discharge and it does not appear the applicant has expanded on this.
- Has the Consents Officer received any advice from internal Council staff in relation to the proposal? Are NPDC comfortable with the discharge of stormwater to their infrastructure? If you have received any advice from your colleagues or NPDC staff, it would be useful to review to inform our advice.

Response and considerations during processing of application

- The applicant sought NPDC's approval which Council forwarded on to Te Atiawa on 26 January 2022.
- Council informed Te Kotahitanga o Te Atiawa via email that a request for further information had been sent requesting a Section 105 assessment of the RMA. The applicant provided a section 105 assessment which follows.
- The nature of the discharge will be within discharge standards required by the RFWP, treatment onsite will ensure this. The receiving environment being the NPDC stormwater network is not considered to be sensitive to a treated stormwater discharge.
- The discharge will be subject to an approved ESCP which is the only requirement under Rule 27 of the RFWP.
- As such, no alternatives have been considered.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10990-1.0](#)

Taranaki Civil Construction Limited

Commencement Date: 04 Mar 2022

Expiry Date: 01 Jun 2032

Review Dates: Jun 2023, Jun 2025,
Jun 2027, Jun 2029, Jun 2031

Activity Class: Non-complying

Application Purpose: New

Location: 492 & 496 Carrington Road,
Hurworth

To discharge cleanfill into and onto land and discharge stormwater and sediment into and onto land where stormwater and sediment may enter water

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Allan Edward Riddick

Consulted by applicant

Brooke Rae

Written approval provided

Bruce Black & Lyn Gee

Written approval provided

Dave Barnett

Written approval provided

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Kotahitanga

In summary Te Kotahitanga o Te Atiawa have raised concerns regarding the following:

- *the applications incompleteness under section 88 of the RMA;*
- *the application being out of scope to be processed as a change of condition;*
- *the lack of engagement from the applicant with iwi;*
- *the potential effect the activity may have on New Plymouth District Council, in terms of how the proposal related to their future zoning;*
- *an assessment of the activity from a Council ecologist was requested from the applicant; and*
- *the applicant's uninformed assessment of effects of the proposal on tangata whenua.*

Response and considerations during processing of application

Council has responded to Te Kotahitanga o Te Atiawa concerns in the following manner:

- *Council has sent through section 92 requests and responses to be reviewed to iwi;*
- *Council sent an assessment of the proposal by Council's Wetland Ecologist, Alice West to iwi;*
- *As discussed in section 2 of this report, Council agreed with the applicant that the application will be processed as a new consent.*
- *The applicant has demonstrated that the activity is a permitted activity under the NPDC Operative District Plan and Proposed District Plan.*
- *Council assessed that the application was complete under section 88 of the RMA*
- *Environmental effects of the proposal will not have an adverse effect on the mauri of the water.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10994-1.0](#)

NZ Surveys 2020 Limited

Commencement Date: 07 Apr 2022

Expiry Date: 01 Jun 2027

Review Dates:

Activity Class: Controlled

Location: Offshore of Onaero & Urenui

Application Purpose: New

To discharge energy for the purpose of seismic surveying into water in the Coastal Marine Area

Rohe:

Ngāti Mutunga (Statutory Acknowledgement)

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Department of Conservation

Consulted by applicant

Ngā Motu Marine Reserve Society

Discussions with Council

Ngāti Rahiri Hapū o Te Atiawa (Taranaki)
Society Inc.

Consulted by applicant

Te Rūnanga o Ngāti Mutunga

Consulted by applicant

Te Kotahitanga o Te Atiawa Trust

Consulted by applicant

Te Rūnanga o Ngāti Mutunga

Discussions with Council

Comments from Te Rūnanga

- Council sent Ngāti Mutunga a copy of the application in accordance with agreed procedure.
- Ngāti Mutunga sent Council an email detailing their concerns around the application. Ngāti Mutunga acknowledged that the applicant had engaged with them but stated that they had not addressed all of their concerns. Their remaining concerns primarily related to the effect of the activity on the nesting behaviours of Kororā (little blue penguin), a taonga species for Ngāti Mutunga.
- Council forwarded through the applicant's further information request response to Ngāti Mutunga which included a response from the applicant demonstrating how effects of the activity on Ngāti Mutunga were less than minor and the effects on Kororā were not minor adverse. This information was supported by a memorandum prepared by a suitably qualified and experienced person, which detailed how the effects on little penguins had been mitigated by the applicant to the highest extent possible and why the proposed timing was the best time of year to undertake the activity. The memorandum demonstrated that the proposed timing of the survey would not have any temporal overlap with breeding activities such as nesting, incubation, or chick-rearing. The memorandum demonstrated that April and May are the months when disturbance is least likely to have adverse effects on little penguin reproductive behaviour.

Response and considerations during processing of application

- Ngāti Mutunga provided final comment to Council. They commented that they were an affected party of the application, but that after speaking to Council's Coastal and Marine Scientist, Thomas McElroy, they were satisfied that the all possible mitigation measures were being proposed to lessen the risk for their taonga species to be adversely affected – in particular the Kororā.

Non-notified authorisations issued by the Taranaki Regional Council between 04 Mar 2022 and 07 Apr 2022

Te Kotahitanga o Te Atiawa Trust

Discussions with Council

Comments from Te Kotahitanga

- Te Kotahitanga commented that Ngāti Rāhiri are comfortable with the proposal, provided the project be undertaken in accordance with the details of the application. They commented further that Ngāti Te Whiti and Te Kotahitanga were of the understanding that the applicant would be providing them further information regarding relocation of the testing area further away from the Ngā Motu marine protection area and the coastline.

Response and considerations during processing of application

- Council forwarded through the applicant's further information request response to Te Kotahitanga. Through the information request Council had requested of the applicant that they clarify the matter regarding the testing area location, which has subsequently been resolved between the parties.

[R2/10999-1.0](#)

Smudgy Developments Limited

Commencement Date: 29 Mar 2022

Expiry Date: 01 Jun 2038

Review Dates: Jun 2026, Jun 2032

Activity Class: Discretionary

Location: 361 Tukapa Street, New Plymouth **Application Purpose:** New

A land use permit to install a stormwater outlet structure and associated rock riprap in an unnamed tributary of the Waimea Stream

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Kotahitanga

- Ngāti Te Whiti with the assistance of Te Kotahitanga o Te Atiawa Trust prepared a Cultural Impact Assessment for the subdivision; and do not support the continued piping of the waterway;
- The application does not address the matters in the NES-FM;
- Ngāti Te Whiti and Te Kotahitanga should be identified as affected parties;
- Request further info in accordance with s92;

Response and considerations during processing of application

- The consent application is for an outlet structure and associated rock riprap, no specific comments have been made in relation to the activity being consented;
- The proposed activity does not trigger the need for consent under the NES-F;

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/11002-1.0](#)

Taranaki Civil Construction Limited
PO Box 108, Inglewood 4347

Commencement Date: 04 Mar 2022

Expiry Date: 01 Jun 2032

Review Dates: 01/06/2023, 01/06/2025,
01/06/2027, 01/06/2029, 01/06/2031

Activity Class: Non-complying

Location: 492 & 496 Carrington Road,
Hurworth

Application Purpose: New

To dam and divert water within 100 metres of a natural wetland

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Allan Edward Riddick	Consulted by applicant
Brooke Rae	Written approval provided
Bruce Black & Lyn Gee	Written approval provided
Dave Barnett	Written approval provided
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga

In summary Te Kotahitanga o Te Atiawa have raised concerns regarding the following:

- *the applications incompleteness under section 88 of the RMA;*
- *the application being out of scope to be processed as a change of condition;*
- *the lack of engagement from the applicant with iwi;*
- *an assessment of the activity from a Council ecologist was requested from the applicant; and*
- *the applicant's uninformed assessment of effects of the proposal on tangata whenua.*

Response and considerations during processing of application

Council has responded to Te Kotahitanga o Te Atiawa concerns in the following manner:

- *Council assessed that the application was complete under section 88 of the RMA*
- *Council has sent through a request for further information under section 92 to which the response was reviewed by Te Kotahitanga;*
- *Council sent an assessment of the proposal by Council's Wetland Ecologist, Alice West to Te Kotahitanga.;*
- *As discussed in section 2 of the Officer's report, Council agreed with Te Kotahitanga, that the application should be processed as a new as the proposal fell outside of scope of a change of conditions.*
- *Environmental effects on water quality arising from the proposal were considered minor.*

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/11004-1.0](#)

Joblin Partners Limited

Commencement Date: 07 Apr 2022

Expiry Date: 01 Jun 2038

Review Dates: Jun 2026, Jun 2032

Activity Class: Discretionary

Location: 378 Upper Stuart Road, Eltham

Application Purpose: New

A land use permit - to construct and use a bridge

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai o Ngāruahine Trust

Response received

Comments from Te Korowai

- In accordance with Wai Policy 5.10 of Te Uru Taiao o Ngāruahine, Te Korowai objects to new structures (including culverts, weirs, dams floodgates) in beds and margins of waterways which restrict indigenous fish passage, minimum low flows, or habitat quality (including spawning habitat).
- In accordance with Papatūānuku Objective 1, resource consent decisions related to land use will prioritise the recognition of the interconnections between land, air, freshwater, and coastal environments.
- Te Korowai noted the minimal disturbance the bridge construction design would cause for the Waingongoro which is considered a Statutory Acknowledgement Area.
- Te Korowai requests that the applicant engage Hapū representatives to undertake cultural monitoring during the installation of the bridge.
- Te Korowai would like the applicant to identify how the entry of dairy effluent and/or contaminants to the tributary will be prevented both from the bridge itself and the races that connect to it.
- Te Korowai expects that any vegetation removed during the bridge installation to be replaced with native riparian species.

Response and considerations during processing of application

- Council sent a request for further information requesting the applicant provide clarification and assurance the design of the bridge provided for the avoidance of dairy effluent and contaminants from entering water. The applicant provided this confirmation which was relayed to Te Korowai.
- Council included a condition requiring the applicant to replace any vegetation removed during the bridge installation with native riparian species.
- Council has sent the applicant contact information and logistical information relating to the engagement of a Hapū for the purpose of cultural monitoring.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/1110-4.0](#)

Sona Chosta Limited

C/- L & C O'Sullivan, 7007 South Road, RD 37,
Warea, New Plymouth 4381

Location: 7007 South Road, Warea
To discharge farm dairy effluent onto land

Commencement Date: 04 Apr 2022

Expiry Date: 01 Dec 2049

Review Dates: 01/06/2025, 01/06/2031,
01/06/2037, 01/06/2043

Activity Class: Controlled

Application Purpose: Replace

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Te Kahui o Taranaki Trust

No return correspondence has been
received

[R2/1178-4.0](#)

Graejo Trust Partnership (Taranaki)

GJ & JK Reid, 78A Waitoetoe Road, RD 44,
Urenui 4377

Location: 78A Waitoetoe Road, Mimi
To discharge effluent from a farm dairy onto land

Commencement Date: 04 Apr 2022

Expiry Date: 01 Dec 2045

Review Dates: 01/06/2027, 01/06/2033,
01/06/2039

Activity Class: Controlled

Application Purpose: Replace

Rohe:

Ngāti Mutunga

Engagement or consultation:

Te Rūnanga o Ngāti Mutunga

No return correspondence has been
received

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/2318-3.0](#)

IW & KD Shearer Family Trusts
646A East Road, RD 22, Stratford 4392

Commencement Date: 05 Apr 2022

Expiry Date: 01 Dec 2046

Review Dates: 01/06/2028, 01/06/2034,
01/06/2040

Activity Class: Controlled

Location: 254a Waiwiri Road, Toko

Application Purpose: Replace

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system, into an unnamed tributary of the Toko Stream

Rohe:

Ngāti Maru

Engagement or consultation:

Te Rūnanga o Ngāti Maru (Taranaki) Trust

No return correspondence has been received

Non-notified authorisations issued by the Taranaki Regional Council between 04 Mar 2022 and 07 Apr 2022

[R2/2989-3.0](#)

The Hyjinks Trust

EJ & DM Jenkins, 466 Finnerty Road, RD 21,
Stratford 4391

Location: 466 Finnerty Road, Cardiff

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system into an unnamed tributary of the Waingongoro River

Commencement Date: 17 Mar 2022

Expiry Date: 01 Dec 2047

Review Dates: 01/06/2029, 01/06/2035,
01/06/2041

Activity Class: Controlled

Application Purpose: Replace

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai o Ngāruahine Trust

Response received

Comments from Te Korowai

- Te Korowai opposes the granting of this consent for a dual discharge to water and then to land. This is because it is inconsistent with the objectives and bottom lines of Te Uru Taiao o Ngāruahine.
- The application is inconsistent with the hierarchy of Te Mana o Te Wai.
- We ask that the application be returned as incomplete.

Response and considerations during processing of application

The National Policy Statement for Freshwater Management (NPS-FM).

The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will:

- first, prioritise the health and well-being of a particular water body/freshwater ecosystem
- second, the health and needs of people and

third, the ability of people and communities to provide for their social, economic and cultural well-being

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/3003-3.0](#)

Clarknic Trusts Partnership T/A Clarknic Farms

C/- CA & NK Walsh, 115 Stanley Road, RD 24, Stratford 4394

Location: 102 Stanley Road, Wharehuia
To discharge farm dairy effluent onto land

Rohe:

Ngāti Maru
Ngāti Ruanui

Engagement or consultation:

Te Rūnanga o Ngāti Maru (Taranaki) Trust

Te Rūnanga o Ngāti Ruanui Trust

Commencement Date: 01 Apr 2022

Expiry Date: 01 Dec 2045

Review Dates: 01/06/2027, 01/06/2033, 01/06/2039

Activity Class: Controlled

Application Purpose: Replace

No return correspondence has been received

Ngāti Ruanui provided correspondence they had read the proposal and did not have any comment to make in opposition of the application.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/3611-3.0](#)

Gralyn Family Trust Partnership

Commencement Date: 06 Apr 2022

Expiry Date: 01 Dec 2045

Review Dates: Jun 2027, Jun 2033, Jun 2039

Activity Class: Controlled

Location: 155 Durham Road, Norfolk

Application Purpose: Replace

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system, into the Piakau Stream

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust

Response received

Comments from Te Kotahitanga

The proposed discharge to water then land and water is not in accordance with the objectives and policies set out in the Te Kotahitanga o Te Atiawa environmental management plan Tai Whenua, Tai Tangata, Tai Ao (EMP), specifically the section Te Tai Awhi Nuku (Inland and Coastal Whenua) relating to intensive farming and discharges to land (Ob. TTAN1.1, 1.2, 1.8; Ob. TTAN9.1; Pol. TTAN9.1, 9.3, 9.4; Ob. TTOM1.1). Discharge to water then land is not in accordance with the EMP and will not be supported by Pukerangiora Hapū and Te Kotahitanga o Te Atiawa as this practice can and must be avoided.

For the Taranaki Regional Council to give consideration to the values of Pukerangiora Hapū and Te Kotahitanga o Te Atiawa, the following is recommended:

- Further information is requested in accordance with section 92 of the Resource Management Act 1991 processes.
- Pukerangiora Hapū and Te Kotahitanga o Te Atiawa are identified as affected parties in accordance with section 95 of the Resource Management Act 1991 processes.

Response and considerations during processing of application

Provided below is a response to the comments, which hopefully provides a better understanding of the Taranaki Regional Council's position and steps which were taken during the assessment of this application.

It is important to note how valuable and appreciated these comments are, particularly gaining more insight into the policies and objectives within management plans.

The National Policy Statement for Freshwater Management (NPS-FM).

The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will:

- first, prioritise the health and well-being of a particular water body/freshwater ecosystem
- second, the health and needs of people and

third, the ability of people and communities to provide for their social, economic and cultural well-being

Non-notified authorisations issued by the Taranaki Regional Council between 04 Mar 2022 and 07 Apr 2022

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

In terms of the notification assessment and when deciding whether a person is an affected person, the Council is limited in terms of matters that it can take into account when determining an application for a controlled activity.

[R2/3650-3.0](#)

B & A Stevenson Family Trust
330 Wall Road, Foxton

Location: 89 Bertrand Road West, Huirangi
To discharge farm dairy effluent onto land

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust

Commencement Date: 04 Apr 2022

Expiry Date: 01 Dec 2045

Review Dates: 01/06/2027, 01/06/2033,
01/06/2039

Activity Class: Controlled

Application Purpose: Replace

Response received

Comments from Te Kotahitanga

The proposed discharge was generally in accordance with objectives and policies set out in the Iwi Management Plan, particularly section Te Tai Awhi Nuku Inland and Coastal Whenua – for intensive farming and discharges to land.

Response and considerations during processing of application

Response from the Consents Team acknowledging receipt of comment and consideration of recommendations.

**Non-notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/7649-1.3](#)

New Plymouth District Council
Private Bag 2025, New Plymouth 4342

Commencement Date: 23 Mar 2022

Expiry Date: 01 Jun 2026

Review Dates:

Activity Class: Discretionary

Location: Approximately 450 metres from the mouth of the Waiwhakiho River

Application Purpose: Change

To erect, place and maintain a rock rip rap protection, and to occupy the associated coastal marine space, in the Waiwhakaiho River

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Maritime New Zealand

Maritime New Zealand was in general accordance with the proposal.

Te Kotahitanga o Te Atiawa Trust

No return correspondence has been received.

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/10826-1.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2039, Jun 2042,
Jun 2045, Jun 2036

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: New

To discharge water containing sediment from the Waiaua River to Opunake Lake

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian Gasson	Submitter - not heard
Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/1795-5.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2042,
Jun 2045, Jun 2039

Activity Class: Discretionary

Location: South Road, SH 45, Opunake

Application Purpose: Replace

To take water from the Waiaua River and discharge it into Opunake Lake for the purpose of generating electricity at the Opunake hydroelectric power scheme

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/1796-4.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2039,
Jun 2042, Jun 2045

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To take water from Opunake Lake for the purpose of generating electricity at the Opunake hydroelectric power scheme

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/1797-4.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2039,
Jun 2042, Jun 2045

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To discharge sand and silt deposits from a diversion canal sand trap via a spillway to the Waiaua River associated with operating the Opunake hydroelectric power scheme

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/4563-3.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2039,
Jun 2042, Jun 2045

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To occupy the coastal marine area on the Opunake Beach foreshore with an outfall structure associated with the Opunake hydroelectric power scheme

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/4744-3.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2039, Jun 2042,
Jun 2045, Jun 2036

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To discharge water from Opunake Lake through two marine outfall pipes into the Tasman Sea after being used for hydroelectric power generation

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/5581-2.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2039,
Jun 2042, Jun 2045

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To dam the Waiaua River with a 4.5 metre high concrete weir and to use the weir and the associated intake to provide water to Opunake hydroelectric power scheme

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kenneth Robert Clark	Submitter - not heard
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

**Publicly Notified authorisations issued by the Taranaki Regional Council
between 04 Mar 2022 and 07 Apr 2022**

[R2/5692-2.0](#)

Opunake Power Limited

Commencement Date: 05 Apr 2022

Expiry Date: 01 Jun 2047

Review Dates: Jun 2024, Jun 2027,
Jun 2030, Jun 2033, Jun 2036, Jun 2039,
Jun 2042, Jun 2045

Activity Class: Discretionary

Location: South Road, SH45, Opunake

Application Purpose: Replace

To disturb the bed of the Waiaua River by removing sediment build-up upstream of a weir for the purpose of maintaining the Opunake hydroelectric scheme intake

Rohe:

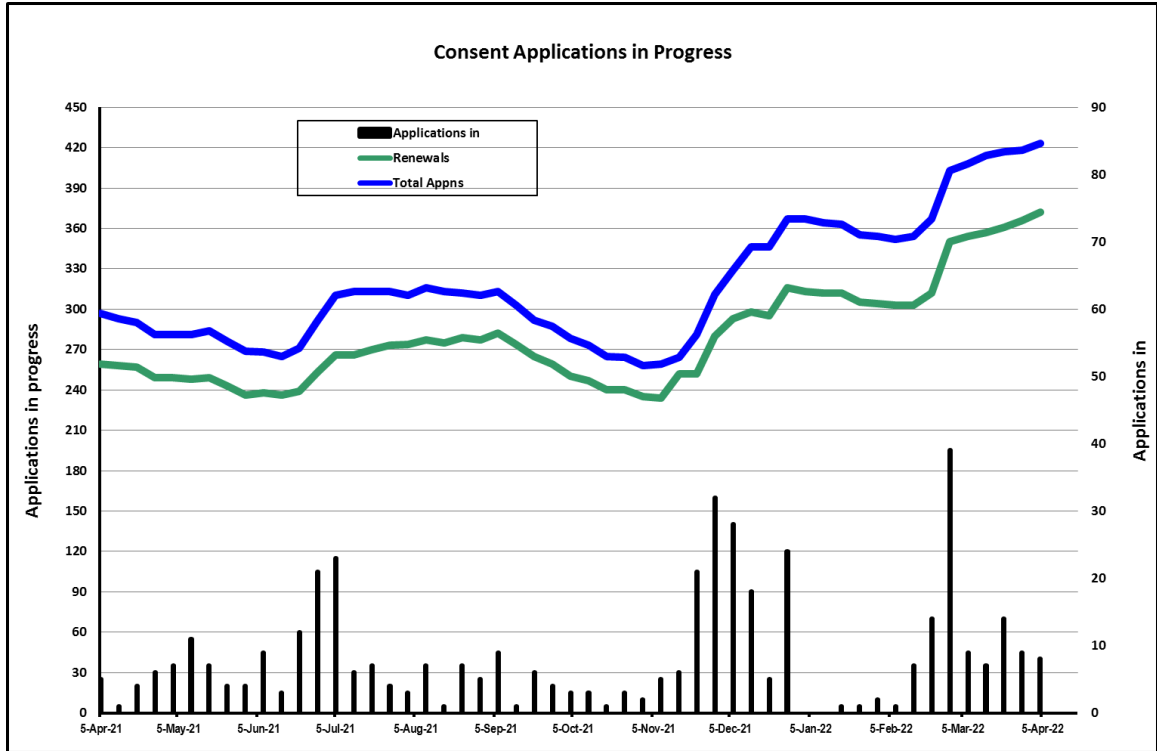
Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Brian William Vincent	Submitter - not heard
Deborah Jean Campbell	Submitter - not heard
Department of Conservation	Submitter - withdrawn
Fish & Game New Zealand	Submitter - withdrawn
Gerard Francis Karalus	Submitter - withdrawn
James Berryman	Submitter - withdrawn
Kevin Johnson	Submitter - not heard
Lisa Maree Ison	Submitter - not heard
Murray Dobbin	Submitter - not heard
Murray Victor James	Submitter - not heard
New Zealand Energy Limited	Submitter - withdrawn
Opunake & Districts Business Association Inc	Submitter - not heard
Opunake Surf Life Saving Club	Submitter - not heard
Powerco Limited	Submitter - not heard
Rex & Lorraine Langton	Submitter - not heard
Richard William Hall	Submitter - withdrawn
Robert England	Submitter - not heard
Te Kahui o Taranaki Trust	Provided with application
Te Kahui o Taranaki Trust	Submitter - withdrawn
Zhihian Chen	Submitter - withdrawn

Consent Processing Information

1) Applications in progress



2) Month Ending

	July		Aug		Sept		Oct		Nov		Dec		Jan		Feb		Mar		Apr		May		Jun	
	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R
2021/2022	310	274	310	277	276	246	258	235	311	280	367	313	354	304	403	350	423	372						
2020/2021	196	157	187	157	221	182	221	180	263	219	257	216	262	217	300	229	297	259	293	258	271	238	312	271
2019/2020	136	107	126	101	136	103	129	101	130	101	136	103	135	100	152	130	139	119	142	119	165	136	205	160

R = Renewals

3) Potential Hearings

Nil

4) Consents Processed (running totals)

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June
2021/2022	17	37	87	114	123	136	152	162	184			
2020-2021	20	38	53	75	94	116	131	154	178	209	247	269
2019-2020	26	51	72	102	148	162	188	218	239	245	248	263

5) Breakdown of consents processed

	New	Renewal	Change	Review	Totals
2021-2022 Total (to end of March)	42	122	14	6	184
2021-2021 Total	71	148	39	11	269
2019-2020 Total	81	138	44	0	263

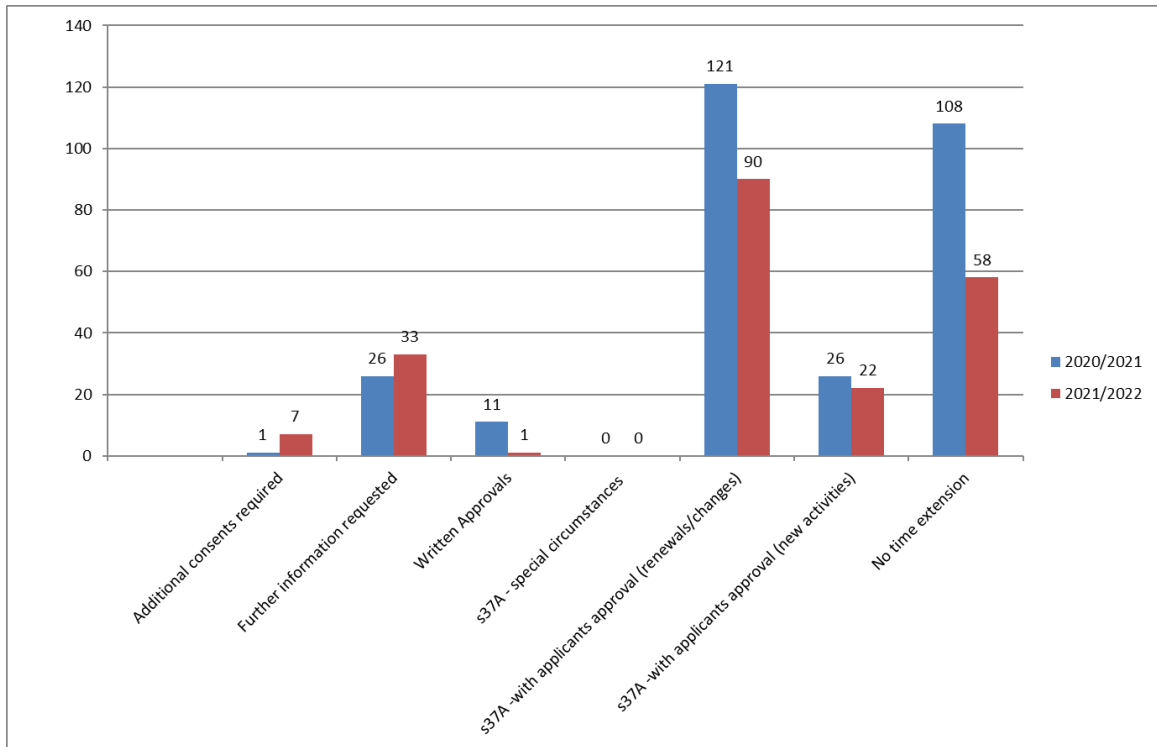
6) Types of consents issued - year to date comparison

	Publically Notified					%		Limited					%		Non Notified					%		Grand Total
	Agricultural	Central/Local Government	Energy	Forestry	Other	Total publically notified	%	Agricultural	Central/Local Government	Energy	Forestry	Other	Total Limited Notified	%	Agricultural	Central/Local Government	Energy	Forestry	Other	Total Non-notified	%	
July 2019 to June 2020	0	1	0	0	0	0.4%	1	1	4	0	0	2	2.7%	7	147	30	28	8	42	97.0%	255	263
July 2020 to 30 June 2021	0	0	0	0	2	0.7%	2	0	1	0	0	0	0.4%	1	146	20	44	6	50	98.9%	266	269
July 2021 to March 2022	0	0	8	0	0	4.3%	8	0	0	0	0	0	0.0%	0	112	25	14	2	23	95.7%	176	184

7) Involvement with third parties for applications processed year to date

	Consultation/ Involved (number of parties)	Number of Affected Party Approvals (written)	Totals
Councils	1	1	2
DOC	13	0	13
Environmental/Recreational Groups	20	0	20
Fish & Game	14	0	14
Individuals/Neighbours/Landowners	112	20	132
Network Utilities	16	0	16
Non Govt Organisations	0	0	0
Other Govt Departments	1	0	1
Iwi/hapu	267	1	268
Totals - March 2022	444	22	466

8) Application processing time extensions used 2020/2021 versus 2021-2022



9) Consent type process

	Last 10 year average 2011 - 2020	July 2020 to June 2021	July 2021 to March 2022
Total consents granted	360	269	184
Publically Notified	8	2	8
Limited-notified	12	1	0
Non-notified	342	266	176
Applications submitted on (in opposition and to be heard)	14	3	9
Application Pre-hearing resolution (%)	78%	33%	89%
Hearings (no. of applications)	1 (7)	2 (2)	0 (1*)
Appeals (no. of applications)	1 (6)	2 (2)	0 (0)
Total current consents	4724	4503	4509
* Note: 1 x Decision is yet to be released			

10) Applications returned incomplete under Section 88

For the 2021-2022 year, 10 applications have been returned incomplete under S88 of the RMA for insufficient information. Eight of those applications have since been resubmitted by the applicant.

11) Deemed Permitted Activities issued

Nil



Date 26 April 2022

Subject: **Consent Monitoring Annual Reports**

Approved by: A J Matthews, Director - Environment Quality
S J Ruru, Chief Executive

Document: 3028524

Purpose

1. The purpose of this memorandum is to advise Council of two tailored compliance monitoring reports that have been prepared since the last meeting.

Executive summary

2. The Council considers the regular reporting of comprehensive and well-considered compliance monitoring is vital to undergird:
 - Community standing and reputation enhancement for companies that consistently attain good or high levels of environmental performance. Informed feedback is appropriate and valuable, and assists a proactive alignment of industry's interests with community and Resource Management Act 1991 expectations
 - A respectful and responsible regard for the Taranaki region's environment and our management of its natural resources. Reporting allows evaluation and demonstration of the overall rate of compliance by sector and by consent holders as a whole, and of trends in the improvement of our environment
 - The Council's accountability and transparency. Reporting gives validity to investment in monitoring and to assessments of effective intervention.
3. These Council reports have been submitted to the consent holder for comment and confirmation of accuracy prior to publication. All reports provide environmental performance and administrative compliance ratings for each consent holder in relation to their activities over the period being reported. Recommendations pertaining to each site or programme are set out in the relevant report. These recommendations may include continuation of existing monitoring programmes in the case of acceptable environmental performance, or alternatively amendments as appropriate.
4. A total of two tailored compliance monitoring reports have been completed since the last meeting. Both of the reports were assigned an overall environmental rating of good. (Table 1). All reporting for the 2020-2021 monitoring year is now complete.

Table 1 List of annual reports with overall environmental performance rating

Report Name	Performance Rating	Document Number
21-27 Colson Road Landfill Monitoring Programme Annual Report 2020-2021	1 x good	3007569
21-91 Taranaki By-Products Air and Water Monitoring Programme Annual Report 2020-2021	1 x good	3008146

5. For reference, in the 2020-2021 year, consent holders were found to achieve a high level of environmental performance and compliance for 835 (86%) of a total of 971 consents monitored through the Taranaki tailored monitoring programmes, while for another 105 (11%) of the consents a good level of environmental performance and compliance was achieved. A further 26 (2.5%) of consents monitored required improvement in their performance, while the remaining five (0.5%) achieved a rating of poor (Table 2).

Table 2 Historical annual environmental and compliance performance ratings from July 2012 to June 2021. Please note that the breakdown of consents that achieved 'Improvement Required' or 'Poor' levels of environmental performance and compliance were not reported separately prior to 2017-2018

Year	High	Good	Improvement Required	Poor
2012-2013	59%	35%	6%	
2013-2014	60%	29%	11%	
2014-2015	75%	22%	3%	
2015-2016	71%	24%	5%	
2016-2017	74%	21%	5%	
2017-2018	76%	20%	3%	1%
2018-2019	83%	13%	3%	1%
2019-2020	81%	17%	2%	0%
2020-2021	86%	11%	2.5%	0.5%

6. Ministry for the Environment (MfE) Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991 recommend that councils provide regular reports to the public on compliance monitoring and enforcement activities. Council public reporting of these activities provides public transparency around how rules/policies are being enforced and how council responds to non-compliance. The Council has been providing annual compliance reports to consent holders and the public for over three decades. Copies of individual compliance reports are available on request, or via the Taranaki Regional Council website.

Recommendations

That the Taranaki Regional Council:

- a) receives the two compliance monitoring reports listed in Table 1 and notes the specific recommendations therein.

Discussion

7. During the reporting period, overall compliance with resource consent requirements remained high or good for the consent holders. Detailed information around the performance of these consented activities is set out in the relevant compliance report, and the attention of Committee members is directed to the executive summary at the front of each report.

21-27 Colson Road Landfill Monitoring Annual Report 2020-2021

8. The New Plymouth District Council (NPDC) operates a regional landfill located on Colson Road, New Plymouth, in the Waiwhakaiho catchment. During the year under review, the landfill was continuing to fill Stage 3 of the site, which has a design capacity of approximately 800,000 m³. Stages 1 and 2 have been closed and are fully reinstated.
9. **During the monitoring period, NPDC demonstrated an overall good level of environmental performance and improvement was required in their administrative performance.**
10. Inspection found that the site was generally well managed during the year under review, however continued attention to the installation and maintenance of localised erosion and sediment controls is required.
11. The issue of cap management and maintenance on Stage 2 remained unresolved at the end of the monitoring period. Extensive investigations into the cap depth and compaction were carried out during the 2018-2019 year and the necessary remediation identified. It was found that there were areas where the cap depth needed to be increased.
12. An abatement notice was issued allowing NPDC until March 2020 to complete the work so that the appropriate methodology could be developed and then be undertaken during the next dry weather construction season. It was agreed that this could be delayed to prioritise working on the Stage 3 cap following the landfill closure to municipal waste (August 2019) and special waste (October 2020), on the basis that this would minimise the potential discharge of contaminants from the site as a whole. The due date on the abatement notice was extended to March 2022.
13. An abatement notice was issued following confirmation that three of the groundwater monitoring bores had been compromised. The locations and depths of the replacement bores were agreed and these were installed during the year under review. A variation to the consent was granted to update the requirements around the installation and maintenance of the groundwater monitoring network. This abatement notice was complied with.
14. Groundwater and under liner drainage sampling indicated that although there is no significant contamination occurring in the local aquifer as a result of the landfill's presence, there are emerging trends of low level but increasing concentrations of chloride and nitrate/nitrite nitrogen in some bores, and a number of parameters in the under liner drainage. An abatement notice has been issued and it is recommended that the monitoring programme be expanded so that the potential for future adverse effects can be evaluated. The abatement notice has an extended date of 30 April 2023 so that these potential effects can be taken into account as part of an early consent renewal application.
15. Chemical and bacteriological monitoring of the Puremu and Manganaha Streams found that the receiving water quality criteria on the consents were met for the majority of parameters at the time of the three scheduled sampling surveys. The exceptions to this

were consent exceedances of the ammoniacal nitrogen concentration at the compliance point as provided for by both consent 2370-3 (on three occasions) and consent 4619-1 (on two occasions). Investigations by NPDC identified the likely source of this contamination, and at the time of writing this report drainage works had been undertaken to resolve the issue. During the year under review there were no confirmed non-compliances with the manganese concentrations in the receiving waters, however these did remain elevated and further investigation may be required to ensure continued consent compliance.

16. Overall, both biological monitoring surveys indicated that the discharge of treated stormwater and leachate discharges from the Colson Road landfill site had not had any significant detrimental effect on the macroinvertebrate communities of the Puremu and Manganaha Streams, or the unnamed tributary of the Puremu Stream.
17. Air quality monitoring showed that there were no significant adverse effects in relation to suspended particulates, dust deposition rates or odour beyond the site boundary.
18. An enclosed gas flare system was installed for air quality control during the 2017-2018 monitoring period and there were no substantiated odour complaints received during the 2020-2021 period that were associated with the Colson Road landfill.
19. Overall, NPDC's management of the on-going activities at the site was good. However, there appear to be some legacy issues that are affecting the water quality in the receiving environment. Although these have resulted in some consent non-compliances, they have not resulted in any significant adverse environmental effects during the year under review. Monitoring requirements have been revised and evaluation is on-going. Additional investigations are also being undertaken by NPDC, when required, to ensure that any appropriate interventions are implemented where improvements are required.

21-91 Taranaki By-Products Air and Water Monitoring Programme Annual Report 2020-2021

20. Taranaki By-Products Ltd (TBP) operates an animal rendering operation located on Kohiti Road at Okaiawa, in the Inaha catchment. Two rendering plants operate on the site: an inedibles plant owned by the TBP and a food grade plant owned by Taranaki Bio-Extracts Ltd (TBE). A trucking firm, Jackson Transport Ltd (JTL), previously owned by TBP, also operate from the site.
21. **During the monitoring period, TBP demonstrated an overall good level of environmental performance and a high level of administrative performance.**
22. Monitoring was carried out by both the Council and TBP. TBP monitors water abstraction rates, wastewater volumes and composition, effluent loading on irrigation areas, bio-filter performance and weather conditions. The Council undertakes inspections of the plant site, irrigation and burial areas, water quality and biological monitoring of the Inaha Stream and its tributaries, riparian management, groundwater surveys, and facilitates community engagement meetings.
23. The monitoring indicated general compliance with consent conditions for the full monitoring year.
24. Although not in breach of consent conditions, sampling indicated that the TBP discharges were having a measurable impact on the receiving water quality. Biological monitoring of the Inaha Stream did not indicate any recent significant impacts from TBP

operations, however a minor decrease in species was recorded at one site, below the discharge location within the Inaha Stream.

25. The bore water discharge (a component of the site's cooling water discharge), in addition to the stormwater discharge, contained ammonia concentrations that were likely contributing to increased nitrates in surface water. This increase occurs irrespective of the facility discharging to land or water.
26. Groundwater monitoring indicated the concentration of nitrate nitrogen at the drinking water source, Te Koponga Spring, continues to improve. Five monitoring wells have concentration of nitrate nitrogen in excess of 50 g/m³. The long term trend of these results indicate that they are beginning to plateau, which suggests the mitigation undertaken by TBP is starting to take effect. This also aligns with the reduction (improvement) in elevated nitrates recorded in the Western tributary of the Inaha Stream.
27. Monitoring indicated compliance with regard to emissions to the air this monitoring period. There were no confirmed objectionable odour incidents.
28. In terms of overall environmental and compliance performance by the consent holder over the last several years, this report shows that the consent holder's performance remains at a good level.

Financial considerations—LTP/Annual Plan

29. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

30. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

31. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.
32. Seeking continued improvement in the environmental and administrative performance of consented activities through Council's compliance monitoring programmes contributes to addressing a range of issues and priorities identified by iwi/hapū, such as those as set out in Iwi Management Plans.

Community considerations

33. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

Legal considerations

34. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.



Date 26 April 2022

Subject: **Incident, Compliance Monitoring Non-Compliances and Enforcement Summary - 23 February 2022 to 5 April 2022**

Approved by: A D McLay, Director - Resource Management
S J Ruru, Chief Executive

Document: 3036016

Purpose

1. The purpose of this memorandum is to allow the Council to consider and receive the summary of the incidents, compliance monitoring non-compliances and enforcement for the period 23 February 2022 to 5 April 2022.
2. The annual inspection for farm dairy effluent monitoring programme commences in September each year and usually finishes around March, however follow up inspections and winter milking inspections are also carried out during the rest of the year.

Executive summary

Incidents

3. There are seventy (70) incidents reported.
4. Thirty six (36) of the incidents were found to be compliant and twenty four (24) were found to be non-compliant. Ten (10) of the incidents reported relate to non-compliances from previous periods (updates). The action taken on the incidents is set out for Members information.
5. For the eleventh reporting period in a row there continues to be a high number of incidents found to be compliant.

Compliance monitoring non-compliances

6. There are thirty two (32) compliance monitoring non-compliances reported. Twenty one (21) of the compliance monitoring non-compliances reported are updates from previous periods.
7. Thirty (30) of the non-compliances reported are as a result of the annual dairy inspection round.

Recommendations

That the Taranaki Regional Council:

- a) receives this memorandum Incident, Compliance Monitoring Non-Compliances and Enforcement Summary – 23 February 2022 to 5 April 2022
- b) receives the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 23 February 2022 to 5 April 2022, notes the action taken by staff acting under delegated authority and adopts the recommendations therein.

Background

8. The Council receives and responds to pollution events and public complaints throughout the year. Consent compliance monitoring undertaken can also identify non-compliance. This information is recorded in the IRIS database together with the results of investigations and any follow-up actions. Such incidents and non-compliances are publicly reported to the Council through the Consents and Regulatory Committee via the Incidents, Compliance Monitoring Non-compliances and Enforcement Report or the Annual Compliance Monitoring Reports.
9. Attached is the summary of the Incidents, Compliance Monitoring Non-compliances and Enforcement for the period from 23 February 2022 to 5 April 2022.
10. Staff have been delegated by the Council to undertake enforcement actions. The enforcement policy and procedures are approved by the Council and then consistently implemented and reported on by staff.

Disclosure Restrictions

11. The incident register information presentation was reviewed in 2014-2015 to increase reader understanding in this complex area. The first section addresses compliant incidents and can be publicly discussed. The second section provides an update on non-compliant incidents from previous meetings and where an incident has been resolved it can be publicly discussed. The third and fourth sections provide information on non-compliant incidents and non-compliances found during compliance monitoring during the period that are still under investigation and staff are limited in terms of public disclosure of information, while the investigation is ongoing and enforcement responses have not been determined. The incident flow chart and definition of terms provide further operational detail.

Discussion

12. Council responds to all complaints received with most complaints responded to within four hours. This usually involves a site visit. Responses to complaints and non-compliances with rules in the Council's regional plans, resource consents and the Resource Management Act 1991 are recorded in the IRIS database. Where necessary, appropriate advisory or enforcement actions are undertaken. The latter may include issuing an inspection, abatement or infringement notice, or initiating a prosecution. Where an infringement notice or prosecution is possible, details of the information in the Incidents, Compliance Monitoring Non-compliances and Enforcement agenda item and staff comment will be restricted for legal disclosure reasons. Further information will be

provided at a later date to the Council and for prosecutions a detailed report will be provided for information purposes, in the confidential section of the agenda.

13. A summary of Incidents, Compliance Monitoring Non-compliances and Enforcement for the period 23 February 2022 to 5 April 2022 is attached. The 'compliant' incidents are presented first in a table and the 'non-compliant' incidents are presented after in a more detailed summary, followed by the compliance monitoring non-compliances.
14. Generally, incidents in the 'compliant' table have a recommendation of 'no further action'. However, an incident is considered 'compliant' until such time as a non-compliance is found. Therefore, occasionally an incident in the 'compliant' table will have a recommendation of 'investigation continuing', if an ongoing investigation is still underway to confirm compliance.
15. A series of graphs are also attached comparing the number of incidents between 2016-2017 and 2021-2022, and also showing how the incidents are tracking in 2021-2022 in relation to environment type and compliance status. There is a graph showing the non-compliances found during compliance monitoring. There is also a graph showing enforcement action taken to date during 2021-2022.
16. The data in the graphs for 2021-2022 to date is showing that there are more incidents but less compliance monitoring non-compliances. Although in the first month of this period, there is limited data.

Decision-making considerations

17. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

Financial considerations—LTP/Annual Plan

18. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

19. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

20. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Community considerations

21. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

Legal considerations

22. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

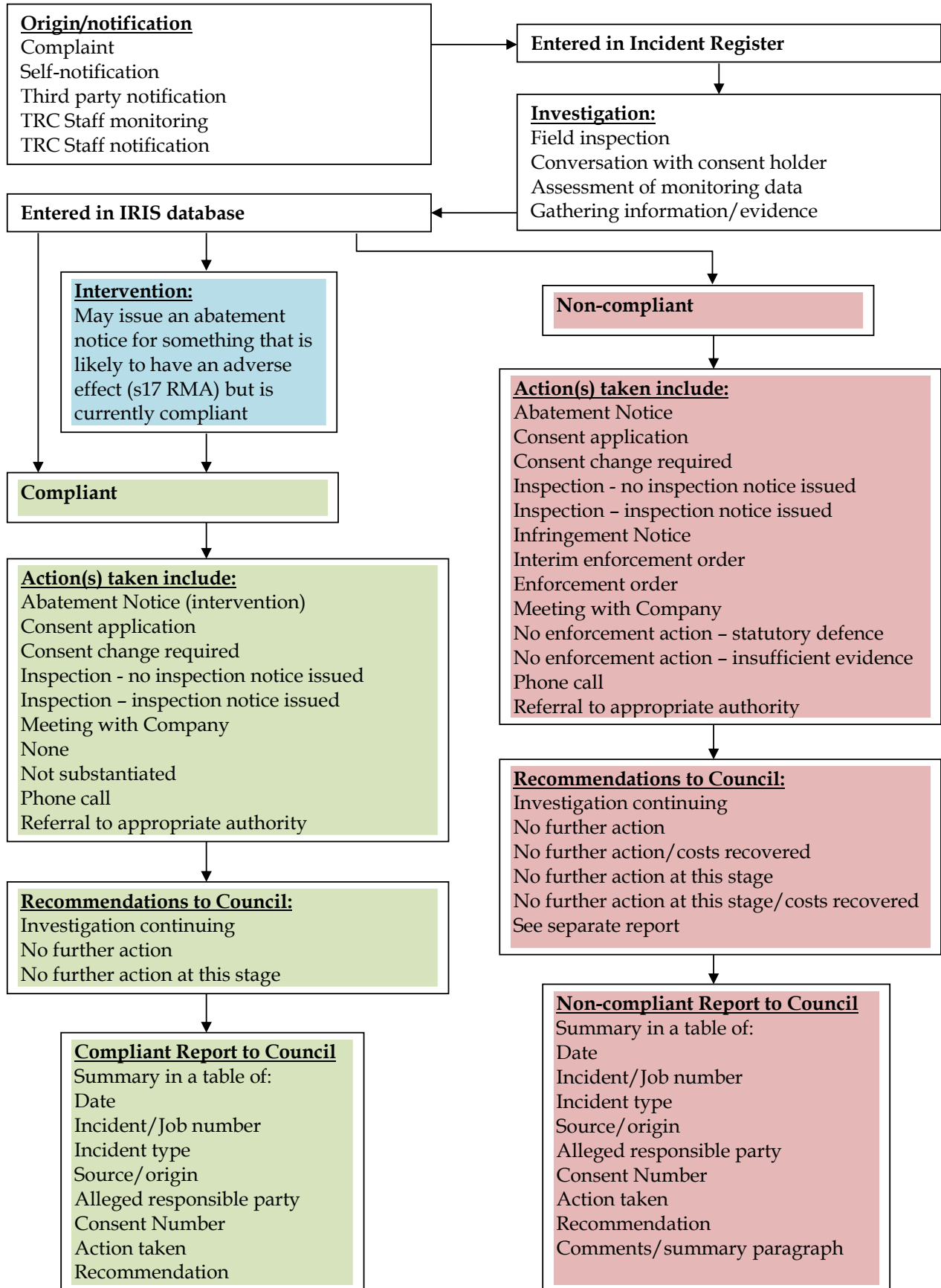
Document 1081324: Incident flowchart and terms explained

Document 3039179: Incident and Enforcement Graphs to 31 March 2022

Document 3039285: Incidents and Enforcement Summary 23 Feb 2022 to 5 Apr 2022

Incident flow chart

Doc # 1081324



Terms explained

Compliance rating

Compliant	After investigation the incident was found to be <u>compliant</u> with environmental standards or other regulations, permitted rules in a regional plan (e.g. RFWP, RAQP, RCP allowed), a resource consent and/or the Resource Management Act 1991.
Non-compliant	After investigation the incident was found to be <u>non-compliant</u> with environmental standards or other regulations, rules in a regional plan, a resource consent and/or the Resource Management Act 1991

Origin/Notification:

Complaint	Notification of incident received from public.
Self notification	Notification of incident received from the responsible party.
Third Party Notification	Notification of incident received from third party such as New Zealand Fire, District Council etc.
TRC Staff monitoring	Notification of incident found during routine compliance monitoring.
TRC Staff notification	Notification of incident found during unrelated monitoring/field work.

Action/s Taken:

14 day Letter	A letter was sent requesting an explanation for the non-compliance and why enforcement action should not be considered. The recipient is given 14 days to reply.
Abatement Notice	A notice was issued requiring something to be undertaken or something to cease to ensure compliance with Rules in the regional plans, resource consent or Resource Management Act 1991. Notice must be complied with or further enforcement action can be considered.
Consent application	A consent application has been received as a result of the investigation.
Consent change required	During the investigation it was found that a consent change was required.
Emergency Works	Emergency works was allowed under section 330 of the RMA. Often a subsequent resource consent is required.
Enforcement Order	An enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be

	considered.
Infringement Notice (\$xxx.xx)	An infringement notice was issued under Section 338(1)(a) of the Resource Management Act 1991 and Councils delegated authority.
Inspection Notice	An inspection was undertaken and a notice of advice/instruction was issued to landowner/alleged offender.
Inspection/no notice issued	An inspection was undertaken, however no inspection notice was issued as there was no alleged offender/landowner to issue one to (natural event, unsourced etc).
Interim Enforcement Order	An interim enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be considered.
Meeting with Company	A meeting was held with the Company to discuss the incident and ways to resolve any issues.
None	No action was required.
Not Substantiated	The incident could not be substantiated (i.e. it is not likely/possible/probable that the alleged incident could have taken place).
Phone call	A phone call was made to the alleged offender/authority.
Prosecution	A prosecution is being initiated for this incident.
Referral to Appropriate Authority	The incident was referred to the appropriate authority (District Council, Department of Conservation etc).

Recommendations to Council

Investigation continuing	Outcome has not been finalised. Investigation is continuing on this incident, information/evidence still being gathered. Further action, including enforcement are being considered and therefore legally all information cannot be reported on this incident at this stage. These incidents will continue to be reported as updates in the following agendas.
No Further Action	Investigation is completed, any required enforcement action has been undertaken and no further action is required.
No Further Action At This Stage	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date.
No Further Action/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and no further action is required. Costs will be recovered from the alleged offender for the investigation.

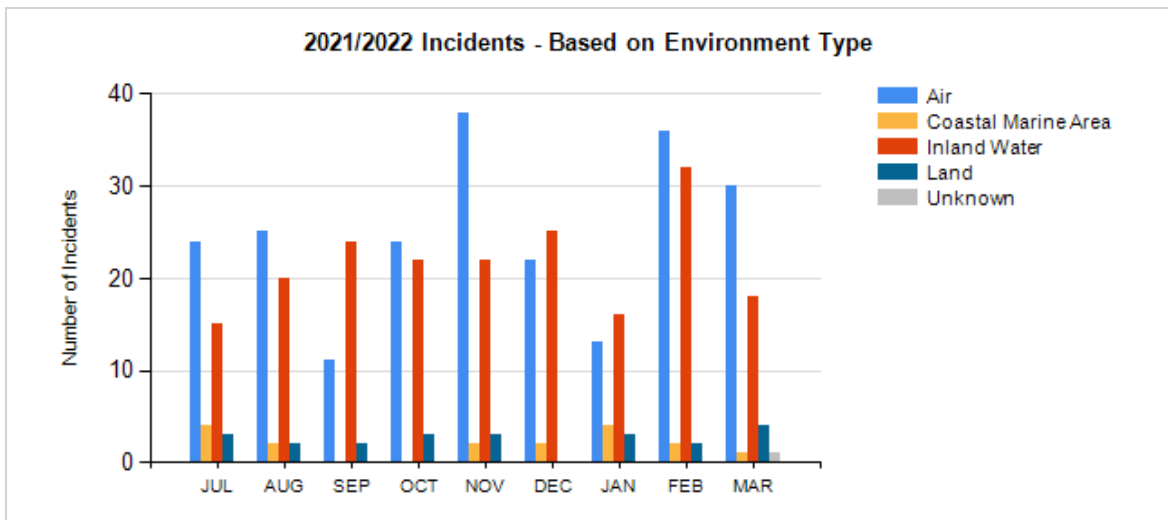
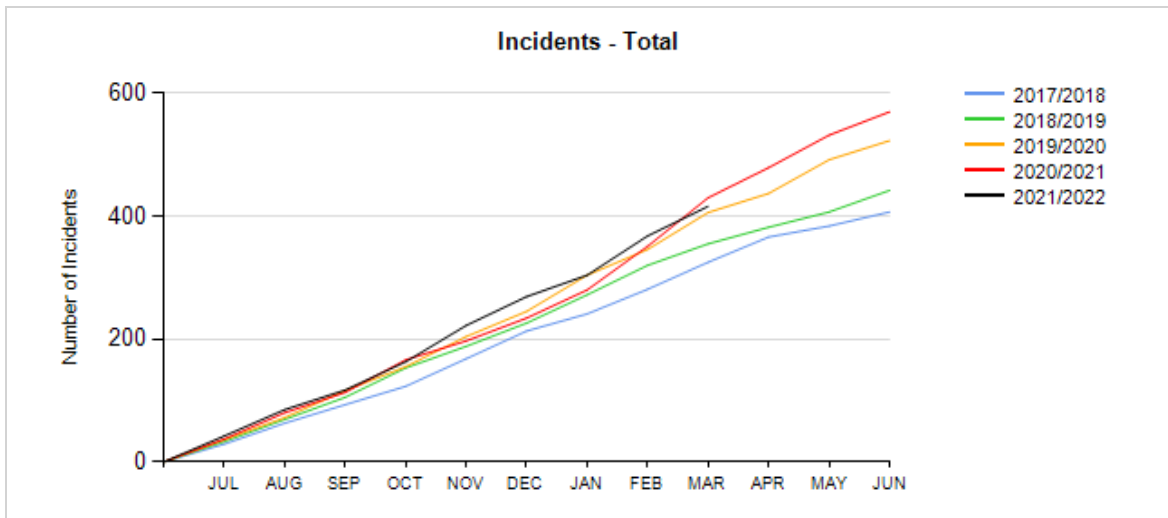
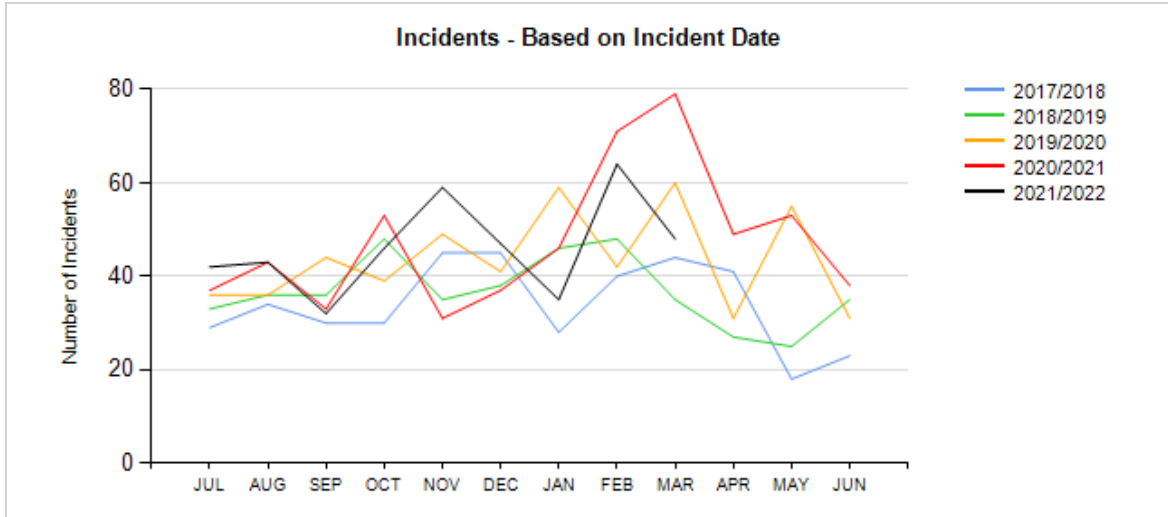
No further Action at this Stage/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date (reinspection of Abatement Notice etc). Costs will be recovered from the alleged offender for the investigation.
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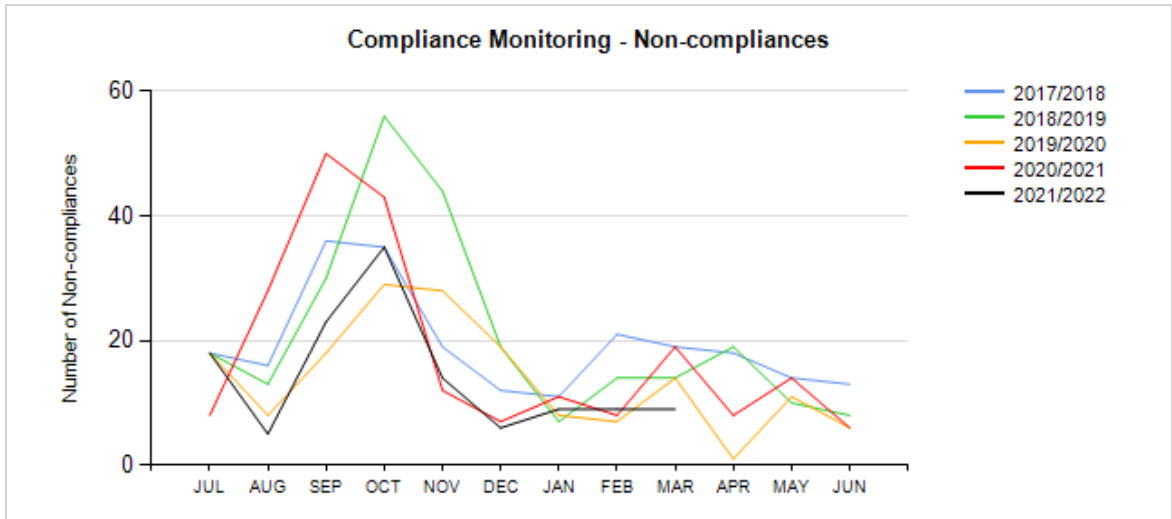
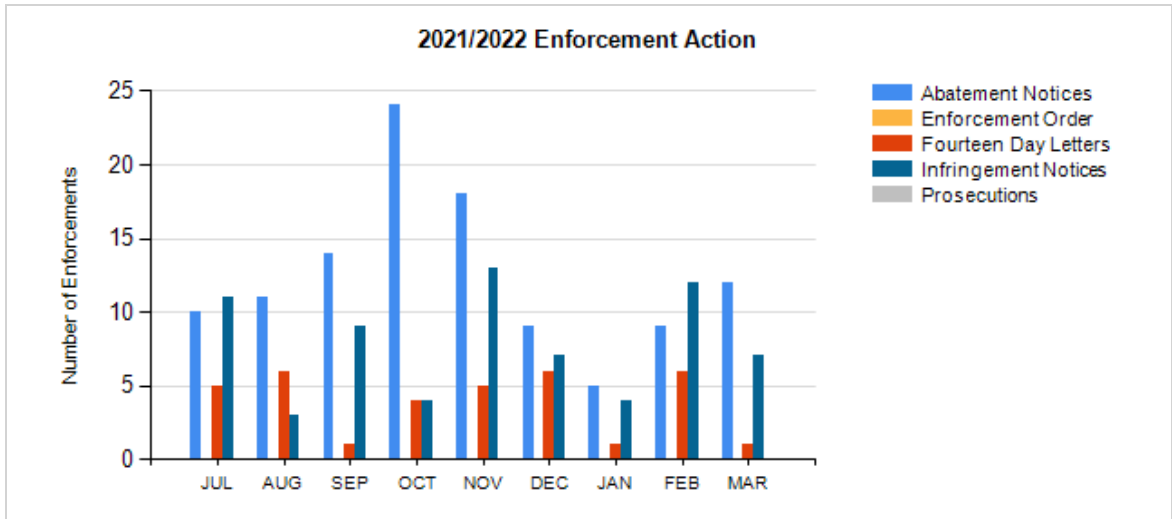
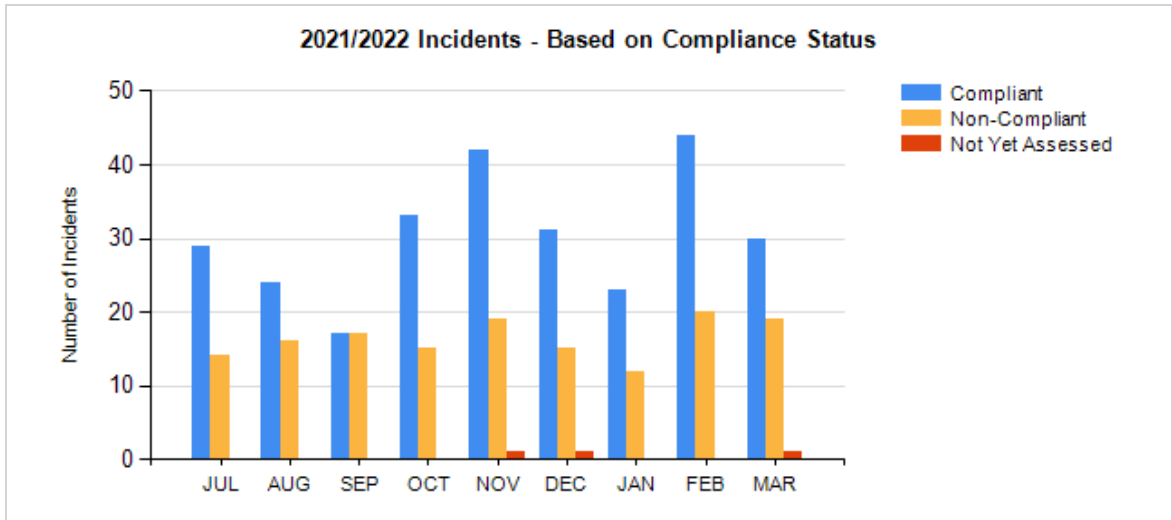
Defences under Sections 340 and 341 of the Resource Management Act 1991

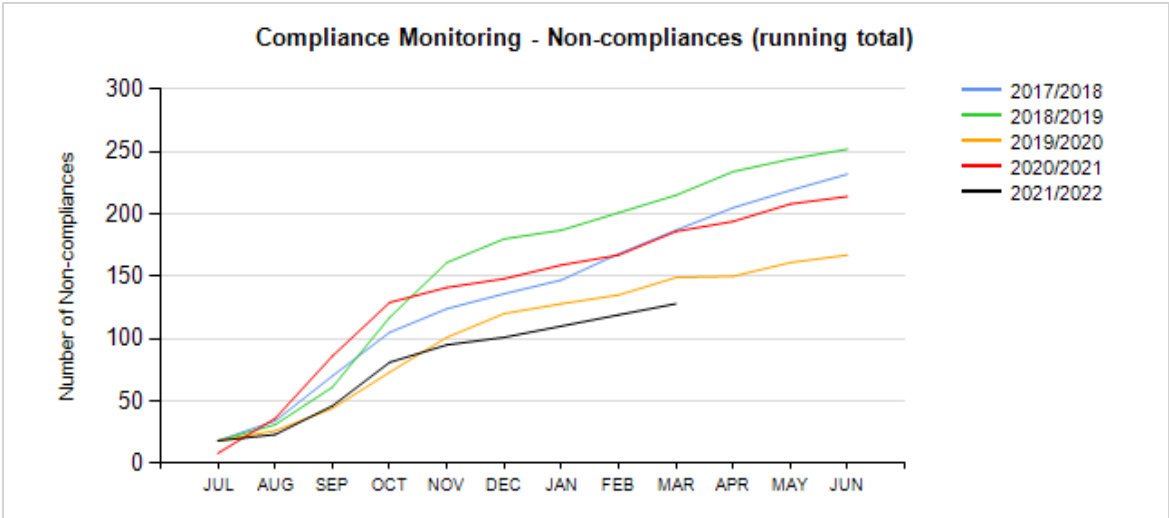
Sometimes no enforcement action is undertaken against an alleged offender for a non-compliant incident as they have a defence under Section 340 of the Resource Management Act 1991 including reasons such as:

- the defendant can prove that he or she did not know, and could not reasonably be expected to have known that the offence was to be or was being committed, or
- that he or she took all reasonable steps to prevent the commission of the offence, or
- the action or event could not reasonably have been foreseen or been provided against by the defendant.

Incident and Enforcement Graphs to 31 March 2022







Compliant Incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
27 Jan 2022	3301-22-379 IN/44262	Alleged dust - Devon Road, Bell Block	Complaint	Symons Transport Ltd		RAQP Allowed	No Further Action
23 Feb 2022	3301-22-365 IN/44570	Alleged chemical discharge - Herekawe Walkway - New Plymouth	Complaint	Natural Event		RFPW Allowed	No Further Action
25 Feb 2022	3301-22-371 IN/44605	Alleged dust - Swansea Road, Stratford	Complaint	Bunn Earthmoving Ltd		RAQP Allowed	No Further Action
26 Feb 2022	3301-22-327 IN/44612	Alleged smoke/burning - Manutahi Road, Lepperton	Complaint	Rodney & Glenda Berridge		RAQP Allowed	No Further Action
28 Feb 2022	3301-22-372 IN/44627	Alleged fire - Pembroke Road, Stratford	Complaint	David Holmes		RAQP Allowed	No Further Action
1 Mar 2022	3301-22-374 IN/44657	Alleged stormwater discharge - Ketemarae Road, Normanby	TRC Staff Notification	Allied Concrete Limited AML Limited (Trading as Allied Concrete)		RFPW Allowed	No Further Action
2 Mar 2022	3301-22-377 IN/44646	Alleged dust - Wilton Street, New Plymouth	Complaint	Platinum Homes		RAQP Allowed	No Further Action
3 Mar 2022	3301-22-378 IN/44654	Alleged dust - Swansea Road, Stratford	Complaint	Digging for Gold Trust		RAQP Allowed	No Further Action
3 Mar 2022	3301-22-380 IN/44658	Alleged odour - Mokau Road, Uruti	Complaint	Remediation (NZ) Limited	R2/5839-2	Consent Compliance	No Further Action
4 Mar 2022	3301-22-381 IN/44674	Alleged odour - East End Beach, New Plymouth	Complaint	New Plymouth District Council		Not Applicable/Natural Event	No Further Action

Compliant Incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
4 Mar 2022	3301-22-385 IN/44681	Alleged paint odour - Devon Street, New Plymouth	Complaint	Pro Paint NZ		RAQP Allowed	No Further Action
6 Mar 2022	3301-22-382 IN/44675	Alleged burning - Glanville Road, Stratford	Complaint	Alan Benjamin & Lorraine Hazel Crowskey Hohua Austin		RAQP Allowed	No Further Action
9 Mar 2022	3301-22-395 IN/44703	Alleged smoky fire - Albion Road, Okato	Complaint	Appert P & M Trust		RAQP Allowed	No Further Action
9 Mar 2022	3301-22-393 IN/44952	Alleged odour - Eltham WWTP - Eltham	Complaint	South Taranaki District Council		RAQP Allowed	No Further Action
10 Mar 2022	3301-22-394 IN/44692	Alleged white discharge - Merrilands Domain - New Plymouth	Third Party Notification	Un sourced		Not Applicable/Natural Event	No Further Action
10 Mar 2022	3301-22-396 IN/44714	Alleged groundwater discharge - SH3, New Plymouth	Complaint	New Plymouth Pistol Club		RFPW Allowed	No Further Action
10 Mar 2022	3301-22-406 IN/44742	Alleged odour - Mokau Road, Uruti	TRC Staff Compliance Monitoring	Remediation (NZ) Limited	R2/5839-2	Consent Compliance	No Further Action
10 Mar 2022	3301-22-387 IN/44778	Alleged water abstraction - Kiri Stream - Oakura	Complaint	Donald Mckee		RFPW Allowed	No Further Action
11 Mar 2022	3301-22-397 IN/44723	Alleged dust - Wilton Street, New Plymouth	Complaint	Platinum Homes		RAQP Allowed	No Further Action

Compliant Incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
11 Mar 2022	3301-22-414 IN/44786	Alleged dust - Airport Drive, New Plymouth	Complaint	C & W Developments GP Limited Taranaki Civil Construction Limited		RAQP Allowed	No Further Action
12 Mar 2022	3301-22-399 IN/44724	Alleged foam in Hereweke Stream - New Plymouth	Complaint	Un sourced		Not Applicable/Natural Event	No Further Action
12 Mar 2022	3301-22-400 IN/44725	Alleged foam in Patea River - Cloten Road, Stratford	Complaint	Un sourced		Not Applicable/Natural Event	No Further Action
12 Mar 2022	3301-22-401 IN/44755	Alleged smoke - Hurford Road, Omata	Complaint	Un sourced		Not Applicable/Natural Event	No Further Action
13 Mar 2022	3301-22-402 IN/44726	Alleged hydrocarbon discharge - Regan Street, Stratford	Third Party Notification	Un sourced		RFPW Allowed	No Further Action
13 Mar 2022	3301-22-403 IN/44754	Alleged dust - Wilton Street, New Plymouth	Complaint	Platinum Homes		RAQP Allowed	No Further Action
17 Mar 2022	3301-22-407 IN/44758	Alleged fire - Manokarihi Golf Course - Waitara	Complaint	Richard Dreaver		Not Applicable/Natural Event	No Further Action
17 Mar 2022	3301-22-412 IN/44784	Alleged pond wall failure - Manawapou Road, Hawera	Self-Notification	Peter Myers	R2/2321-2	Consent Compliance	No Further Action
18 Mar 2022	3301-22-408 IN/44760	Alleged crop harvesting discharges - Hurford Road, New Plymouth	Complaint	Un sourced		RAQP Allowed	No Further Action

Compliant Incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
18 Mar 2022	3301-22-409 IN/44775	Alleged odour - East End Beach, New Plymouth	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
19 Mar 2022	3301-22-410 IN/44777	Alleged smoke/fire - Glentworth Street, Eltham	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
20 Mar 2022	3301-22-386 IN/44779	Alleged diesel spill - Mountain Road, Inglewood	Third Party Notification	Unsourced		RFWP Allowed	No Further Action
22 Mar 2022	3301-22-413 IN/44791	Alleged dust - Gilmour Street, New Plymouth	Complaint	Rodney Martin		RAQP Allowed	No Further Action
22 Mar 2022	3301-22-416 IN/44794	Alleged white Huatoki Stream - New Plymouth	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
29 Mar 2022	3301-22-422 IN/44847	Alleged green stream - Mountain Road, Tariki	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
4 Apr 2022	3301-22-427 IN/44893	Alleged dust - Sole Avenue, Bell Block	Complaint	Offshore Plumbing & Pipeline		RAQP Allowed	No Further Action

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
4 Nov 2021 <u>Update</u>	3301-22-195 IN/43741	Earthworks - Mawhitiwhiti Road, Normanby	TRC Staff Notification	Cameron Burke (73517)		EAC-24320 - Abatement Notice	No Further Action

Comments: During unrelated monitoring it was found that earthworks had been undertaken near a wetland at Mawhitiwhiti Road, Normanby. Investigation found that works had been undertaken to install piping within the 10 metre setback of a wetland in contravention of National Environmental Standards for Fresh Water (NEFWF). An abatement notice was issued requiring works to be undertaken to remove the subsurface pipe work. Reinspection found that the abatement notice was being complied with at the time of inspection.

9 Nov 2021 <u>Update</u>	3301-22-191 IN/43752	Sediment into water - Mahoetahi Road, Brixton	Complaint	Jones Quarry Limited (30989)	R2/6274-2.0	EAC-24306 - Explanation Requested - Letter No Enforcement Action - Insufficient evidence	No Further Action/Costs Recovered
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Comments: A complaint was received concerning silt in the Mangaoraka Stream at Mahoetahi Road, Brixton. Investigation found that sediment laden wastewater had discharged into the Mangaoraka Stream from a quarry site in contravention of resource consent conditions and an abatement notice issued as a result of a previous non-compliance. Photographs were taken. A letter requesting explanation was sent.

1 Dec 2021 <u>Update</u>	3301-22-234 IN/43934	Non-notified forestry - Braemore Road, Waverley	Third Party Notification	Fulbor Contracting (73554) Harley Froggatt (73555)			Investigation Continuing
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Comments: Notification was received, from South Taranaki District Council, that some non-notified forestry activities were occurring at a site on Braemore Road, Waverley. Initial investigation found that there are issues with other illegal activities at the site which the Police are dealing with. Further investigation will be undertaken with Police assistance.

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>26 Dec 2021 Update</u>	3301-22-265 IN/44059	Fire - Kohiti Road, Okaiawa	Complaint	Taranaki By-Products Limited (9197)		No Enforcement Action - Statutory defence	No Further Action/Costs Recovered

Comments: Notification was received from Fire and Emergency New Zealand (FENZ) concerning a large fire at a rendering plant near Okaiawa. At the time of inspection the fire had been extinguished but was still being dampened down. Access to the site was restricted. A further inspection was undertaken the following day where water samples and photographs were taken. Further water samples were taken every day for the following four days. Sample analysis showed no significant environmental impacts as a result of the fire. The rendering plant's contingency plan was implemented which involved burial of waste on the site and rerouting waste to other facilities. An on-site meeting was held with the management of the site. A plan has been implemented to ensure that all product is disposed of in an approved manner. Ongoing monitoring will occur to ensure compliance continues. The cause of the fire was found to be an electrical fault. A report was received from FENZ.

<u>12 Jan 2022 Update</u>	3301-22-343 IN/44622	Rubbish pile - Andrews - Greenwood Road - Okato	Complaint	Bruce Leonard & Luzia Agnes Andrews (11206)	R2/1808-3	EAC-24474 - Infringement Notice (\$300)	No Further Action
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Comments: A complaint was received concerning a large pile of rubbish/unauthorised materials in a farm dump at Greenwood Road, Okato. Investigation found various unauthorised materials had been placed in an historical farm dump which included domestic rubbish, galvanized fencing wire, roofing, building materials, computer equipment, green waste and a jet ski hull. A fire had recently been lit in the farm dump and numerous items had been completely or partly burnt.

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
25 Jan 2022 <u>Update</u>	3301-22-302 IN/44260	Unauthorised discharge - Upland Road, Egmont Village	Complaint	Agrifert NZ Limited (31183) Brough Earthworks Limited (68645) Drillco 2019 Limited (73655) Ferdene Quarries Limited (23461)	R2/10848-1.0 R2/6453-2.0 R2/7089-1.1	EAC-24394 - Explanation Requested - Letter EAC-24395 - Explanation Requested - Letter EAC-24396 - Explanation Requested - Inspection Notice EAC-24405 - Explanation Requested - Letter EAC-24508 - Infringement Notice (\$750)	No Further Action/Costs Recovered

Comments: A complaint was received regarding unauthorised building demolition material being disposed of at a cleanfill site at Upland Road, Egmont Village. Investigation found that unauthorised materials were present in the cleanfill. Letters of explanation were received.

1 Feb 2022 <u>Update</u>	3301-22-312 IN/44338	Drilling mud discharge - Blake Street, Waitara	Complaint	M Hareb Excavating Limited (32118)			Investigation Continuing
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Comments: A complaint was received concerning drilling mud being processed on an industrial site in Waitara. Investigation found that some unknown materials had been placed in a banded area. Analysis of samples taken found that there were high chlorides in the material in contravention of rules in the Regional Fresh Water Plan for Taranaki. The site operator has engaged a consultant to take soil samples to establish the extent of the problem before developing a disposal plan. Enforcement action is being considered.

2 Feb 2022 <u>Update</u>	3301-22-308 IN/44327	Dust - Swansea Road, Stratford	Complaint	Jason Bunn (17185)			Investigation Continuing
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Comments: A complaint was received concerning dust from a property on Swansea Road, Stratford. Investigation found that objectionable dust was discharging beyond the boundary of the site. An abatement notice was issued as a result of another incident two days later. Further enforcement action is being considered.

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
11 Feb 2022 <u>Update</u>	3301-22-341 IN/44437	Unauthorised earthworks - Muggeridge Road, Manutahi	Complaint	Alastair Geary (16166)		EAC-24422 - Abatement Notice EAC-24423 - Abatement Notice	Investigation Continuing

Comments: A complaint was received regarding earthworks in a wetland on Muggeridge Road, Manutahi. Investigation found that there has been earthworks within 10 metres of a wetland, and possibly within a wetland in breach of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFW). Two abatement notices were issued requiring the works to cease immediately and for silt and sediment controls to be installed and maintained. Reinspection found that the abatement notice was being complied with at the time of inspection. Further enforcement action is being considered.

14 Feb 2022 <u>Update</u>	3301-22-344 IN/44453	Sewage overflow - Breacon Road/Hamlet Street, Stratford	Complaint	Stratford District Council (10048)			No Further Action
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Comments: A complaint was received concerning sewage discharging from some manholes at Breacon Road and Hamlet Streets, Stratford. No notification of any sewage discharges had been received from Stratford District Council. Investigation found that a manhole was overflowing into a nearby stormwater drain and then into surface water. Samples and photographs were taken. The discharge appeared to have been occurring for some time. A letter of explanation about the emergency was received and accepted.

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
11 Feb 2022	3301-22-411 IN/44776	Chemical spill - Waitotara	Self-Notification	Silver Fern Farms Limited (30302)	R2/5027-2		Investigation Continuing
<p>Comments: Self-notification was received concerning a chemical discharge at a meat processing plant at Waiinu Beach Road, Waitotara. Investigation found that approximately 10-15 litres of 'Enforce' was spilt on site the previous evening, as a result of cleaning contractor decanting the chemical for their work. Initial reports advised that no chemical had discharge into any waterbody. However, a subsequent report advised that a discharge into a nearby tributary had occurred. A full incident report has been requested from the Company. Enforcement action is being considered.</p>							
26 Feb 2022	3301-22-289 IN/44613	Waterfall foam - Pukekura Park - New Plymouth	Complaint	Unsourced (9768)			No Further Action
<p>Comments: A complaint was received concerning foam in the waterfall at Pukekura Park in New Plymouth. Investigation found evidence that detergent had been discharged into the waterfall causing a significant amount of white foaming. The responsible party could not be traced. New Plymouth District Council (NPDC) were notified. This is a regular occurrence and NPDC have procedures that are implemented to mitigate and discharge and minimise environmental effects.</p>							
28 Feb 2022	3301-22-373 IN/44660	Wastewater discharge - SH3, Mokoia	Third Party Notification	Intergroup Limited (50186) OMV New Zealand Limited (21295)		No Enforcement Action - Statutory defence	No Further Action
<p>Comments: Notification was received from Fire and Emergency New Zealand (FENZ) concerning the discharge of wastewater, as a result of a single tanker accident, on SH3, Mokoia. Investigation found that the tank had ruptured, and wastewater had discharged down a roadside drain into the Manawapou River. Work was undertaken to remove the remaining liquid from the tank to cease the discharge. A bund was installed to prevent any further discharge into the waterbody. Samples were taken and only minor affects were found.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
1 Mar 2022	3301-22-375 IN/44638	Alleged odour - Mokau Road, Uruti	Complaint	Remediation (NZ) Limited	R2/5839-2		Investigation Continuing
<p>Comments: Several complaints were received concerning odour emanating from a composting site at Mokau Road, Uruti. Investigation found that odours were detected off site, however an assessment against the FIDOLT factors found that the odours were in compliance with resource consent conditions. An inspection on site found that an unauthorised load of beef lungs and livers had been deposited at the site in contravention of resource consent conditions. Enforcement action is being considered.</p>							
2 Mar 2022	3301-22-376 IN/44642	Smoke/burning - Manawapou Road, Hawera	Complaint	Patrick & Dorothy Powell (16129)		EAC-24513 - Infringement Notice (\$300)	No Further Action
<p>Comments: A complaint was received concerning smoke from a fire near Manawapou Road, Hawera. Investigation found that a pile of vegetation had been set alight on the property. Two further vegetation piles were on site but had not been lit. Objectionable smoke from the fire was found to be discharging through the neighbouring primary school and residential dwellings further beyond.</p>							
7 Mar 2022	3301-22-389 IN/44667	Fuel spill - Rata Street, Inglewood	Complaint	Thomas & Lenard Potroz (3445)			No Further Action
<p>Comments: Notification was received concerning a fuel spill to a roadside stormwater drain at Rata Street, Inglewood. Investigation found that someone had drained their vehicle fuel tank on the side of the road after putting the wrong fuel in the tank. The responsible party had left by the time of inspection but was traced and advised of rules in the Regional Fresh Water Plan for Taranaki. Sorbant material was used to recover the fuel. There was no evidence that any fuel discharged into any waterbody.</p>							
7 Mar 2022	3301-22-383 IN/44668	Smoke/burning - Manawapou Road, Hawera	Complaint	Patrick & Dorothy Powell (16129)			Investigation Continuing
<p>Comments: A complaint was received concerning smoke from a fire near Manawapou Road, Hawera. Investigation found that three piles of vegetation had been set alight on the property. There were also some unauthorised materials being burnt. Smoke was discharging beyond the boundary of the property affecting neighbours. Enforcement action is being considered.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
8 Mar 2022	3301-22-384 IN/44677	Smoke/burning - Finnerty Road, Stratford	Complaint	Phil Meerman (14179)			Investigation Continuing
<p>Comments: A complaint was received concerning smoke from a fire at Finnerty Road, Stratford. Investigation found a significant amount of unauthorised materials had been burnt that included plastic, building materials and coated wiring. Enforcement action is being considered.</p>							
8 Mar 2022	3301-22-388 IN/44944	Backyard burning - High Street, Eltham	TRC Staff Notification	Grahame Bayley (73859)			No Further Action
<p>Comments: During unrelated monitoring it was found that backyard burning was occurring within a defined urban area at a property on High Street, Eltham. Investigation found that some greenwaste and building materials had been burnt. The responsible party was advised that burning is prohibited in an urban defined area. They were unaware of the rules in the Regional Air Quality Plan for Taranaki and the fire was extinguished at the time of inspection.</p>							
8 Mar 2022	3301-22-390 IN/44946	Backyard burning - Disraeli Street, Hawera	Complaint	Micahel Burke (73862)			No Further Action
<p>Comments: A complaint was received concerning backyard burning at a property on Disraeli Street, Hawera. Investigation found that some greenwaste and an old chair had been burnt in a wheelbarrow in a backyard in defined urban area. The responsible party was advised that burning is prohibited in an urban defined area. The fire was extinguished at the time of inspection.</p>							
9 Mar 2022	3301-22-391 IN/44950	Burning - Romeo Street, Stratford	TRC Staff Notification	Jason Davis (73864) Stuart Senior (73865)			No Further Action
<p>Comments: During unrelated monitoring it was found that burning was occurring on an industrial site at Romeo Street, Stratford. Investigation found that rubbish was being burnt in two metal drums and a larger steel box, containing materials including paper, cardboard, plastic, steel and outdoor furniture. The responsible party was advised that such burning is prohibited on an industrial site and within a urban defined area. The fire was extinguished immediately. There have been no previous burning incidents on the site.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
9 Mar 2022	3301-22-392 IN/44954	Smoke/burning - Manawapou Road, Hawera	Complaint	Patrick & Dorothy Powell (16129)			Investigation Continuing
<p>Comments: A complaint was received concerning smoke from a fire near Manawapou Road, Hawera. Investigation found that three burn piles of vegetation, treated timber, coated wire, steel, roofing iron and various other unauthorised materials had been set alight. Smoke from the fires were affecting neighbouring properties. Enforcement action is being considered.</p>							
10 Mar 2022	3301-22-405 IN/44894	Non-notified forestry activity - Avenue Road, Urenui	Complaint	Newton Harvesting Limited (73839)			Investigation Continuing
<p>Comments: A complaint was received concerning forestry activities on a site at Avenue Road, Urenui. Investigation found that no notification was received as required by the National Environmental Standards for Plantation Forestry. Works undertaken were compliant with all other regulations. Enforcement action is being considered for the non-notification.</p>							
11 Mar 2022	3301-22-398 IN/44753	Paint odour - Devon Street West, New Plymouth	Complaint	Pro Paint NZ (72830)			Investigation Continuing
<p>Comments: A complaint was received concerning paint odour discharging from a property on Devon Street West, New Plymouth. An odour survey was undertaken and objectionable odour was found beyond the boundary of the site in contravention of rules in the Regional Air Quality Plan for Taranaki. The odour was occurring due to a large truck being painted outside (outside the spraybooth). Enforcement action is being considered.</p>							
11 Mar 2022	3301-22-404 IN/44795	Non-notified forestry activity - Mangaoapa Road, Matau	TRC Staff Compliance Monitoring	Hasler Bros (72676)			Investigation Continuing
<p>Comments: A complaint was received concerning forestry activities on a Pa site at Mangaoapa Road, Matau. Investigation found that no notification was received as required by the National Environmental Standards for Plantation Forestry. Works undertaken were compliant with all other regulations. Enforcement action is being considered for the non-notification.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
21 Mar 2022	3301-22-415 IN/44804	Smokey fire - Swansea Road, Stratford	TRC Staff Notification	JTL Carbon Farming Consultancy (33732) Shane Jordan (73380) Stratford High School (12008)			Investigation Continuing
<p>Comments: A complaint was received concerning smoke from a fire at Swansea Road, Stratford. Investigation found that burning of forestry slash had caused a significant amount of smoke to discharge beyond the boundary of the property, affecting neighbours. Further investigation found that some forestry slash clearance had occurred within a unnamed tributary of the Patea River, causing discoloration, erosion and silt discharge into the Patea River. Enforcement action is being considered.</p>							
23 Mar 2022	3301-22-417 IN/44799	Sediment discharge - Allen Road, Omata	Complaint	Denis Wheeler Limited (73298) Mark Pardington (52941)		EAC-24484 - Abatement Notice EAC-24487 - Explanation Requested - Letter	Investigation Continuing
<p>Comments: A complaint was received regarding earthworks on a vacant site at Allen Road, Omata. Investigation found that the earthworks were in contravention of the Rules in the Regional Fresh Water Plan for Taranaki. A letter requesting explanation was sent to the contractor. An abatement notice was issued to the landowner to undertake works to install and maintain silt and sediment controls. Reinspection found that the abatement notice was being complied with at the time of inspection. Further enforcement action is being considered.</p>							
23 Mar 2022	3301-22-418 IN/44800	Sewage discharge - Waiwhakaiho River - New Plymouth	Self-Notification	New Plymouth District Council (9565)	R2/0882-4 R2/10406-1.0	No Enforcement Action - Statutory defence	No Further Action
<p>Comments: Self-notification was received concerning an overflow of sewage from the Glen Avon Pump Station, into the Waiwhakaiho River, as a result of heavy rainfall. Investigation found that the river was flowing clear and there was no evidence of any adverse environmental effects. Signs were erected and New Plymouth District Council's contingency plan was followed.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
24 Mar 2022	3301-22-419 IN/44810	Green stream - Tipoka Road, Rahotu	Complaint	David Harvey & Sarah Soper (51669)	R2/2478-3.0	No Enforcement Action - Statutory defence	No Further Action/Costs Recovered
<p>Comments: A complaint was received concerning a stream running green at Tipoka Road, Rahotu. Investigation upstream found that the yard of a farm dairy shed was not fully washed down and stormwater diversion was on. It was raining at the time of inspection and dairy effluent from the yard was discharging into a creek. The sharemilker explained that the gate had been left open, which it was during the inspection. The cows had accessed the yard again, discharging effluent onto the yard after it had been washed down.</p>							
28 Mar 2022	3301-22-420 IN/44838	Rubbish in stream - Cardiff Road, Stratford	Complaint	Un sourced (9768)			No Further Action
<p>Comments: A complaint was received concerning rubbish (a piece of whiteware with rubbish inside it) being dumped over a bridge on Cardiff Road, into the Konini Stream. Investigation found a chest freezer containing household waste had been thrown into the stream. All items were removed from stream and disposed of in an approved manner.</p>							
28 Mar 2022	3301-22-421 IN/44843	Dust - Carrington Street, New Plymouth	Complaint	Darcy Keene Earthmoving Limited (4298)		EAC-24496 - Abatement Notice	No Further Action
<p>Comments: A complaint was received concerning dust from a subdivision development site on Carrington Street, New Plymouth. Investigation found that it was likely that the Regional Air Quality Plan was not being complied with due to lack of dust suppression measures on the site. An abatement notice was issued requiring works to be undertaken to prevent objectionable or offensive dust beyond the boundary of the site. Reinspection found that the abatement notice was being complied with at the time of inspection.</p>							

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
29 Mar 2022	3301-22-423 IN/44848	Sewage discharge - Konini Street, Inglewood	Self-Notification	New Plymouth District Council (9565)	R2/10406-1.0		No Further Action/Costs Recovered

Comments: Self-notification was received concerning a sewage overflow at Konini Street, Inglewood. Investigation found that a pipe under the road had blocked, causing a blowout through the road surface and sewage had overflowed into the stormwater drain. Signs were erected and the pipe was unblocked and subsequently repaired the following day. New Plymouth District Council's contingency plan was followed.

30 Mar 2022	3301-22-424 IN/44858	Earthworks and drainage - Skeet Road, Auroa.	TRC Staff Notification	Brookside Farms (3901) Murray Calder & Jill Corbett (31503)		EAC-24494 - Abatement Notice	No Further Action
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Comments: During unrelated monitoring it was found that earthworks and drainage works were being undertaken near a wetland in contravention of Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESF). An abatement notice was issued requiring all works to cease. An onsite meeting was held with the landowner. All earthworks had ceased and the landowner agreed to replace a culvert instead of carrying out further drainage works.

1 Apr 2022	3301-22-425 IN/44873	Foam in Waitaha Stream - Wills Road, Bell Block	Complaint	Un sourced (9768)			No Further Action
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Comments: A complaint was received concerning foam in the Waitaha Stream near Wills Road, Bell Block. Investigation found that there was a significant amount of foam in the stream. Extensive investigation of sites upstream could find no evidence of any unauthorised discharges. The stream cleared during the investigation. However a subsequent complaint about foam in the stream again, a few days later, was investigated further and a source of contamination was found (see IN/44928 in next Agenda report).

Non-compliant incidents for the period 23 Feb 2022 to 05 Apr 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
4 Apr 2022	3301-22-426 IN/44888	Dead cow in Waiwhakaiho River - Smart road	Complaint	Un sourced (9768)			No Further Action

Comments: A complaint was received concerning a dead cow in a river at a property at Smart Road, New Plymouth. Investigation found that the complainant had also called New Plymouth District Council, who had attended and had moved the cow to the river bank and had applied lime. The cow was too decomposed to remove. The owner could not be traced as there were no ear tags.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
7 Jul 2021 <u>Update</u>	332122-021 ENF-23167	Annual Inspection	Non-compliance	Ample Group Limited (52845)	R2/5176-2.0	EAC-24467 - Infringement Notice (\$750) EAC-24214 - Abatement Notice	No Further Action/Costs Recovered

Comments: During routine monitoring it was found that the data logger was not operational in contravention of resource consent conditions at a water abstraction site, Mountain Road, Stratford. An abatement notice was issued requiring the resource consent to be complied with at all times. Reinspection found that the data logger was still not operational and the abatement notice was not being complied with. A meeting was held with the Company and contractors were engaged immediately to fully install a telemetered system on the site to ensure compliance.

27 Sep 2021 <u>Update</u>	332122-032 ENF-23193	Annual Inspection	Significant non-compliance	WR & KL Smillie & BR Pascoe Farm Partnership (52091)	R2/1866-3.0	EAC-24219 - Abatement Notice	No Further Action/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Ngaro Road, Tariki. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection found that abatement notice was being complied with at the time of inspection.

12 Oct 2021 <u>Update</u>	332122-055 ENF-23218	Annual Inspection	Significant non-compliance	Irene Gladding (70288) Ngaro Partnership (70140)	R2/5718-2.0	EAC-24317 - Infringement Notice (\$750)	No Further Action At This Stage/Costs Recovered
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Comments: During the annual dairy inspection round, it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions and was also in contravention of Abatement Notice issued as a result of a previous non-compliance at Ngaro Road, Tariki. Reinspection found that the abatement notice was being complied with at the time of inspection.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>12 Oct 2021 Update</u>	332122-067 ENF-23253	Annual Inspection	Significant non-compliance	Kevin Uhlenberg (73125) KJ & HL Uhlenberg (Waitui) Family Trust Partnership (20442)	R2/1806-3.0	EAC-24463 - Infringement Notice (\$750)	No Further Action/Costs Recovered

Comments: During analysis of samples (10 November 2021), taken during the annual dairy inspection round (12 October 2021), it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and was also in contravention of Abatement Notice EAC-21801 issued as a result of a previous non-compliance at Rugby Road, Tariki.

<u>12 Oct 2021 Update</u>	332122-068 ENF-23251	Annual Inspection	Significant non-compliance	Kevin Uhlenberg (73125) KJ & HL Uhlenberg (Waitui) Family Trust Partnership (20442)	R2/3179-2	EAC-24503 - Infringement Notice (\$750) EAC-24305 - Abatement Notice	No Further Action/Costs Recovered
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Comments: During analysis of samples (10 November 2021), taken during the annual dairy inspection round (12 October 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Tariki Road, Tariki. An abatement notice was issued requiring works to be undertaken to ensure consent compliance. Reinspection found that the abatement notice was being complied with at the time of inspection.

<u>18 Oct 2021 Update</u>	332122-083 ENF-23313	Annual Inspection	Non-compliance	Garry Joseph Brophy (2550) Silver Bay Trust (69528)	R2/2486-3.0		No Further Action/Costs Recovered
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Comments: During analysis of samples (29 November 2021), taken during the annual dairy inspection round (18 October 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Bayly Road, Warea. At the time of inspection works had already be undertaken to cease the discharge. Reinspection found the system to be to be compliant with resource consent conditions.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>18 Oct 2021 Update</u>	332122-084 ENF-23315	Annual Inspection	Non-compliance	Gillett Farms Limited (30418) Troy & Hayley Gillett (31640)	R2/0258-3		No Further Action/Costs Recovered

Comments: During analysis of samples (29 November 2021), taken during the annual dairy inspection round (18 October 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Richmond Road, Inglewood. Reinspection found that the system was compliant with resource consent conditions.

<u>19 Oct 2021 Update</u>	332122-059 ENF-23228	Annual Inspection	Non-compliance	Peter John & Marilyn Lesley Joy Clegg (2442)	R2/2439-2	EAC-24425 - Infringement Notice (\$750) EAC-24288 - Abatement Notice	No Further Action/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Tariki Road, Inglewood. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection found that the abatement notice was being complied with at the time of inspection.

<u>22 Oct 2021 Update</u>	332122-086 ENF-23316	Annual Inspection	Non-compliance	A & S Pritchard (51722) Lepper Farms (34457)	R2/7775-3.0		No Further Action/Costs Recovered
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Comments: During analysis of samples (10 January 2022), taken during the annual dairy inspection round (22 October 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Manutahi Road, Lepperton. Reinspection found that the resource consent was being complied with at the time of inspection.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>26 Oct 2021 Update</u>	332122-087 ENF-23318	Annual Inspection	Non-compliance	C & A Dairies Limited (35738) Craig & Alice Knowles (33972)	R2/6358-2.0		No Further Action/Costs Recovered

Comments: During analysis of samples (10 January 2022), taken during the annual dairy inspection round (26 October 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Egmont Road, Kaimiro. Reinspection found that works had been undertaken and the system was compliant with the resource consent at the time of inspection.

<u>1 Nov 2021 Update</u>	332122-077 ENF-23249	Annual Inspection	Significant non-compliance	Beaufort Farm Trust (23628) Marcus Smith (16291)	R2/4347-2.1	EAC-24464 - Infringement Notice (\$750) EAC-24302 - Abatement Notice	No Further Action At This Stage/Costs Recovered
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Comments: During analysis of samples (16 November 2021), taken during the annual dairy inspection round (1 November 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Opunake Road, Cardiff. An abatement notice was issued requiring works to be undertaken to ensure compliance. Reinspection will be undertaken after 18 April 2022.

<u>24 Nov 2021 Update</u>	332122-091 ENF-23332	Annual Inspection	Non-compliance	Gary & Lucy Butler (1606) Lallybroch Trust (4500)	R2/4409-2		No Further Action/Costs Recovered
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Comments: During analysis of samples (11 January 2022), taken during the annual dairy inspection round (24 November 2021), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Upper Auroa Road, Hawera. Works had been undertaken to ensure compliance by the time the samples were analysed. Reinspection found the system to be compliant with resource consent conditions.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
30 Nov 2021 <u>Update</u>	332122-073 ENF-23278	Annual Inspection	Significant non-compliance	Coleraine Farms Limited (31958) Robert & Kathlene Amon (3468)	R2/4124-2	EAC-24506 - Infringement Notice (\$750) EAC-24505 - Infringement Notice (\$750) EAC-24348 - Abatement Notice EAC-24347 - Abatement Notice EAC-24344 - Explanation Requested - Letter EAC-24343 - Explanation Requested - Letter EAC-24342 - Abatement Notice EAC-24341 - Abatement Notice EAC-24339 - Abatement Notice EAC-24336 - Abatement Notice	No Further Action/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Beach Road, Waverley. Also contravention of rules in the Regional Fresh Water Plan for Taranaki (RFPW) were found. Abatement notices were issued requiring works to be undertaken to ensure compliance with resource consent conditions and rules in the RFPW. Reinspection found that the abatement notices were being complied with at the time of inspection. Letters requesting explanation were sent.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
1 Dec 2021 <u>Update</u>	332122-093 ENF-23333	Annual Inspection	Non-compliance	Brian Edward & Jocelyn Stephanie Hicks (1918) Godwilling Partnership (33854)	R2/1549-3		No Further Action/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Eltham Road, Stratford. Reinspection found that the system was compliant with resource consent conditions.

21 Dec 2021 <u>Update</u>	332122-079 ENF-23297	Annual Inspection	Significant non-compliance	John & Fiona Henschman (3879)	R2/1519-3	EAC-24472 - Infringement Notice (\$750) EAC-24365 - Explanation Requested - Letter	Investigation Continuing
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and in contravention of Abatement Notice EAC-24213, which was issued as a result of a previous non-compliance. A letter of explanation was received. Reinspection found that the system was still not compliant. Further enforcement action is being considered.

20 Jan 2022 <u>Update</u>	332122-094 ENF-23337	Annual Inspection	Significant non-compliance	Francis Mullan (2715)	R2/0968-3	EAC-24507 - Infringement Notice (\$750)	No Further Action/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Kahui Road, Okato. Reinspection found that the system was compliant with resource consent conditions.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
<u>28 Jan 2022 Update</u>	332122-104 ENF-23377	Annual Inspection	Non-compliance	KCCG Sole Trust (13102) Kenneth Geoffrey & Christine Joy Sole (15149)	R2/1867-3		No Further Action/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Pungarehu Road, Pungarehu. Reinspection found that the system was compliant with resource consent conditions

<u>3 Feb 2022 Update</u>	332122-103 ENF-23375	Annual Inspection	Non-compliance	Joblin Partners Limited (35408)	R2/7056-1		No Further Action At This Stage/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the dairy effluent oxidation system was not operating within resource consent conditions. A change of consent conditions have been applied for to ensure compliance.

<u>16 Feb 2022 Update</u>	332122-100 ENF-23365	Annual Inspection	Significant non-compliance	Gwen-May Trust (52113) John Foreman (52114) Marlene Foreman (52115)	R2/3558-2	EAC-24509 - Infringement Notice (\$750) EAC-24427 - Abatement Notice	No Further Action/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Hursthouse Road, Inglewood. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection found that abatement notice was being complied with at the time of inspection.

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
16 Feb 2022 <u>Update</u>	332122-101 ENF-23369	Annual Inspection	Non-compliance	T & M Hill Limited (30654)	R2/3021-2	EAC-24512 - Infringement Notice (\$750) EAC-24429 - Explanation Requested - Inspection Notice	No Further Action/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Meremere Road, Mokoia. The resource consent is due for renewal December 2022 and has been approved for an early renewal to request an increase in number of cows permitted to ensure compliance.

18 Feb 2022 <u>Update</u>	332122-105 ENF-23374	Annual Inspection	Significant non-compliance	Mitchell Family Trust (22004) Paul Mitchell (24675)	R2/5776-2.0	EAC-24449 - Abatement Notice	Investigation Continuing
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and was also in contravention of Abatement Notice EAC-23837 issued as a result of a previous non-compliance, at Rakaupiko Road, Patea. Further enforcement action is being considered.

Compliance Monitoring – Non-compliances for the period 23 Feb 2022 to 05 Apr 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
24 Feb 2022	332122-111 ENF-23423	Annual Inspection	Non-compliance	Simon Lynskey (31635)	R2/1740-3	EAC-24477 - Abatement Notice	No Further Action At This Stage/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Surf Highway, Oeo. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 17 April 2022.

28 Feb 2022	332122-108 ENF-23427	Annual Inspection	Non-compliance	Bruce Grindlay (70662)	R2/1827-3	EAC-24480 - Abatement Notice	No Further Action At This Stage/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Omuturangi Road, Hawera. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 30 April 2022.

1 Mar 2022	332122-107 ENF-23424	Annual Inspection	Non-compliance	Multigrain Limited (51654)	R2/1958-3.0	EAC-24478 - Abatement Notice	No Further Action At This Stage/Costs Recovered
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Oeo Road, Auroa. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 30 April 2022

Compliance Monitoring – Non-compliances for the period 23 Feb 2022 to 05 Apr 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
1 Mar 2022	332122-109 ENF-23428	Annual Inspection	Non-compliance	Te Kete Partnership (3352)	R2/3557-2	EAC-24481 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Oeo Road, Manaia. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 30 April 2022.							
7 Mar 2022	332122-114 ENF-23429	Annual Inspection	Non-compliance	Riplin Land Company Limited (54407)	R2/1398-3.1		No Further Action/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Patiki Road, Pihama. Works were immediately undertaken to ensure consent compliance. Reinspection found that the system was compliant with resource consent conditions.							
9 Mar 2022	332122-110 ENF-23417	Annual Inspection	Non-compliance	Denis James & Raewyn Edna Gladys Goodwin (2605)	R2/2628-3.0	EAC-24459 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Goodwin Road, Okato. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 1 December 2022.							

Compliance Monitoring – Non-compliances for the period 23 Feb 2022 to 05 Apr 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
10 Mar 2022	332122-115 ENF-23445	Annual Inspection	Significant non-compliance	Ihaia Te-Mara Trust (20380) James Langton (30120)	R2/3764-2		Investigation Continuing
<p>Comments: During the annual dairy inspection round it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions and in contravention of Abatement Notice EAC-23180, issued as a result of a previous non-compliance at Ihaia Road, Oponake. Reinspection found the system to be compliant with resource consent conditions and the abatement notice. Further enforcement action is being considered.</p>							
14 Mar 2022	332122-113 ENF-23432	Office Assessment	Non-compliance	New Plymouth District Council (9565)	R2/7882-1.1	EAC-24486 - Abatement Notice	No Further Action At This Stage/Costs Recovered
<p>Comments: During analysis of groundwater level data it was found that following several large rainfall events, groundwater levels rose to levels that resulted in the contravention of special condition 3a of Resource Consent 7882-1.1, at the Mangapouri Cemetery, Junction Road, New Plymouth. An abatement notice was issued requiring resource consent conditions to be complied with. Compliance will be ascertained after 30 September 2022.</p>							
16 Mar 2022	332122-116 ENF-23426	Annual Inspection	Non-compliance	Timothy Fleming (51912)	R2/3708-3.0	EAC-24479 - Abatement Notice	No Further Action/Costs Recovered
<p>Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Lower Parihaka Road, Rahotu. An abatement notice was issued requiring works to be undertaken to ensure consent compliance. Reinspection found that the abatement notice was being complied with.</p>							

Compliance Monitoring – Non-compliances for the period 23 Feb 2022 to 05 Apr 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
23 Mar 2022	332122-112 ENF-23433	Annual Inspection	Non-compliance	Beardmore Family Trust No 2 (29313)	R2/2473-3.0	EAC-24497 - Abatement Notice	No Further Action At This Stage/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on South Road, Rahotu. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 1 December 2022.

30 Mar 2022	332122-117 ENF-23446	Annual Inspection	Non-compliance	Buckthought Kelvin Farm Limited (27865) Kelvin Buckthought (3903)	R2/3713-2		Investigation Continuing
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Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Skeet Road, Kapuni, Manaia. Enforcement action is being considered.



Date 26 March 2022

Subject: **Prosecution Sentencing Decision – Herd Properties Limited**

Approved by: A D McLay, Director - Resource Management
S J Ruru, Chief Executive

Document: 3001114

Purpose

1. The purpose of this memorandum is to update Members on the prosecution of Herd Properties Limited for breaches of the Regional Air Quality Plan for Taranaki. This involved a discharge of offensive levels of dust, from an exposed subdivision site, across a main state highway and into a residential area.

Executive summary

2. The Council responded to complaints about the discharges, undertook a thorough investigation and applied the Council's Enforcement Policy (2017). Non-compliance by Herd Properties Ltd has been ongoing with abatement notices and infringement notices issued, without a change in behaviour. A prosecution was the next step under the Council's Enforcement Policy.
3. The result is a guilty plea and successful prosecution with a reasonable fine. The sentencing decision provides insight into the rationale for the decision.

Recommendation

That the Taranaki Regional Council:

- a) receives this report and notes the successful outcome of the prosecution of Herd Properties Limited.

Background

4. The environmental incidents were considered by the Chief Executive, acting under delegated authority from the Council, and the decision to prosecute was presented to the Committee, for information purposes, on 20 July 2020.

Incident

5. Non-compliance by Herd Properties Ltd has been ongoing with abatement notices and infringement notices issued, without a change in behaviour. A prosecution was the next step under the Council's Enforcement Policy.
6. In summary, the prosecution relates to the discharges of offensive levels of dust, from an exposed subdivision site, across a main state highway and into a residential area in Bell Block, New Plymouth, and contravention of an abatement notice.
7. This resulted in significant adverse effects across the main highway, hazardous driving conditions, and dust throughout a close by subdivision that took residents days to clean up.

Prosecution update

8. The defendant pleaded guilty to the two charges against them. Sentencing was passed on 4 February 2022 and notes of Judge Dickey on the sentencing are attached. The rationale for the decision is set out in the judgement and a number of factors are considered in determining the sentence. The fine reflects the seriousness of the incident.
9. The Court extensively used Council scientific evidence in its deliberations. There were several systematic failures, resulting in the adverse discharges. Further details are set out in the decision.
10. Herd Properties Limited were fined \$48,750 for the two charges, which is a reasonably high fine for a dust discharge and the first prosecution for a dust discharge in the region.

Decision-making considerations

11. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

Financial considerations—LTP/Annual Plan

12. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

13. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

14. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-

term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

15. Te Atiawa Iwi and Puketapu Hapu have actively been involved in the prosecution and a victim impact statement was provided and referred to by the Court.

Community considerations

16. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

Legal considerations

17. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

Document 2983442: Herd Properties - Sentencing Decision of Judge MJL Dickey 04-02-22

**IN THE DISTRICT COURT
AT NEW PLYMOUTH**

**I TE KŌTI-Ā-ROHE
KI NGĀMOTU**

**CRI-2020-043-001362
via AVL
[2022] NZDC 1265**

TARANAKI REGIONAL COUNCIL
Prosecutor

v

HERD PROPERTIES LIMITED
Defendant

Hearing: 12 October 2021
Appearances: K de Silva for the prosecutor
S Hughes QC for the defendant
Judgment: 4 February 2022

SENTENCING DECISION OF JUDGE MJL DICKEY

Introduction

[1] The defendant has pleaded guilty to two charges. The first relates to permitting a contravention of ss 15(2A) and 338(1)(a) of the RMA on 17 March 2020 by discharging a contaminant, namely dust, into the air in a manner that contravenes a regional rule, namely Rules 43 and Rule 44 of the Regional Air Quality Plan for Taranaki.¹ The second relates to permitting a contravention of an abatement notice dated 24 December 2019 contrary to s 338(1)(c) of the RMA on 17 March 2020.²

¹ CRN 20043500423.

² CRN 20043500422. The charging document was amended to delete the words “contravened or”.

[2] The maximum penalty applicable for each charge is a fine not exceeding \$600,000.

[3] Ms de Silva, for the Taranaki Regional Council, proposed a starting point of \$40,000 to \$50,000 and \$20,000 to \$25,000 for the discharge and abatement notice offences respectively. For the defendant, Ms Hughes proposed a starting point of \$35,000 to \$45,000 and \$20,000 to \$25,000 for the offences.

The site³

[4] The discharge of dust occurred from a property being developed for an industrial/commercial subdivision (**the site**) at 812 Devon Road (State Highway 3), Bell Block, New Plymouth.⁴ The site is approximately 6.5 hectares and was purchased by Herd Properties in August 2016. At the time of purchase the site was grass covered and used primarily for pastoral grazing.

[5] To the west of the site are industrial properties that have been largely established within the last 5 – 10 years and land that is currently being developed and which contains bare unstabilised ground. To the north-west of the site is a residential subdivision known as The Links. The township of Bell Block is located to the north east of the site.

[6] The area within which the site is located is zoned industrial by the District Plan 2002.

Statutory Framework⁵

[7] Permitted Activity Rule 26 of the Regional Freshwater Plan for Taranaki (**RFWP**) permits the discharge of stormwater and sediment deriving from soil disturbance activities of between one and eight hectares subject to specified standards/terms/conditions. Controlled Activity Rule 27 of the RFWP requires a

³ Agreed Summary of Facts at [4]-[9].

⁴ Christopher Herd holds the Subdivision Consent granted by the New Plymouth District Council.

⁵ Agreed Summary of Facts at [16]-[20].

resource consent to be held for the discharge of stormwater from soil disturbance activities if Rule 26 cannot be complied with.

[8] Permitted Activity Rule 43 of the Regional Air Quality Plan for Taranaki (RAQP) permits “*Discharges of contaminants to air from earthworks that exposes a contiguous area of soil of 4 hectares or less, at any one time*” subject to specified standards/terms/conditions. Controlled Activity Rule 44 of the RAQP requires a resource consent for “*Discharges of contaminants to air from earthworks that exposes a contiguous area of soil of more than 4 hectares, at any one time.*”

Chronology of events⁶

2018

[9] Earthworks commenced in approximately 2018. These works involved the creation of a flat building platform of approximately 17,925 m². The surface was exposed clay and was not stabilised.

2019

[10] Earthworks recommenced at the site in 2019. These works involved the continued development of a flat building platform and the establishment of an earth surfaced access road into the site. After these earthworks, the flat part of the site closest to Devon Road and which is approximately 14,400m² was stabilized by a layer of metal being spread evenly across this part of the site.

October

[11] On 25 October 2019, following a complaint, an inspection of the site was undertaken by a Council Enforcement Officer. He found that significant volumes of dust were discharging beyond the boundary of the site, and silt was observed discharging into the road side curb and into the stormwater system. Approximately 5.1 hectares of soil was exposed as a result of the earthwork activities at the site. No resource consents authorised the earthworks.

⁶ Agreed Summary of Facts at [10]-[15], [22]-[32], [34], [36]-[58].

November

[12] On 4 November 2019 abatement notice EAC-22989 was issued to Christopher Herd. The notice required Mr Herd to undertake works to comply with Rule 26 of the RFWP by 4 November 2019 and comply with Rule 44 of the RAQP by 30 November 2019.

[13] The Council issued infringement notices to Herd Properties for non-compliances found on 8, 12, and 20 November 2019.

December

[14] By approximately December 2019 earthworks had resulted in 27,800 m² of exposed area.

[15] In December 2019 aggregate was applied to the surface of approximately 15,000m² of the site immediately adjacent to Devon Road. The aggregate was stabilised; there was no visible dust leaving the area covered in aggregate.

[16] However, the Council issued infringement notices to Herd Properties for non-compliances found on 3, 21, 23, 24, and 29 December 2019.

[17] On 3 December 2019 a reinspection of the site found contravention of abatement notice EAC-22989: earthworks were continuing; sediment controls were insufficient; and no action had been taken to comply with Rule 44 of the RAQP.

[18] On 4 December 2019 a further abatement notice (EAC-23044) was issued to Christopher Herd and an abatement notice (EAC-23045) was issued to Burgess Crowley Civil Ltd, the earthworks contractor at the site. The notices required: “*cease earthworks and do not recommence until Rule 26 of the Regional Freshwater Plan for Taranaki and Rule 44 of the Regional Air Quality Plan for Taranaki can be complied with.*” Burgess Crowley Civil Limited did not do further work at the site from December 2019.

[19] On 23 December 2019, in response to multiple complaints, an inspection of the site was undertaken by a Council Enforcement Officer. She found that inadequate dust suppression measures were being used and objectionable dust was found to have discharged beyond the site boundary.

[20] On 24 December 2019 a Council Enforcement Officer inspected the site at 5.40pm in response to multiple complaints about discharge of dust and found application of a dust suppressant polymer to the exposed earth and metallated area had just begun.

[21] On 24 December 2019 a Council Officer recommended that Herd Properties get expert advice on dust control. The same day it engaged an expert, Mr Robert Coulson of RST Environmental Solutions. Mr Coulson recommended *Envirobinder* and provided advice about the volume of product required and the application method. Herd Properties purchased 1,000 litres of *Envirobinder* from RST Environmental Solutions on the afternoon of 24 December 2019.

[22] On 24 and 25 December 2019 1,080 litres of *Envirobinder* was applied in 28,000 litres of water to 22,000 m² of bare clay.

[23] Mr Coulson provided a statement. He set out the advice he provided and noted that his advice was not followed: approximately 2,150 litres of product should have been applied in 40,850 litres of water as a minimum, the site should have been monitored after five weeks, and if the product started to break down further product should be applied. Mr Coulson had not inspected the site. Mr Coulson's opinion was based on photographs of the site and other information provided by a Council Officer.

[24] Also on 24 December 2019, Herd Properties contacted Mr Hunte, the Operations Manager of Appchem Groundspray (a company that provides solutions to prevent dust on development sites), and asked for advice and a solution for the discharge of dust. Herd Properties instructed Mr Hunte to undertake regular inspections of the site.

[25] On 24 December 2019 abatement notices were issued to Herd Properties (EAC-23085), Christopher Herd (EAC-23086), and to Simon Herd (EAC-23087). All three notices required the recipients to “*Ensure that no objectionable or offensive dust discharges beyond the boundary of the site*”. The second charge relates to permitting a contravention of this abatement notice.

2020

January

[26] The Council issued an infringement notice to Herd Properties for a non-compliance found on 3 January 2020.

[27] On 19 January 2020 a resource consent application from Herd Properties was received by Council seeking a discharge consent pursuant to Rule 44 of the RAQP. Christopher Herd is named as the contact for Herd Properties. The application states that the polymer GRT: Envirobinder is to be used.

February

[28] On 18 February 2020 Resource Consent 10815-1.0 was issued to Herd Properties. The consent authorised, subject to conditions, the “*discharge of contaminants (dust) to air from earthworks associated with the development of an industrial/commercial subdivision*”.

March

[29] On 14 and 15 March 2020 people entered the site without permission and drove a buggy and dirt bikes on the site and damaged the polymer that had been applied by Herd Properties for dust control. The gate at the main entrance at this time had been vandalized and was unusable.

[30] The site could be accessed by the buggy and dirt bikes because parts of the site had inadequate fencing to keep the public out. To access the site the riders had cut the silt control fencing and bridged a silt control drain at the bottom of a dirt bund. There

were no signs stating that the site was private property and that members of the public were not allowed to access the site.

[31] Mr Hunte found that the polymer membrane had been compromised on 14 and 15 March 2020 by the buggy and bikes.⁷ Mr Hunte decided to re-treat the site as soon as possible when the next batch of polymer arrived. The polymer arrived on 19 March 2020, two days after it was supposed to be delivered, but was only half of the quantity ordered.⁸

[32] On 17 March 2020 the Council received 19 complaints from members of the public about discharge of dust from the site. New Zealand Police were also notified of the dust discharges due to the reduced visibility that motorists were experiencing when commuting past the site.

[33] In response to the complaints, a Council Enforcement Officer undertook an inspection of the site. A series of photographs and videos were taken by Council Enforcement Officers and complainants. At the time of the inspection the weather was clear, with no rainfall and a medium to strong south-easterly wind.

[34] The Officer found that large plumes of dust were discharging from the site in a north-westerly direction. The dust was discharging across Devon Road (State Highway 3) and dispersing throughout large areas of The Links residential subdivision. Objectionable levels of dust were found to be discharging on a near constant basis from 8.20am through to approximately 4.00pm.

[35] Christopher Herd was notified at approximately 9.00am that further dust controls were required at the site. At approximately 1.18pm the first water truck arrived, however the rate of application was insufficient to reduce the dust discharge from the site. A second water truck arrived at 3.30pm. Dust discharge from the site began reducing upon the application of water to the exposed surfaces from both water trucks. 1,500 litres of *Stabil-X* was added to the water trucks. The application of

⁷ Affidavit of Daniel Charles Hunte affirmed 6 October 2021 at [27] and [28].

⁸ Affidavit of Daniel Charles Hunte affirmed 6 October 2021 at [29].

Stabil-X was very unsuccessful and the large water trucks driving around the site were not helpful.

[36] On 18 March 2020 the Council sent a letter to Herd Properties asking for an explanation of the circumstances surrounding the incident.

[37] On 19 and 20 March 2020 910 litres of Gravel Locks CSC polymer was applied in 30,000 litres of water to 24,000 m² of bare clay.

May

[38] On 29 May 2020, an email from Simon Herd explained as follows (*sic*):

Our reply to this is simple. We tried a batch of polymer at considerable cost, but it was ineffective. The wind on this day was especially fierce, and from a different direction to the previous wind we finally were able to manage. As soon as we got this complaint, we handed the dust management control of the whole site to a professional spraying company who has kept it fully in control since. We will continue to engage them so the issue does not occur again.

October

[39] On 6 and 7 October 2020 720 litres of Gravel Locks CSC polymer was applied in 28,000 litres of water to 24,000 m². There was a verified complaint about dust from the site on 7 October 2020. The Council issued an infringement notice for breach of the abatement notice EAC-23085 for this date.

December

[40] There was a verified complaint about dust from the site on 1 December 2020. On 1 December 2020 720 litres of Gravel Locks CSC polymer was applied in 18,800 litres of water to 18,000 m². The Council issued an infringement notice for breach of the abatement notice EAC-23085 for this date.

Sentencing principles

[41] The purposes and principles of the Sentencing Act 2002 are relevant. The High Court in *Thurston v Manawatu Wanganui Regional Council*,⁹ provides a useful summary of the approach to be taken to sentencing, which includes consideration of culpability; precautions taken to prevent discharges; the vulnerability or importance of the affected environment; extent of damage; deterrence; capacity to pay a fine; disregard for abatement notices; co-operation and guilty pleas.

Environmental effects

[42] Mr Gary Bedford,¹⁰ Director of Environment Quality, provided a report¹¹ on the effects of the discharge of dust on the environment. Mr Bedford found that the discharge exceeded the consent limit by much more than 300 times within the neighbouring properties. He also is of the view that the discharge breached the consent requirement that discharges to or from the site not give rise to any offensive, objectionable and noxious levels of dust at or beyond the property. He states:

... It is apparent on viewing a number of the photographs, that a dense cloud of dust was visible well beyond the boundary of the development, and therefore the photographs capture a clear breach of the quantitative standard imposed within the Consent. ...

... while over a short period of time, the cumulative amount of dust depositing even at above the consented rate might be inconsequential, deposition at the same rate over an extended period would result in unacceptable total deposition.

... I have reviewed the photographs of households in the evidence folder and it is my considered opinion that the discharge from the Herd development exceeded the Consent limit of 0.13g/m²/day by much more than 300 times within the neighbouring residential properties, with my best estimate being that the deposition approximated to between 300 and 900 times greater than allowed. (This is based on the assumption that the deposition visible in the site photographs occurred in the course of a single day).

The dust cloud as recorded also gives rise to a breach of the more general Consent requirement that any discharge to air from the site not give rise to any

⁹ *Thurston v Manawatu Wanganui Regional Council* HC Palmerston North CRI-2009-454-24, -25, -27, 27 August 2010.

¹⁰ Mr Bedford holds a Bachelor of Science degree from the University of Auckland, a Master of Applied Science degree from the University of New South Wales, and a postgraduate Diploma in Science in environmental science.

¹¹ Report on environmental effects of dust discharges arising from Herd Properties Ltd – 17 March 2020.

offensive, objectionable, noxious, ... levels of dust at or beyond the boundary of the property. ... The effects need not be associated only with a direct physical impact upon a recipient, either bodily or upon their property and possessions, as long as the nature of the event would be considered unacceptable or intolerable to a reasonable and average person.

While the exposure on the day is being regarded by the Council as a single episode (one day) observed during ‘business hours’ involving a contaminant that is relatively inert (soil-derived dust), these three factors do not preclude it being found to be offensive and objectionable. Key factors to be considered are that the dust exposure was of high intensity, and it lasted for longer than a brief moment or two (the factor of duration). ... the event continued for more than 7.5 hours at least. While the dust originated from an area that was at least in part industrial, and hence might be relatively more acceptable in that locality, it blew immediately into a residential area, where inhabitants could reasonably be expected to be able to enjoy outdoor activities such as hanging out washing, children playing outside under parental supervision, gardening, or simple relaxation and enjoyment of an external environment, free from hindrance or impairment (the factor of location).

... It is my opinion, based on my experience professionally and personally, that a dust cloud of the density evidenced in the photographs is likely to cause irritation in the nose, throats and breathing and swallowing passages of people exposed to such a cloud even if exposure was to be of short duration. Persons with existing chronic conditions such as asthma or impaired lung function would potentially experience more significant adverse effects, depending on whether they were able to take evasive action (which would mean their normal expectation around freedom of movement and activity would have been compromised).

[43] The Court was provided with 10 victim impact statements.¹² The statements describe the events of the discharge on 17 March 2020 and earlier dates. The victims’ descriptions and reported effects of the 17 March 2020 discharge include:

From Statement 2

On the morning of the 17th of March, I went outside in the dark to get the morning paper and once I got back inside I had to wash my eyes out with water because of the dust all through them. ... we had left the toilet window on the latch (open about a cm at most) and when I walked in to the toilet the entire room was absolutely filthy with brown dust. ... We have had other developments, ... the old folks village next door (Summerset), but we have had no other dust issues ... My wife has so far spent over 12 hours just cleaning dust up from around the house, and we’ve probably spent around 2 hours just washing dust off the cars.¹³

From Statement 4

On the 17th of March 2020, my husband and I looked out of the window first thing in the morning and could see the dust from the site. It was blowing dark brown, and it’s what I imagined a tornado would like but not quite as fierce

¹² Counsel agreed that the identity of the victims need not be disclosed.

¹³ Statement 2 dated 27 March 2020.

and more blowing than twirling. ... at times we couldn't even see the road, so we shut all the windows, ... It still seeped into the house, ... On the 17th I had to spend 3 hours cleaning, and have probably spent another 4 or 5 hours since then cleaning the dust.¹⁴

From Statement 5

On the 17th of March 2020, I first noticed a haze of dust coming from the site and going across the road around quarter to 7 when I was driving to work. When I drove home for lunch ... I looked down and couldn't even see the road or the Bell Block overbridge. ... The first few houses on Links Drive would have been covered. At my home, there was a slight dusting in the front of the garage, you could tell dust was around but we were on the outskirts as the dust had gone down Link Drive not so much Kotere Drive. After the 17th we had to hose our house down, which took an hour and a half. It badly dusted the house, around the garage and on the roof.¹⁵

From Statement 8

When I went to the section of farmland I look after next door, I was breathing in dust. ... it was like being in a dust storm with almost constant great clouds of dust coming off the site.¹⁶

From Statement 10

On the 17th of March 2020, I was driving north past the development at 11.45a.m ... You couldn't see 15 metres in front of you. ... You couldn't see through the dust. ... Visibility was really poor. I chose to turn up the Golf Course using the slip lane, ... I know you're not supposed to do that. I was worried about my safety and I wanted to get to a slower speed.¹⁷

[44] Ms de Silva submitted the adverse effects were significant. She noted that the discharge continued for 7.5 hours, the dust clouds were dense, the dust deposited inside and outside houses, the dust reduced visibility for motorists travelling past the site, and there were a significant number of complaints (19 in total).

[45] Herd Properties accepted that dust escaped from the site despite its best endeavours. Ms Hughes submitted the cause of the dust was, however, the unlawful entry onto the site of a dune buggy rider and, thereafter, persons on motorbikes. She submitted had these unlawful entries not occurred, then there is no reason to believe that the polymer would not have been maintained. She noted that an order for extra polymer had already been placed and was anticipated to be delivered on 16 March, the day before the events giving rise to these charges.

¹⁴ Statement 4 dated 1 April 2020.

¹⁵ Statement 5 dated 1 April 2020.

¹⁶ Statement 8 dated 30 March 2020.

¹⁷ Statement 10 dated 31 March 2020.

[46] Mr Coulson’s opinion that inadequate polymer was applied was rejected. Ms Hughes submitted that, given the absence of complaints between December 2020 and March 2021, it is clear that the polymer was successful.

[47] Ms Hughes highlighted that the victim impact statements merge complaints regarding the discharge on 17 March with the earlier incidents occurring in December, and the defendant is only charged in relation to the March incident.

Conclusion on effects

[48] There is no doubt that the large amount of dust swept up by wind from the site on that day in March was confronting for nearby residents and motorists. The photographs graphically demonstrate its density and magnitude. It continued from early morning to late afternoon. Sizable amounts of dust were deposited on houses, courtyards and driveways and affected nearby residents. Some residents had to spend a considerable amount of time cleaning their properties.

[49] I find that the discharge of dust on the day of the offending was offensive, noxious and objectionable. It had a significant impact on the amenity of those occupying neighbouring houses.

Culpability

[50] Ms de Silva submitted there is a high degree of culpability for the following reasons:

- (a) the history of non-compliance and complaints between 25 October 2019 and 6 February 2020. The victim impact statements also describe the adverse effects prior to 17 March 2020;
- (b) Herd Properties was on notice from the Council through discussions with Council staff, the detailed inspection notices, the abatement notices issued on 4 November, 4 December and 24 December 2019, and the nine infringement notices for discharges;

- (c) the site is flat, exposed, and at times there is wind, and therefore discharge of dust is foreseeable;
- (d) Herd Properties could, and should, have taken steps when it commenced earthworks at the site to get expert advice on all necessary steps to reduce the discharge of dust. Instead, it delayed getting expert advice until 24 December 2019. Despite the steps taken from 24 December 2019, in addition to the discharge of dust on 17 March 2020 there were discharges on 29 December 2019, 3 January 2020, and further discharges on 7 October and 1 December 2020, resulting in issue of infringement notices;
- (e) the method of dust suppression was entirely up to Herd Properties. The Council could only make suggestions, and should not and could not dictate to the defendant what steps it should take.¹⁸ The responsibility was on the company to engage an expert to find and implement a solution.

[51] Ms de Silva submitted the development of the subdivision is a commercial operation to make money and the company had a duty to take all necessary steps to protect the environment and comply with the resource consent.

[52] Ms Hughes submitted that:

- (a) the company made significant efforts in the time leading up to the offending to address the issues at the site. The defendant had expended a sum in excess of \$150,000 in applying metal to the site to try and contain the dust. It had also endeavoured to use water as a dust suppressant, but unsuccessfully so;
- (b) it was accepted the company was on notice given the receipt of the abatement notices, and took steps to avoid further incidents;
- (c) the topography of the site, and its wind issues, were not apparent to the defendant; and

¹⁸ *Taranaki Regional Council v Fonterra Ltd* [2015] NZDC 14962 at [31], the Court pointed out (in response to Fonterra attributing a degree of blame for what happened to the Regional Council) that it was not the Regional Council's job to act as technical advisor to Fonterra and to do so, might have compromised its regulatory responsibility.

- (d) Herd Properties could not foresee the trespass onto the site and the consequences of that.

[53] Ms Hughes submitted the site at this stage is a bare site that has had considerable capital investment. Eventually it will be developed for profit, however it cannot logically be said that the dust issues arose from an effort to maximise profit and minimise expense.

[54] The Court was provided with an affidavit of Mr Daniel Hunte.¹⁹ The affidavit describes the steps Mr Hunte and the company took to contain dust on the site from 24 December 2019, including trying to water the site with large water trucks (which he determined would not be a practical solution to the problem), purchasing polymer and engaging Mr Hunte to monitor the site and remediate as required. Mr Hunte was of the view that at no point did the Herd's hold back or hesitate in its attempts to have the dust issues properly resolved. He hoped the Court would see the commitment made by the company and Appchem to immediately remediate the problems, as and when they could, to the very best of their ability and knowledge as soon as possible.

Conclusion on culpability

[55] The company has clearly had a chequered enforcement history with regard to its management of dust on the site. It had belatedly taken advice and implemented measures to address the issues from late December 2019 to March of 2020, and from 4 January 2020 dust issues appeared to have been largely resolved. However, further issues arose when the dirt bikes and buggy broke into the site on 14 and 15 March and disrupted the polymer. While Herd Properties responded relatively promptly to the issue, it could not obtain a new delivery of polymer in time to remedy the problem. That is regrettable. In that intervening period it could, however, have put in place some measures to ensure there was no discharge of dust; for example, a regular programme of watering the exposed surfaces until the polymer arrived and it could have had water trucks on standby, among others. I am concerned that it took over four hours for the first water truck to arrive on site on the day of the offending, and that

¹⁹ Affirmed 6 October 2021.

only one truck was called. The site is large and the amount of dust generated on that day was significant.

[56] It must also be observed that Herd Properties could have taken better care to ensure the security of its site; signage warning against entry and secure fencing could have prevented entry to the site. Maintaining site security is also important from a health and safety perspective.

[57] In all the circumstances I determine that Herd Properties did not take sufficient care of the site or pay adequate regard to its environmental responsibilities. However, I do take notice of the unlawful trespass onto its site, and the damage done, in determining culpability. I place its culpability as moderate.

Starting point

[58] In support of the proposed starting point Ms de Silva referred me to *Bay of Plenty Regional Council v Waimea Consultancy Ltd & HEB Contractors Ltd (Waimea & HEB Contractors)*²⁰ and *Northland Regional Council v Hick Bros Civil Construction Ltd (Hick Bros)*.²¹

[59] *Waimea & HEB Contractors* involved one charge relating to dust nuisance incidental to earthworks. HEB was tasked with providing water to ensure prevention of a dust nuisance. The Court found HEB to have been neglectful and convicted and fined HEB \$20,000. In *Hick Bros*, the charge was discharging sand and organic material into the air on four occasions. The offending was described as reckless – there were insufficient dust suppression measures, insufficient use of water trucks and protective fencing. The Court found there was a loss of amenity to residents, who had to clean up dust and other material. The Court set a starting point of \$30,000. Having referred to these cases, Ms de Silva submitted a significantly higher fine is required here because of the higher culpability and the significant adverse effects.

²⁰ *Bay of Plenty Regional Council v Waimea Consultancy Ltd & HEB Contractors Ltd* DC Tauranga CRN 8070022442, 27 September 1999.

²¹ *Northland Regional Council v Hick Bros Civil Construction Ltd* DC Whangarei CRI-2006-088-909, 20 November 2006.

[60] Further, Ms de Silva submitted there should be a separate starting point for the abatement notice offence. While the two offences arose out of the same incident, Ms de Silva submitted that the High Court’s approach in *Thurston* should be applied and there should be a separate starting point for the abatement notice offence. Counsel referred to *Southland Regional Council v Dodds*²² in which the District Court said:

Turning to the charge of breach of abatement notice, I record the Court’s common observations that such breaches are inherently serious matters in and of themselves and warrant the imposition of penalties which deter non-compliance with legally issued Council notices. Abatement notice penalty considerations without any particularly aggravating factors commonly range in the \$20,000-\$30,000 range.

[61] Ms de Silva noted that in a number of cases the Courts have held that the increase in maximum penalties in October 2009 is a clear signal for an increase in fines.²³

[62] Ms de Silva submitted there is a need for general deterrence to encourage developers and contractors to ensure that all necessary steps are taken to avoid discharge of dust in breach of conditions in resource consents.

[63] The Council issued nine infringement notices prior to the date of the offences and two notices after the date of the offences. Ms de Silva submitted that this should be taken into consideration in setting the starting point or there should be an uplift for these infringement notices.

[64] Ms de Silva submitted that the starting point for the discharge offence should be in the range of \$40,000-\$50,000, and the starting point for the contravention of abatement notice should be in the range of \$20,000-\$25,000.

[65] Ms Hughes did not accept that the offences should attract a significantly higher fine because of higher culpability and the significant adverse effects (as characterised by the prosecution). Ms Hughes submitted that, factored against all of these matters has to be the fact that the mitigation measures taken by the company in December had

²² *Southland Regional Council v Dodds* [2021] NZDC 16836 at [16].

²³ *Taranaki Regional Council v Remediation (NZ) Ltd* DC New Plymouth CRI-2010-043-2334, 17 November 2010 at [33]; *Sowman v Marlborough District Council* [2020] NZHC 1014 at [65].

been perfectly effective until the polymer was breached by the illegal actions of third parties, namely those operating the dune buggy and dirt bikes. In this regard, the pleas of guilty were entered in the context that the company could have foreseen the possibility of third parties gaining access to the site and potentially damaging the polymer. The company, had it anticipated the unlawful actions of third parties, could have done more to have secured the site and prevent such access.

[66] Ms Hughes submitted the starting point for the discharge offence should be in the range of \$35,000-\$45,000, and the starting point for the abatement notice breach should be in the range of \$20,000-\$25,000. The Court was reminded of the need to apply the totality principle to sentencing, particularly in circumstances such as these when both charges relate to the same event.

[67] I have considered the cases to which I was referred. There are similarities and differences but none are on all fours with this case. I have, however, been assisted by the *Dodds* case in its approach to breaches of abatement notices. I have found that the offending did give rise to an offensive, objectionable and noxious discharge, and that Herd Properties' lack of contingency planning to ensure dust suppression following the damage to the polymer directly contributed to the size and duration of the dust discharges. In setting the starting point I have taken into account the many infringement notices issued, as that was relevant to my determination of culpability.

[68] I adopt a starting point of \$45,000 for the discharge offence and \$20,000 for the abatement notice offence.

Aggravating and mitigating factors

Criminal record / evidence of good character

[69] The company has no previous convictions.

[70] The company acknowledged that abatement notices had been issued prior to the events of this prosecution. I again note Ms de Silva's submission that there should be an uplift for the infringement notices if not taken into consideration in setting the starting point. The infringement notices were taken into account in setting the starting

point, I will not therefore impose an uplift. However, recognising these infringement notices, I will not allow a discount for good character.

Guilty plea

[71] The charging documents were filed on 24 August 2020. The joint memorandum recording the position on guilty pleas was filed on 17 March 2021. Ms de Silva acknowledged that Herd Properties should be given a discount for the guilty pleas. Ms Hughes submitted the full credit for prompt guilty pleas should be allowed on the basis that, once she was instructed, there were steps taken to speak to the prosecutor ultimately resulting in certain charges being withdrawn and guilty pleas entered on those which remained. In the circumstances I allow a discount of 25 per cent for the guilty plea.

Remorse

[72] Ms de Silva submitted the efforts made by Herd Properties to address the issue fall into the category where no credit should be given, as described by the High Court in *Thurston*.²⁴

[73] Ms Hughes disagreed and submitted as follows:

- (a) Mr Hunte was regularly inspecting the site and found no breaches of the polymer up until the dune buggy and subsequent dirt bike incidents;
- (b) there is no evidence that the polymer was other than successfully containing the dust until these two incidents occurred;
- (c) in any event, the company had ordered extra quantities of polymer in the event that the original polymer was breached;
- (d) Mr Hunte records that his instructions were to take all steps to ensure that there be no further issue with dust;

²⁴ *Thurston* at [67]-[69].

- (e) such was the commitment of Herd Properties to mitigate the harm done that staff worked throughout the night of Christmas Eve and into the early morning hours of Christmas Day to ensure that a coating was applied;
- (f) a combination of the dune buggy, the dirt bikes, unexpectedly high winds, and a delayed shipment of polymer set the scene for the 17 March breach;
- (g) undoubtedly the company should have factored dust mitigation measures into its development plan.

[74] Ms Hughes made the point that the breach on 17 March was one which arose in circumstances where the company was unable to react quickly enough to the unlawful actions of third parties. She submitted the company was not cavalier or dismissive of the concerns of neighbours. Ms Hughes submitted that some credit should be given for the steps taken to mitigate the dust nuisance arising.

[75] Ms de Silva submitted the company has not taken steps to help affected people. She referred to victim impact statement 6, which refers to discussions with Mr Herd about the adverse effects, including laundry covered with dust and a swimming pool filled with dust, and an offer by Mr Herd to help with the cost of laundromat and pool expenses but disappointment that no help was given and “*so far it has all been words.*”²⁵

[76] The company regretted that the author of statement 6 considers that no steps were taken to assist those affected. Ms Hughes noted that it is only the author of this statement who makes such an allegation, and on reading the statement suggested it is plain that the complaints relate primarily to the 2019 incidents, although it was acknowledged that the complaints included the events of 17 March 2020 as well.

[77] I acknowledge the steps taken by Herd Properties in December 2019 to address the dust issues, however they are no more than what was required to ensure that dust was not discharged from the site. They or similar steps should have been implemented when earthworks first began. Further, steps taken after it was discovered the site had

²⁵ Statement 6 dated 27 March 2020.

been entered and the polymer compromised were inadequate. I am disinclined to allow any discount for remorse because I have not seen any concrete expression of it.

Outcome

[78] I have adopted the two-step sentencing methodology outlined by the Court in *Moses v R*.²⁶

[79] Accordingly, Herd Properties Limited is convicted and ordered to pay a fine of \$48,750. In terms of s342(2) of the RMA, I order that 90 per cent of the fine be paid to the Taranaki Regional Council.

Judge MJL Dickey
District Court Judge | Kaiwhakawā o te Kōti ā-Rohe
Date of authentication | Rā motuhēhēnga: 04/02/2022

²⁶ *Moses v R* [2020] NZCA 296 at [45] to [47].

AGENDA AUTHORISATION

Agenda for the Consents and Regulatory Committee meeting held on Tuesday 26 April 2022.

Confirmed:



14 Apr, 2022 4:36:10 PM GMT+12
A J Matthews
Director-Environment Quality

Approved:



15 Apr, 2022 5:54:35 PM GMT+12
S J Ruru
Chief Executive