

Notice is given that an ordinary meeting of the Regulatory Committee will be held on:

Date: Thursday 3 September 2020
Time: 9.30am
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street
Richmond

Regulatory Committee

AGENDA

MEMBERSHIP

Chairperson	Cr D Wensley	
Deputy Chairperson	Cr D Ogilvie	
Members	Mayor T King	Cr K Maling
	Deputy Mayor S Bryant	Cr C Mackenzie
	Cr C Butler	Cr D McNamara
	Cr M Greening	Cr T Tuffnell
	Cr C Hill	Cr A Turley
	Cr C Hutt	Cr T Walker

(Quorum 2 members)

Contact Telephone: 03 543 8455
Email: linda.atkins@tasman.govt.nz
Website: www.tasman.govt.nz

AGENDA

1 OPENING, WELCOME

2 APOLOGIES AND LEAVE OF ABSENCE

Recommendation

That apologies be accepted.

3 PUBLIC FORUM

4 DECLARATIONS OF INTEREST

5 LATE ITEMS

6 CONFIRMATION OF MINUTES

That the minutes of the Regulatory Committee meeting held on Thursday, 23 July 2020, be confirmed as a true and correct record of the meeting.

That the minutes of the Animal Control Subcommittee meeting held on Tuesday, 7 July 2020, be confirmed as a true and correct record of the meeting.

7 REPORTS

7.1	Dog Control Act Section 10A Report.....	5
7.2	Annual Compliance and Enforcement Summary Report	11
7.3	Chairperson's Report	29
7.4	Environment and Planning Manager's report	35

8 CONFIDENTIAL SESSION

Nil

7 REPORTS

7.1 DOG CONTROL ACT SECTION 10A REPORT

Information Only - No Decision Required

Report To:	Regulatory Committee
Meeting Date:	3 September 2020
Report Author:	Ross Connochie, Administration Officer - Regulatory
Report Number:	RC20-09-01

1 Summary

- 1.1 The Dog Control Act 1996 (DCA) Section 10A requires territorial authorities to publicly report on dog control policies and practices for each financial year. This report contains the information required under the DCA for the year 1 July 2019 to 30 June 2020. It is a requirement of the DCA that a copy of this report be made publicly available once adopted.

2 Draft Resolution

That the Regulatory Committee

- 1) receives the Dog Control Act Section 10A Report RC20-09-01; and
- 2) agrees to forward the annual report to the Secretary of Internal Affairs

3 Purpose of the Report

- 3.1 This report constitutes the annual report that the Council has to prepare in administering its obligations under the DCA.

4 Background and Discussion

- 4.1 The Council reviewed its Dog Control Policy and Bylaw in 2014 adopting the Dog Control Policy 2014 and Dog Control Bylaw 2014 on 18 September 2014.
- 4.2 The objectives of the Dog Control Policy are:
- 4.2.1 To promote responsible dog ownership.
 - 4.2.2 To minimise any danger, distress or nuisance created by dogs.
 - 4.2.3 To have regard to the welfare, exercise and recreational needs of dogs, and
 - 4.2.4 To identify required means of dog control in all public places.
- 4.3 Control Services (Tasman) Ltd is contracted to implement the Council's dog control policy and bylaw. Compliance is achieved by:
- 4.3.1 Responding to dog related incidents
 - 4.3.2 Targeted property visits and patrols of areas with specific issues
 - 4.3.3 Close liaison and cooperation with external agencies
 - 4.3.4 Conducting dog safety and bite prevention programs
 - 4.3.5 Education programmes delivered to schools.
- 4.4 The Council uses various media to inform the public of dog-related issues. The Council's website provides dog-related information, online forms and links to relevant legislation and other websites of interest.

5 Dog Registration and Enforcement Statistics for July 2019 to June 20205.1 Number of dog owners in the district

	2017-2018	2018-2019	2019-2020
Number of dog owners in the district	7,190	7,546	7,704
Probationary owners	1	1	1
Disqualified owners	0	0	1

5.2 Number of registered dogs in the district

	2017-2018	2018-2019	2019-2020
Number of registered dogs in the district	10,829	11,284	11,399
Rural dogs	5,729	5,886	5,821
Urban dogs	5,119	5,398	5,578

5.3 Dogs classified Dangerous DCA Section 31

	2017-2018	2018-2019	2019-2020
Sec 31 1(a) due to owner conviction	1	2	2
Sec 31 1(b) due to sworn evidence	18	18	21
Sec 31 1(c) due to owner admission	0	0	0

Item 7.1

5.4 Number of dogs classified as Menacing under DCA Section 33

	2017-2018	2018-2019	2019-2020
Sec 33A (Observed or Reported Behavior)	39	43	50
Sec 33C (By Breed)	36	35	31

5.5 Infringement Notices Issued

	2017-2018	2018-2019	2019-2020
Failure to comply with effects of classification	2	1	2
Failure/refusal to supply information	0	2	0
Failing to register dog	121	164	50
Failure to keep dog under control	3	12	15
Failure to keep dog controlled or confined	3	3	2
Failure to comply with barking dog abatement notice	0	1	3
Failure to comply with Bylaw	0	7	1
Failure to implant microchip transponder	82	0	0
Wilful Obstruction of officer	0	0	1
Failure to comply with Dangerous dog classification	0	0	1

5.6 Prosecutions

5.6.1 TDC v Hatley dog attack domestic pet & failing to muzzle "Dangerous Dog" in public. Fined \$1000, reparation \$400, costs \$113.

5.6.2 TDC v Friesen & Fulcher Poole dog's attack stock, ongoing.

5.6.3 TDC v Name Suppressed dog attack domestic animal, ongoing.

5.6.4 TDC v Oliver dog attack person, ongoing.

5.6.5 Infringement appeal TDC v Stevens failing to control a dog. Fined \$500, reparation \$300, costs \$30.

5.6.6 Infringement appeal TDC v Johnson. Found in favour defendant.

5.7 Complaints

	2017-2018	2018-2019	2019-2020
Unregistered dog	7	17	7
Attack domestic pet	47	55	50
Attack stock	28	13	27
Attack human	28	53	47
Barking	419	447	376
Fouling	9	16	5
Rushing	51	29	46
Wandering/found	776	725	734
Welfare	72	52	26
Dog in restricted area	9	11	8
Dog not on leash	4	5	9
Dog not under control	24	28	11
Unfenced Property	0	3	2
Excess Dogs	0	2	0

6 Strategy and Risks

- 6.1 The Dog Control activity is a function of high visibility to the public and providing for the care and control of dogs contributes to achieving the community outcomes which promote safe and healthy communities.

7 Policy / Legal Requirements / Plan

- 7.1 This report achieves compliance with the DCA.

8 Consideration of Financial or Budgetary Implications

- 8.1 This report does not create any financial burden that is not already covered under the Dog Control budget and is separately reported on through the Annual Report. The Dog Control activity is entirely funded from user charges, with no general rate contribution.

9 Significance and Engagement

- 9.1 This statistical report is of low significance and is prepared in accordance with an obligation under the DCA. There is no obligation to consult, although the availability of the report must be publicly notified.

10 Conclusion

10.1 The Council's current level of enforcement meets the requirements of DCA and the expectations of the public, this is shown by the exceptional customer satisfaction results.

11 Next Steps / Timeline

- 11.1 On adoption, give public notice of Report RC20-09-01 on the internet and in hard copy.
- 11.2 Forward copy to the Secretary of Internal Affairs.

11. Attachments

Nil

7.2 ANNUAL COMPLIANCE AND ENFORCEMENT SUMMARY REPORT

Information Only - No Decision Required

Report To: Regulatory Committee
Meeting Date: 3 September 2020
Report Author: Carl Cheeseman, Co-ordinator Compliance Monitoring
Report Number: RC20-09-02

1 Summary

- 1.1 Tasman District Council has a statutory obligation to monitor and enforce its legal duties and responsibilities under the Resource Management Act and other Acts it administers.
- 1.2 The council operates a tailored monitoring programme which is underpinned by a strategic risk based priority-setting framework. This identifies the range of activities seen as significant to the district and where the monitoring effort should be directed.
- 1.3 These tailored monitoring programmes not only allow for structured and consistent effects based monitoring but also allows Council the ability to identify trends and respond appropriately to non-compliance and/or environmental effects with appropriate resources or enforcement strategies.
- 1.4 The need to take enforcement action may arise following routine monitoring or through complaint investigation. In either case, the need to take enforcement action will arise because a breach of rules or conditions of consent has occurred.
- 1.5 The process of undertaking enforcement is a staged one of promoting awareness and providing assistance, warnings, issuing of enforcement notices, infringements, and in serious cases, prosecution, depending on the nature of the offending. The purpose of this spectrum approach is to encourage positive behaviour change but also a strong deterrent message where appropriate.
- 1.6 This report summarises the Council’s monitoring and enforcement activities for the period 1 July 2019 to 30 June 2020. It does not include details of subdivision compliance monitoring as that happens through the issue of section 2224 certificates and some land use monitoring is dealt with through the issue of building consents or the issue of section 37 Notices under the Building Act.
- 1.7 Council responded to 2,894 complaints or requests for service in the year. This was an increase of 263 complaints on the previous year. This continues the trend of steadily climbing numbers seen over the last five years. Air quality issues around outdoor burning continued to provoke complaints, particularly in the Motueka and Riwaka areas. Odour from activities at certain sites also drove the increase in complaints. Most other categories fell slightly. As always complaint response continues to be first priority and a considerable amount of time is spent responding to public concerns.
- 1.8 Despite the demands on providing a 24 hour complaint response, effort is still put into consent and permitted activity monitoring. A total of 1,814 resource consents and targeted

permitted activities received one or more inspections. This compares to 1,870 monitored last year.

- 1.9 Compliance was reasonably high again this year. Of those receiving one or more site inspections 84% were recorded as fully compliant at time of inspection. Of those 287 that failed to achieve full compliance, 170 (59%) were minor in nature and required no further action. In most of these cases, the approach was to provide education or direction. The remaining 117 had non-compliance at a level sufficient to require some type of action given the circumstances and/or need to address actual or potential for adverse environmental effects. These were subject to enforcement processes, which depending on the circumstances included formal warnings, abatement notices and infringement fines where appropriate. There were two cases where the non-compliance was determined as significant. One of these was significant enough to warrant prosecution before the court
- 1.10 As stated Council undertook a number of other enforcement actions for breaches of consent conditions, plan rules or regulations. The type of response depended on the circumstances behind the offending and the level of adverse effect caused by those actions. Over the year, 30 abatement notices and 69 infringement notices were issued. This was down on last year's total.
- 1.11 Much like complaint response, the requirement to undertake enforcement actions to remedy adverse effects and address poor behavior does, in itself, have a direct impact on our resources and ability to proactively monitor and provide other key services. This is mainly due to the effort required to achieve compliance in many cases which can take a considerable amount of staff time.

2 Draft Resolution

That the Regulatory Committee receives the Annual Compliance and Enforcement Summary Report RC20-09-02

3 Purpose of the Report

- 3.1 This report summarises Tasman District Council's programme of work in the area of compliance monitoring and enforcement under the resource management act for the period 1 July 2019 to 30 June 2020. The report serves in part to meet Council's obligations under section 35 of the Resource Management Act 1991.
- 3.2 This annual report does not attempt to report on effectiveness and implementation of the Tasman Resource Management Plan (TRMP) rules, resource consents, or state of the environment monitoring.
- 3.3 The structure of the report is as follows:
 - Section 4 Outlines current compliance structure and programmes
 - Section 5 Reports on performance with consent/permitted activity monitoring
 - Section 6 Reports on complaint response for the period
 - Section 7 Reports on enforcement activity for the period.

4 Compliance Monitoring Programmes

- 4.1 Tasman District Council's monitoring programme is determined using a strategic priority-setting framework to identify those activities that present the greatest risk to our environment and natural resources.
- 4.2 Targeting monitoring based on risk profile provides strongest environmental outcomes and ensures effective use of our staff resources. It also provides ability to assess and understand not just an individual's compliance performance with rules or resource consents but a particular sector as a whole.
- 4.3 This programme is reviewed every two years to allow us the flexibility to respond to trends with either a reduction or additional resourcing or enforcement strategies as required.
- 4.4 The current suite of prioritised monitoring programmes are listed below in Table 1: This is now being revised to reflect any priority changes and incorporate new legislation that will impact on the programme.

Compliance Monitoring Activity Area 2018/2020

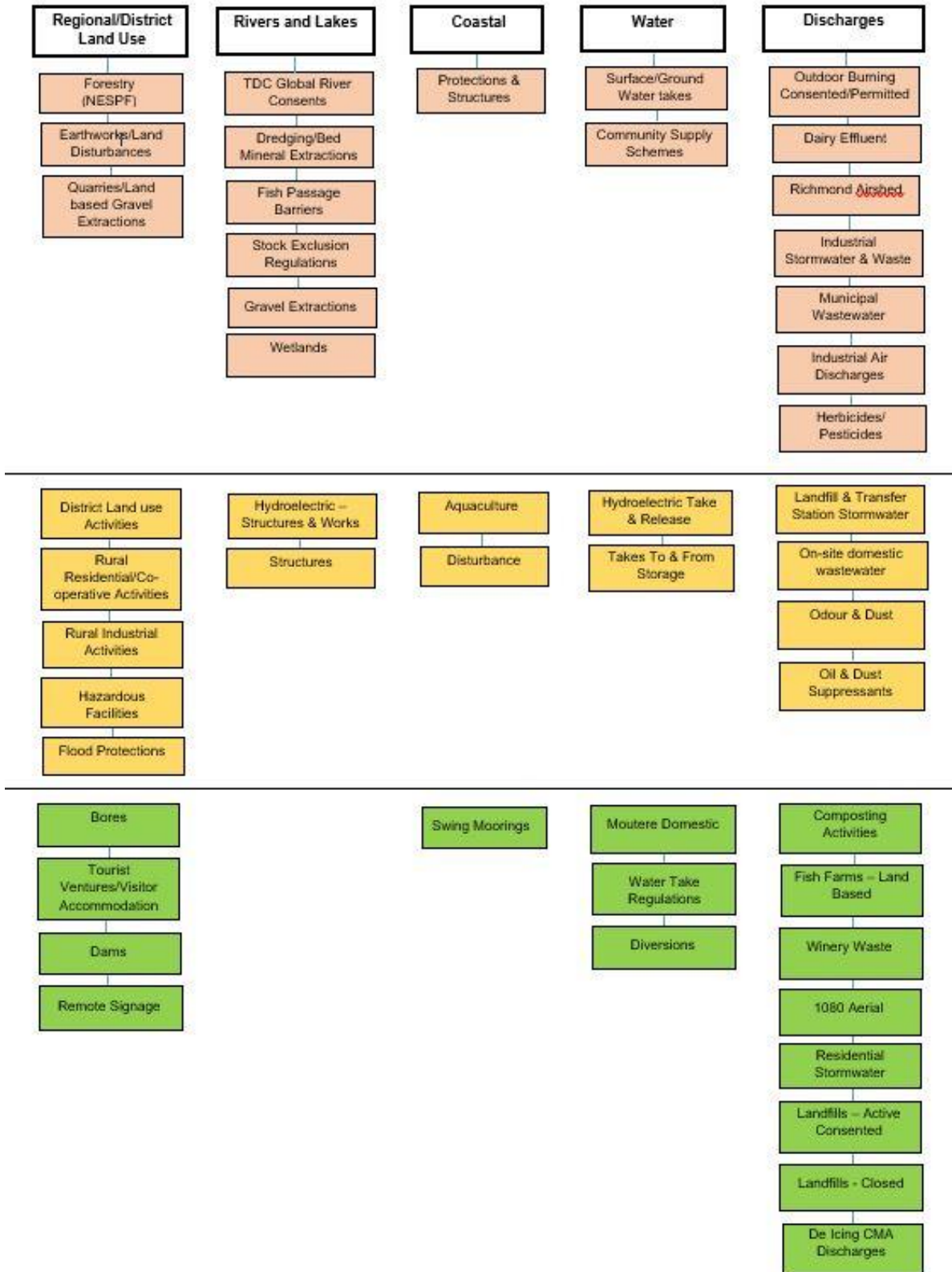


Table 1: Current monitoring programme in Tasman District

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

Aggregate total score	Priority *
Total score of 30 - 50	1 - High
Total score of 20 -29	2 - Moderate
Total score of 0 - 19	3 - Low

Table 2

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

Compliance Grading

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

1	Full compliance	Compliance with all relevant consent conditions achieved at time of inspection or audit.
2	Non Compliance: No action	Non-compliance with consent conditions with no or minor actual environmental effects and no action required.
3	Non Compliance: Action	Non-compliance with consent conditions with minor to moderate adverse effects and where action is required.
4	Significant Non-compliance	Non-compliance with conditions where there is actual or potential <u>significant</u> adverse effects and action is required.

Table 3: Compliance gradings

5 Summary of Consent and Permitted Activity Monitoring in Tasman District 2019/20

- 5.1 Over the 2019/20 year a total of 1,814 resource consents and targeted permitted activities were monitored. This compares to the 1,870 of the previous year.
- 5.2 All consents monitored receive a grade depending on compliance with conditions at time of inspection. A summary of the compliance monitoring outcomes for consents that received monitoring is contained in the following graph.

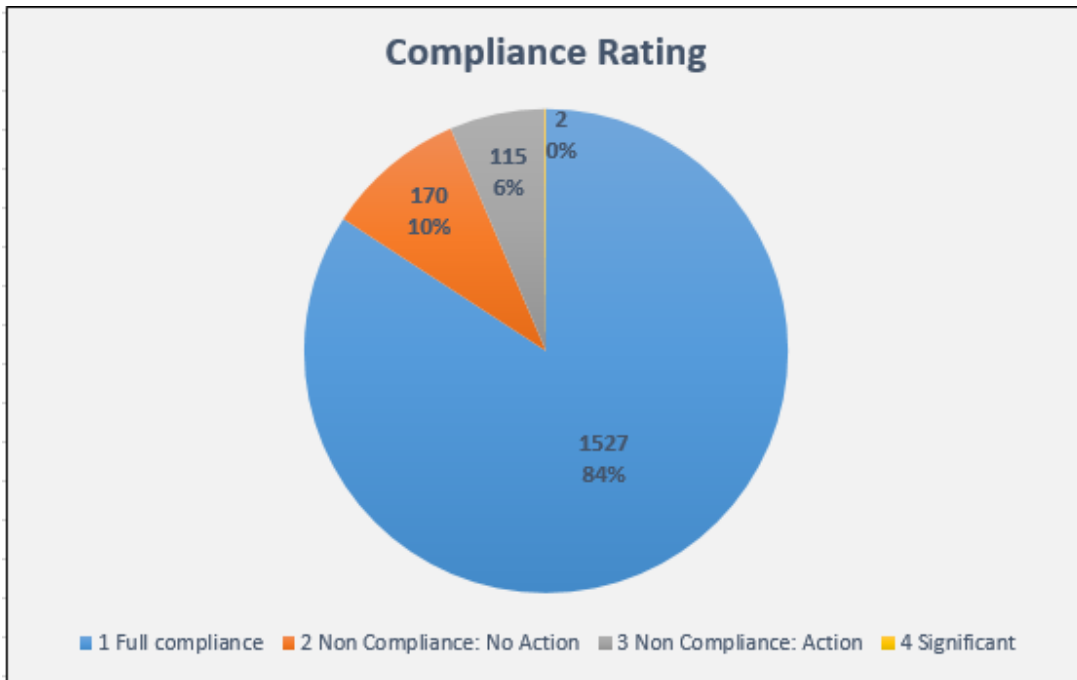


Figure 1: Consent and targeted permitted activity compliance performance for monitoring period

5.3 Compliance with conditions or plan rules was generally high with 84% being recorded as fully compliant at time of inspection. Of those that failed to achieve full compliance, 59% of those were minor in nature and required no further action. In most of these cases, the approach was to provide education or direction. The remaining had non-compliance at a level sufficient to require some type of action given the circumstances and/or need to address actual or potential for adverse environmental effects. These were subject to enforcement processes, which depending on the circumstances included formal warnings, abatement notices and infringement fines where appropriate. There were two cases where the non-compliance was determined as significant. One of these has resulted in offences significant enough to warrant prosecution before the court.

Monitoring Outcome summary for specific activity classes

5.4 The following graphs provide a visual representation of the compliance performance of key activity classes.

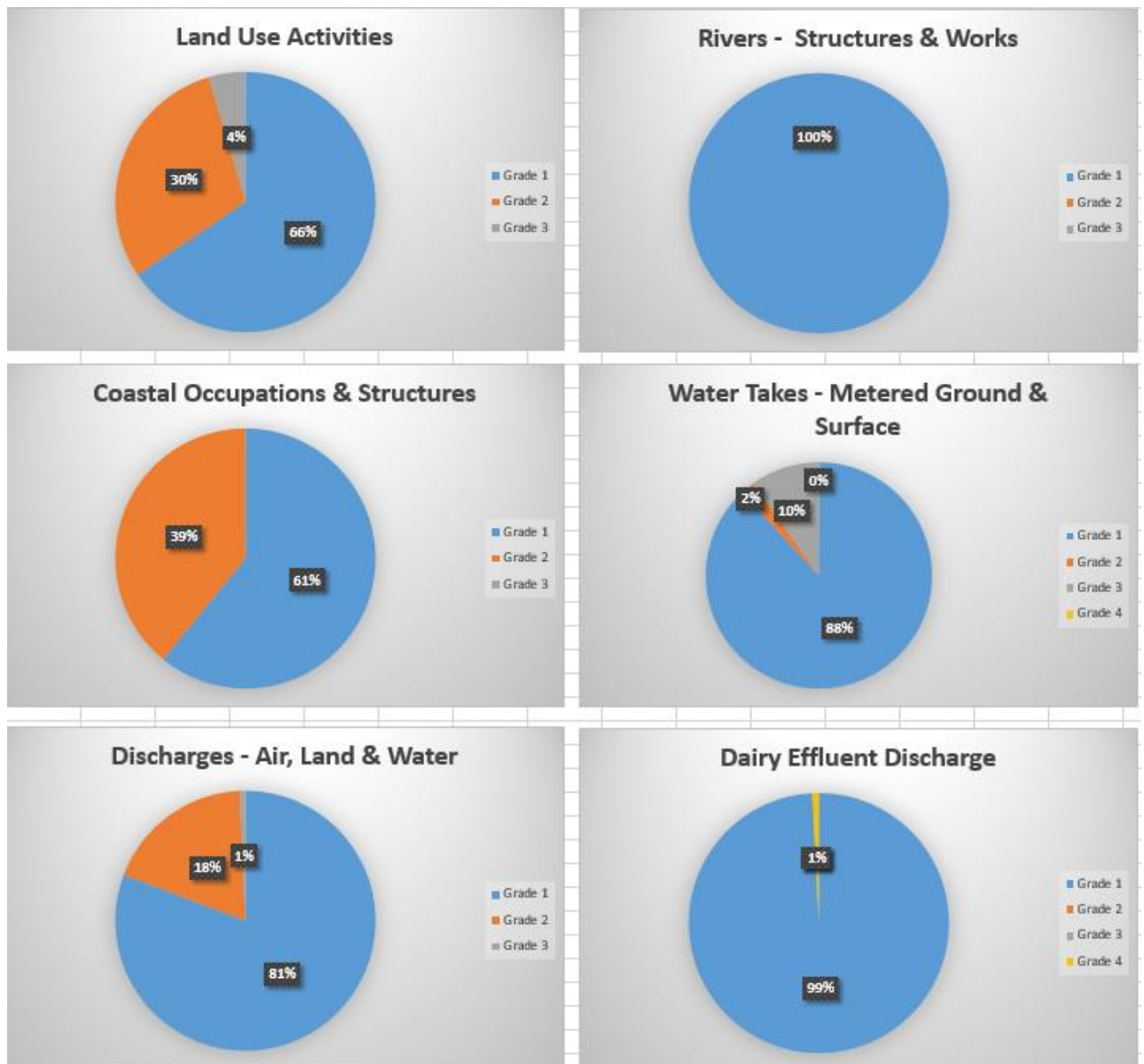


Figure 2: Monitoring activity for specific classes of consents

Notable Regional Consents

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

Forestry under NES-Plantation Forestry (NES-PF)

- 5.6 Forest companies continue to provide required notifications and harvest plans as required under the regulations. During the period, 167 were received. Monitoring was also undertaken throughout the period and compliance for on-site activities has been very high.

Two instances of failing to provide notices resulted in infringement notices being issued. These were issued to one Invercargill based harvesting company operating on sites in the Murchison area. There was also enforcement action for a single operator for unauthorised earthworks.

Waimea Community Dam

- 5.7 The consent holder Waimea Water Limited holds some 20 plus consents authorising the construction and operation of the Waimea community Dam. There are a significant suite of

conditions associated with these consents. During the first construction phase compliance monitoring has been associated with

- Approval and certification of environmental management plans and Supplementary Construction Environmental Management Plans (SCEMPs).
- Inspection of construction activities
- Assessing water quality and macroinvertebrate monitoring
- Responding to issues and providing advice in association with next phase requirements.

Full compliance with consent conditions has been achieved; there were some matters to attend to with set water quality limits but these were attended to satisfactorily.

Global Herbicide Spraying Programmes

- 5.8 Both Tasman District Council and New Zealand Transport Agency undertook a range of roadside and River vegetation spraying operations around the districts roads. Both consent holders exercised these consents over the period and met all conditions.

Wastewater Treatment Plants (WWTP)

- 5.9 There are eight wastewater treatment plants operating in Tasman District. The largest is Bells Island, managing effluent from Nelson and Tasman. The consent holder is the Nelson Regional Sewage Business Unit (NRSBU), a joint venture between Nelson City Council and Tasman District Council. The reminder are Tasman District Council controlled community systems.

Site (WWTP)	Consents	Compliant	Comment if applicable
NRSBU Bells Island	Discharge to Waimea Estuary	Y	
	Discharge to air	N	Odour issues as a result of a series of problems with the ponds.
	Discharge of Biosolids (Rabbit Island)	Y	
Collingwood	Discharge to land	Y	
	Discharge to air	Y	
Takaka	Discharge to land	Y	
	Discharge to air	Y	
Upper Takaka	Discharge to land	Y	
	Discharge to air	Y	
Motueka	Discharge to coast	Y	
	Discharge to land	Y	
	Discharge to air	Y	
Tapawera	Discharge to land	Y	
Murchison	Discharge to land	Y	
	Discharge to air	Y	
St Arnaud	Discharge to land	Y	

Table 4: Wastewater Treatment Plants compliance summary

Landfills and Transfer Stations

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

Site	Consents	Compliant	Comment if applicable
Eves Valley Landfill	Various	Y	Site closed and under a maintenance programme
Scott's Quarry Transfer Station - Takaka	Land use	Y	
	Discharge Stormwater	Y	
Richmond Transfer Station	Discharge stormwater	Y	
Mariri Transfer Station	Discharge Stormwater	Y	
Murchison Recovery Centre	Discharge Odour	Y	
	Discharge Stormwater	Y	

Table 5: Landfill and transfer station compliance summary

Timber Treatment Plants

5.11 There are a number of timber treatment plants in the district. All carry a suite of consents that impose discharge limits, environmental testing and reporting.

Site	Consents	Compliant	Comment if applicable
Nelson Pine Industries Ltd	Discharge Air	Y	MDF and LVL plant.
	Discharge Stormwater	Y	
	Hazardous Facility	Y	
Carter Holt Harvey	Discharge Air	Y	
	Discharge Stormwater	Y	
	Hazardous Facility	Y	
AICA Limited	Discharge Air	Y	Phenol and formaldehyde resin plant
	Discharge Stormwater	Y	
Goldpine Industries	Discharge Air	Y	CCA and Alkaline Copper Quat (ACQ) timber treatment plant in the Golden Downs.
	Discharge Stormwater	Y	
	Hazardous Facility	Y	
Prowood Limited	Discharge Air	Y	Site subject to noise complaints. While determined to be compliant with permitted activity rules company is developing management plans to mitigate noise further.
	Discharge Stormwater	Y	
	Hazardous Facility	Y	

Table 6: Timber treatment site compliance summary

Dairy Processing Factories

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

Site	Consents	Compliant	Comment
Takaka Plant	Discharge wastewater to land	Y	
	Discharge wastewater to Takaka River	Y	
	Discharge to air	Y	
Brightwater Plant	Discharge Air	Y	Burning woodchip in transition from coal has created some bedding in issues but has not breached consent.
	Discharge stormwater	Y	
	Hazardous facility	Y	

Table 7: Dairy Factory compliance summary

Fish Processors

- 5.13 There are several fish farming or fish processors operating within the district:

5.13.1 Talley's: Port Motueka

Talley's operate a fish processing, fishmeal and ice cream factory at Port Motueka under a new suite of resource consents including to discharge to the Coastal Marine area and air.

- 5.13.2 The discharge of wastewater to the coastal marine area has been fully compliant with the implementation of the diffuser and system upgrades. All other consents are fully compliant with the exception of the discharge to air. The issue remains around fugitive odours from the fishmeal plant. The Council is working with the consent holder on addressing this but delays in installing new equipment has affected progress. Once installed it is expected that this will alleviate the issues and full compliance will be achieved.

5.13.3 New Zealand King Salmon

New Zealand King Salmon (NZKS) has a farm on the banks of Waikoropupu River. The company holds resource consents to place structures in the river, divert and take water and discharge water and contaminants into receiving waterways:

The company complied with all consent requirements.

5.13.4 Anatoki Salmon

Anatoki Salmon are in the process of renewing their consents to take and discharge water. In the interim they operate under the existing consents. There are still

some issues associated with the discharge which affects outcomes and is expected to be addressed in the renewals. Non-compliance noted but no other action required at this stage.

6 Complaints Action 2019/2020

- 6.1 The Compliance section provides 24-hour environmental complaint and incident response. Each year it investigates a wide range of activities as a result of complaints or public enquiries.
- 6.2 During the reporting period, 2894 complaints or requests for service were received. This was an increase of 263 complaints on the previous year. This continues the trend of steadily climbing numbers seen over the last five years.
- 6.3 Figure 3 charts the current year’s complaint numbers in Tasman district against the last years.

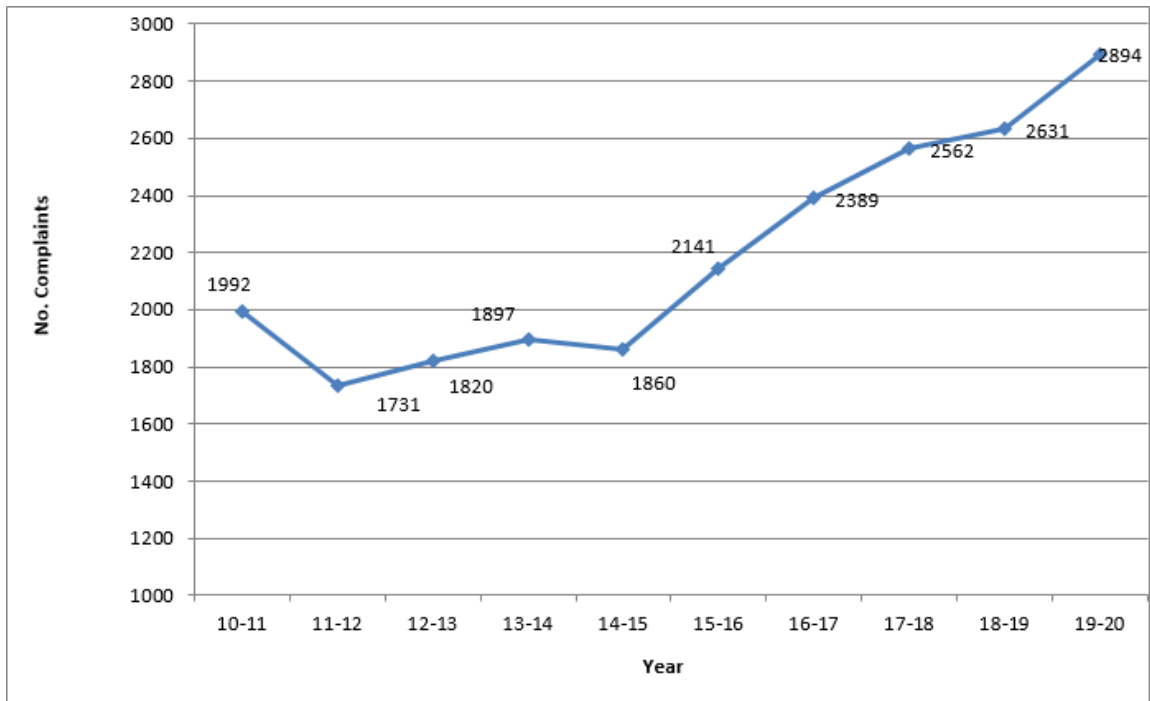


Figure 3: Trend in complaint numbers in Tasman district over last 10 years

- 6.4 The following graph in figure 4 provides a breakdown summary of complaints against the eight broad complaint categories used in this annual report summary.

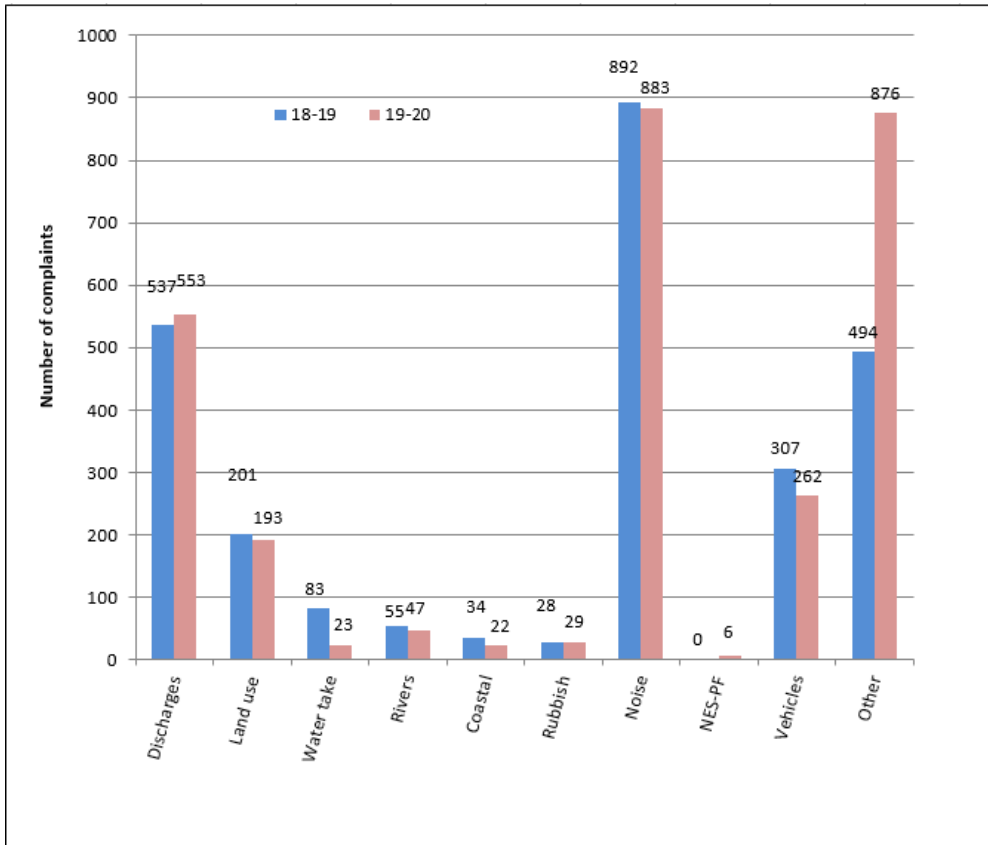


Figure 4: Number of complaints received in comparison to previous year by general category

- 6.5 While many categories fell in total numbers, increasing complaints and customer service requests in others accounted for the overall upward trend in numbers. Air quality issues around outdoor burning continued to provoke complaint, particularly in the Motueka and Riwaka areas. As a result, compliance officers were constantly being called to attend at fire sites, feedback to complainants as well as take enforcement action where deemed appropriate. Odour from activities at certain sites also drove the increase in complaints. Talley’s Port Motueka factory created issues for nearby residents due to fugitive odours from fish processing and compliance staff spent many hours working on resolution to this issue. NRSBU’s Bell’s Island sewage plant likewise created odour that caused nearby residents and the wider public to complain from time to time.
- 6.6 Customer enquiries also doubled this year, mostly due to residents’ enquiries in the Richmond Air shed prompted by the monitoring strategy. While this in itself generated a lot of work for officers it also provided valuable information.
- 6.7 The significant decline in water related complaints was simply due to 2018 drought and associated restrictions, which prompted an unusually high level of complaints that year.
- 6.8 Complaints were dealt with on a case-by-case basis and any action taken as and when it could be established that a breach had occurred.

7 Enforcement Action

- 7.1 One of Council’s measures of performance is timely resolution of significant non-compliance with respect to breach of resource consent conditions or rules. Significant non-compliance

is graded as a four. Timely resolution is defined as 80% of all significant non-compliance resolved within nine months and 95% resolved with 12 months.

- 7.2 During the 2019/20 year, a total of two activities recorded significant non-compliance. One of these was a consented activity and the other a permitted activity. There were no carryovers from the previous year that required calculation in this year’s data. See note for definition.
- 7.3 The two cases were resolved within nine months with action being taken to cease the unauthorised activities. One case was also subject to the prosecution of the two individuals concerned and this matter is still progressing through the court towards sentencing.

	Number of actions	Resolved (nine months)	Resolved (12 months)
Non compliances recorded and resolved this current period	2	2	N/A
Non compliances carried over from the previous year subject to measure*	N/A	N/A	N/A
Non compliances with nine and 12 month deadline beyond this reporting period**	N/A	N/A	N/A
Total	2	2 (100%)	N/A

Table 8: Resolution of non-significant compliance with respect to breach of consent conditions

NOTES

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

**This represents significant non-compliances recorded in this reporting period, not yet resolved and where the 9 and 12 month measures will be captured in the next annual report.

- 7.4 During the 2019/20 year, Council compliance officers undertook a range of enforcement actions in response to detected non-compliance or breaches. Table 9 provides an overall summary of enforcement action taken and compares this to the same period in the previous year. It should be noted that enforcement action includes response to breaches of consent conditions, non-compliance with rules for a permitted activity in the TRMP, or infringements against the Litter Act.

Enforcement action	2019-20	2018-19
Abatement notices	30	67
Infringement notices	69	79
Enforcement orders	0	0
Prosecutions	1	0

Table 9: Summary of Enforcement action during the 19/20 year including comparison to previous year

Abatement Notices

- 7.5 30 Abatement notices were issued by the over the period, the details of which are contained in the following table 10. It should be noted that this data excludes those abatement notices issued under Section 16 of the Resource Management Act (RMA), (unreasonable noise), but does include those issued in relation to consent condition breaches where noise was the non-complying factor if applicable.
- 7.6 Abatement notices for outdoor fires creating adverse effects made up the majority of those issued under the category of discharge.

Land use breaches resulting in abatement notice responses were mostly associated with failure to comply with resource consent conditions where an adverse effects were occurring. Land owners using their property for activities outside of zone rule restrictions and breach of resource consents associated with building were predominant themes.

RMA Section	Number issued
Section 9 - Land use	16
Section 12 - Coastal	1
Section 13 - Rivers/Lakes	1
Section 14 - Water	2
Section 15 - Discharges	11
Total	30

Table 10: Number of Abatement Notices relative to each section of the RMA (Sec 9 - 17)

Infringement Fines

- 7.7 During the period 69 infringement fines were issued for breaches against the Resource Management Act or Litter Act as outlined in the following table 11. The table includes a summary of the outcome of the fines process. The column headed outstanding are fines not paid in the statutory time frame and subsequently lodged in the Court for recovery.

Resource Management Act 1991	Number issued	Paid	Outstanding	Withdrawn
Contravention of section 9 - (Land use)	2	2	-	-
Contravention of section 12 - (Coastal)	1	-	-	1
Contravention of section 13 - (Rivers)	2	2	-	-
Contravention of section 14 - (Water)	6	1	1	4
Contravention of section 15(1) (a) or (b) (Discharge contaminant to water or land)	2	1	1	-
Contravention of section 15(2A) - (Discharge Air - breach rule or regulation)	12	7	4	1
Contravention of section 15(2) (a) or (b) - (Discharge Air - breach of NES)	1	1	-	-
Contravention of an abatement notice	8	4	3	1
Contravention of an excessive noise direction	3	2	1	-
Litter Act 1979				
Deposit and Leave Litter	32	7	24	1
Total	69	27	34	8

Table 11: Infringement notices by type and outcome

Enforcement Orders

- 7.8 No enforcement orders were initiated during this period.

Prosecutions

- 7.9 One prosecution was initiated in this period relating to the discharge of dairy effluent to land where it may enter water. This is associated with a farm in the southern area of the district. Charges were laid against both the owner and the worker as a result of the investigation.

This matter has yet to be heard in the court and will be reported on at a later date.

8 Future Strategies

- 8.1 The recent enactment of Resource Management (National Environment Standard – Freshwater) Regulations (NES-FW), National Policy Statement Freshwater Management (NPS-FW) and associated regulations will now have a direct impact on Council. Resourcing, including use of technologies are factors we will need to consider in implementing these new rules on the ground. Compliance is developing a strategy to incorporate this into its monitoring

programmes for the future. The shape of it is still be worked on however, it will need to be in co-ordination with others in council affected by this change.

- 8.2 The current review of the National Environmental Standards for Air Quality (NES-AQ) is also expected to create a significant uplift in work demand around air quality for compliance and enforcement. While there has been a delay this revised NES is expected to be out by 2021. The outcome is the move to PM 2.5 monitoring that will result in significant non-compliances for the Richmond Airshed, which is already in non-compliance. It also has potential implications for other areas in relation to home heating (e.g. Motueka, Wakefield, Brightwater and Murchison). This has already been flagged and acknowledged with council in past air quality annual reports.
- 8.3 Coinciding with this is the review of the air discharge rules as part of the Tasman Environment Plan (TEP) review process. This will have to align with the revised NES-AQ and will provide statutory obligations to monitor and enforce its plan rules and resource consents.

9 Conclusion

- 9.1 Complaint response continues to be our first priority and a considerable amount of time is spent responding to the public and their concerns. This does have a detrimental impact on the more proactive consent monitoring work; however, it is essential that Council responds to community concerns first and foremost.
- 9.2 This year complaints continued to track upwards as they have done over the last five years. This year we received a significant number of complaints over the winter from people affected by poor air quality associated with outdoor burning. Odour from two activities also prompted complaints from local residents affected.
- 9.3 Council has a defined pathway in respect to monitoring and enforcement to provide for a consistent, fair and proportional approach. Fundamentally, that pathway is to promote awareness and encourage positive behavioural change through a process of engagement, education and assisting wrongdoers to achieve best practice to meet their obligations. Enforcement, while an important part of this process is usually reserved for those unwilling or unable to change. Council's approach in this area is designed to be entirely objective and consistent with national regulatory enforcement protocols and practices
- 9.4 This year we were very busy in the area of enforcement particularly as a response to outdoor burning where we could identify poor practice. For those where it was appropriate abatement and infringement notices were used to address adverse environmental effect and provide deterrence in the more minor cases. The one significant non-compliance where adverse environmental effect was accompanied by poor practice resulting in the breach, Council initiated a prosecution that is now before the environment court.
- 9.5 On the monitoring side staff continued to inspect the consent and permitted activities identified as high risk through the strategic monitoring programme. Full compliance was generally high again this year and where non-compliance was detected, it was largely of a minor nature and did not require any further action enforcement response. Where it did, council used the range of enforcement options available to gain compliance and remedy any adverse effects coming from the breach.

10 Attachments

Nil

7.3 CHAIRPERSON'S REPORT**Information Only - No Decision Required**

Report To:	Regulatory Committee
Meeting Date:	3 September 2020
Report Author:	Dana Wensley, Chair - Regulatory Committee
Report Number:	RC20-09-03

Item 7.3**1 Summary**

- 1.1 The subject of bylaws has emerged in recent times in various guises. Today, the Manager is reporting on advice from the Motueka Community Board in relation to a proposed amendment to the Dog Control Bylaw. We have also recently held a workshop to discuss feral cat management arising from recommendations of last year's Regional Pest Management Plan process. Staff will report to the Committee on options, but given current work commitments, it will not come to us before the early part of 2021.
- 1.2 On Tuesday 28 July I meet with Jane Murray (Health in All Policies Advisor/Public Health Service/Nelson Marlborough District Health Board) and Miraka Norgate (Health Promoter Smokefree, Te Waka Hauora Maori Health Team). At this meeting it was requested that the Council considers measures to widen its Smokefree Policy to cover additional spaces.
- 1.3 In March this year, Jane Murray and Miraka Norgate appeared before Nelson City Council (NCC) about a revised Smokefree policy, with the offer to work with NCC to draft a Smokefree Outdoor Policy in conjunction with NCC and the Cancer Society. The draft policy was sent to NCC to review in May 2020. This offer from our local public health unit to assist staff with drafting a policy has been extended to Tasman District Council as well.
- 1.4 I attach a briefing paper on Smokefree Policy options for you to consider (Attachment 1).
- 1.5 We last dealt with this matter in May 2018 (Report EPC 18-05-01) and Council resolved it was best to extend the scope of the current Smokefree Policy, as it affects parks and reserves and other public places like roads and footpaths. Staff at that stage recommended against a bylaw because of difficulties with enforcement. In 2018 only four councils had chosen to go down the bylaw route.
- 1.6 An extract from the relevant resolution follows:

recommends that Council develops a comprehensive Smokefree Policy across all Council activities beyond those covered by Council's Reserves General Policy 2015; and

agrees not to pursue a Smokefree Bylaw for Tasman District for the reasons presented in REP18-05-01;
- 1.7 However, with the prospect of recreational use of cannabis coming in (if the referendum in October approves of this), smoking cannabis will be permitted. Under our current policy, the only 'enforcement' when people are smoking in areas not allowed, is to ask them to stop smoking. If the smoker does not stop smoking on a Council reserve and refuses to leave the

area, the Council's only response is to trespass the person and call for Police assistance. This seems to me an extreme approach to take and would not work for roads and footpaths where people have a right of access. In my view it would be preferable to have a bylaw that had more varied and flexible enforcement options. The Council may like to consider if they wish to get more information around this issue and whether a bylaw response (with more enforcement options) would be more appropriate than an amended policy response.

1.8 I would therefore like to seek the Committee's agreement that when staff report back to the Committee on options for managing smoking in public places, that they again present us with the options, including considering a bylaw.

2 Draft Resolution

1 That the Regulatory Committee

- 1) receives the Chairperson's Report RC20-09-03; and**
- 2) requests staff, when reporting back on the management of smoking in public places, to include advice on using a bylaw to address the issue in addition to the option of extending the current Policy.**

3 Attachments

1. [↓](#) SmokeFree Presentation Briefing

31

Policy options for Smokefree places and spaces in Nelson: Briefing Paper



Background: Smoking kills

Around 5000 people die each year in New Zealand because of smoking or second-hand smoke exposure. That's 13 people a day.

Secondhand smoke is a human carcinogen for which there is no safe level of exposure.

Exposure to secondhand smoke is especially harmful to children and adults with asthma or other chronic conditions. Children, older adults, people with special health needs, and pregnant women are particularly vulnerable to the health risks caused by secondhand smoke exposure, even in outdoor environments. Secondhand smoke causes heart disease, cancer, respiratory problems, and ear infections, and worsens asthma.^{1,2,3}

Why have smokefree outdoor policies?

- **Protect non-smokers from secondhand smoke especially children**
- **Can also motivate and help tobacco users quit**
- **Can prevent people starting to smoke**
- **Can reduce smoke smoking among youth**
- **Denormalise smoking**

Reduce uptake of smoking: Outdoor public places can help reduce the uptake of smoking, particularly by children and young people. Evidence shows that the normalisation of smoking at a neighbourhood level is related to the likelihood of starting smoking – or finding it hard to quit smoking. Some evidence suggests that smokefree outdoor policies increase quit attempts at a population level.⁴

Protect children: Social denormalisation of smoking via smoke-free outdoor policy could raise adults’ consciousness and awareness of potential harms, especially around children and non-smokers. Concerns about the health of children may then provoke cessation attempts. If parental smoking reduces after a ban, then decreases in youth uptake might be expected to follow⁵.

Denormalise smoking: Increasing the number of smokefree public places provides non-smokers with a positive basis on which to speak up, either from concerns for the smoker, or for themselves and the people around the smoker.

Smokefree outdoor policies can help to **minimise the environmental risks from cigarette litter** and **reduce fire risk**.

¹ <https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2014/vol-127-no.-1396/6173>

² <https://www.smokefree.org.nz/smoking-its-effects/second-hand-smoke>

³ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm

⁴ <https://www.otago.ac.nz/wellington/departments/publichealth/research/smokefree-outdoor-area-research/>

⁵ Anyanwu, P., Craig, P., Katikireddi, S., Green, M. (2018) *Impacts of smoke-free public places legislation on inequalities in youth smoking uptakes*. BMJ Volume 8, Issue 3



Public support for smokefree places

1. **Nelson/Tasman Fresh Air Project (2018):** The Fresh Air Project is an initiative supporting hospitality venues to have outdoor dining areas that are totally smokefree and vapefree. 95.8% of people supported smokefree dining, 73.5% said that they were more likely to visit outdoor dining areas if they are smokefree
2. **Wellington City (2018):** 86% supported Wellington becoming smokefree, 76% supported the idea of Oriental Bay Beach becoming smokefree.
3. **Invercargill (2017):** 84% of business owners/operators interviewed supported a SmokefreeCBD. 82% of international tourists interviewed supported the proposal
4. **Hanmer Springs (2019):** 90% of visitors surveyed supported the smokefree zone being permanent, 70% of residents gave support. 54% of visitors said they would be more likely to visit because there were smokefree zones.
5. **Christchurch (2014):** 76% of respondents supported smokefree bus stops.

Smokefree policy is consistent with Council’s Community Outcomes

- “Our communities are healthy, safe, inclusive and resilient”
- “We nurture our young people so Nelson is a safe and healthy place for everyone to grow up and live”

Policy Approach: Via education, not bylaws

Smokefree education and role modelling help to protect people from second-hand smoke. A non-regulatory approach relies on the public being well-informed and supportive of Council’s smokefree objectives as compliance is voluntary with no enforcement or regulatory measures. It is about insuring that everyone is looked after in our city and not about punishing smokers.

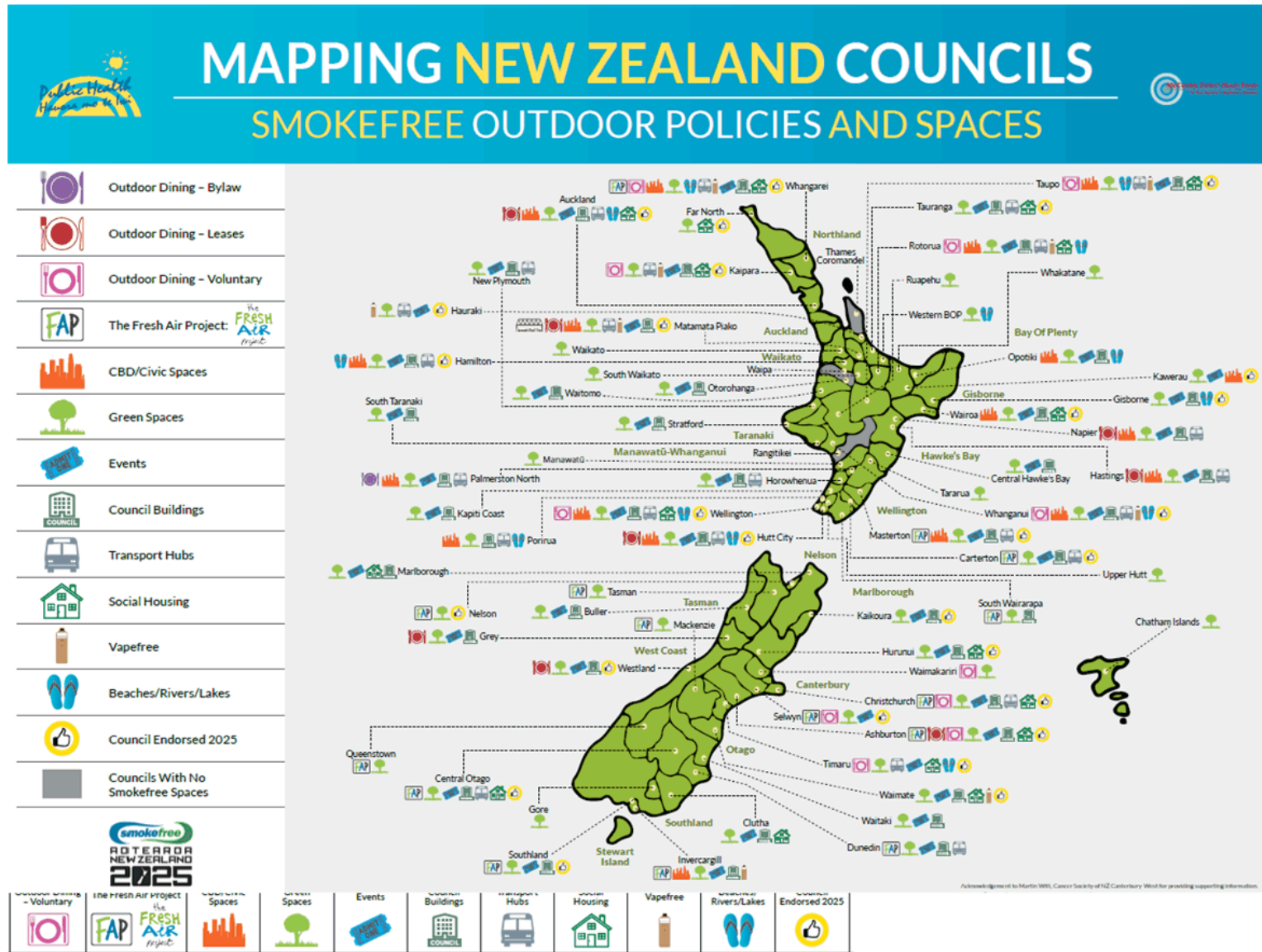
It is envisioned that Nelson City Council policy would specifically:

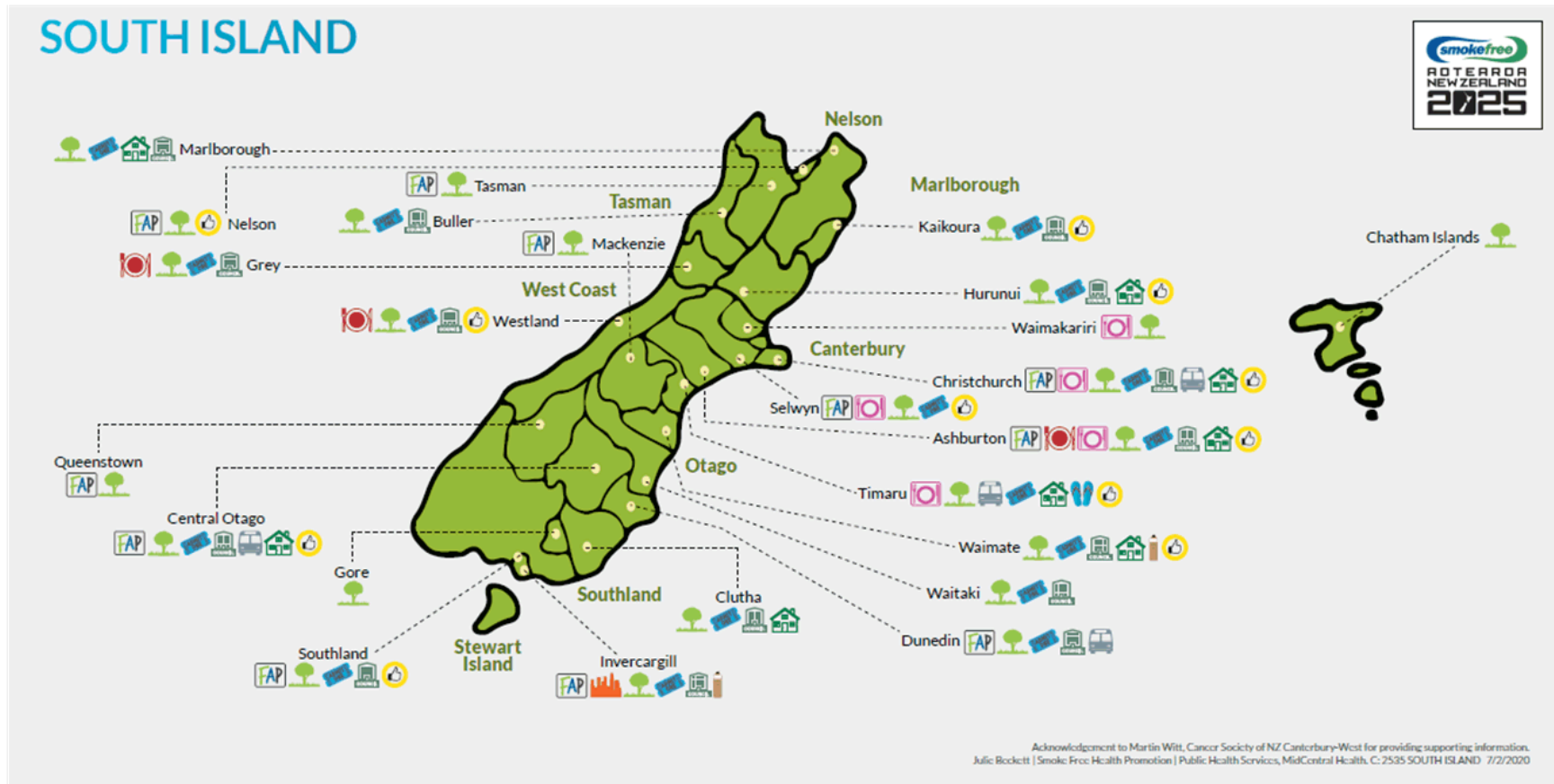
1. Reduce smoking behaviour in public so that the visibility of smoking behaviour, particularly in the presence of children, is reduced.
2. Improve health and wellbeing by reducing exposure to second-hand smoke in public spaces.
3. Increase public awareness and public support for smokefree places across the region.
4. Through the use of signage and public education, provide greater clarity about which areas are Smokefree.
5. Enhance the environment because public spaces are free from people smoking and are clean of cigarette litter. Fire risk may also minimised.
6. Increase participation and pride in place, with increased recreational use of a space (especially by children) through it being smokefree.
7. Foster public empowerment / cultural shift where smokers feel supported by their community to stop smoking.

Collaborative work

The rollout of any Smokefree policy can be done with support of Nelson Marlborough Health and the Cancer Society in terms of communications plans, and resourcing for signage.







Outdoor Dining - Bylaw	Outdoor Dining - Leases	Outdoor Dining - Voluntary	The Fresh Air Project the FRESH AIR project	CBD/Civic Spaces	Green Spaces	Events	Council Buildings	Transport Hubs	Social Housing	Vapefree	Beaches/Rivers/Lakes	Council Endorsed 2025	Councils With No Smokefree Spaces
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Outdoor Dining - Voluntary	The Fresh Air Project the FRESH AIR project	CBD/Civic Spaces	Green Spaces	Events	Council Buildings	Transport Hubs	Social Housing	Vapefree	Beaches/Rivers/Lakes	Council Endorsed 2025
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7.4 ENVIRONMENT AND PLANNING MANAGER'S REPORT

Information Only - No Decision Required

Report To: Regulatory Committee
Meeting Date: 3 September 2020
Report Author: Dennis Bush-King, Environment and Planning Manager
Report Number: RC20-09-04

1 Summary

1.1 This report covers a number of general matters concerning the regulatory activities of the Council since the 23 July 2020 meeting of the Regulatory Committee.

2 Draft Resolution

That the Regulatory Committee

- 1) receives the Environment and Planning Manager's report RC20-09-4; and**
- 2) notes the submission lodged on behalf of the Council in respect of a possible referral project under the Covid-19 (Fast Track Consenting) Act attached to Report RC20-09-04 as Attachment 1; and**
- 3) Directs whether a case should be submitted to the Regulations Review Committee asking that the car parking policies contained in the national policy Statement – Urban Development should be reviewed because of unanticipated effects on rural and provincial New Zealand; and**
- 4) agrees to amend the Delegations Register as follows:**
 - (i) The Chairperson of the Regulatory Committee or Strategy and Policy Committee, who may co-opt other members, can approve potential settlements by Consent Order relating to RMA proceedings.**
 - (ii) The Environment and Planning Manager, or Environmental Policy Manager, or Resource Consent Manager, or Principal Planner – Resource Consents can, following consultation with the Chairperson of the Regulatory Committee or Strategy and Policy Committee depending on the subject matter, approve potential settlements by Consent Order relating to RMA proceedings provided the settlement is in general accord with a stated Council position, or, where any deviation from such a position, is the result of consensus reached at Court assisted mediation.**

3 Government Policy Changes

- 3.1 Since our last meeting, the Government has released a number of new policies and regulations which will soon take effect including:
- 3.1.1 National Environmental Standard – Aquaculture (which exempts Tasman because of our existing Tasman Resource Management Plan (TRMP) rules).
 - 3.1.2 National Policy Statement - Urban Development (workshop planned)
 - 3.1.3 Biodiversity Strategy 2020 - [Te Mana o te Taiao - Aotearoa New Zealand Biodiversity Strategy 2020](#) sets out a framework for the protection, restoration and sustainable use of biodiversity (particularly indigenous biodiversity) in Aotearoa New Zealand from 2020 to 2050. [Biodiversity in Aotearoa](#) – an overview of state, trends and pressures is a companion report to the Strategy that sets out the current state and trends of biodiversity in New Zealand. The Government has signalled more to come in the form of a national Policy Statement on Biodiversity (expected April 2021) and a series of action plans that will be developed collaboratively with central and local government, Treaty partners and stakeholders.
 - 3.1.4 National Policy Statement – Freshwater
 - 3.1.5 National Environmental Standards – Freshwater
 - 3.1.6 Resource Management (Measurement and Reporting of Water Takes) Regulations
 - 3.1.7 Stock Exclusion Regulations
- 3.2 For the latter four see section 6 below for more details.

4 New Directions for Resource Management

- 4.1 While not yet Government policy, an independently appointed panel has reported to Government on the reform of the resource management system - 'New Directions for Resource Management in New Zealand'. The review's focus was the Resource Management Act (RMA) but also included a review of the relationship between the RMA, the Local Government Act, the Land Transport Management Act and the Climate Change Response Act.
- 4.2 In the report, the independent review panel, led by Hon Tony Randerson QC makes recommendations that will reorient the system to focus on delivering specified outcomes, targets and limits in the natural and built environments. Two major pieces of interrelated legislation are recommended:
- 4.2.1 A Natural and Built Environments Act (NBEA) to replace the Resource Management Act 1991 (RMA). This would have a different approach but would incorporate some of the key principles of the RMA that remain appropriate. The focus of the NBEA would be on enhancing the quality of the environment and on achieving positive outcomes to support the wellbeing of present and future generations. This would include recognition of the concept of Te Mana o te Taiao.
 - 4.2.2 A Strategic Planning Act. This would set long-term strategic goals and facilitate the integration of legislative functions across the resource management system. These would include functions exercised under the new Natural and Built Environments Act,

the Local Government Act, the Land Transport Management Act and the Climate Change Response Act.

- 4.3 New discrete legislation, a Managed Retreat and Climate Change Adaptation Act is also proposed by the panel to address the complexities of the process of managed retreat (for example in coastal areas).
- 4.4 The report is a first step in potential reforms for the Resource Management system. It is up to the next Government to consider the report, its recommendations and any next steps.

5 Covid-19 (Fast Track Consenting) Act

- 5.1 The Council has received one request from the Minister for the Environment who is considering using the new fast track legislation for a development proposal in Hope. A copy of the reply provided under delegated authority is attached as Attachment 1.

Recommendation

That the Regulatory Committee notes the submission lodged on behalf of the Council in respect of a possible referral project under the Covid-19 (Fast Track Consenting) Act attached to Report RC20-09-04 as Attachment 1.

6 Essential Freshwater Package

- 6.1 The Government has passed into law new regulations to restore and protect our rivers, lakes, streams, aquifers and wetlands. The new National Policy Statement for Freshwater Management 2020 ([NPS-FW](#)), National Environmental Standards for Freshwater 2020 ([NES-FW](#)), [Stock exclusion regulations](#), and [Measurement and reporting of water takes regulations](#) have been gazetted and will take effect on 3 September 2020.
- 6.2 Staff have tried to assess the implications for the Council and this will progressively develop. The NPS-FW has reduced the timeframe in which regional water plans are to give effect to the NPS-FW from nine years to two years. We will be required to notify our plan by 31 December 2024. While this fits with our current Tasman Environment Plan (TEP) timetable, there will be a lot more work that will need to be done. Good progress has been made to establish freshwater management units, but more baseline monitoring will be required in order to inform the process and the policy development and drafting process cannot be underestimated. We are required to set limits on resource use to give effect to Te Mana o te Wai. We will have to outsource some of the work required if consultants are available, as all councils will be competing from the same pool.
- 6.3 The NPS-FW sets greater expectations around involving iwi and Maori in plan development at both an operational and governance level. There will be time and other costs involved in this.
- 6.4 Once the Council has signed off on the proposed plan, the Council will have to meet the costs of the hearing process and because we are proposing to deal with the TEP in an integrated way, there may be two hearing panels in operation at the same time. As the Government has mandated that the freshwater hearing panel should be chaired by an Environment Court Judge, the costs of this process will not be insubstantial.

- 6.5 The planning instruments collectively will require monitoring of a wider range of attributes, in more locations. We will also have to put in place cultural monitoring indicators in liaison with iwi. The water metering regulations change the basis on which permit holders will have to report and, at the very least, permit holders will have to install data loggers to capture water consumption at 15 minute intervals. While they may be able to report to us on a weekly basis with our agreement, there will nevertheless be cost implications for permit holders and we will have to ensure that our water accounting system is capable of receiving the data for 1,483 permits (only about 91 water metres currently use this capability). Electronic reporting to the Council is the default, unless we approve otherwise.
- 6.6 There are increased obligations to report the results of monitoring activity, in some cases annually, but in other cases at five yearly intervals. The NPS-FW also requires the development of “action plans” where monitoring trends show a degradation in quality or where over allocation occurs.
- 6.7 The NES-FW is likely to require increased compliance monitoring and while it seeks to identify permitted activities, an inability to comply with the standards and new classes of activity will also likely see an increase in consent applications. The dairy industry is not the only industry affected! The NES-FW supersedes any plan rules unless those rules are more stringent. Vegetation clearance, earthworks or land disturbance, taking, using, damming or diverting water, discharges, and construction of infrastructure, the reclamation of the bed of any river, will all require resource consents, unless meeting one of the exceptions provided in the regulations. Our current TRMP does make some of these activities permitted subject to conditions. There are also new fish passage obligations which will impact on the Council’s service delivery functions and will require the establishment of new, information intensive data sets (structure in existence at 3 September are exempted from some requirements).
- 6.8 Perhaps fortunately, caps on fertilizer application only apply to land used for grazing of livestock, but as with many of the new rules, the Council will not know what it does not know and establishing a common understanding with land users about whether thresholds are exceeded without a baseline, will not always be easy without much effort.
- 6.9 New rules are in place for wetland protection and we will need to develop consent application information and advice to land owners but have not had the capacity to do this at present. I would like to think our wetland database is more defensible than many Councils, but wetland mapping is still work in progress.
- 6.10 The Stock Exclusion Regulations set up obligations for land owners to exclude stock from lakes and rivers more than one metre wide and all natural wetlands. The Council will be expected to enforce compliance with these rules.
- 6.11 The wider use of Farm Management Plans has been signalled, but will be the subject of further regulations.
- 6.12 The Ministry for the Environment (MfE) intends to release guidance to local government to assist with both the interpretation and implementation of the new regulations. The Government also made available \$700m to assist in delivering on the Action for Healthy Waters programme. There is no real clarity around what support will be given to Councils in relation to the regulatory dimension.
- 6.13 In the meantime, staff will need to establish work plans to progressively implement the new regulations. While 3 September 2020 is the date the regulations take effect, there is a

progressive roll out of dates when things have to happen. We will work on this over the next few months as we continue with BAU (business as usual) but also, as we hopefully gain a better understanding of the implementation challenges through contact with other councils and affected sectors. Staff will also identify labour and consultant costs as part of the LTP (Long Term Plan) planning process. Current staff bids are still being evaluated.

- 6.14 However, it is fair to say there will be an increase in costs. MfE’s regulatory impact assessments indicate the costs will be “substantial”. Regional councils collectively will likely face a total per annum cost estimated to be in the order of \$135million. This estimate covered additional monitoring, data collection including mapping, land management interventions, and compliance efforts but it is unclear whether the costs associated with iwi engagement, increased hearing costs, and water accounting technologies are included. Even if our share of the estimated costs amounts to 1%, equivalent to our share of the national population, our costs could mean an additional \$1.35M per annum! The expectation is that there would be some costs recovery but the balance would have to come from rates.

7 Customer Survey Results for 2019-2020

- 7.1 In addition to the Communitrak™ Residents Survey, the National Research Bureau also surveys customers who in the previous year have sought from Council a building or resource consent, a dog registration, or an environmental health permit or license. Respondents are chosen from a randomised list of 400 applicants and asked questions about the helpfulness of staff, the reasonableness of costs, the time taken to obtain a decision, the usefulness and ease of council forms and brochures, and the ease of understanding an applicant’s on-going obligations. Respondents are also asked to give an overall level of satisfaction with Council service.
- 7.2 The summary results presented in the table below show good results. Overall satisfaction levels get dragged down by people’s dissatisfaction with cost of process and timeliness. Staff courtesy and helpfulness continues to be high, but I know overall staff strive to offer good service. Historical trends are shown in the following graphs.

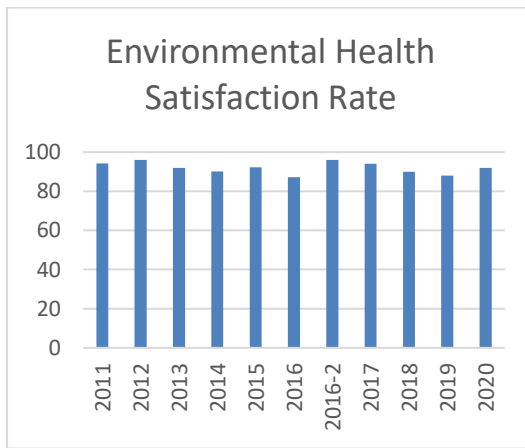
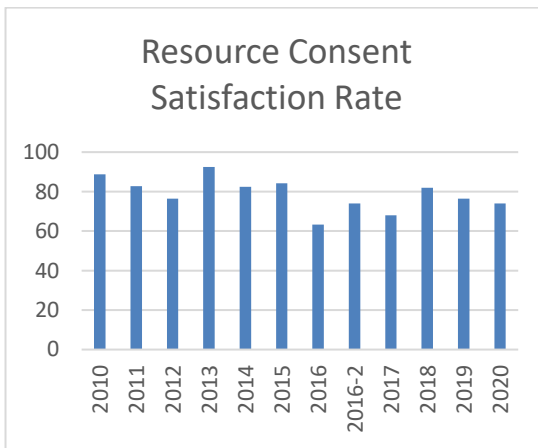
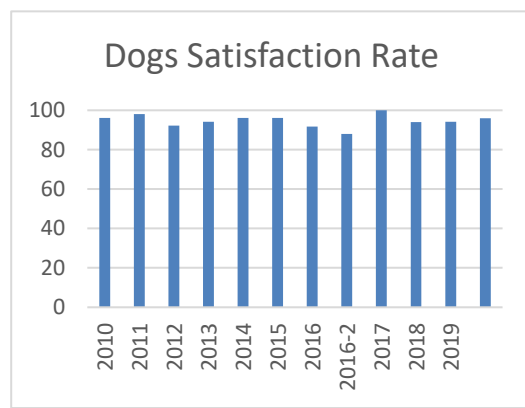
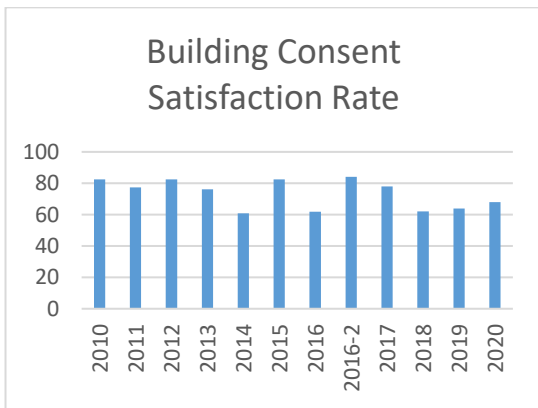
A) Question	B) Score - showing proportion of respondents who agree or strongly agree					C)
D)	E) Total	F) Building	G) Resource Consents	H) Dogs	I) Environmental Health	
J) Staff were helpful and courteous	K) 85.5 (84.8)	L) 78.0(81.0)	M) 84.0 (80.4)	N) 90.0 (86.3)	O) 90.0 (92.0)	
P) Costs were reasonable	Q) 67.0 (61.9)	R) 48.0 (39.7)	S) 46.0 (47.1)	T) 94.0 (94.1)	U) 80.0 (70.0)	

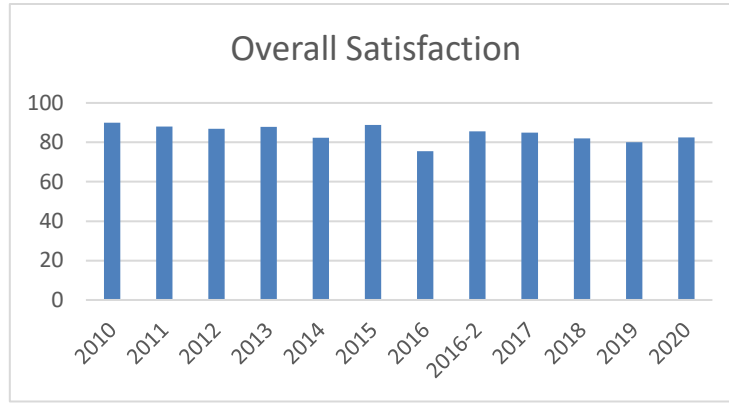
Item 7.4

V) Time taken was reasonable	W) 78.5 (77.6)	X) 66.0 (62.1)	Y) 70.0 (72.5)	Z) 94.0 (96.1)	AA) 84.0 (82.0)
BB) Overall level of satisfaction with Council service	CC) 82.5 (80.0)	DD) 68.0 (63.8)	EE) 74.0 (76.5)	FF) 96.0 (94.1)	GG) 92.0 (88.0)

(Bracketed figures are those applying to the last survey in 2019).

7.3 Broken down by Ward, the overall satisfaction levels have shifted considerably from the last survey - Golden Bay 80.6% (68.0%), Lakes Murchison Little(80.0%), Richmond 81.0% (75.4%), Waimea Moutere 81.4% (83.3), and Motueka 94.1% (87.8%).





8 Dog Control Bylaw Amendment Motueka Ward

8.1 At the 12 March 2020 meeting, following consideration of a report into options relating to the control of dogs (Report RC 20-03-2 refers), the Committee delegated to the Motueka Community Board the necessary powers to report back on an amendment to the Dog Control Bylaw in relation to Little Kaiteiteri beach (Resolution RC 20-03-4 refers). This was subsequently widened by Notice of Motion passed at the 23 May 2020 Council meeting to include all beaches in the Motueka Ward (Resolution CN20-05-17 refers).

8.2 At its meeting on 21 July 2020, the Board received a proposed Bylaw amendment following a workshop to discuss the issues. It is fair to say the Board received feedback from the Community that encouraged it, upon reflection of the options, to resolve that:

following considerable feedback to the Board from the community against an amendment to the Dog Control Bylaw controlling dogs on beaches, recommends to Tasman District Council that the Dog Control Bylaw 2014 amendment process for the Motueka Ward not be progressed. (Resolution MCB20-07-3).

8.3 The matter is accordingly referred back to the Regulatory Committee. It can decide to:

- 8.3.1 accept the advice of the Community Board and proceed no further, or
- 8.3.2 proceed itself with a review consistent with the 12 March resolution, notwithstanding that it was rescinded, or
- 8.3.3 proceed itself with a review consistent with the 23 May Council decision, or
- 8.3.4 adopt an alternative option.

8.4 Staff defer to the Committee for direction. The amendment to the Bylaw in relation to Golden Bay Ward is under action through the efforts of the Golden Bay Community Board and the hearing on 26 August will result in a recommendation back to the Committee.

1.

9 Annual Report 2019/2020

9.1 While there has been a delay in finalising the 2019/2020 Annual Report, Attachment 2 is the summary position of some of the consenting and licensing activity undertaken in the course of the year. The figure of 448 building consents for residential dwellings accounted for 488 new dwellings, slightly down on the 494 the previous year.

10 Waimea Community Dam – Compliance Report

- 10.1 The resource consents for the construction of the Waimea Community Dam include an obligation for the permit holder to provide an annual report on some of the elements which are monitored. In addition, staff have been continuously involved in monitoring the project during the construction phases. The site is being well managed from an erosion and sediment control perspective, with many examples of best practice.
- 10.2 Prior to commencement of each stage of the construction to date, all the overarching Environmental Management Plans and Supplementary Construction Environmental Management Plans (SCEMPs) were supplied and certified, along with any amendments to those plans if any significant changes were proposed to already agreed methodology.
- 10.3 Communications with the Consent Holder and its agents have been very good, with clear expectations for meeting compliance established and a goal set of best environmental practice.
- 10.4 Since commencement of construction activities (including construction of the access road) numerous Compliance Monitoring inspections of the site have been carried out over the year with feedback monitoring reports provided following each inspection.
- 10.5 The consent holder has also now submitted the required Biodiversity Management Plan Report (BMPR) and Water Quality Report (WQR). These reports will be available on the Waimea Water Limited website. Staff have reviewed and accepted them at this stage. Biodiversity off set mitigation is progressing well as outlined in the BMPR and the findings of the latest report will be presented the Biodiversity Technical Advisory Group for feedback prior to final certification.
- 10.6 Water quality monitoring carried out by independent consultants and outlined in the WQR indicates that the health of the Lee river remains very good, as evidenced by the macro invertebrate sampling results (carried out before and during construction phase to date), but as expected there have been some temporary water clarity effects from time to time, albeit any sampling results still fell within parameters set in the conditions and as agreed with Council's Resource Scientist.
- 10.7 The Construction Emergency Action Plan (CEAP) has been certified following the consent holder's consultation with the Emergency Services. The plan is currently being "proofed" in readiness for implementation during the next phase of construction when coffer dams three and four are constructed and as construction of the main dam embankment commences.

11 Car Parking Rule Changes

- 11.1 As a result of the new National Policy Statement (NPS) – Urban Development, minimum car parking requirements in all zones will be removed from district plans in 18 months' time. The scope of this change was different to the draft NPS we commented on. We accepted removing the requirements from intensive residential development could be justified but the requirement now applies to commercial and industrial developments.
- 11.2 The Mayor wrote to Minister Twyford about this change and we have also received a reply, (see Attachments 3 and 4). The Minister seems to think that developers will provide the on-site car parks sufficient to accommodate workers and customers and presumably any fleet vehicles. He overlooks the fact that provincial and rural centres like Richmond and Motueka are not like Auckland and Wellington where public transport is an option.

- 11.3 The Minister’s reply refers to the section 32 assessment which sees the removal as a way to “remove unnecessary costs and has the advantage of reducing subsidy for car ownership”. The regulatory assessment states that in “removing unnecessary constraints and costs associated with developments, it will improve the responsiveness of land markets, add capacity and will also contribute to the outcomes expected from well-functioning urban environments”. The reports goes on to say that Waka Kotahi NZ Transport Agency will provide guidance to local authorities on how to manage car parking effectively. The reports suggest that benefits of this change will also include more shared car parking facilities and the development of tools to find available car parks (i.e. ParkMate). The polite term for this type of analysis is that it falls well short of a proper understanding of the implications outside of the major metropolitan areas.
- 11.4 While parking can take up valuable land in commercial centres, for those communities that do not have critical mass to afford parking buildings, the impact of a parking shortfall transfers to parking on roads, with workers’ vehicles extending into adjoining residential areas with attendant complaints as Councillors will be all too aware. .
- 11.5 Car parking will still be a matter for consideration where consent is required for a discretionary activity. However, there will now be no ability to require a land owner of commercial or industrial land to provide on-site car parking if the use is otherwise permitted, or where, if a controlled activity or restricted discretionary, the matters of discretion do not cover parking. Perhaps unique to Tasman, we will have no further ability to take cash-in-lieu payments for permitted activities (as a financial contribution).
- 11.6 Because the NPS-UC is what is called a Disallowable Instrument, it can be the subject of review by the Regulations Review Committee of Parliament and the Mayor’s letter signalled this is an option open to the Council. Is there any appetite to take this matter further on the grounds that the NPS-UC has resulted in unforeseen outcomes?

12 Water Restrictions Possible

- 12.1 Attachment 5 is a summary position of our rainfall totals for the calendar year. Average rainfall figures are around 54-63% of what normally falls up to this time of year. Winter has not seen a lot of snow this year. The result is that growing conditions in the upcoming summer will be challenging. Kainui Dam at time of writing is 57% full and Cobb is only 18%.
- 12.2 Staff are preparing to send pre-season letters out to water permit holders. The new Waimea consents require irrigation management plans to encourage efficient use of water and staff have provided a template to indicate how this condition can be complied with.

13 Marine Farming Issues

- 13.1 Representations have been made to the Council and the Golden Bay Community Board by the Marine Farming Impact Group about marine farming activity in Golden Bay. A survey of community opinion is also currently being undertaken.
- 13.2 Central to the concerns has been a request for the Council to review the marine farming consents and to impose greater management interventions at Port Tarakohe (see Attachments 6, 7, and 8).

- 13.3 The Harbourmaster is working with the Marine Farming Association to update their Standard Operating Procedures which will improve float and debris loss. However there is no reasonable ground to review the consents. Vessels are free to move in and out of Port Tarakohe under their general right of navigation so there is little the Council can do (unless we denied them berthage, but that is unlikely). The industry is looking at using boats that minimize noise, but the residents of the Pohara area have for many years had to contend with the movement of scallop and mussel vessels and quarry blasting, so what is reasonable has to be assessed, relative to the circumstances. Accordingly, there is little we can add to the advice already given, but the Committee should be made aware of these issues.

14 Managing our Estuaries

- 14.1 The Parliamentary Commissioner for the Environment has released a report on managing our estuaries that discusses a wide range of problems, including overlapping jurisdictions and responsibilities, ever-changing policies and inadequate enforcement and compliance. In the release of the report, the Commissioner calls for a management approach that treats estuaries and the waterways that feed into them as a single entity from the mountains to the sea.
- 14.2 The Commissioner makes two recommendations in the report:
- 14.3 every estuary be included in one or more freshwater management units within the National Policy Statement for Freshwater Management 2020 and
- 14.4 establishment of a robust monitoring system to help local government and communities make informed decisions and ideally standardised, independently assessed and include metrics based on mātauranga Māori.
- 14.5 We have had in place a monitoring programme for our seven main estuaries since 2006 which, by national standards, has been consistent with the encouragement from the Commissioner. In 2011-12 we used key indicators to investigate all estuaries outside of Farewell Spit and Abel Tasman. We have also come to understand the main sources of sediment into two of the estuaries, Moutere and Waimea (reports from 2018 and 2020).
- 14.6 There is more work that can be done on restoring estuaries where key values have been lost. We know the issues, but currently no estuaries in Tasman have a restoration plan, although the Waimea Inlet does have an Action Plan which the community is working on with assistance from the Council.

15 Delegations

- 15.1 Under the current Delegation Register the Chair of the Regulatory committee, who may co-opt other members, can approve potential settlements by Consent Order relating to RMA Plans or Policy settlements. Traditionally, the Resource Consent Manager and/or Principal Planner have also signed off Consent Orders following mediation on resource consent appeals, after discussion with the Chair of the Regulatory Committee.
- 15.2 We are about to embark on Court assisted mediation for the Te Waikoropupu Water Conservation Order which could come under the term “policy settlement”. Out of an abundance of caution however, and to ensure that someone representing the Council has authority to settle, if the parties are able to settle at the upcoming mediation session, it is recommended that the scope of the delegations be updated.

Recommendation

That the Regulatory Committee agrees to amend the Delegations Register as follows:

(i) The Chairperson of the Regulatory Committee or Strategy and Policy Committee, who may co-opt other members, can approve potential settlements by Consent Order relating to RMA proceedings.

(ii) The Environment and Planning Manager, or Environmental Policy Manager, or Resource Consent Manager, or Principal Planner – Resource Consents can, following consultation with the Chairperson of the Regulatory Committee or Strategy and Policy Committee depending on the subject matter, approve potential settlements by Consent Order relating to RMA proceedings provided the settlement is in general accord with a stated Council position, or, where any deviation from such a position, is the result of consensus reached at Court assisted mediation.

16 Action Sheet

16.1 Attachment 9 is the Action Sheet which updates Councillors on action items from previous Committee meetings relevant to the Regulatory portfolio.

17 Attachments

1. ↓	Attachment 1 - Covid-19 Vines Submission	47
2. ↓	Attachment 2 - Annual Statistics	53
3. ↓	Attachment 3 - Letter to Minister Twyford	55
4. ↓	Attachment 4 - Reply from Minister Twyford	57
5. ↓	Attachment 5 - Annual Average Rainfall Stats	59
6. ↓	Attachment 6 - Letter from Mussel Farm Impact Group	61
7. ↓	Attachment 7 - Reply to R Barker	63
8. ↓	Attachment 8 - Reply to R Barker	69
9. ↓	Attachment 9 - Action Sheet	71

Initial Council comments on the 'The Vines' Affordable Subdivision proposal

Questions posed by the Minister

1. Confirm that the assessment undertaken by the Tasman District Council to determine if the Vines Affordable Subdivision is appropriate to be a Special Housing Area is still valid (Document reference: Location Summary T02-11)
2. How the development aligns with the Tasman Resource Management Plan and the Nelson Tasman Future Development Strategy
3. Compliance and enforcement history for the applicant (or known associated companies).

Comments on applications for referral under the COVID-19 Recovery (Fast-track Consenting) Act 2020

This form is for local authorities to provide comments to the Minister for the Environment on the decision to refer projects to an expert consenting panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020.

Local authority providing comment	Tasman District Council
Contact person (if follow-up is required)	Dennis Bush-King
	Environment and Planning Manager
	Dennis.Bush-King@tasman.govt.nz

Comment form

Please use the table below to comment on the application.

Project name	'The Vines' Affordable Subdivision
General comment	<p>The Council previously supported a Special Housing Application for this land but it was rejected for reasons of timing by the then Minister of Housing. The development of the land for housing, while earlier than anticipated in the Council's Future Growth Strategy, is not opposed.</p> <p>Council acknowledges the intent of the applicant to supply affordable housing to the district.</p> <p>Local context The development is for 47 residential lots, on a rural site just southwest of Richmond in Hope.</p> <p>Currently we have the Richmond West Development Area coming on line with well over 1,000 lots, plus several other residential developments at least as large as the Vines proposal in the area from Richmond to Wakefield.</p> <p>Land prices are at a historical high and there is still strong demand for sections.</p> <p>The Vines proposal is to deliver sections at a lower cost, subject to the costs of development.</p>
Is Fast-track appropriate?	<p>The Council is neutral about whether the fast track legislation should be used or the normal plan change/consenting process</p> <p>This proposal could contribute to affordability if savings are passed onto buyers and proposed covenants are effective.</p> <p>There are some significant stormwater drainage issues at the site that need to be resolved for this proposed development. It is currently unclear whether the fast track process will be able to provide resolution to this issue, and whether the project meets the intent of the Act that is for <i>"fast-track resource consenting and designation processes for eligible projects that are already planned <u>and ready to go</u>"</i>.</p> <p>The proposal is leap frogging ahead of Council's long term plans to deliver infrastructure services in this area. We would normally expect an area such as this to go through detailed structure planning to ensure that all the pieces in the infrastructure jigsaw fit together in a coherent manner but if the applicant contributes to the costs, than may minimise impacts on the Council.</p>
Environmental compliance history	Council holds no relevant compliance history.

<p>Insert responses to other specific requests in the Minister's letter (if applicable)</p>	<p><i>Confirm that the assessment undertaken by the Tasman District Council to determine if the Vines Affordable Subdivision is appropriate to be a Special Housing Area is still valid (Document reference: Location Summary T02-11)</i></p> <p>Planning From a planning perspective the only change since the SHA proposal is that we now have a Future Development Strategy (FDS)) which identifies this location for medium density residential development in decade 3 (2038-2048). The timing may change depending on how Tasman and Nelson growth projections trend over time.</p> <p>The site is zoned Rural 1 and it has highly productive Class A soils that are currently being used for viticulture. Land in the vicinity has changed to more urban purposes</p> <p>Servicing Council's long term plan 2018-2028 (LTP) does not provide any new solutions for servicing this area as the FDS timing is beyond the current LTP planning horizon.</p> <p>Transportation The SHA application did not deal with the upgrading that will be required for White Road and Main Road Hope (State Highway 6). Widening of White Road will be required to accommodate physical upgrading of this road by the developer.</p> <p>A footpath will also be required to be formed along the Main Road Hope (State Highway 6) frontage. There may be need to more road vesting along that frontage to meet NZ Transport Agency requirements and to have services located within the future road reserve.</p> <p>The proposed internal road layout is likely to be acceptable but we have not been provided with the proposed road design attributes (widths of carriageway, footpaths etc in the application).</p> <p>Water No significant changes from the SHA proposal. Water is available but extending it to this proposed development will put pressure on the existing network. The potable water supply is likely to require some manipulation of off-site reticulation to reconfigure the system, at the applicants cost. Achievement of <u>the full firefighting demand flows</u> within the proposed development is unlikely unless this off site work is carried out.</p> <p>Wastewater There is limited wastewater drainage capacity available for this proposal within the existing gravity reticulation adjacent to this site on Whites Road and along SH6. The low gradient on the site and relatively shallow groundwater will need to be taken into account.</p> <p>Option 1 Council's preference, is that the development has a gravity system installed that connects into the existing wastewater reticulation. This is likely to take up all the remaining capacity between the site and</p>
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the principal gravity reticulation. There may have to be some more modelling of flows etc to verify that the system has sufficient capacity. In the future this gravity reticulation network would be absorbed into the wider gravity network that will be needed to service other nearby growth areas (refer below).

Option 2 is for ALL the proposed lots to have a Council owned pump station on each lot (much like the Richmond West area). However, these units will have to have a SMART telemetry system installed and controlled by One Box telemetry system (or similar) connected back to TDC. The pumping stations would need to be able to provide a minimum of 12 hours or 1m³ of storage. Discharge from the pumping stations will be controlled so that pumps normally operate between the hours of midnight to 5am.

Stormwater

The proposed stormwater management solution is still considered to be poor. Council has concerns that the solution will direct flood waters onto State Highway 6. The applicants will need to show in more detail how they will mitigate the increased runoff from the site following development and complying with the Nelson Tasman Land Development Manual in regard to infiltration etc.

As there is no stormwater reticulation or drainage in the immediate area the applicant will need to mitigate flows up to a Q100 event. The current design only shows a solution to deal with up to a Q20 event.

The individual building sites will need to mitigate their own flows. Stormwater runoff from the roads will need specific design and would likely need to include a treatment train design such that contaminants and fine particles are intercepted so as to not "blind off" the surface of any soakage devices etc. This will increase the cost of the soakage system.

Recreation

The applicant is proposing one very small pocket park (1 section, 465m²)

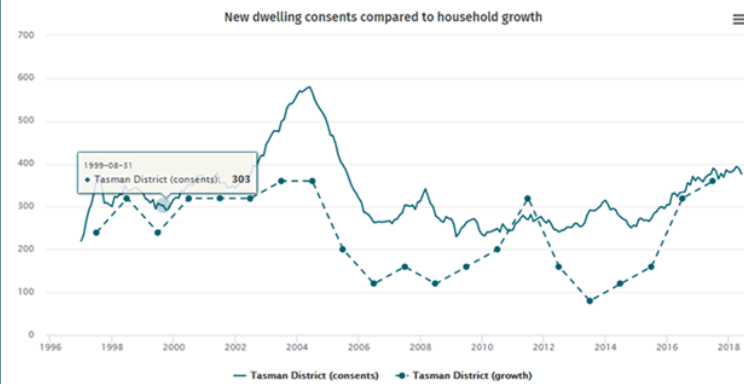
The level of service Council would be expecting to provide is a neighbourhood reserve with an area of 2500m². The current proposal falls well short of this.

How the development aligns with the Tasman Resource Management Plan and the Nelson Tasman Future Development Strategy

The proposal does not align with the Tasman Resource Management Plan (TRMP) due to it being a residential subdivision within a Rural 1 zone. The site consists of Class A soils which are the most productive and versatile in the region and these values are acknowledged within Chapter 7 of the TRMP.

Central Government's own monitoring of Tasman District (Urban Development Capacity dashboard <https://www.hud.govt.nz/urban-development/urban-development-capacity-dashboard/>) shows that new

dwelling consents have kept up with household growth. We are currently awaiting data for 2019.



The proposed pattern of development and the average lot density is in general keeping with the TRMP for residential development, taking into account the minimum number of dwellings that are being proposed.

The area of Rural 1 land between White Road and the current southern boundary of residentially zoned land in Richmond is identified as a future residential growth location in the Nelson Tasman Future Development Strategy (FDS) (2019). The application site is part of a larger area identified for possible medium density development, with average lot sizes of 550 sq m. This is the "Hope" site in the Future Development Strategy. The adjacent growth areas "Paton Road Foothills" and "Hill Street South foothills" are identified in the FDS as being for standard density residential development with average lot sizes ranging from 550 sq m. to 1,000 sq.m.

The Nelson Tasman Future Development Strategy (FDS) was adopted in 2019 and population projections at that time forecast the Richmond South growth area would be needed between 2038-2048. The Tasman Long Term Plan 2021-2031 is currently being prepared and as a consequence new population projections that have been commissioned. Growth modelling underway to inform the Long Term Plan suggests the Richmond South growth area may be needed between 2032 and 2041.

One of the reasons why this growth area was scheduled long term in the FDS was due to its highly productive land value (class A soils), seeking to use less productive land first. The multi-criteria assessment of the site concluded that while ownership is fragmented, the land is flat, versatile, and the climate is good.

The FDS concludes that some Tasman greenfield expansion areas are needed to provide sufficient capacity and housing choice, but use of more productive land would be minimised and restricted to areas adjacent to existing urban area, where ownership is fragmented.

	<p><i>Compliance and enforcement history for the applicant (or known associated companies).</i></p> <p>Council holds no relevant compliance history other than some spray drift complaints approx. 15yrs ago. Mudgway Construction Limited is registered to the address at Hope and has only the two directors being the landowners.</p>
<p>Other considerations</p>	<p>NZ Transport Agency would wish to be involved – the current proposal is directing stormwater flows onto State Highway 6. This section of the State Highway has no stormwater drainage system to take this water and the proposed development could result in flooding the road. NZTA have been supportive of the FDS.</p>

**Environment and Planning Department
Applications Processed
1 July 2019 to 30 June 2020**

1. Resource Management Act				
Type of Consent	Outcomes 2018/19		Outcomes 2019/20	
Land Use	551		521	
Water	108		483	
Discharge	146		129	
Coastal	10		18	
Subdivision	141		121	
Title Plans	111		116	
Completion Certificates	110		116	
Certificates of Compliance	8		14	
Deemed Permitted Boundary Notices	51		31	
Marginal or Temporary Exemption Notices	38		22	
Resource Consent (Permit) Transfers	145		195	
Right of Way (s348 Local Govt. Act 1974)	16		6	
2. Building Act				
Type of Consent	2018/19		2019/20	
	No. Issued	Value (\$)	No. Issued	Value (\$)
Dwelling	368	150.(M	448	189.5M
Commercial	59	36M	46	34.9M
Other	871	41M	710	40.2M
Totals	1,298	\$227.9M	1,204	\$264.8M
3. Licences				
Type	2018/19		2019/20	
	No. of Certificates Issued	No. of Certificates Issued	No. of Certificates Issued	No. of Certificates Issued
Food Premises/Operators	363	361	361	361
Hairdressers	44	45	45	45
Camp Grounds	36	42	42	42
Hawkers/Mobile Traders	48	40	40	40
Others	6	11	11	11
Commercial Vessel Operators	28	22	22	22
4. Sale of Alcohol				
Type of Licence	2018/19		2019/20	
	No. of Licenses Issued	No. of Licenses Issued	No. of Licenses Issued	No. of Licenses Issued
Manager's Certificate	270	290	290	290
On and Off Licences	65	106	106	106
Club Licence	11	14	14	14
Special Licence	65	52	52	52
Temporary Authority Order	6	13	13	13
5. Other				
Type	2018/19	2019/20	2019/20	2019/20
Land Information Memoranda	664	722	722	722
Complaints Received	2631	2894	2894	2894
Abatement Notices Issued	67	54	54	54
Infringement Notices Issued	79	69	69	69
Enforcement Orders	1	0	0	0
Excessive Noise Directions	189	203	203	203



Office of the Mayor

Email mayor@tasman.govt.nz
Phone 03 543 8444



28 July 2020

Honourable Phil Twyford
Minister of Urban Development
Parliament Buildings
Wellington

Via email – p.twyford@ministers.govt.nz

Dear Minister

We are concerned that you have removed the opportunity for the Tasman District Council, and possibly other local authorities, to obtain financial contributions from developers of business land which, in the past, have gone towards the provision of public car parking facilities. The new National Policy Statement for Urban Development (NPS-UD) requires that territorial authorities remove from their district plans any minimum car parking requirements and associated provisions.

Not only does this requirement apply to residential zoned land, and we accept the reason for applying this to intensive residential areas, but it also catches commercial and industrial zoned land. In rural and provincial towns which service large rural hinterlands and which do not have public transport systems, having sufficient parking spaces is vitally important.

You may well be trusting the market to provide enough on-site parking in those situations where it is needed. Our experience, however, is that given the cost of land, developers will always try to minimise the provision of on-site parking for customers, staff and fleet vehicles. Again in our experience, it has always been better for developers and the Council to have a conversation over what an appropriate provision of on-site parking is. Apart from the provision of accessibility parking, you have removed this obligation and shifted the cost burden to the ratepayer. We can understand why Policy 3.38 has been written in the way that it now has for the likes of Wellington and Auckland, but it seems no one has properly assessed the implications for rural and provincial urban centres.

The application of the threshold to Tier 1, 2 and 3 territorial authorities means that all district plans will be affected through the removal of minimum car parking requirements. Whether this was the intention, or whether the provision was only to apply to urban areas having greater than 10,000 people, is unclear from the structure and scope of the NPS-UD.

I appreciate that the NPS-UD is now a statutory instrument and am considering whether the matter we have raised should be referred to the Regulations Review Committee. Whether I pursue this will depend on your response to this letter. Our preference would be that Policy 3.38 only apply in relation to land zoned for residential purposes in named urban areas (doing this avoids debate over whether an urban area has 10,000 people plus or minus).

Yours sincerely

Tim King, JP
Mayor, Tasman District Council

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

Hon Phil Twyford

MP for Te Atatu

Minister for Economic Development

Minister of Transport

Minister for Urban Development



21 AUG 2020

Tim King
Mayor
Tasman District Council
Robyn.Scherer@tasman.govt.nz

Dear Mayor King

Thank you for your correspondence dated 28 July 2020 raising your concerns regarding the impact of the new National Policy Statement on Urban Development (NPS-UD) on your ability to obtain financial contributions from developers of business land to contribute toward public car parking facilities.

I understand that you are seeking clarification from me on whether the car parking provisions of the NPS-UD have implications for district plans in all areas, or just in urban areas with greater than 10,000 people. You also queried whether the implications of this policy had been adequately assessed.

As you are aware, Tasman District is a Tier 3 urban environment under the NPS-UD, because it contains an "urban environment": Richmond, which has approximately 15,000 residents. As per clause 1.3 of the NPS-UD, the National Policy Statement applies to the whole district of any given Tier 1, 2 or 3 territorial authority, not just to the "urban environment". This includes Policy 11 (and the direction in clause 3.38). As a result, Tasman District Council will be required to remove car parking minima rules from its district plan across all zones.

The reason for the removal of car parking minima is the well-evidenced distortionary effects they have. The evidentiary basis for these provisions and the rationale for the targeting of this directive to Tier 2 and 3 local authorities was assessed in the Cost-Benefit Analysis and qualitative s32 and s32AA reports, all of which are publicly available on the Ministry for the Environment's (MfE) website: <https://www.mfe.govt.nz/about-national-policy-statement-urban-development/>. The s32AA report in particular discusses the decision to apply the car parking provisions to entire districts rather than just "urban environments". While the effects are greatest in places such as Auckland and Wellington, as you suggest, they nonetheless occur wherever the minima are used. As these effects are closely tied to the price of land, areas of lower land prices (such as rural or provincial centres) will benefit less from their removal, but the associated costs will also decrease.

I understand your concerns that developers may not always provide enough parking. However, developers and businesses do have a strong incentive to provide sufficient car parking for customers and staff where it is required, in order to manage their business operations. As the NPS-UD does not prevent developers or businesses from providing parking, evidence indicates that even in areas with strong public transport and walking connections, developers will continue to provide parking, at least in the short-to-medium term.

+64 4 817 8704

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand

p.twyford@ministers.govt.nz

beehive.govt.nz

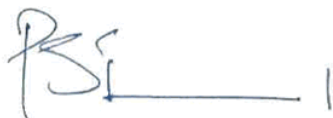
I recognise that the implementation of this policy will require local authorities across the country to find new ways to manage effects associated with the supply of, and demand for, car parking. This is why the implementation timeframe for the car parking provisions is 18 months, despite the requirement to remove the car parking provisions directly, without following a Schedule 1 process under the *Resource Management Act 1991*.

Policy 11(b) of the NPS-UD is intended to give some direction in this space; it encourages local authorities to use comprehensive parking management plans as the primary tool for on and off-street parking management. These plans can provide guidance on how to manage parking in centres and other locations with parking demand pressures over the short, medium and long term, based on analysis of local circumstances, and to reduce social costs. The plans can include recommendations and supporting evidence to enable local authorities or their agencies to implement measures to manage parking including introduction of restrictions or pricing. They will also assist in decisions regarding divesting, retaining or providing additional parking supply to meet future demand.

MfE has published a fact sheet in relation to the car parking policy in the NPS-UD which you and your officials may find useful when implementing this policy (<https://www.mfe.govt.nz/publications/towns-and-cities/nps-ud-2020-car-parking-fact-sheet>). MfE and the Ministry of Housing and Urban Development will also develop further guidance and will work alongside councils to help them implement the NPS-UD's policies. Waka Kotahi New Zealand Transport Agency will also issue guidance to help local authorities manage parking, including through the development of comprehensive parking management plans.

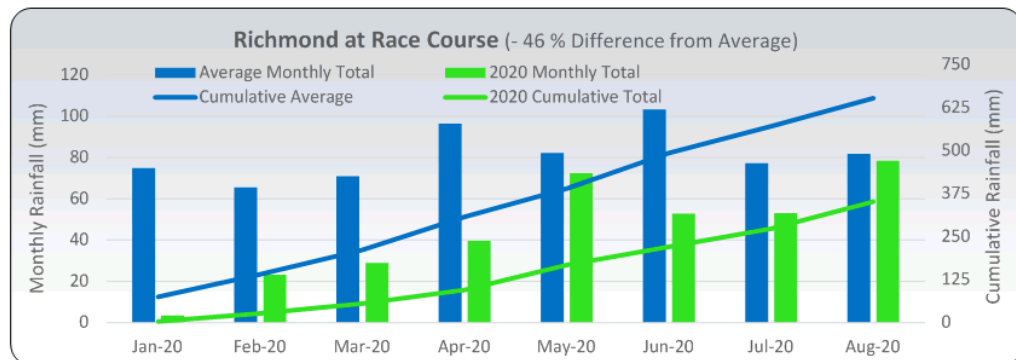
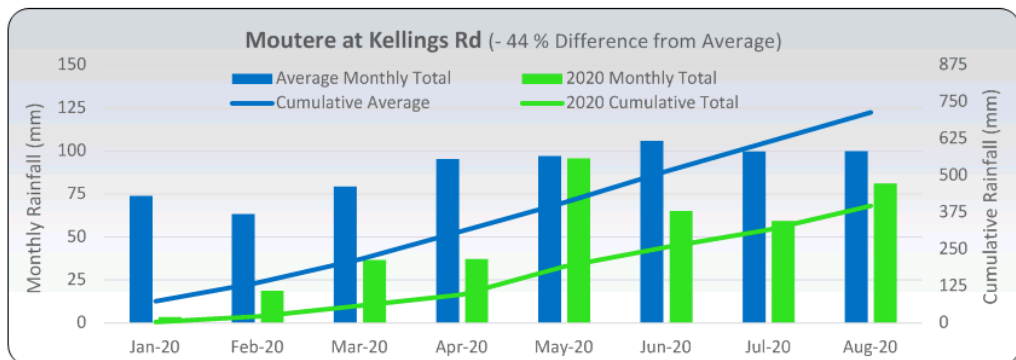
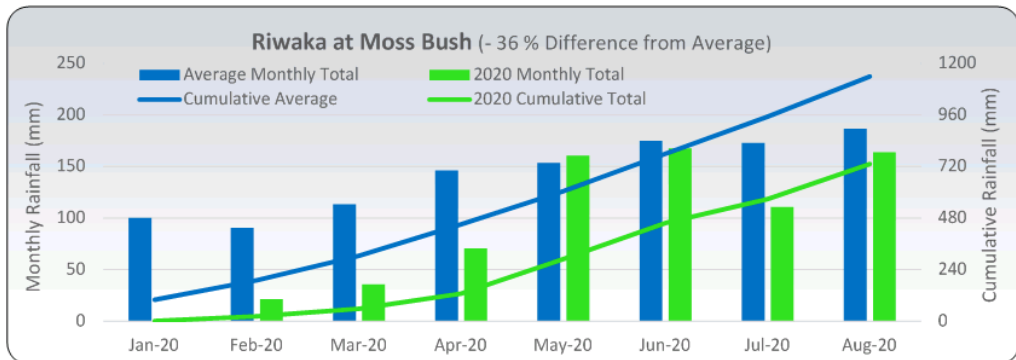
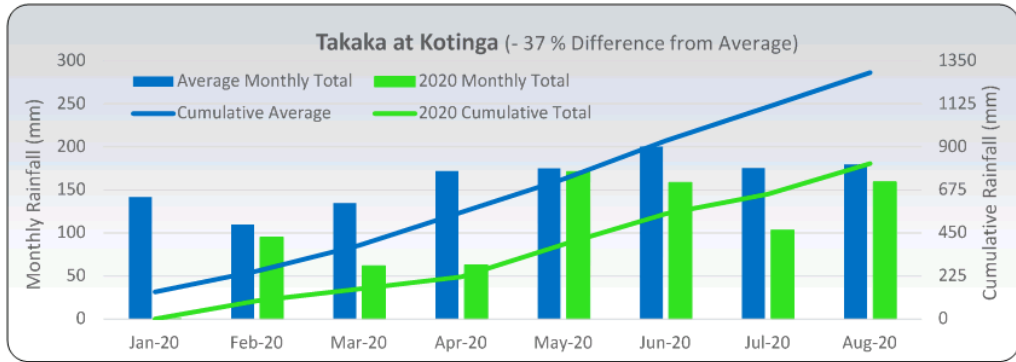
Thank you for taking the time to write to me.

Yours sincerely



Hon Phil Twyford
Minister for Urban Development

2020 Monthly Rainfall to Date vs Average
(August monthly total 24 August 2020)



Dennis Bush-King

From: Rod Barker <rodbarker11@gmail.com>
Sent: Saturday, 8 August 2020 10:06 am
To: Dennis Bush-King
Cc: Celia Butler; Janine Dowding
Subject: Marine farming impacts in Golden Bay
Attachments: Denis Bush-King Response to Community Board Presentation.pdf

Dear Dennis

Thankyou for your letter (see attached) and acknowledging our group's concerns about hours of operation, noise and light spill from vessels, debris associated with the marine farming industry, consent monitoring and the overall unsustainability (carbon rich) of the industry. However, our group is seeking action from Council on these matters.

As suggested, our group would like a register to be kept by Council of waste (i.e. ropes and buoys) lost by the industry. Despite the various evidence I have provided about the amount of waste washed ashore both on our local Golden Bay beaches and beaches in the Abel Tasman National Park you state that you are 'satisfied with the level of compliance'. How is that amount of waste on our beautiful beaches and across the outstanding natural landscape of the bay acceptable to Council?

Myself and other residents have evidence of this waste washing ashore.

You imply our group is trying to prevent boat movements to and from Port Tarohe. On the contrary we are thinking about present and future boat movements and the social costs to the community. Industry would gain a lot of community support if it was to operate from 7.30am to 7.30 pm and have electric engines. We realise operating hours are not conditioned on consents for the AMA users, unlike the Wianui Farmers. As you mention, Council has the power to initiate a review of consent conditions. We ask that Council takes this option seriously.

While Council may consider 'aquaculture activities are generally low risk' there are enough people in the community (whom our group represent) that think otherwise. We have sought the results from noise monitoring over the last 2 years from Council and no data has been forthcoming. We do not feel Council is doing enough to address our concerns. We would really like to see some leadership from Council that works with Industry and the community (i.e. our Group) on the following nine points.

1. Restricted operating hours for commercial vessels (7.30 AM - 7.30 PM) to reduce noise impacts for people and other creatures.
2. Register for commercial vessels leaving and entering the port. This provides evidence of which vessel is making excessive noise.
3. Close monitoring of the industry by Council (at the cost of industry). Monitoring to include waste clean ups, recording of lost gear and recovered gear. Results of monitoring to be made publicly available to ensure accountability.
4. Review of mussel farming consent conditions and effective penalties for breaching the conditions, e.g. noise, waste, including micro-plastics. As far as we are aware, there have been no penalties imposed on the industry for breaching consent conditions.

5. TDC to do yearly survey of residents and visitors to establish the extent of industry impacts (costs covered by the mussel farming industry).

6. Further investigation into reducing mussel boat noise, light spill and waste to be driven by Council specialist staff (at the cost of industry). Currently the marine farming industry seems to be self-monitoring which looks to be failing.

7. Marine Farming Industry to use natural fibre rope and cord instead of plastic based equipment and to be fined for loss of plastic floats into the marine environment.

8. Council to work closely with the Golden Bay community on these matters using an Ecosystem Based Management (EBM) approach.

9. All rope and cord used by the operators to be colour coded, this will assist with identifying the operator when waste or equipment is found.

Intervention now could get the industry on the path to better practices - the changes we suggest will have a positive influence and eliminate a range of future risks. Now is the time to get the operating framework right for the future of the industry, the Golden Bay community and the natural environment.

Thank you and I look forward to your response, Rod Barker.



File: C424

leif.pigott@tasman.govt.nz
Phone 543 8430

12 August 2019

Rod Barker
rodbarker11@gmail.com

Dear Mr Barker

Request under Section 128 of the Resource Management Act 1991 for Council to review the consent conditions of coastal permits of the Golden Bay Marine Farming Industry

Thank you for your letter requesting that Council review the conditions of the coastal permits held by marine farmers in Golden Bay.

Your reasons for requesting the review are that you consider it is needed:

- to mitigate unreasonable noise from the marine farming vessels leaving Port Tarakohe early in the morning and late at night; and
- to control the adverse effects of lights on the night sky.

Further, you have stated that you believe at the time the consents were granted it appears that:

- the effects of noise or light spill on the environment, especially on the natural character of Golden Bay, were not considered; and
- the effects of noise on people or lights on species in their natural habitats would not have necessarily been known at that time.

The case law on Council initiated reviews of conditions is not helpful to your request. Generally such reviews have to be anticipated in the consent conditions and in relation to the matters raised (noise and light spill), we do not consider that the circumstances exist whereby we would trigger a review of the conditions. The monitoring of the consents have not revealed any effects not anticipated or not considered proportionate to what the consents provide for.

The objectives, policies and rules in the Tasman Resource Management Plan (TRMP) regulating aquaculture in Tasman result from a lengthy process of consultation and Council and Environment Court Hearings. These considered the appropriate framework to manage the potential adverse effects of the activities to achieve the sustainable management purpose of the Resource Management Act 1991 ("the Act"). Two interim and one final decisions were released by the Court and they canvassed the issues thoroughly, including natural character and landscapes. I am able to provide copies of those decisions for your information.

While you refer to Rule 26.2.1.8, that rule does not apply to aquaculture activities. Rule 26.2.2 is the relevant rule. This outlines the information to be submitted with applications, and includes effects on natural character and amenity values. However, the

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

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consents issued within the Aquaculture Management Areas (AMAs) to date are either Controlled or Restricted Discretionary Activities, so the information required and provided must be considered through these filters.

Rule 25.1.3.1 Controlled Activities (Spat Catching) and 25.1.3.2 Restricted Discretionary Activities (Spat Catching) restrict Council's control and discretion when considering an application and imposing conditions (see also Section 104A and 104C of the Act). None of the matters refer to natural character and amenity values.

Rule 25.1.4.1 Controlled Activities (Aquaculture involving Filter Feeding Bivalves, including Mussels) and 25.1.4.2 Restricted Discretionary Activities (Aquaculture involving Filter-Feeding Bivalves, including Mussels) also restrict Council's control and discretion. These include reference to natural character and amenity values. However, for mussel farming the consideration of natural character is specifically limited the AMA 2 subzone (I):

"Natural character and amenity values, including visual and noise effects, except that for mussel farming, this matter is limited to natural character values at AMA 2 Puramakau, subzone (I)."

The matters of control and discretion are provided in Attachment 1 and the principal reasons for the rules are outlined in Section 25.1.20 and are copied in Attachment 2 for your information.

In reviewing the conditions of a resource consent, the matters to be considered by a consent authority include that it "[s]hall have regard to the matters in section 104 ..." (see Section 131(1) of the Act). The above rules would be relevant matters as relevant provisions of a plan (see Section 104(1)(vi) of the Act). These rules do not include noise from marine farming vessels leaving Port Tarakohe or the adverse effects of lights on the night sky.

You also state that you consider the noise from the boats servicing the sites is contrary to Section 16 of the Act. There are no noise standards in the Coastal Plan, primarily due to the difficulty in measuring and identifying the sources of noise and the difficulty enforcing them. However, under Section 16 every person carrying out activities in the coastal marine area is required to adopt the best practicable option to ensure that emission of noise does not exceed a reasonable level.

As you are aware, the issue of boat noise from vessels coming and going from Port Tarakohe has been raised with the New Zealand Marine Farming Association. The Association is mindful of the issue and has responded by putting in place measures to assist in minimising the noise from vessels, these include encouraging all vessels to maintain low revs (under 5 knots) until they are at least 1 nautical mile from the Port with a gradual increase from there to the marine farming sites. It has also been agreed that vessel operators will investigate ways to quieten the noise from their exhaust systems.

The issue of light spill is acknowledged and is also something that can and has been raised with the Association. Working with the industry to find the best practicable option to reduce noise and light spill from vessels is Council's preferred approach to address the issues you raise and we will continue to work with parties to explore options to minimise noise and light spill from vessels.

Yours sincerely

Leif Pigott
Acting Consents Manager

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Attachment 1 – Matters of Control and Discretion

Rule 25.1.3.1 Controlled Activities (Spat Catching)

- (1) Ecological effects, including monitoring.
- (2) Type, scale, location, density and integrity of structures.
- (3) Navigation, including the form of compliance with Maritime New Zealand guidelines for the marking and lighting of aquaculture structures, and layout in subzones (e), (i), (j), (k) and (l) of AMA 3 Te Kumara.
- (4) Management of biosecurity risk organisms, such as *Undaria*.
- (5) Duration of the permit.
- (6) Financial contributions, bonds, administrative charges.
- (7) Timing and purpose of reviews of any or all conditions.

25.1.3.2 Restricted Discretionary Activities (Spat Catching)

- (1) Type, scale, location, density and integrity of structures.
- (2) Treaty values.
- (3) Ecological effects, including monitoring.
- (4) Navigation, including the form of compliance with Maritime New Zealand guidelines for the marking and lighting of aquaculture structures, and layout in subzones (e), (i), (j), (k) and (l) of AMA 3 Te Kumara.
- (5) Management of biosecurity risk organisms, such as *Undaria*.
- (6) Duration of the permit.
- (7) Financial contributions, bonds, administrative charges.
- (8) Timing and purpose of reviews of any or all conditions.

Rule 25.1.4.1 Controlled Activities (Aquaculture involving Filter-Feeding Bivalves, including Mussels)

- (1) Ecological effects, including:
 - (a) monitoring to ensure sustainable management of the marine environment at and in the vicinity of the site;
 - (b) managing risks of incursion, disease, biosecurity risk organisms, and genetic risk to wild stock;
 - (c) application of available monitoring information through consent conditions and reviews;
 - (d) consistency with the ecological management plan for the subzone;
 - (e) integration with ecological management plans that are relevant for other subzones in the same AMA.
- (2) **Natural character values (AMA 2 Puramakau, subzone (l) only).** Refer to Schedule 25G.
- (3) Type, scale, location, density and integrity of structures.
- (4) Treaty values.
- (5) Navigation, including the form of compliance with Maritime New Zealand guidelines for the marking and lighting of aquaculture structures, and layout in subzones (i), (j), (k) and (l) of AMA 3 Te Kumara.
- (6) Duration of the permit.
- (7) Financial contributions, bonds, administrative charges.
- (8) Timing and purpose of reviews of any or all conditions.

Rule 25.1.4.2 Restricted Discretionary Activities (Aquaculture involving Filter-Feeding Bivalves, including Mussels)

- (1) Ecological effects, including:
 - (a) monitoring to ensure sustainable management of the marine environment at and in the vicinity of the site;
 - (b) application of available monitoring information through consent conditions and review;
 - (c) consistency with the ecological management plan for the subzone;
 - (d) intensity of development;
 - (e) further development of aquaculture in any subzone;
 - (f) in AMA 1 Waikato subzones (a) and (b), the size of the initial stage of development;

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- (g) *integration with ecological management plans that are relevant for other subzones in the same AMA;*
 - (h) *managing risks of incursion, disease, biosecurity risk organisms, and genetic risk to wild stock.*
 - (2) *Degree of exclusive occupation if sought.*
 - (3) *Treaty values.*
 - (4) *Type, size and scale, location, layout, density, and integrity of structures.*
 - (5) *Natural character and amenity values, including visual and noise effects, except that **for mussel farming, this matter is limited to natural character values at AMA 2 Puramakau, subzone (I).** Refer to Schedule 25G.*
 - (6) *Navigation, including the form of compliance with Maritime New Zealand guidelines for the marking and lighting of aquaculture structures.*
 - (7) *Duration of the permit.*
 - (8) *Financial contributions, bonds, administrative charges.*
 - (9) *Timing and purpose of reviews of any or all conditions.*

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Attachment 2 – Principal Reasons for Rules

Structures for Aquaculture

Structures for aquaculture purposes have the potential to occupy a significant extent of the coastal marine area. There is a range of important public values over the coastal marine area that could be adversely affected by allowing aquaculture activities involving permanent occupation of space. For these reasons, aquaculture has been confined to limited Aquaculture Management Areas. These are generally three nautical miles offshore, but in northern Golden Bay/Mohua the AMA extends seaward from the existing marine farms area. The remainder of the coastal marine area is an Aquaculture Exclusion Area in which aquaculture is prohibited.

The AMAs provide space for both permanent farming activities and the catching of spat. The area available for seasonal spat catching is extensive, but the area that can be used in any 12-month period is limited. Spat catching is also limited to a season, providing a corresponding season when there are no spat catching structures in the water. These provisions give spat catchers some flexibility in location, while maintaining public values during the season of no spat catching and over the area not available for spat in any season.

As there is uncertainty in relation to the effects on marine ecology of aquaculture activities over extensive areas of Tasman Bay/Te Tai-o-Aorere and Golden Bay/Mohua a cautious and adaptive approach has generally been adopted. Spat catching in specific subzones is provided for on the basis that it is undertaken on a seasonal and rotational basis. For other aquaculture activities, the rules provide for the staged uptake of space within the subzones dependent on the results of monitoring effects of the activities prior to expansion. The effects of mussel farming in the region are relatively well known and consequently mussel farming (and farming of other filter-feeding bivalves – which are considered to have similar effects to mussels) has been provided with a specific restricted discretionary activity status. Aquaculture involving other extractive species that does not require the addition of material, such as feed or therapeutants, is provided for through a discretionary activity rule that requires staged development to be undertaken. For species such as, for example, finfish that require addition of material, a more cautious approach has been adopted. A limited amount of space will be made available within the subzones through a tendering process to convert existing farms or establish new farms for aquaculture involving additive species. Within this space a limited first stage of development will be provided for, with progression to the full area available under the tender process being guided by the results of monitoring. Ecological Advisory Groups will be established to assist Council in assessing the significance of monitoring results as development proceeds.

All aquaculture structures must be easily visible to allow safe navigation in the coastal marine area. The requirements for marking and lighting aquaculture structures are a compromise between the high visibility needed for navigation safety, and the low visibility sought to maintain natural character and amenity values.



Dennis.Bush-King@tasman.govt.nz
Phone 543 8430

7 August 2020

Rod Barker
Takaka

By Email: rodbarker11@gmail.com

Dear Rod

Your presentation to the Golden Bay Community Board about concerns with the mussel industry have been referred to me. Specifically you are concerned about the hours of operation, noise and light spill from vessels, debris associated with marine farming, the monitoring of consents and the general sustainability of the industry.

I am aware that you have raised similar issues as part of the Port Tarakohe development consultation.

We are aware also that you have been engaging with the industry and commend you that "going to the source" is appropriate and a means of alerting them to views of community members. However the issues you raise are not easily dealt with in terms of the marine farming consents administered by the Council. The loss of buoys from farms is something we are working on with the permit holders and is a matter requiring attention. The hours of operation are not currently controlled by consent conditions and even if they were, would not prevent movement in and out of Port Tarakohe or the general right of navigation.

We do monitor compliance with consent conditions and are generally satisfied with the levels of compliance. We would note any non-compliances through the Annual Compliance and Enforcement Summary Report to Council but aquaculture activities are generally low risk and certainly do not trigger the need for Council-initiated review of consents.

The Council does not currently survey resident's attitudes towards aquaculture (nor for that matter, any other industrial activities) and there is currently no intention to do so. Our current annual survey is targeted more to the performance of Council-based activities.

In terms of promoting a sustainable aquaculture industry and ensuring it complies with Ecosystem Based Management principles, the Council is currently embarking on a review of the Tasman Resource Management Plan. The issues and experiences associated with aquaculture will be a component of this review programme and staff are aware of the issues you have raised.

Yours sincerely

Dennis Bush-King
Environment & Planning Manager

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

Action Sheet - Regulatory Committee – September 2020

Meeting Date:	Minute/Action	Description	Accountable Officer	Status
6 September 2018	EP18-09-04	Enforcement Policy to be updated to cover off option of diversion	Dennis Bush-King/ Adrian Humphries	Still to action
23 July 2020		Committee to be kept informed as to hearing process for water permit renewals	P Doole	Under action
	RC20-07-8	Delegation Register to be updated	T Zawodny	Actioned