

**RRCN20-09-2 ANNUAL COMPLIANCE AND ENFORCEMENT SUMMARY REPORT****Information Only - No Decision Required**

<b>Report To:</b>	Regulatory Committee
<b>Meeting Date:</b>	3 September 2020
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<b>Report Number:</b>	REP20-09-01

**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.

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- 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.

<b>2 Draft Resolution</b>
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**That the Regulatory Committee receives the Annual Compliance and Enforcement Summary Report REP20-09-01**

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**ANNUAL COMPLIANCE AND ENFORCEMENT SUMMARY REPORT****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.

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**Compliance Monitoring Activity Area 2018/2020**

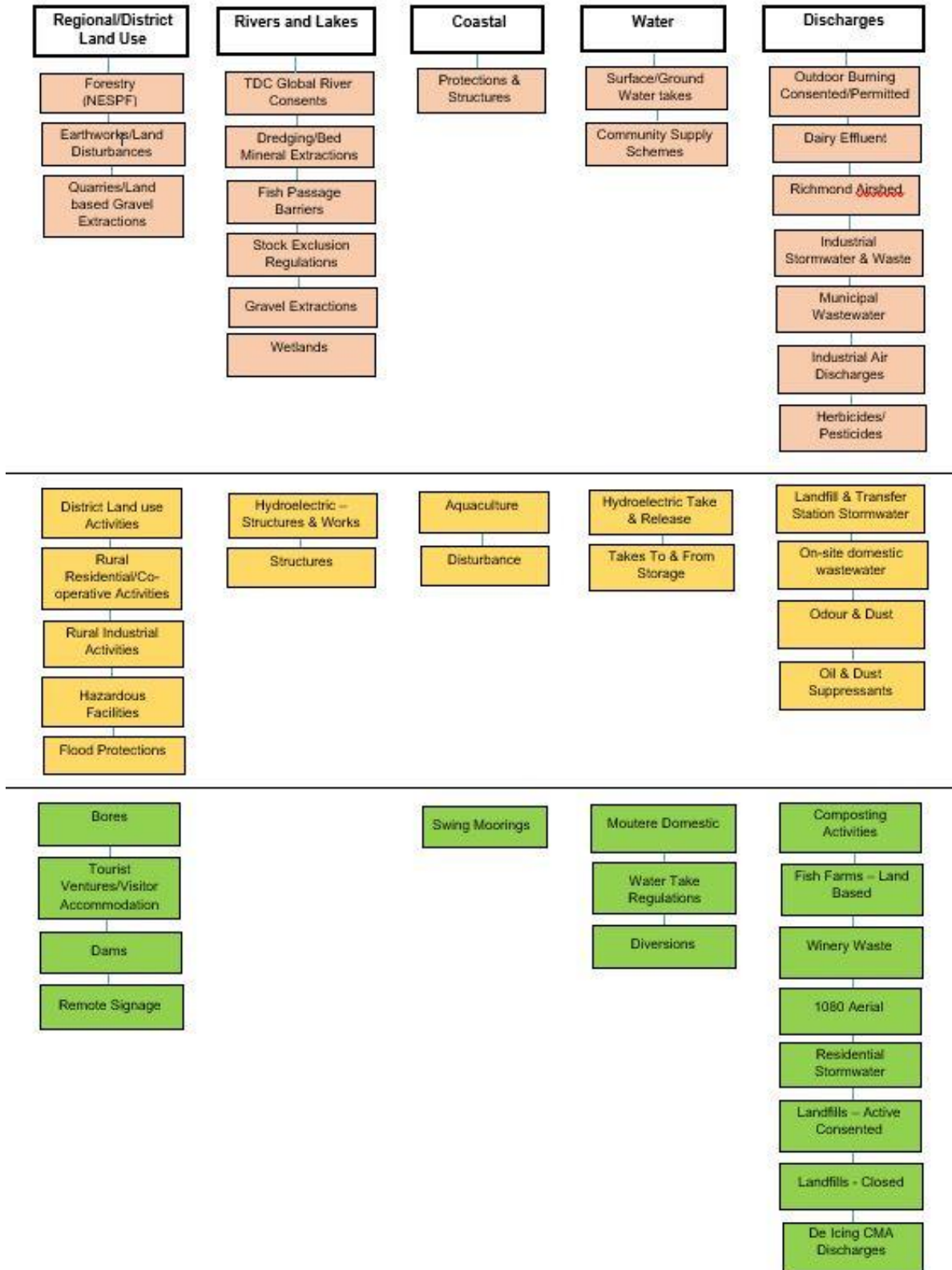


Table 1: Current monitoring programme in Tasman District

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- 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.

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

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

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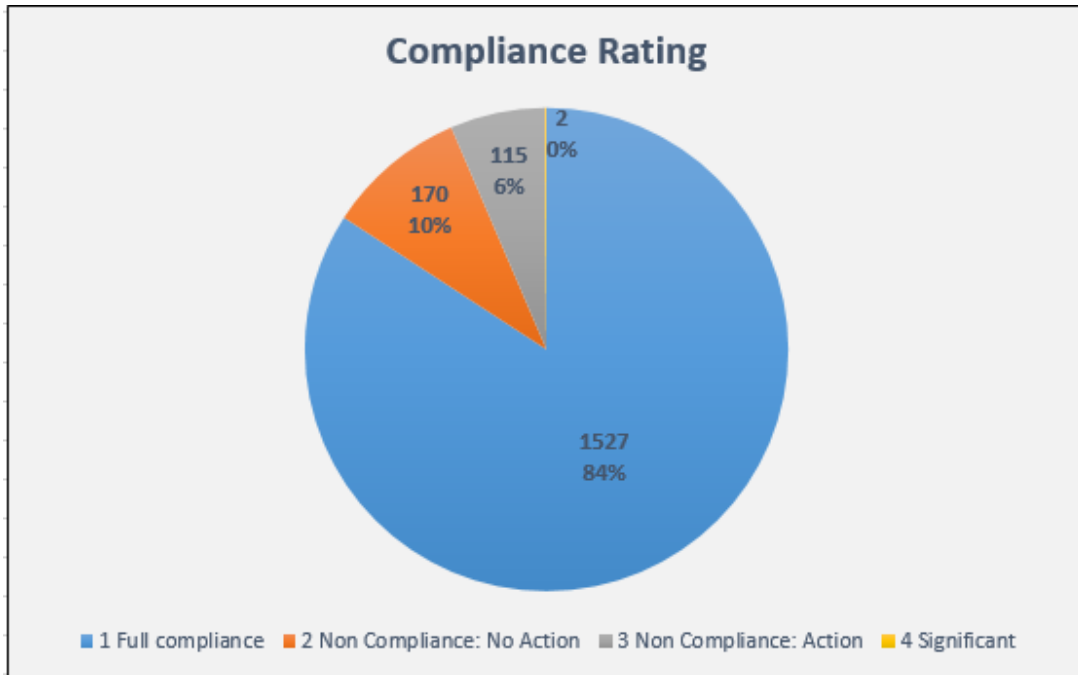


Figure 1: Consent and targeted permitted activity compliance performance for monitoring period

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.

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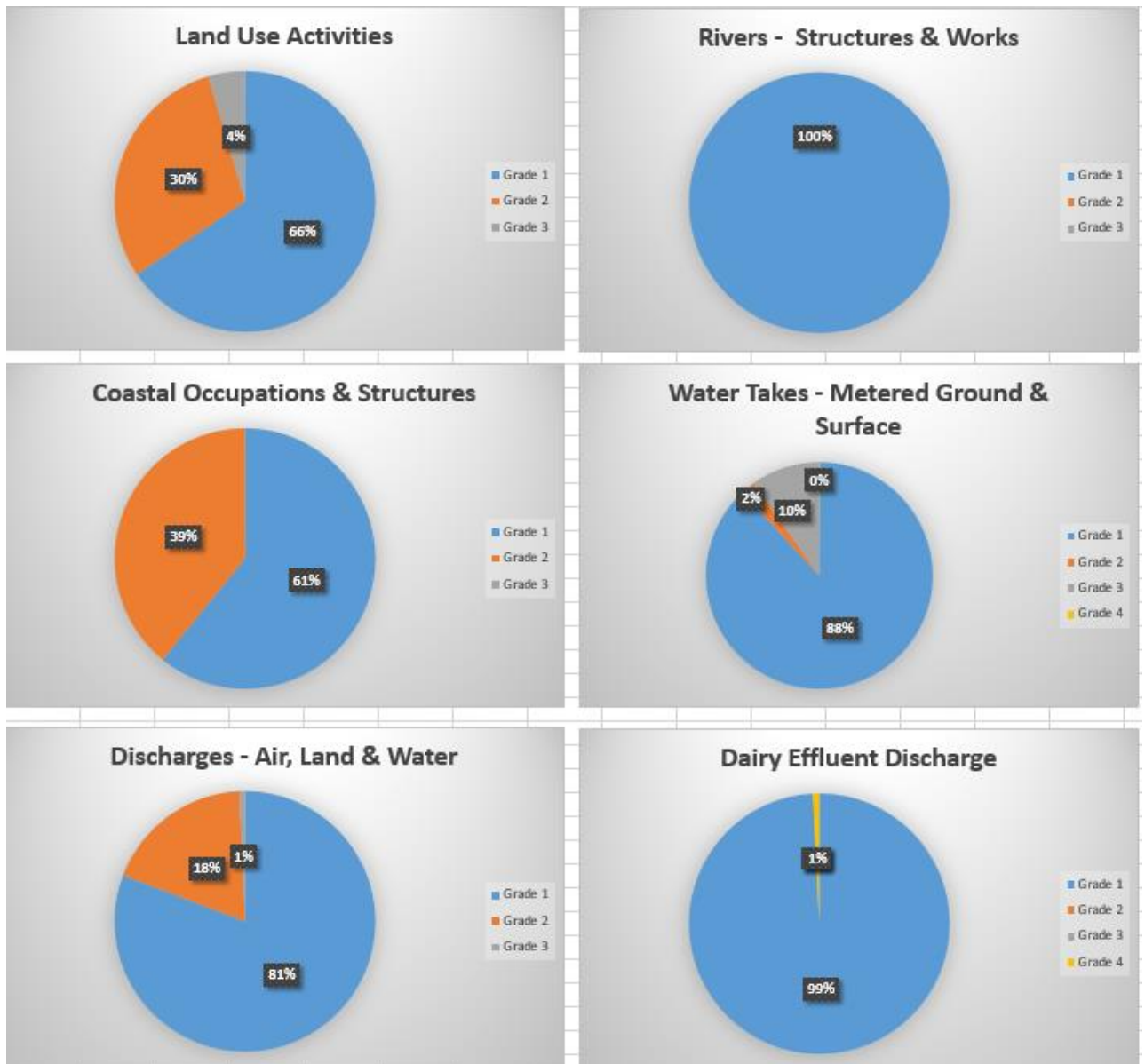


Figure 2: Monitoring activity for specific classes of consents

**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.

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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	



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	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	

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	Discharge Stormwater	Y	Phenol and formaldehyde resin plant
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:

**Talley's: Port Motueka**

5.13.1 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

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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.

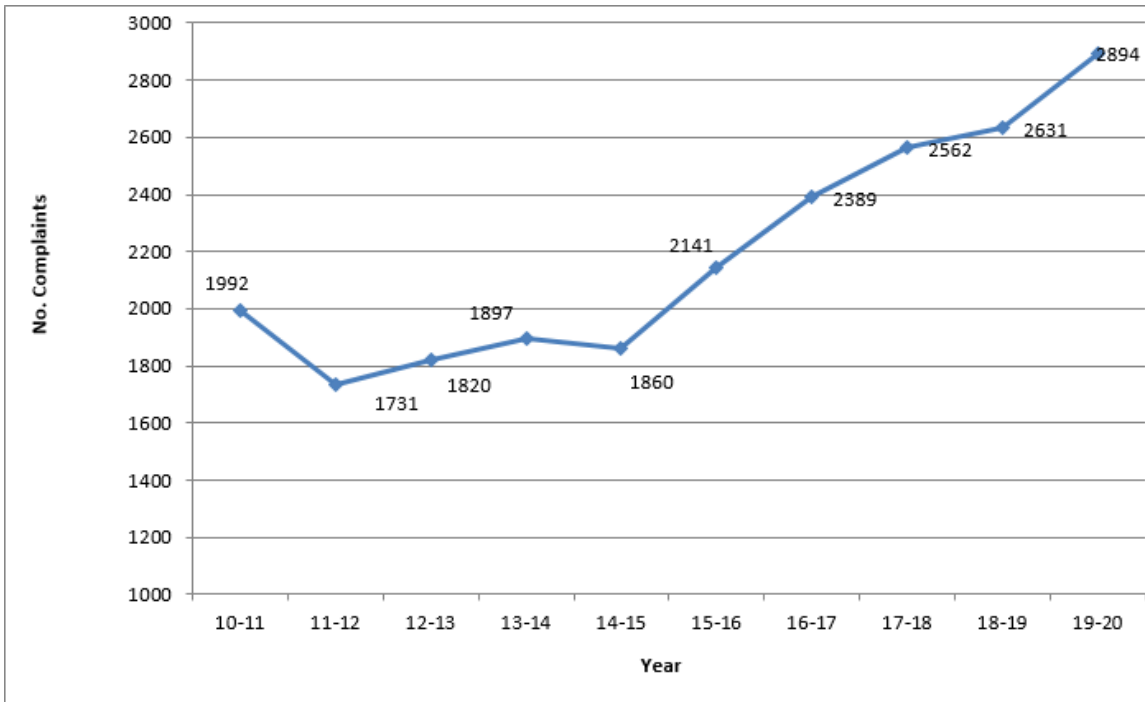
**5.13.4 Anatoki Salmon**

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.

<b>6 Complaints Action 2019/2020</b>
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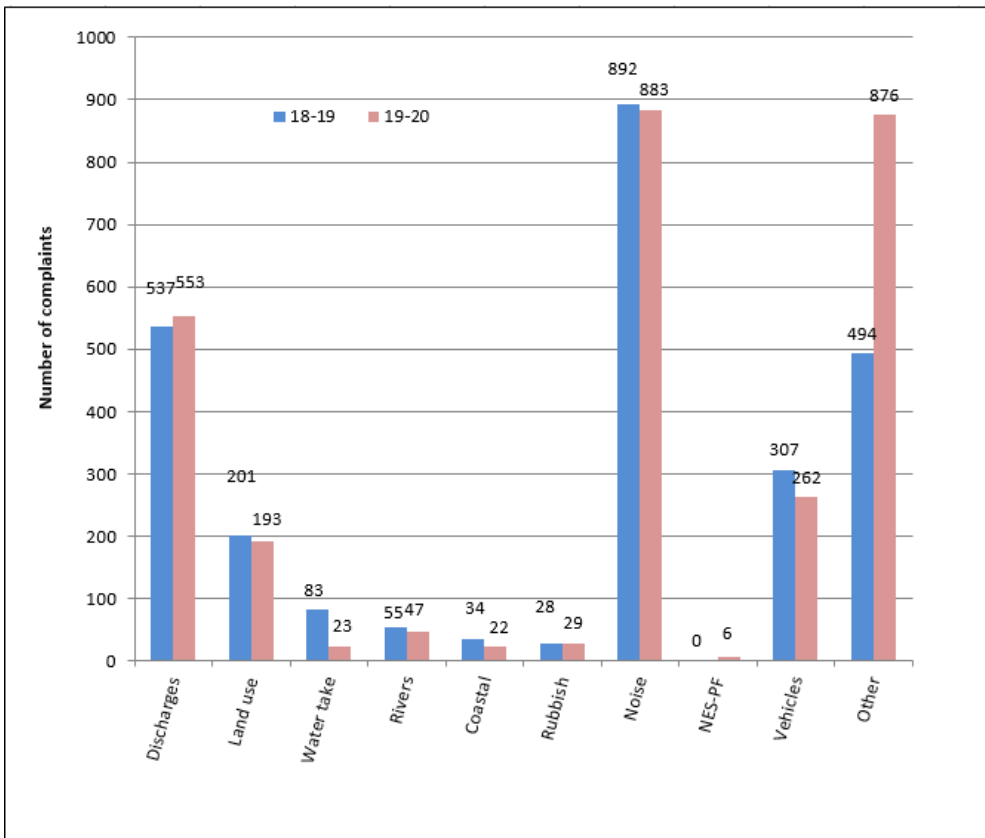
- 6.1 The Compliance section provides 24-hour environmental complaint and incident response. Each year it investigates a wide range of activities as a result of complaints or public enquiries.
- 6.2 During the reporting period, 2894 complaints or requests for service were received. This was an increase 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.

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**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.



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**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

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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.

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- 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.

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

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.

<b>Resource Management Act 1991</b>	<b>Number issued</b>	<b>Paid</b>	<b>Outstanding</b>	<b>Withdrawn</b>
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

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Contravention of an excessive noise direction	3	2	1	-
<b>Litter Act 1979</b>				
Deposit and Leave Litter	32	7	24	1
<b>Total</b>	<b>69</b>	<b>27</b>	<b>34</b>	<b>8</b>

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



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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