

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

**Date:** Thursday 17 July 2025  
**Time:** 9.30am  
**Meeting Room:** Tasman Council Chamber  
**Venue:** 189 Queen Street, Richmond  
**Zoom conference link:** <https://us02web.zoom.us/j/81347148705?pwd=mvI7gf5eKluYgQle1Hw0zZWRMaVNt.1>  
**Meeting ID:** 813 4714 8705  
**Meeting Passcode:** 880681

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## Environment and Regulatory Committee

### Komiti Ture

### AGENDA

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#### MEMBERSHIP

|                           |                       |                 |
|---------------------------|-----------------------|-----------------|
| <b>Chairperson</b>        | Cr C Hill             |                 |
| <b>Deputy Chairperson</b> | Cr B Maru             |                 |
| <b>Members</b>            | Mayor T King          | Cr M Greening   |
|                           | Deputy Mayor S Bryant | Cr C Mackenzie  |
|                           | Cr C Butler           | Cr M Kininmonth |
|                           | Cr G Daikee           | Cr K Maling     |
|                           | Cr B Dowler           | Cr D Shallcrass |
|                           | Cr J Ellis            | Cr T Walker     |

(Quorum 7 members)

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## **AGENDA**

### **1 OPENING, WELCOME, KARAKIA**

### **2 APOLOGIES AND LEAVE OF ABSENCE**

#### **Recommendation**

**That apologies be accepted from Mayor T King and Councillors K Maling and B Maru.**

### **3 PUBLIC FORUM**

Nil

### **4 DECLARATIONS OF INTEREST**

### **5 LATE ITEMS**

### **6 CONFIRMATION OF [MINUTES](#)**

**That the minutes of the Environment and Regulatory Committee meeting held on Thursday, 5 June 2025, be confirmed as a true and correct record of the meeting.**

**That the minutes of the Animal Control Subcommittee meeting held on Tuesday, 27 May 2025, be confirmed as a true and correct record of the meeting.**

### **7 REPORTS**

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| 7.6 | Contact Recreation Water Quality - 2024-25 Season Report .....   | 113 |
| 7.7 | Annual Dairy Farm Compliance Monitoring Report 2024 - 2025.....  | 132 |

### **8 CONFIDENTIAL SESSION**

Nil

### **9 CLOSING KARAKIA**

## 7 REPORTS

### 7.1 GROUP MANAGER REPORT

**Decision Required**

|                            |   |
|----------------------------|---|
| <b>Report To:</b>          | Environment and Regulatory Committee                  |
| <b>Meeting Date:</b>       | 17 July 2025  |
| <b>Report Author:</b>      | Kim Drummond, Group Manager - Environmental Assurance |
| <b>Report Authorisers:</b> | John Ridd, Group Manager - Service and Strategy       |
| <b>Report Number:</b>      | RRC25-07-1  |

#### 1. Summary / Te Tuhinga Whakarāpoto

- 1.1 This report provides an update to the Environment and Regulatory Committee on environmental and regulatory activity since the 5 June 2025 committee meeting.

#### 2. Recommendation/s / Ngā Tūtohunga

**That the Environment and Regulatory Committee**

1. receives the Group Manager Report RRC25-07-1; and
2. approves, retrospectively, the Council's submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill, Attachment 1 to the agenda report.

#### 3. Decision: Retrospective approval of the Council's submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill

- 3.1 In June 2025, staff prepared a submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill, also known as the Granny Flats amendments. Councillors were provided with a draft and the Mayor signed the submission before it was lodged on 23 June 2025. That submission forms Attachment One of this report.
- 3.2 The Bill proposes to amend the Building Act and if enacted will, in association with a revised National Environmental Standard under the Resource Management Act (RMA), allow small dwellings ("Granny Flats") to be built without the need for either a building consent or a resource consent.
- 3.3 The Bill seeks to reduce the time and cost of building a granny flat by permitting small stand-alone dwellings up to 70 square metres to be built. The conditions are that:
  - the granny flat must be simple in its design and meet the building code
  - building work must be carried out by authorised professionals; and
  - councils must be notified prior to, and on completion of, building work.
- 3.4 While the objectives of the reform are supported, the Council's submission noted the difficulty in understanding how the legislation would integrate with other housing and infrastructure policies. This view was influenced by the fact that at the time a submission

was due, there was scarce information on the RMA component of the granny flats package. The submission also notes that increasing housing density through small stand-alone dwellings will put pressure on infrastructure that is already at or over capacity. The view was expressed that this needs to be addressed with accompanying changes to local government funding and financing to better enable appropriate investment in infrastructure to manage the resulting impacts.

- 3.5 The submission points out that the estimated \$4,431 reduction in building consent fees may have limited impact on overall affordability. To put this in context, a conservative estimate for the cost of constructing a 70m<sup>2</sup> house is around \$250,000.00. The Council's current process has essentially given both existing and future owners a reassurance that buildings are fit for purpose, and so this assurance may need to come from a different process in the future.
- 3.6 In relation to the submission on the Bill, it makes recommendations for specific changes grouped around four main topics. The key concerns under each of these topics are summarised below:
  - 3.6.1 Liability - shifting liability to Licensed Building Practitioners may disincentivise the use of the pathway the Bill aims to create.
  - 3.6.2 Project Information Memorandums (PIMs) - The PIM process was never developed to be an approval and tracking process, and use of it in this way may have unintended consequences. The administrative changes and associated costs don't appear to have been adequately considered.
  - 3.6.3 Natural Hazards - The implications of the presence of a natural hazard on a site where a granny flat is to be built needs clarification to ensure both landowners and councils understand the requirements.
  - 3.6.4 On-site wastewater systems - We are concerned that the removal of building consent requirements for onsite wastewater systems will pose unmitigated risks to the environment.

### **Connections to the RMA**

- 3.7 The RMA component of the granny flats changes is now open for submissions as part of the National Direction package that was released in late May (see section four of this report). Staff are working through the consultation materials, and a draft submission will be circulated to Councillors in the coming days (noting the final date for submissions is 27 July 2025).

## **4. Government's RMA Reform Agenda (Packages 1-3)**

- 4.1 In the Group Manager report presented to this committee on 5 June 2025, progress on the Government's National Direction was outlined as at the time that papers were uploaded (29 May 2025), including likely rescoping of phase two reforms and subsequent release of four 'Packages' for consultation:
  - Package 1: Infrastructure and development
  - Package 2: Primary sector
  - Package 3: Freshwater
  - Package 4: Housing growth



- 4.2 Later that day the Government made announcements on the reforms. Packages 1 – 3 are open for consultation from until 27 July 2025; More recently Package 4 has been opened up for consultation until 17 August 2025 (see section five of this report).
- 4.3 Once finalised, instruments in Packages 1-3 will set resource management policy and rules for regional and local plans, policy statements and resource consent decisions.
- 4.4 The sheer size of the consultation given a tight timeline is challenging. Key risks lie in the details of the proposed national direction and their interrelationships. Staff are focusing on areas with significant risks or benefits in a Tasman context and will seek the guidance of the Councillors who were put forward at the last Committee meeting to engage with staff in relation to prioritising reform issues, reviewing advice and providing input.
- 4.5 The proposed new national direction instruments, when considered alongside the proposed replacement of the RMA (phase three of the reforms) and changes to the Building Act, add complexity, especially where major changes are proposed. This new direction is intended to focus on matters that will have a direct impact on decision making and not require subsequent plan changes before they can take effect.
- 4.6 For example, it is anticipated that the infrastructure or renewable energy national direction policy will assist in consenting decisions, once it is gazetted later this year. While some areas may benefit from immediate improvements, staff have concerns about the transition of wholesale changes into a new system, potentially creating gaps in implementation.
- 4.7 The detail / level of information in each of the packages is variable, with some sections having significantly more detail than other. Where greater detail is provided, this enables a better understanding of the proposed outcomes.
- 4.8 Staff are assuming that national direction should be implementation-ready, transparent, fair, and ensure equitable sharing of benefits and responsibilities while prioritising outcomes. In some cases these assumptions do not appear to hold true.
- 4.9 While Council will likely need to prioritise which of the proposals we submit on, more general submissions will be provided by Te Uru Kahika and Taituarā. Further, individual Councils are sharing their draft submissions and so most areas of support or concern will be communicated back to the Government one way or another.

## **5. National Direction Package 4: Going for Housing Growth**

- 5.1 A discussion paper on Package 4 of the Government's RMA reform agenda was released on 18 June 2025. The discussion paper titled "Going for Housing Growth" outlines the Government's programme and focusses primarily on Resource Management (planning) matters.
- 5.2 The "Going for Housing Growth" programme aims to address New Zealand's housing shortage by increasing the supply of housing and improving affordability. The programme focuses on freeing up land for development, improving infrastructure funding and financing, and providing incentives for growth. It also seeks to integrate these changes within the new resource management system. Key aspects of the "Going for Housing Growth" programme include:
  - 5.2.1 Freeing up land for development: this involves removing unnecessary planning barriers and ensuring sufficient land is zoned for housing to meet future needs.
  - 5.2.2 Improving infrastructure funding and financing: this includes shifting from development contributions to a development levy system, making it more flexible for councils and

other infrastructure providers to fund growth-related infrastructure. It also aims to improve the Infrastructure Funding and Financing Act and make targeted rates more flexible.

5.2.3 Providing incentives for growth: the programme seeks to create a system where growth pays for growth, ensuring that the costs of infrastructure needed to support new development are borne by the development.

5.2.4 Integration with the new resource management system: the programme aims to align the proposals with the new resource management system being developed to replace the Resource Management Act. The cornerstone of the new system will be Spatial Planning with current Future Development Strategies transitioning into more comprehensive Spatial Plans.

5.3 Specifically, the discussion document seeks feedback on:

5.3.1 How to design spatial planning requirements to promote good housing and urban outcomes.

5.3.2 Introducing new housing growth targets, requiring councils to enable sufficient housing capacity (30 to 50 years).

5.3.3 Ensuring the new system can respond to unanticipated or out-of-sequence developments.

5.3.4 Prohibiting rural-urban boundary lines in planning documents.

5.3.5 Strengthening intensification requirements (but removing Medium Density requirements).

5.4 Staff are working through the discussion document, and a draft submission will be circulated to councillors in early August 2025.

## **6. Regulatory Standards Bill**

6.1 Submissions to the Regulatory Standards Bill have now closed and hearings have begun.

6.2 The Bill proposes a set of new 'regulatory principles' that governments must consider when creating laws and regulations. The principles are:

6.2.1 Rule of Law

6.2.2 Personal liberty

6.2.3 Right to property

6.2.4 That taxes and fees should not be unreasonable

6.2.5 Courts have a constitutional role of ascertaining the meaning of legislation

6.2.6 New laws and regulations should be put to the public for consultation and feedback.

6.3 Ministers will be required to explain why any law change does not comply with the principles, if the advice shows that a Bill doesn't adhere to the stated principles.

6.4 A new regulatory standards board will be established, which can assess new and old laws. The board will be able to make recommendations about the state of regulation.

6.5 Council did not submit on the Regulatory Standards Bill, choosing instead to rely on the sector submission from Te Uru Kahika. Given the volume of submissions on this bill it was felt that there are critical areas where we can add greater value.

- 6.6 The key message from Te Uru Kahika was that if the Bill was going to proceed, it should only do so with substantive changes. It was also suggested that local government regulations should be explicitly excluded from the scope of the Bill.

## 7. Transition into an infringement regime for Navigation Safety

- 7.1 The agenda for this meeting includes a report on proposed navigation safety infringement offences and fees, and a report revising the Council's enforcement policy. These reports follow a successful introduction of the new navigation safety bylaw over the 2024/25 summer, during which time the focus was on education.
- 7.2 In approving the bylaw, the Council supported implementation in the context of the VADE model of enforcement that is increasingly being adopted by regulatory agencies in New Zealand. Under this model, V= voluntary, A = assisted, D = directed, and E = enforced, with both the level of harm caused and the attitude of the entity expected to comply being considerations. This model has been incorporated into the enforcement policy that the Committee is being asked to approve.
- 7.3 The transition from education into an enforcement regime that is based on the VADE model is considered to be the next step in embedding the new bylaw. The proposed infringement offences and fees provide additional tools that will assist with achieving compliance.

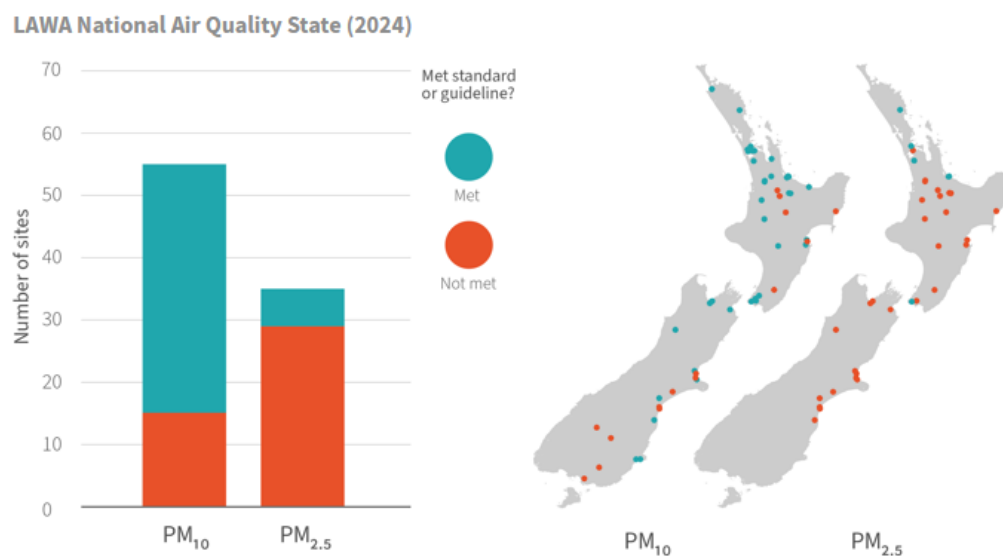
## 8. LAWA Air Quality - National Picture 2025

- 8.1 In early June 2025, Land Air Water Aotearoa (LAWA) published a national picture on air quality based on 2024 data. Key findings were:
- 8.1.1 Daily average PM<sub>10</sub> concentrations: 40 of 55 sites met the daily National Environmental Standard for air quality (NES-AQ) across eight of the 15 monitored regions (Figure 1, below refers).
- 8.1.2 PM<sub>2.5</sub>: Six of 35 sites met the daily WHO 2021 guideline (Figure 1). There were three monitoring sites that met both the daily and annual WHO guidelines for PM<sub>2.5</sub> - Whareroa Marae in Mount Maunganui, Whangārei, and central Wellington.
- 8.1.3 The highest PM<sub>2.5</sub> annual average concentrations were observed in towns such as Tokoroa, Pūtāruru, Kaiapoi, and Timaru, where winter woodsmoke from home heating is trapped by local topography and weather conditions.
- 8.2 As reported in recent our Annual Air Quality reports, for the last three years the Richmond Airshed has had no exceedances of the NES-AQ for daily 24-hr PM<sub>10</sub>. However, like many gazetted airsheds in New Zealand, the Richmond Airshed exceeds the World Health Organisation 2021 daily 24-hr PM<sub>2.5</sub> guideline.
- 8.3 Thirteen regions in New Zealand are now actively monitoring PM<sub>2.5</sub>, despite it not yet being regulated, and the results presented on the LAWA website reinforce the value of council monitoring networks.
- 8.4 The corresponding press release from LAWA quotes Dr Chris Daughney, Chief Science Advisor for the collective of regional and unitary councils - Te Uru Kahika, notes.

*“Many regional and unitary councils are already monitoring the smaller PM<sub>2.5</sub> particles to better understand local air quality and to prepare for future regulation. However, without a New Zealand-specific standard in place, it's a challenge for councils to justify further investment in monitoring equipment and analysis.*

*The science is clear that reducing fine particulate matter pollution improves public health, especially for children, older adults, and those with respiratory conditions,” said Dr Daughney.”*

- 8.5 Council monitors both PM<sub>10</sub> and PM<sub>2.5</sub> in the Richmond Airshed. Over recent years the Council has also undertaken a ‘surveillance’ work programme to better understand air quality in some of our smaller towns – Motueka (2018-2023), Brightwater and Wakefield (2022), Murchison (2023) and Tākaka (planned for 2027). This monitoring will ensure that we are well informed to make decisions regarding PM<sub>2.5</sub> monitoring and management options once the review of the NES-AQ is completed. Alongside this, staff continue to provide district wide education and best practice advice regarding home heating and outdoor burning as part of the Council’s wider air quality work programme.



**Figure 1:** Comparison of monitored sites that met or did not meet the daily PM<sub>10</sub> standard (NES-AQ) and PM<sub>2.5</sub> guideline (WHO 2021) in 2024. The location of sites, and whether they met the daily PM<sub>10</sub> standard or PM<sub>2.5</sub> guideline, are shown on the maps.

Source: [Land, Air, Water Aotearoa \(LAWA\) - Air Quality](#)

## 9. Contact Recreation Water Quality

- 9.1 The agenda for this meeting includes a report ‘Contact and Recreation Water Quality – 2024-25 Season Report’. This is an annual report and it contains insights into two important swimming areas within the district. There is particularly high public interest in two of the sites sampled and brief comment is provided below.
- 9.2 This season, 94.1% of all-weather samples met the regulations and guidelines for contact recreation water quality. When only considering fine weather samples, the rate of compliance was 97.6%. This rate of compliance is just below the Long Term Plan (stretch) target of 98% and similar to the average dry weather compliance rate over the last 10 years (97.5%).

### Kaiteriteri Beach

- 9.3 The water quality at Kaiteriteri Beach has unfortunately been downgraded to ‘poor’, against the Microbiological Water Quality Guidelines set out by the Ministry of Health, and the Ministry for the Environment.

- 9.4 It is considered by staff that there is a reasonable likelihood of uncontrolled discharges into the stormwater drain through open grates within the Kaiteriteri Campground and on the roadside. An example of this risk was recorded on 3 December 2024: Council received a complaint about a freedom camper who allegedly emptied their blackwater container into one of the roadside sumps that fed into this stormwater drain.
- 9.5 Council organised a speedy response to pump out this sump. Early in 2024 all the open grates in the campground were signposted to persuade people not to dump materials down them. However, these grates are hidden from view by campers, so it would be easy for dumping to go unnoticed. There may be solutions for this such as more solid covers over the grates and some soakage system so water during rainfall still gets away efficiently.

### **Lee River**

- 9.6 There were seven complaints responded to by Council staff over the 2024-25 swimming season (mostly from residents in the catchment) regarding water quality in the Lee River, particularly concerning the water clarity, water colour and sliminess.
- 9.7 Staff responded to this by collecting additional data at long-term monitoring sites (both swimming water quality sites and the 'state of emergency' river water quality site at Meads Bridge).

## **10. Civil Emergency in the Tasman Nelson Region**

- 10.1 On 7 July 2025, the Nelson-Tasman Region entered a transition period, moving from a state of emergency into a recovery focus, following the impacts from the severe weather the region experienced at the end of June. The notice of transition period was made under Section 94B of the Civil Defence Emergency Management Act 2002 (CDEA). The transition period will end on 4 August 2025.
- 10.2 In announcing the transition, our Mayor said "this has been a profoundly damaging event, and we have seen major impacts across our region, especially in the Wai-iti and Motueka Valley catchments. While we are moving from a state of emergency, this transition period means that support continues to be available to those affected."
- 10.3 While declaring the state of emergency under the CDEA invoked powers under that Act, there were also additional steps taken to complement those powers.

### **Additional measures**

- 10.4 One example was a rāhui being put in place across the whole region including Nelson coastlines. This was initially set up for seven days, then extended. The intended impact was to prevent the gathering of kaimoana (seafood) and also use of the water for the purposes of swimming.
- 10.5 A second example involved a Navigation Safety Notice being issued to alert mariners of debris hazards. While the Harbourmaster retained authority to issue a formal direction under the Maritime Transport Act, this was not considered necessary.

### **Harbourmaster office**

- 10.6 The Harbourmaster's Office was fully activated once the weather began to settle on Sunday 29 June 2025. Eight Aids to Navigation (AToNs) were displaced during the event—primarily due to debris entanglement rather than wave action. All were returned to position within 48 hours, well within Level of Service commitments.

- 10.7 The Harbourmaster led the Coastal Marine Area (CMA) debris recovery response, coordinating efforts within a narrow two-week window to retrieve hazardous materials before potential remobilisation. Priority was given to the removal of orchard nets due to their high risk to navigation and damage to the marine environment, followed by apple bins and treated timber.

## **Rivers**

- 10.8 The debris that ended up in coastal marine waters largely originated from farmland that was severely impacted by flooding rivers. There was widespread flooding across the Tasman District, with the Motueka Valley being particularly hard hit, suffering the largest-equal flood in our post-settlement history. A brief synopsis of the extent of flooding is set out in Appendix 2.
- 10.9 Near-record high flows were experienced in many of our other major rivers. The Tadmor recorded 100-year flows, with the Motupiko and upper Wai-iti Rivers recording flows well in excess of the 50-year flow and close to their record highs. The Tākaka River overtopped its banks and isolated the town for several hours during the event, and widespread surface flooding occurred in the Riwaka area for most of the Friday. Although ungauged, the Moutere and Dove Rivers saw very high flows as well.
- 10.10 Significant flows also occurred in many of the smaller tributary streams in these catchments with damage from erosion and debris being reported to the EOC and Rivers team. The extent and severity of damage in all of the affected rivers will not be fully known for some time, but will almost certainly be unprecedented in Council's history.

## **Stopbanks**

- 10.11 Flood waters came close to the top of the Lower Motueka stopbanks but no overtopping was noted during the event, and only minor surface damage was incurred in a newly-built section that had not yet had good grass strike. The Riwaka River flows exceeded stopbank capacity and overtopped at many locations. One small overtopping occurred on the Brooklyn stopbanks into the Plant and Food Research orchards on Friday morning, with no damage noted to the banks or property.
- 10.12 The Peach Island stopbanks were overtopped in at least two confirmed locations, with damage to the banks at one of the overtopping areas that will be prioritised for repair.
- 10.13 The Waimea stopbanks were overtopped briefly near the old airport radio/radar hut off Cotterel Road, with no damage noted to the banks or property.

## **Rivers Team**

- 10.14 At the time of writing, with the immediate response phase coming to a close, the Rivers team will be focusing on surveillance of affected rivers and damage assessments to river assets and unprotected riverbanks. This work will not only inform any insurance or emergency funding claims Council may pursue, but also a strategic recovery plan to ensure we build our rivers back in a way that is cost effective and resilient for the long-term.
- 10.15 In addition to this planning work, our maintenance contractor (Taylors) will be initiating flood debris cleanup and hazard tree removal in several of the most severely affected River Z areas (such as Pigeon Valley Stream, 88 Valley Stream, Stanley Brook, etc.) to help support people outside of the primary River X/Y rated areas, and have mobilised several dozers and diggers to the Motupiko, Upper Motueka and Dove Rivers for the initial stage of flood damage recovery work.

## **Photos of the event**

- 10.16 Aerial and on the ground photos showing the extent of the flooding and damage, are included as Appendix 3.

## **Deployment of Council staff**

- 10.17 Staff from across the organisation moved into their civil defence roles to support the emergency response. Now that we have moved into the transition to recovery, there will be a change in focus. For example, staff are currently working on a pragmatic solution to replacing domestic and irrigation bores that have been impacted by the floods, as well as the associated water take consents.

## **Connecting back to reforms**

- 10.18 Importantly, the event has brought into focus the importance of national direction for natural hazards (see sections 3,4 and 5 above) as an overarching framework for district rules to apply within. In addition to farming equipment being swept away and out to sea, indications are that many places that people had been using for living purposes, without having obtained the appropriate authorisations under either the Building Act or RMA, were damaged, or lost, in the floods.

# **11. Regulatory Matters**

## **Treatment ponds at Bell Island**

- 11.1 Bell Island Nelson Regional Sewage Business Unit's (NRSBU) management has formally informed us that due to the recent wet weather, combined with the significant rain event of 26 and 27 June 2025, the treatment ponds at Bell Island are at high levels. They had forecast that capacity would be reached within 48 hours from 27 June 2025.
- 11.2 To avoid uncontrolled overflow from the ponds, NRSBU extended the discharge duration (and hence volume). They had planned for an initial discharge for 5.5 hours after high tide, with a review once sustained inflows were known.
- 11.3 Notwithstanding the state of emergency in Tasman District at the time, NRSBU completed sampling as per the consent requirements for extended discharge, laid out in Section 330 of the RMA.
- 11.4 Due to the volume of wastewater entering the treatment facility and despite the increase in volume being discharged, the ponds on Bell Island reached capacity on 29 June 2025, with one of them overflowing.
- 11.5 Repairs were made to the pond wall and the discharge ceased early on 2 July 2025. Over-pumping was to continue until the volume in the ponds was at a manageable level, with ongoing sampling.

## **Motueka wastewater treatment plant**

- 11.6 The rainfall and high groundwater levels have resulted in significant infiltration into the wastewater system. The treatment membranes are unable to process the volume of water coming into the Motueka wastewater treatment plant. Council continues to over-pump the treated wastewater from the wastewater treatment pond in Motueka to the old treatment wetland.
- 11.7 This pumping will continue until the risk of overtopping the pond wall is avoided.

## Matters before the Courts

- 11.8 On 26 June 2025, the Environment Court issued its interim decision to grant a resource consent to CJ industries for gravel extraction at Peach Island in the Motueka Valley, that the Council had declined. The Court has directed that a further set of conditions be filed and a timeline over the next couple of months has been suggested by the Applicant.
- 11.9 On another matter, at the last meeting of 5 June 2025 the Committee was advised of a decision on an appeal of an Environment Court decision to grant enforcement orders relating to a tiny home in Upper Moutere. Subsequent to the meeting, the Council and appellant agreed on the amount of costs to be paid to the Council. The matter of costs associated with the initial Environment Court decision had been reserved pending the outcome of the High Court appeal.
- 11.10 The Environment Court released its decision on costs on 8 July 2025. The application from the defendants for costs was declined. The Council was awarded a contribution towards its costs to be paid by the defendants. In making that decision, the judge found that a higher than standard award of costs was justified.

## 12. Māpua Boat Ramp Update



- 12.1 Council undertakes regular foreshore monitoring as part of the ongoing monitoring programme that was put in place when the cleanup of the former Fruitgrowers Chemical Company site finished. Recent sampling found one location with an unexpectedly high level of contamination.
- 12.2 The Hearing Commissioners directed in their Minute No.8 issued on the 17 June 2025 that the contaminated site experts be given an opportunity to comment on the latest foreshore monitoring results that were received by Tasman District Council.
- 12.3 Consequently, the deadline for the applicant to provide a written right of reply, was extended to Friday, 27 June 2025. The commissioners have received the written right of reply from the Māpua Boat Ramp Community trust.
- 12.4 At the time of writing this report, the Hearing Commissioners are reviewing all the evidence and other information presented at the hearing, to determine if they can close the hearing.

## 13. Bouquet

### Letter of Recognition for Environmental Health Team





- 13.1 The Environmental Health team were delighted to receive a letter of recognition from New Zealand Food Safety recently. The letter from the Director of Food Risk Management at New Zealand Food Safety acknowledges the effort made by the team to ensure safe food for our community through diligence in food verification work.
- 13.2 This letter is particularly rewarding as the Environmental Health team has only recently returned to full staffing levels.

## 14. Attachments / Tuhinga tāpiri

1.   TDC Submission Building and Construction (small stand-alone dwellings) Amendment Bill

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- |    |   |                                       |    |
|----|---|---------------------------------------|----|
| 2. |   | Flooding Across Tasman - 27 June 2025 | 24 |
| 3. |   | Storm aftermath and clean up - photos | 27 |



## Office of the Mayor

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23 June 2025

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Transport and Infrastructure Committee  
Parliament Buildings  
Wellington

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Tēnā koutou

### **Tasman District Council's Submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill**

Tasman District Council would like to thank the Select Committee for the opportunity to make a submission on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill. Our comments are attached below.

Nāku iti nei, nā

Tim King  
Mayor, Tasman District Council  
**Te Koromatua o te tai o Aorere**

**Friendly Towns** • Motueka and Kiyosato, Hokkaido, Japan • Richmond and Fujimi, Nagano, Japan • Tākaka and Grootegast, The Netherlands

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## **Tasman District Council Building and Construction (Small Stand-alone Dwellings) Amendment Bill Submission to Transport and Infrastructure Committee**

### **Tasman's general comments on the Bill**

- 1.1 Tasman District Council (Tasman) welcomes the opportunity to make comments on the Building and Construction (Small Stand-alone Dwellings) Amendment Bill.
- 1.2 Feedback from the building industry indicates the proposed changes are unlikely to be widely adopted, primarily due to liability concerns for Licensed Building Practitioners (LBPs) and challenges in securing insurance. Trusted LBPs value the oversight provided by Building Consent Authorities, viewing it as a safeguard rather than a burden. We believe the projected uptake outlined in the analysis is significantly overstated.
- 1.3 Removing the requirement for building consent checks may result in substandard work, leading to costly repairs and a lack of long-term accountability. It could also reduce the property's future value and make it more difficult to sell. These risks do not appear to have been adequately considered in the analysis provided.
- 1.4 The building consent process is complex. We need a simpler solution for low-risk buildings. This was previously part of the Building Act under the [Simple House Acceptable Solution](#), which has been removed. We propose a streamlined process for small standalone dwellings while retaining the benefits of building consent (see Section 1.14).

### **Tasman's growth and housing affordability**

- 1.5 Tasman District Council is a unitary authority, servicing a population of 60,500 and covers 9,786 square kilometres.
- 1.6 It has a GDP of \$3.06 billion and, according to recent census data, was the fastest growing region in New Zealand, with a population and dwelling growth of 10.3% and 11% respectively between 2018 and 2023.
- 1.7 The Tasman District has some of the least affordable housing in the country. In the second quarter of 2024, the house value to income ratio in Tasman was 9.2 compared to the national average of 9.11. The Massey Home Affordability Index, which considers the cost of borrowing as well as house prices and wage levels showed Tasman was the least affordable region in the country as of December 2024.
- 1.8 Tasman does not think there is a simple fix to this problem. Fundamentally small houses are expensive to be build. Cutting the BC and RMA costs will not significantly change the cost of a house.
- 1.9 Because of the linkages between the RMA and Building Act, the Bill should not be considered in isolation. The limited details of accompanying changes to RMA national direction limits our ability to understand how this legislation will integrate with other housing and infrastructure policies. The changes currently being made should form part of a comprehensive and coordinated package.

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<sup>1</sup> Housing affordability report – New Zealand Quarter 2 2023 - CoreLogic

- 1.10 Our urban areas are currently facing significant infrastructure constraints, with wastewater and stormwater networks operating at or beyond capacity. Increase housing density through small stand-alone dwellings must be met with accompanying changes to local government funding and financing to better enable appropriate investment in infrastructure to manage the resulting impacts.
- 1.11 While enabling smaller dwellings such as granny flats is a positive step, our cost estimates suggest a 70m2 unit costs approximately \$250,000 to construct. The proposed \$4,431 reduction in building consent fees may have limited impact on overall affordability. Further consideration is needed to assess whether this incentive is meaningful, particularly in relation to liability, lending and insurance implications, which remain unclear.
- 1.12 Larger entities that Tasman has engaged with are not primarily concerned with avoiding the consenting process. These entities foresee the main challenges lie in securing investment from banks and insurance companies for self-managed buildings. Based on our understanding, the appeal of the proposed changes is likely to be limited and may instead attract uptake from smaller entities that do not hold liability insurance.
- 1.13 Within this context Tasman acknowledges the importance of diversifying the housing stock to meet the needs of lower-income residents, smaller households, and those seeking smaller dwellings. Tasman has concerns with some aspects of the Bill's drafting and makes suggestions to help refine the bill's intent. Our key concerns are outlined here with more detail in the following pages.
- 1.14 We believe the building consent process provides lasting value to both individual property owners and the wider community. It offers a framework that supports safety, trust, and long-term resilience in the built environment. Key benefits include:
- **Compliance and Safety:**  
The building consent process ensures that construction meets the New Zealand Building Code, covering critical aspects such as structural integrity, fire safety, sanitation, and energy efficiency. This promotes safe, durable buildings fit for long-term occupation and use.
  - **Legal Assurance:**  
A building consent confirms that the proposed work has been independently assessed and approved by the building consent authority. This provides legal certainty and helps prevent future disputes or enforcement action relating to non-compliant or unauthorised work.
  - **Insurance and Financing:**  
Insurance providers and financial institutions often require evidence of consented and compliant work before offering cover or approving loans. A building consent helps ensure the property is insurable and financeable - vital for both initial development and future transactions.
  - **Market Value and Saleability:**  
Properties with a Code Compliance Certificate (CCC) typically command higher value in the real estate market. Buyers and investors have greater confidence in properties that meet regulatory standards. Consented work supports smoother sales processes and helps retain asset value over time.

### Liability

- 1.15 This proposal is moving liability from the building consent process and not assigning the potential costs of this liability. If the assumption is that the Licensed Building Practitioner (LBP) will be taking on this liability then there needs to be an analysis of this. The shift in liability to LBPs may disincentivise the use of the pathway the bill aims to create.

### Project Information Memorandums (PIMs)

- 1.16 The PIM process is designed to work within the building consent process. The PIM process is not for managing small house developments. There is no actual checking that the building meets the building act, only that it meets the basic criteria specified in the bill.
- 1.17 The shift toward using Project Information Memorandums (PIMs) as a primary tool in the building consent process risks unintended outcomes, particularly where PIMs are relied upon without robust oversight or integration with existing regulatory frameworks. The PIM process was never developed to be an approval and tracking process, so the added administrative costs require careful consideration to ensure the costs are allocated appropriately.

### Natural Hazards

- 1.18 The implications of the presence of a natural hazard on a site where a granny flat is to be built requires further clarification to ensure both landowners and council understand the requirements. This includes whether a building consent might be required and including how a hazard notice might be applied in those circumstances. As currently drafted, the Bill risks putting new dwellings and people in hazard prone locations.

### On-site wastewater systems

- 1.19 Tasman strongly opposes any removal of building consent requirements for onsite wastewater systems. Doing so would increase the risk of adverse environmental and social effects from poorly designed or built systems.

### Tasman's specific comments on the Bill

#### 2. Project Information Memorandums (PIMs)

##### 2.1 Clause 7 Section 33 amended (Content of application)

- 2.1.1 The increased workload for territorial authorities is a concern, the additional time and cost in relation to this is likely to be passed on to the ratepayer. This contradicts one of the purposes of enabling small, standalone dwellings to be a simpler and more affordable housing option.
- 2.1.2 Recommendation: Clarity is needed around the required content of design plans and the scope of the PIM check.

##### 2.2 Clause 8 Section 34 amended (Issue of project information memorandum)

- 2.2.1 It is unclear on whether territorial authorities can request further information. It should also be clarified at what stage applications and payments for utility service connections are required, this should be included in the PIM.

- 2.2.2 Recommendation: Provide clarity on whether territorial authorities can request further information.
- 2.2.3 Recommendation: Clarify at which stage applications and payments for utility service connections are required by including this in the PIM.
- 2.3 **Clause 11 New section 35A inserted (Additional information to be supplied in certain circumstances)**
  - 2.3.1 Greater clarity is needed regarding the ability of territorial authorities to request further information. Relying solely on post-build compliance to address issues that could have been resolved prior to or during construction is likely to be inefficient, costly, and problematic.
  - 2.3.2 Section 35A Clause 2(b)(i): Inability to indicate if there is a lack of information in the proposal to state whether the proposal is likely to be subject to natural hazards.
  - 2.3.3 Section 35A Clause 2(c): Inability to indicate if there is a lack of information in the proposal to state whether adequate provision has been made to protect the building work, land, and other property (as per Building Act s71(2)).
  - 2.3.4 Recommendation: That a building consent is required.
- 2.4 **Clause 13 Section 37 amended (Territorial authority must issue certificate if resource consent required)**
  - 2.4.1 Sites with existing requirements for Consent Notices and/ or Building Location areas as recorded on the Record of Title or because of previous Resource Consent requirements. Will need to be clearly identified in the PIM along with a statement of compliance.
  - 2.4.2 Recommendation: To clearly identify sites with existing consent notices and/or building location areas in the PIM and provide a statement of compliance.
- 2.5 **Clause 15 New Sections 42B and 42C inserted:** Section 42B If a small stand-alone dwelling (such as a granny flat) is proposed on land subject to natural hazards, and adequate provision has not been made to mitigate those hazards, this should be identified through the PIM. In such cases, the exemption under section 42B(1) would not apply due to the conditions outlined in section 42B(3)(d). However, the Bill does not clearly specify the outcome when these natural hazard conditions are not met. It appears to be implied that a building consent would be required in such circumstances, yet there is no explicit provision within the PIM process to confirm this requirement.
  - 2.5.1 Recommendation: That a building consent is required.

OR

  - 2.5.2 Recommendation: That the PIM function be formalised as an approval process with a mechanism to request additional information.
- 2.6 **Clause 15 New Sections 42B and 42C inserted Section 42B(3)** Where a non-exempt small stand-alone dwelling is constructed in a location subject to natural hazards, contrary to the conditions of the Bill, territorial authorities would be limited to post-construction compliance measures. This is problematic, as councils would be unable to issue a section 73 hazard notice on the property title without a building consent

process. Under section 72 of the Building Act, the building consent process is the only mechanism through which a section 73 notice can be applied. As a result, councils may need to maintain separate records of known non-exempt dwellings to ensure this information is captured in Land Information Memoranda (LIMs), introducing additional administrative burden. Overall, the proposed exemption framework risks undermining councils' ability to appropriately manage natural hazard risks and fulfil their statutory responsibilities.

2.6.1 Recommendation: That a building consent is required.

OR

2.6.2 Recommendation: That the PIM function be formalised as an approval process with a mechanism to request additional information.

**2.7 Clause 19 Section 177 amended (Application for determination)**

2.7.1 Section 177(3)(aaa) There is a risk that development may intentionally delay paying DC's while benefitting from infrastructure and services during an extended period.

2.7.2 Recommendation: Amend Section 177(3)(aaa) to specify the duration and conditions under which extensions to PIMs may be granted.

**2.8 Clause 20 Section 216 amended (Territorial authority must keep information about buildings)**

2.8.1 The meaning of "*final design plans*" is unclear as is what constitutes final design plans.

2.8.2 Recommendation: Explanation of what is meant by "*final design plans*" in Section 216(2)(ba) and what they are expected to contain.

**2.9 Clause 22 New Section 392A inserted (Territorial authority not liable)**

2.9.1 Considering New Section 392A applies only to Section 35A there are concerns about council liability when issuing PIMs if rigorous checks have not been undertaken. Tasman District Council supports removing liability from territorial authorities (TAs) for non-consented small stand-alone dwellings. However, we recommend extending this protection to cover all aspects related to such dwellings. Responsibility lies with the LBP, while the TA's role is minimal. Without full protection, TAs face unnecessary legal risk for matters outside their control

2.9.2 Recommendation: Amend **Clause 22, Section 392A**: *No civil proceedings may be brought against a territorial authority or any member, employee, or agent of that authority, in relation to non-consented small stand-alone dwellings.*

**2.10 Clause 15 New Section 42B and 42C**

2.10.1 **Section 42B(6)(a)** Section 88 does not specify when the records showing the completion of restricted work under need to be supplied by the LBP. It is therefore unclear what the owner can do if the records are not supplied in 20 working days.

2.10.2 Recommendation: Amend Section 88 for restricted building work to state when records must be supplied to the homeowner.

### 3. Development Contributions (DC's)

#### 3.1 Clause 12 Section 36 amended (Territorial authority may issue development contribution notice)

- 3.1.1 Payment of Development Contributions (DC's) is reliant upon the applicant's willingness to inform the territorial authority of the project's completion. Until the territorial authority is informed no collection of DC's may be collected.
- 3.1.2 Recommendation: Amend **Clause 12** as follows: **Section 36(2)(b)** Territorial authority may issue development contribution notice and development contributions (or financial contributions) are payable on issue of a project information memorandum.

### 4. Infringement Fee

#### 4.1 Clause 15 New Sections 42B and 42C inserted

- 4.1.1 **Section 42B(5)** The current extent and level of the infringement fee are not sufficient to serve as an effective deterrent.
- 4.1.2 Recommendation: Both the LBP and the owner should be held liable in the event of an infringement.
- OR
- 4.1.3 Recommendation: Increase fine amount, is liable to a fine not exceeding \$5,000
- OR
- 4.1.4 Recommendation: \$1,000 fine for each individual breach of **subsection (6)**, not exceeding \$5,000.

### 5. Territorial Authorities' Liability

#### 5.1 Clause 15 New Section 42B and 42C

- 5.1.1 **Section 42C(2)** Concerns on territorial authorities' liability.
- 5.1.2 Recommendation: To indemnify councils, consider new additional clause: (3) *No civil proceeding may be brought against a territorial authority or any member, employee, or agent of that authority for anything in respect of the information supplied to it under provision (2).*

#### 5.2 Clause 5 Section 12 amend (Role of building consent authority and territorial authority) 12(2)(ba) issues documents under section 35A;

- 5.2.1 Issuing related documents will result in an increased workload for council staff.
- 5.2.2 The new responsibilities imposed on those undertaking the work are likely to outweigh the estimated \$4,431 reduction in building consent fees once additional Licenced Building Practitioners, compliance, and insurance costs are accounted for.
- 5.2.3 Recommendation: Clearer guidance to be given on how costs will be covered.



## 6. Amendments to Local Government Act 2002

### 6.1 Clause 30 Section 209 amended (Refund of money and return of land if development does not proceed)

- 6.1.2 There is a conflict with **Section 36(2A)(b) stating that the development contribution is required to be paid by the owner within 20 working days after the completion of the building work (as described in section 42B(6)).**
- 6.1.3 Recommendation: Section 36(2A)(b) amended (Territorial authority may issue development contribution notice and development contributions (or financial contributions) and are payable on issue of a project information memorandum.

## 7. Amendments to Electrical (Safety) Regulations 2010

### 7.1 Clause 53 Regulation 74G amended (What happens to electrical supply certifications)

- 7.1.1 There is a potential timeline conflict between the contractor/client and council obligations in meeting the 20-working day deadline.
- 7.1.2 Recommendation: Clarify that the applicant needs to receive the certificates before they can supply them to council.

## 8. Schedule 1 New Schedule 1A inserted into Building Act 2004

### 8.1 Clause 2 Requirements for small stand-alone dwelling

- 8.1.1 Design details fall outside the responsibilities of the Building Consent Authorities.
- 8.1.2 Recommendation: The PIM should clearly outline the requirements under this section, but should not extend into
- 8.1.3 **Clause 2 Requirements for small stand-alone dwelling(1)(e)** Tasman strongly opposes any removal of building consent requirements for onsite wastewater systems. Doing so would increase the risk of adverse environmental and social effects from poorly designed or built systems. These systems require site specific design plans that need to give effect to our regional planning rules. Design of such systems needs to be undertaken by specialists that are not plumbers or drainlayers. Therefore, a building consent should remain a requirement for these systems. Currently, there are already issues with designs not being followed even when a building consent is in place; removing this requirement is likely to exacerbate non-compliance and increase environmental and public health risks.
- 8.1.4 Recommendation: Require building consent for onsite wastewater systems.
- 8.1.5 **Clause 2 Requirements for small stand-alone dwelling(1)(g)** Currently under this section the only requirement for cladding is weight but the NCAS system and building code E2/AS1 for weather tightness gives a score in table 1 (Risk Matrix) based on the risk factors. This contributes to the design criteria and dictates the construction method. The Risk Matrix contributes to the complexity of all BC's currently, the higher the score the higher the risk.

- 8.1.6 Recommendation: E2/AS1 Risk Matrix score should be a requirement in this section.
- 8.1.7 **Clause 2(h)(ii)** Currently under this section the requirement to obtain a building consent is unclear.
- 8.1.8 Recommendation: Reword **Clause 2(h)(ii)** to avoid ambiguity.

#### **Tasman's Closing comments on the Bill**

Tasman District Council supports diverse housing options but has concerns about unintended consequences. The Council suggests simplifying the building consent process for low-risk buildings. Feedback from the industry indicates that the proposed pathway might not be widely adopted due to liability, insurance, and financing risks. We recommend amendments to improve the Bill's effectiveness and protect Tasman residents' wellbeing.

## Flooding of June 2025 – a quick overview

*Martin Doyle*

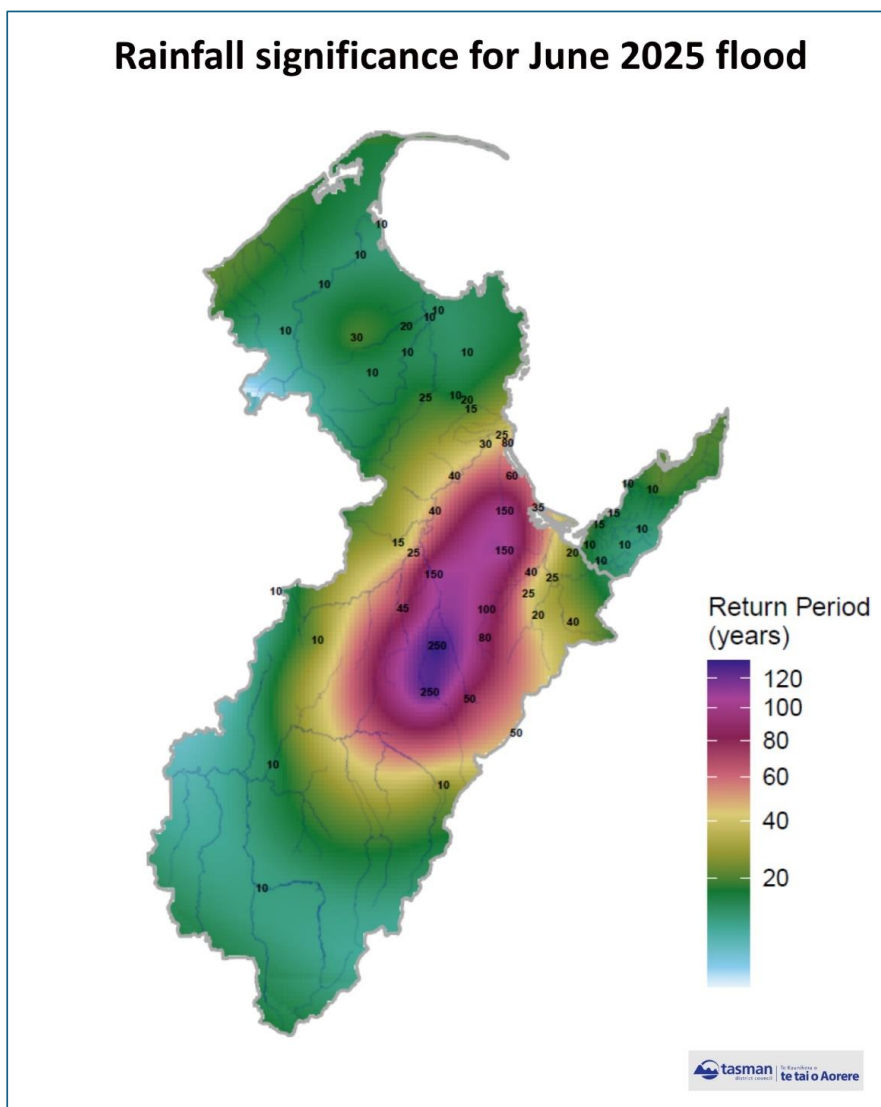
Over 2 days in late June, sustained rainfall fell across the wider district, reaching as much as 500mm in the hills of Golden Bay, with at least 200mm falling nearly everywhere else. It is the latter aspect that is critical to this flood story.

The areas most vulnerable to heavy rainfall are in fact generally able to cope with that rain, the rivers of Golden Bay being the best example. The Motueka Catchment has complex flood hydrology, with storms from three points of the compass able to affect parts of it badly. It is rain from the North-East however, that can sometimes penetrate to the back of the catchment, and then moderate rainfall over a long period allows all of the 2150 km<sup>2</sup> catchment to contribute, and the result is destructive flooding. This happened in 1957, through the 1970's, 1983, 1990 and again during this flood. The previous time a flood of this size occurred was 1877.

Early in the morning of 27 June, floods occurred firstly in the Pitfure and Moutere Valley areas, with these low-lying areas reaching peak saturation and higher than usual runoff rates. Flood waters are easily able to flow widely across these areas causing damage to property. No flow recording is carried out in either location.

As the event progressed, flows in the Wai-iti valley responded and this river reached a height last seen in 1983. The Takaka Valley also produced high flood levels, with two of three access points to town cut. This is always of considerable concern, as once the third access road is lost, Takaka is isolated. At that time, should the river rise higher than predicted, flood waters will flow through town with no road evacuation possible.

As this was occurring, rainfall totals of at least 200 mm accumulated across the rest of the district. From the plot below it can be seen that large areas suffered very significant rainfall, and the plot is also a good illustration of why much higher rainfall totals in Golden Bay can be less concerning. The significant rainfall covered nearly all of the Motueka watershed, and it is for that reason that the flood was so large in that river. This is best shown in the following map which provides the return period of the 48-hour rainfall that fell across the region.

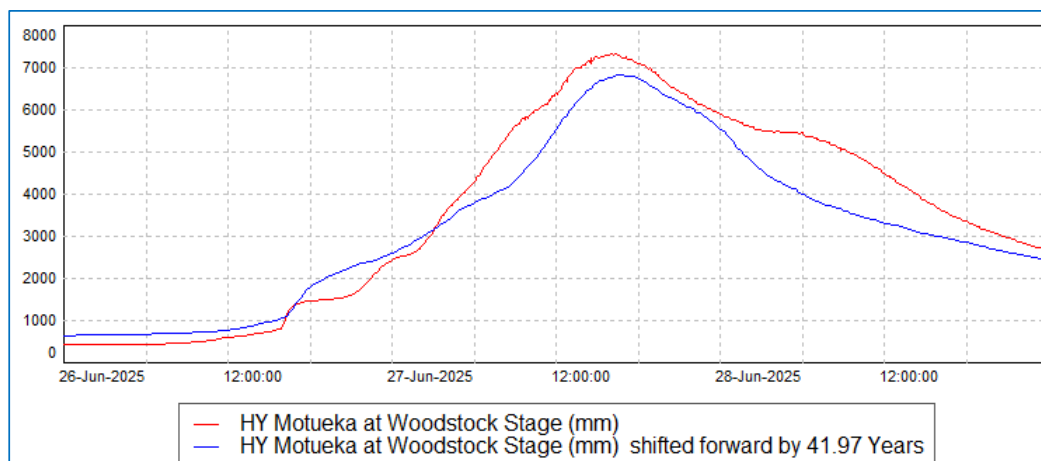


Of the more recent Motueka floods, 1983 had been the benchmark, and that devastated the Motueka valley with water covering the valley from wall to wall. This recent flood was in many places 0.5 to 1m higher than that seen in 1983. For interest, the following plot compares water level measured at the Woodstock gauge for the two floods, and the similarity cannot be missed.

Even more remarkably, this flood is of very similar in size to the that experienced in 1877, just short of 150 years ago. That is recorded in Motueka history as the Old Man Flood, and there are many vivid accounts from the valley residents of that time. One useful link can be found here [The "Old Man" Flood - Motueka, 1877 - Courageous Colonials](#)

***"On the night of Monday, between the hours of eight and nine o'clock it began to rain and during the night rained incessantly, they compared it to raining just like it had been poured out of buckets" – Janet Spicer, 1877.***

The 1877 flood level was recorded as a drill hole in a rock at Pangatotara and was used to set the deck level for the 1907 Alexander Bluff Bridge. The 2025 flood is almost at the same level, and even though the valley has changed, is a good indication that the two events are not dissimilar in size. Over the next few weeks work will be done to uncover the full nature of this most recent flood, but suffice to say, the devastation to property and effect on the people of the Motueka Valley has been significant.



No natural catastrophe of this size will ever be managed without learnings and some failures, and as always, all that can be done is to minimise these. There were also many positives. The river and flow monitoring network which people rely on for information largely stood up to the onslaught of water. The work done to make our website able to withstand heavy loads proved its value, with over 10,000 hits per hour happening at times. Data gathering efforts during and after the flood reaped valuable information to inform future planning decision and improve flood forecasting. Recent work on the Motueka stopbanks proved well timed. Agreements with other Councils saw survey teams from Canterbury and Bay of Plenty arrived within days of the flood letting staff complete tasks requiring local sensitivity, showing the value of regional networks.

It's also a timely reminder of the work that Council teams do outside of the CDEM effort. A number of specialists and teams across Council work directly with the public, or provide the advice the CDEM effort needs to make good decisions, and many of these people are still working long hours.

## Photos from the storm event of late June – early July 2025



Overtopping on Waimea Stopbank near Cotterel Road, 27 June.

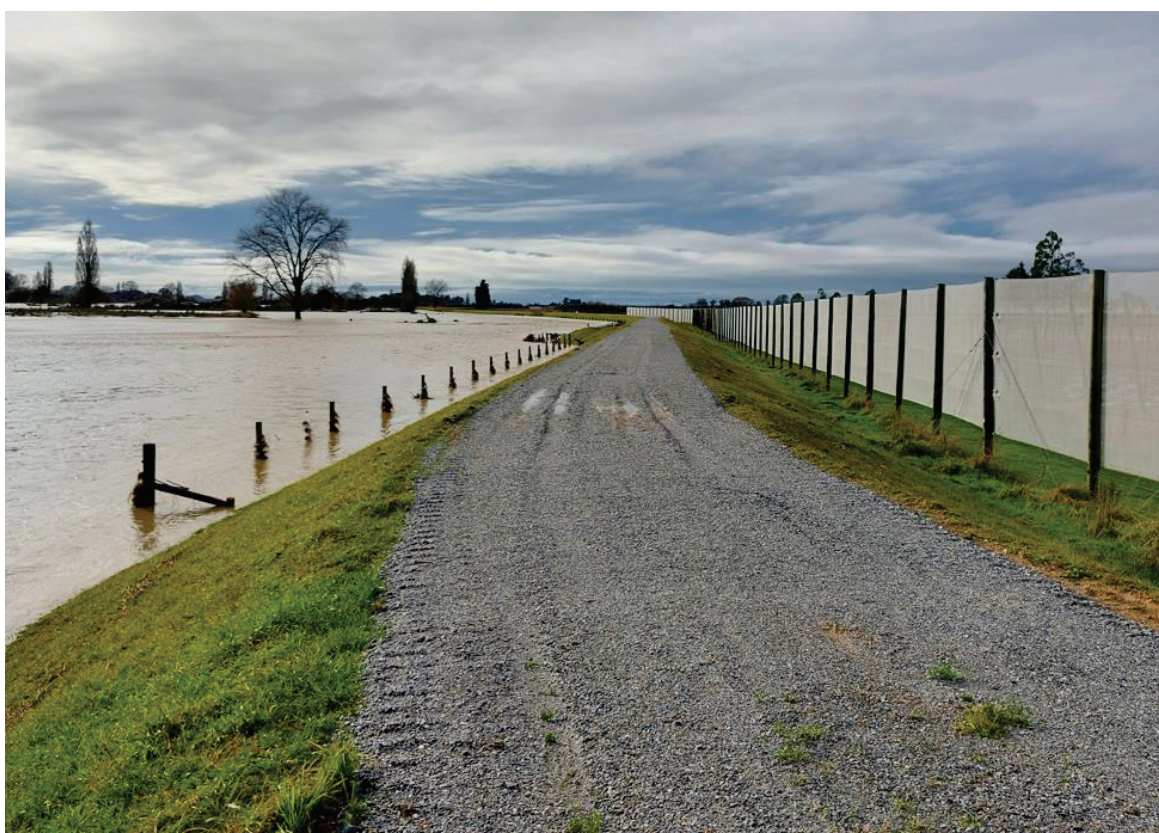


Upper Motueka River – 28 June after flood peak. Main river channel is against the base of the hills at back.





Flood peak and trapped debris under SH60 Bridge at Motueka, looking between the main bridge and pedestrian bridge attachment.



Flood flows at Parker Street stopbank on 28 June, slowly receding from the peak of the previous night.



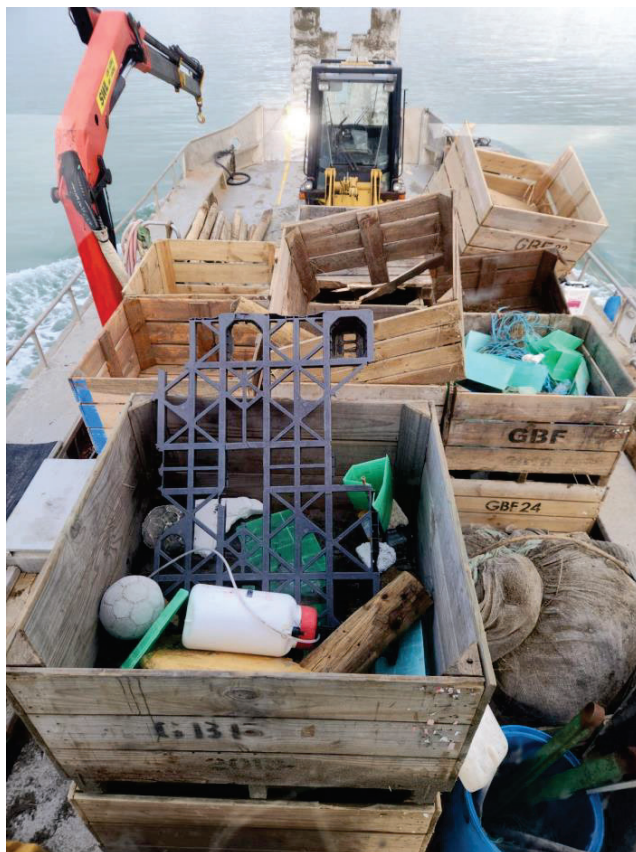


Upper Motueka River – 28 June

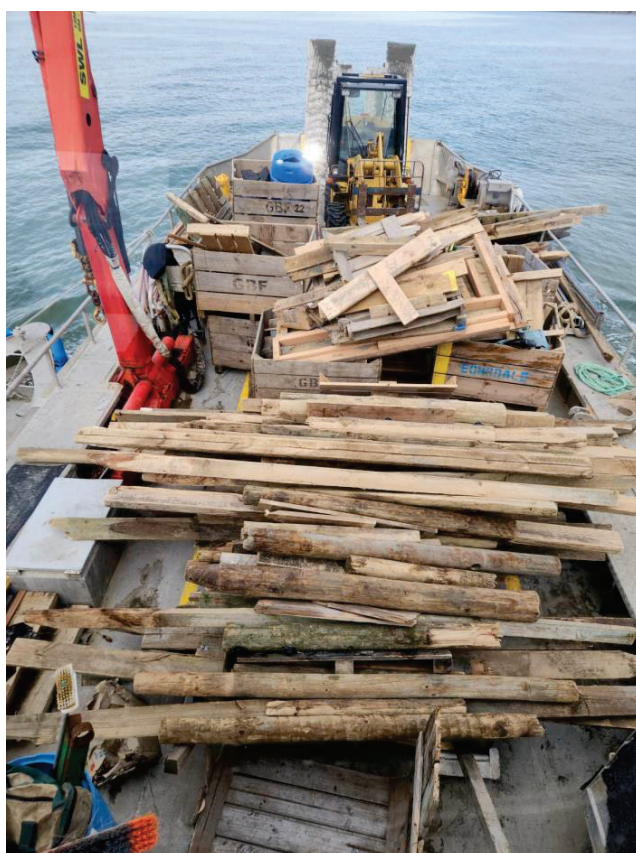


Upper Motueka River at Tapawera – 28 June





Salvage from the sandbar outside Motueka



Debris salvaged from the coastlines





Orchard debris washed up at the end of Staples Street, Motueka





Ocean clean-up: removing nets and debris from the Moutere Estuary



Orchard netting partially buried in gravel – between Kina and Māpua





Irrigation pipe and fencing wire removed from Māpua



Barge removing nets from the sandbar, Motueka

## 7.2 ADOPTING THE ENFORCEMENT POLICY AND COMPANION COMPLIANCE MONITORING AND INCIDENT RESPONSE GUIDELINES

**Decision Required**

|                            |  |
|----------------------------|--|
| <b>Report To:</b>          | Environment and Regulatory Committee   |
| <b>Meeting Date:</b>       | 17 July 2025   |
| <b>Report Author:</b>      | Carl Cheeseman, Team Leader - Monitoring and Enforcement; Dave Shaw, Team Leader – Compliance and Investigation (Land and Air) |
| <b>Report Authorisers:</b> | Rob Smith, Group Manager - Environmental Science; Kim Drummond, Group Manager - Environmental Assurance                        |
| <b>Report Number:</b>      | RRC25-07-2   |

### 1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 To present the final drafts of the Enforcement Policy and Compliance Monitoring and Incident Response Guidelines for consideration and adoption by Council through this committee.

### 2. Summary / Te Tuhinga Whakarāpoto

- 2.1 Since 2013 all public prosecuting agencies have been required by central government to have a publicly available prosecution policy which sets out, among other things, the process for making prosecution decisions and the circumstances in which alternative methods of resolving a matter may be used.
- 2.2 This has been reinforced through the directions provided in the Solicitor General's Prosecution Guidelines that have been recently reviewed and reissued in December 2024.
- 2.3 Tasman District Council has had a publicly available Enforcement Policy since 2006. This has served to meet the above obligations as well as provide wider guidance on the Council's investigation and enforcement procedures and pathways to resolution of non-compliance.
- 2.4 The last iteration of this policy, adopted by Council in 2016 was due for review which has been undertaken and is the basis for this report.
- 2.5 Approaches to regulatory good practice have continued to evolve alongside legislative reform. Expectations and behaviour of our regulated community have also changed over time. This has provided the catalyst for a more detailed and fit for purpose strategic document.
- 2.6 As part of this, a companion document titled the Compliance Monitoring and Incident Response Guidelines has been developed to support a key regulatory function of council under the Resource Management Act. Intrinsically linked to the Enforcement Policy, this document is designed to inform the community on what to expect from Council undertaking its monitoring and incident response obligations under that Act.

- 2.7 In March 2025, drafts of both documents were introduced to a committee workshop for discussion and feedback. Further changes have been made to the documents following feedback received during the workshop. The final draft documents are attached.
- 2.8 As both the Policy and Guidelines affect the general public, it is good practice for these to be approved by Council or the Committee prior to their release and use.
- 2.9 An issue arises however, in that any amendment to these types of documents may need to go back before the Council or the Committee for endorsement. Given amendments are usually technical, this step in process presents a potential barrier to giving effect to changes required to ensure currency.
- 2.10 In order to address this issue, delegated authority to the Group Manager, Environmental Assurance is sought to allow minor amendments to these documents that do not change the overall intent or direction of the Policy.
- 2.11 Supporting that process change, any amendments made would be brought to the attention of the Environment and Regulatory Committee at the next available meeting.

### **3. Recommendation/s / Ngā Tūtohunga**

#### **That the Environment and Regulatory Committee**

- 1. receives the Enforcement Policy and Compliance Monitoring and Incident Response Guidelines report RRC25-07-2; and**
- 2. adopts the Council’s Enforcement Policy and Compliance Monitoring and Incident Response Guidelines, Attachments 1 and 2 to the agenda report; and**
- 3. delegates authority to the Group Manager - Environmental Assurance, to make minor amendments to the Council’s Enforcement Policy that do not change the overall intent or direction of the Policy; and**
- 4. notes that the Committee’s expectation is that any amendments made by the Group Manager – Environmental Assurance will be reported back to the next Committee meeting.**

### **4. Background / Horopaki**

- 4.1 Legislation sets in place standards, rules, systems and processes that Council then has responsibility for implementing. While legislation sets the obligations, the Council has jurisdiction for determining the policies and methods for achieving these objectives in its district. This includes its monitoring and enforcement policies and strategies.
- 4.2 Given the wide-ranging tools and options to encourage and compel compliance, clear context on these procedures and pathways is necessary, not just for those tasked with undertaking the role, but also the regulated community and the public in general.
- 4.3 This is best achieved through published policies and guidelines outlining the strategies and processes that fairly inform Council’s approach to its monitoring and enforcement work.

#### **Council’s Enforcement Policy History**

- 4.4 In 2006 the Council’s first dedicated Enforcement Policy and Guidelines were publicly released after endorsement by the then Environment and Planning Committee.

- 4.5 Prior to this date, the information was contained in a document titled 'Protocol for Enforcement Investigations into an alleged breach of the Resource Management Act 1991, Resource Consents and Tasman District Council Plans'. This was an internal operational document.
- 4.6 The 2006 policy was a high-level document that provided guidance for Council officers when undertaking enforcement and compliance work. The policy content was however, solely dedicated to activity under the Resource Management Act.
- 4.7 In 2016 a revised policy was presented and adopted by Council (Resolution EP16/11/02).
- 4.8 That revision aligned the policy with the principles of the then recently released Regional Sector Compliance Framework 2016 - 2018. The Policy was also broadened to encompass all regulatory functions undertaken within Council.
- 4.9 The 2016 Enforcement Policy remains the latest iteration in force.

### **2025 Review of the Enforcement Policy**

- 4.10 Approaches to regulatory good practice have evolved. Legislative reform has also had an impact in enforcement strategies as has expectations and behaviour of our regulated community.
- 4.11 This change has prompted a comprehensive review and subsequent amendments to the policy to reflect modern good practice guidance and external drivers. This change is expected to continue.
- 4.12 The main shift from the 2016 version is to move from the Ayers and Braithwaite (1992) approach to selecting an enforcement approach to the Voluntary-Assisted-Directed-Enforced (VADE) model promoted by the Resource Management Review Panel in their 2020 report. This model has since been picked up by most of New Zealand's enforcement agencies.

### **Development of the Compliance Monitoring and Incident Response Guidelines**

- 4.13 The Compliance Monitoring and Incident Response Guidelines is a new document intended to support the RMA regulatory function.
- 4.14 The guidelines convey the principles and procedural framework around monitoring and incident response and what the public can expect from council exercising these duties.
- 4.15 This set of guidelines are intended to be published and available on the Council website.

### **Outcome of Council Committee Workshop**

- 4.16 On 19 March 2025, drafts of both documents were introduced to the committee for discussion and feedback.
- 4.17 At the start of the meeting, it was highlighted that while the Enforcement policy was traditionally endorsed by Council, this posed procedural issues with the need to continually review and amend the document to ensure currency.
- 4.18 There followed a commitment to come back to the Environment and Regulatory Committee with a potential resolution around this matter. This part is carried through into the next sections of this report and associated recommendations.
- 4.19 The workshop was constructive. While there were no change recommendations on the Enforcement Policy beyond ensuring it was applicable to all regulatory functions of the Council, the committee did suggest amendments to the Compliance Monitoring and Incident Response Guidelines to provide additional guidance on procedures.

4.20 Those suggested amendments were fully supported by staff and incorporated in the final draft. The changes to the document are as follows.

1. Using Assistance – Section 6.4 (page 11) now includes commentary on the use of Drones.
2. Health and safety while undertaking inspections- Section 6.5 (page 11 now includes reference to use of body cameras.
3. Method of Compliant receipt – Section 8.1 (Page 13) now contains a paragraph on receiving anonymous complaints.
4. Investigations and dealing with non-compliance – Section 9 (Page 14) now includes a statement around referring other non-compliance.
5. Aligning the monitoring and incident response guidelines with the Council's value statement (Chapter Three of the document). Following the comments from the committee members this section has been fully redesigned to better articulate the intent without creating inconsistency.

4.21 Both draft documents are attached (Attachment 1 and 2).

|   |
|---|
| <b>5. Analysis and Advice / Tātaritanga me ngā tohutohu</b> |
|---|

- 5.1 Since 1 July 2013, all public prosecuting agencies have been required by government to have a publicly available prosecution policy.
- 5.2 The Solicitor General's Guidelines 2024 reinforces this and sets out in more detail the matters which should be covered in a prosecution policy along with the expectations around conducting prosecutions generally.
- 5.3 Council's Enforcement Policy is considered to meet the obligations set out in the Solicitor General guidelines.
- 5.4 The policy document has also been through redesign to reflect modern regulatory good practice guidance as well as aid those developing and reviewing their own departmental regulatory operating procedures.
- 5.5 As the Policy and Guidelines affect the general public it is good practice for these to be approved by Council or the Committee prior to their release and use.
- 5.6 An issue arises in that any change to a formally adopted policy requires it to go back to Council to approve any amendment.
- 5.7 Given the evolving legislative and enforcement landscape, amendments or updates to these documents are inevitably needed. Given amendments are usually technical, this step in the process could impact on the maintenance of the content that may be necessary to ensure currency.
- 5.8 In order to address any technical change needs, it is considered prudent to request delegated authority to the Group Manager, Environmental Assurance to allow amendments to the Policy that do not change the overall intent or direction of the Policy.
- 5.9 Those amendments to the policy would then be brought to the attention of an appropriate Committee at the next available meeting.



## 6. Financial or Budgetary Implications / Ngā Ritenga ā-Pūtea

6.1 There are no financial or budgetary implications in this process.

## 7. Options / Kōwhiringa

7.1 The options are outlined in the following table:

| Option |   | Advantage  | Disadvantage  |
|--------|---|--|---|
| 1.     | Adopt the documents but delegate authority to the Group Manager Environmental Assurance to make amendments that do not change the overall intent or direction of the Policy | Flexibility to update and amend without need for reintroduction to Council.<br><br>Streamlines process by allowing for timely updates and improvements to documents as and when required in response to evolving regulatory landscape. | No material disadvantages identified. All change will be logged and visible through presentation to the Council at next available Environmental and Regulatory committee. |
| 2.     | Adopt the documents without delegating authority to change  | The Council maintains full control of the content of the documents and any change proposal including minor amendments.   | Removes ability to make minor changes and improvements in an efficient manner by adding additional procedural steps.  |
| 3      | Decline to adopt new policy and guidelines and seek further changes   | Opportunity to seek inclusion or removal of content within the documents.  | These documents are based on a national standard to which additional guidance has already been added including from workshop.   |

7.2 Option one is recommended.

## 8. Legal / Ngā ture

- 8.1 There is an expectation that all prosecution agencies will have a publicly available prosecution policy. This was set down in a Cabinet minute in 2013.
- 8.2 Solicitor General's Guidelines 2024 impose obligations on the council as a prosecuting agency including reinforcing the need for a prosecution policy.
- 8.3 Legislation under various Acts Council administers sets obligations to develop and implement monitoring and enforcement strategies.
- 8.4 It is considered that the proposed policy meets the requirements of good investigative techniques and the Council's natural justice requirements.

**9. Iwi Engagement / Whakawhitiwhiti ā-Hapori Māori**

- 9.1 Iwi have not been engaged in the development of these documents on the basis they are setting out regulatory functions of compliance and enforcement under a statutory duty. However, Iwi engagement in the development of monitoring strategies and enforcement is recognised within these documents.

**10. Significance and Engagement / Hiranga me te Whakawhitiwhiti ā-Hapori Whānui**

- 10.1 While the compliance monitoring and enforcement activities of Council generate some public interest, the policies underpinning the work are statutory functions of administering the laws and not appropriate for wider public engagement.

|    | Issue   | Level of Significance | Explanation of Assessment  |
|----|---|-----------------------|--|
| 1. | Is there a high level of public interest, or is decision likely to be controversial?  | Low                   | The Policy/Guidelines themselves generate limited public interest. There has traditionally been support for having the documents publicly available. |
| 2. | Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future? | No                    |  |
| 3. | Is there a significant impact arising from duration of the effects from the decision?   | No                    |  |
| 4. | Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)                | No                    |  |
| 5. | Does the decision create a substantial change in the level of service provided by Council?  | No                    |  |
| 6. | Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?      | No                    |  |
| 7. | Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?                              | No                    |  |
| 8. | Does the proposal or decision involve entry into a private sector partnership   | No                    |  |

|     | Issue  | Level of Significance | Explanation of Assessment |
|-----|--|-----------------------|---------------------------|
|     | or contract to carry out the deliver on any Council group of activities?   |                       |                           |
| 9.  | Does the proposal or decision involve Council exiting from or entering into a group of activities?   | No                    |                           |
| 10. | Does the proposal require particular consideration of the obligations of Te Mana O Te Wai (TMOTW) relating to freshwater or particular consideration of current legislation relating to water supply, wastewater and stormwater infrastructure and services? | No                    |                           |

### 11. Communication / Whakawhitiwhiti Kōrero

- 11.1 As both documents are developed to guide Council's role as regulator, no communication has occurred with the public.
- 11.2 The Policy and Guidelines will, if approved, be publicly available through the Council's website once adopted.

### 12. Risks / Ngā Tūraru

- 12.1 There is considered to be minimal or no risk from adopting the Policy and Guidelines.





### 13. Conclusion / Kupu Whakatepe

- 13.1 Effective compliance monitoring and enforcement requires us to act openly, proportionately and flexibly within a consistent framework.
- 13.2 The approach Council takes to delivering on this responsibility should be clearly conveyed to the regulated community in order for them to understand the approach Council takes around investigation and enforcement including the pathways to resolving issues.
- 13.3 Having publicly visible, modern, fit for purpose Policy and Guidelines that outline these principles and processes is important. The Policy and Guidelines should also serve to meet the obligations imposed through the Solicitor General's guidelines for prosecutions.
- 13.4 A review and redesign of the Enforcement Policy along with introduction of an RMA-specific Monitoring and Incident Response Guidelines serves to meet these needs.
- 13.5 Endorsement of the Policy and Guidelines by Council will allow staff to put into effect these new documents and publish them.
- 13.6 Allowing the Group Manager, Environmental Assurance delegated authority to make technical changes will also ensure flexibility and timeliness in keeping the documents current and fit for purpose.

|  |
|--|
| <b>14. Next Steps and Timeline / Ngā Mahi Whai Ake</b> |
|--|

- 14.1 If the Policy and Guidelines are adopted, the intention is to prepare them for public release through Council's website.

|   |
|---|
| <b>15. Attachments / Tuhinga tāpiri</b> |
|---|

- |    |   |  |    |
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## Enforcement Policy



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## 1. Introduction

As a unitary Council (regional and territorial functions) Tasman District Council has a direct role in promoting the social, economic, environmental and cultural well-being of the Tasman region, whilst meeting the broad range of legislative obligations set out in various Acts, Regulations and Bylaws it has a duty to administer.

These legislative instruments set in place standards, rules, systems and processes that must be complied with in the interests of building and maintaining positive communities, strong public health and safety, as well as desired environmental outcomes.

Complying with these regulations and requirements is everyone's responsibility.

Tasman District Council's approach to compliance is to work with individuals, industry, and the community to achieve voluntary compliance wherever possible and to take appropriate enforcement action when voluntary compliance is not achieved.

To undertake this, Council employs experienced staff who understand the practices and principles of effective monitoring and enforcement, as well as the organisational values in councils' commitment towards achieving the vision for the Tasman community.

These staff also operate under a series of guidelines and handbooks as part of Council's strategic approach to compliance monitoring and enforcement. A strategic approach ensures decisions are made efficiently, consistently and in accordance with agreed principles. It also provides the public and regulated community with understanding of council's approach and what to expect to ensure desired compliance outcomes. This guideline is part of that strategy.

## 2. Purpose

The primary purpose of this policy is to:

- outline the approach to investigation and enforcement in the Tasman District
- inform the general community as to the approach Council takes to resolve non-compliance.
- provide guidance for Tasman District Council staff when delivering enforcement functions.
- ensure a consistent and integrated approach to enforcement across the regulated community.
- provide public understanding on how enforcement gives effect to the purpose and principles of the Acts, regulations, Council bylaws and the Tasman Resource Management Plan (TRMP).
- Meet the purpose and principles of the Solicitor-General's Prosecution guidelines.

## 3 Conflict of Interest

Tasman District Council staff will carry out all enforcement functions in full accordance with the Council's Conflict of interest (COI) policy. That policy provides guidance for staff as to where a conflict of interest may arise and a mechanism for ensuring that any actual or potential conflict of interest is disclosed and managed appropriately.



## 4. Principles of Enforcement

Tasman District Council will undertake its enforcement responsibilities in a manner that is consistent with the following principles.

### Transparent

We will provide clear information and explanation to the community about the standards and requirements for compliance. We will ensure that the community has access to information about sector performance as well as actions taken by us to address issues and non-compliance.

### Consistency of process

Our actions will be consistent with the legislation and within our powers. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances. We will ensure that our staff have the necessary skills and are appropriately trained; and that there are effective systems and policies in place to support them.

### Collaborative approach

We will work with and, where possible, share information with, other regulators and stakeholders to ensure the best compliance outcomes for our regions. We will consider the public interest and engage with the community, those we regulate, and central government, to explain and promote environmental requirements and achieve better community and environmental outcomes

### Responsive and effective

We will consider all alleged non-compliance to determine the necessary interventions (using a risk-based approach) and actions to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations

### Fairness and proportionality

We will apply regulatory interventions and actions appropriate for the situation. We will use our discretion justifiably, and ensure our decisions are appropriate to the circumstances and that our interventions and actions will be proportionate to the risks posed to people and the environment and the seriousness of the non-compliance

### Based in evidence

We will use an evidence-based and informed approach to our decision-making. Our decisions will be informed by a range of sources, including sound science and information received from other regulators, members of the community, industry, and interest groups.

### Communicative

We will communicate with all relevant parties to ensure that there is full understanding of Councils responsibilities and its potential responses; and to assist all parties to understand their responsibilities and what constitutes a non-compliance or a breach

### Legal, accountable and ethical

We will conduct ourselves lawfully, impartially and in accordance with these principles, as well as relevant policies and guidance. We will document and take responsibility for our regulatory decisions and actions. We will measure and report on our regulatory performance

### Outcomes focussed

We will focus on the most important issues and problems to achieve the best outcomes. We will target our regulatory intervention at poor performers and illegal activities that pose the greatest risk to the environment and community. We will apply the right tool for the right problem at the right time

## 5. Encouraging Compliance

The requirement for Council to ensure compliance with the law is a mandatory obligation of most of the Acts it administers. While these Acts provide the enforcement tools, how Council chooses to enforce remains at its discretion. Fundamental to this approach is to work towards gaining voluntary compliance and Council works across the full regulatory spectrum to develop understanding and promote positive change of behaviour. The components of this approach are generally known as the 4Es.

**Engagement** with people, stakeholders and the community on matters that may affect them. This will promote greater understanding of the challenges and constraints; engender support and identify opportunities to work with others.

**Education** for those who are unaware of the rules and regulations or need reminding of their obligations. It is also important in providing the community with information about what rules and regulations are in place and what is acceptable behaviour.

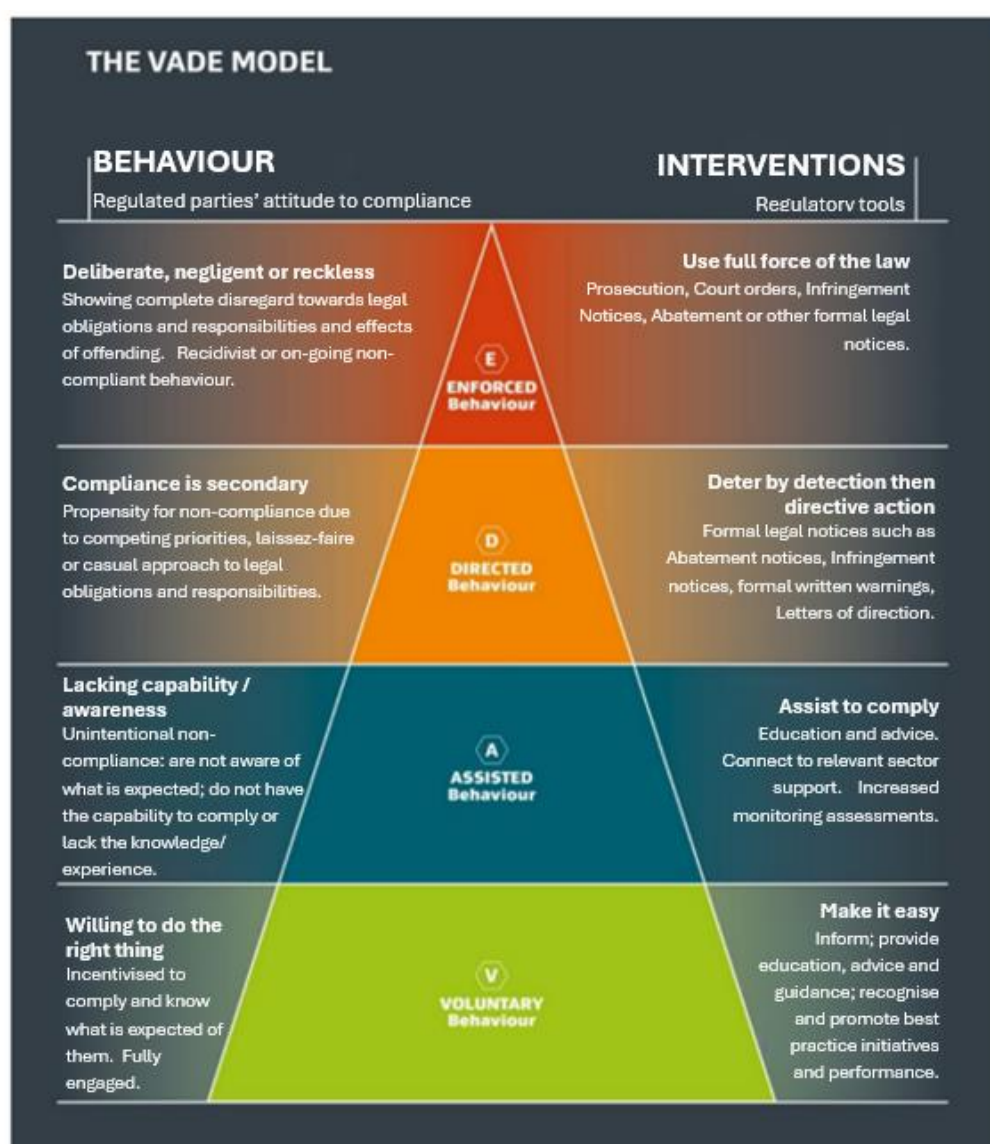
**Enabling** individuals, stakeholders and supporting them to develop best practice by linking with resources and advice and promoting examples of best practice.

**Enforcement** when breaches of rules and regulations are identified using the range of enforcement tools council has available to it to bring about positive change.



## 6. Our Compliance Intervention Model

Guided by the 4 E's principles, we have a range of interventions and tools that we can use to gain compliance. Councils' strategy follows a proportional risk-based approach, which is best depicted by what is known as the VADE model<sup>1</sup>. VADE is an acronym (Voluntary, Assisted, Directed, Enforced) and is used widely in other New Zealand regulatory agencies. This model underpins our decision-making process which is a graduated approach to intervention influenced by the individual or company's approach to non-compliance and willingness to do right. This is described in more detail in chapter 9 and 10 of this document.



<sup>1</sup> VADE model diagram taken and adapted from the New Directions for Resource Management in New Zealand - Report of the Resource Management Review Panel – June 2020

## 7. Responding to Non Compliance

The following diagram provides overview of the pathway expected to be undertaken from discovery of a breach through to the decision to take enforcement action.



## 8. The Investigation Process

If a breach or suspected breach of an Act, other Regulations, or Council Bylaws is reported our response will normally be a staged one. This will usually consist of ascertaining and dealing with any ongoing adverse effects if that is relevant, followed by an investigation to establish the truth of what has occurred and enable informed decisions for an appropriate response if offending found. The following is step through of that expected process.

### 8.1 Response to Effects

Upon discovery, the initial response will be to assess the nature of the breach and the actual or potential effects, if any, resulting from the contravention. Significant adverse effects will require an immediate response prior to any other action and may include a full pollution prevention response for environmental incidents, an immediate closure of the premises involved, or the seizure or destruction of an offending animal in the case of a dog attack.

### 8.2 Gathering information (Investigation)

If a breach or a potential breach occurs, then information and evidence is gathered to establish the truth of what has occurred and to enable informed decisions to be made. The depth and scope of an investigation will be dependent on the seriousness of the incident.

An investigation may entail:

- Inspecting private property to gather information and determine whether there has been a breach. This includes gathering samples, photographs and ecological or geological surveys.
- Arranging for expert inspection such as engineers, building practitioners, scientists, or surveyors to attend and assist in gathering information.
- Speaking to witnesses and liable parties, and
- recording, either in written form or electronically, detailed witness statements, and the interview of liable parties potentially under a formal caution.

In less serious matters, it may be sufficient to write to the liable party or parties requiring written explanation as to why the breach occurred and circumstances behind it and from there determine an appropriate response.

### 8.3 Entry onto private property during investigation

A Council warranted enforcement officer will usually need to enter private property for the purpose of assessing compliance in accordance with the relevant sections of legislation council enforces<sup>2</sup>.

The authority for these powers is contained in statute, case, and common law. These powers must always be used appropriately, and Council officers always ensure that their entry onto private property is lawful.

There may also be instances where a property has to be accessed under authority of a search warrant.

<sup>2</sup> For example, under Section 38 of the RMA Tasman District Council may issue warrants to their officers which gives them legal authority to assess compliance with environmental regulations. The Chief Executive Officer of Tasman District Council has the authority to issue staff with warrants of authority.



#### 8.4 Concluding an investigation

Undertaking an investigation ensures that we have the right information to be able to make an informed decision about how the Council should best respond to non-compliance. At the end of an investigation all of the evidence gathered is assessed and analysed, and a decision is made as to further action required, if any.



### 9. Enforcement Decision Making

Enforcement decision making can be complex. The penalties available under the relevant Acts provide potentially large penalties for a breach that has been proved during the course of an investigation. Any penalty decided by a court will take into account the seriousness of the offending via a summary of the facts at sentencing.

When determining the most appropriate enforcement response to a particular situation, council applies a graduated enforcement approach. The courts have provided helpful guidance on the factors that are appropriate to consider in determining the seriousness of a breach.

Investigators weigh all competing considerations and exercise judgement. Much will depend on the circumstances of the case and the willingness and responsiveness of the parties involved to remedy the situation.

Factors likely to be considered by Tasman District Council when contemplating enforcement action:

- The actual or potential adverse effects arising from the breach
- The value or sensitivity of the environment affected by the breach
- The level of deliberateness, negligence or carelessness behind the breach
- What degree of due care was taken, and how foreseeable was the incident
- What efforts were made to remedy or mitigate the adverse effects
- How effective was that remediation or mitigation
- Any profit or benefit gained from the breach by the offender(s)
- Evidence of failure to act on prior instructions, advice or notice
- The need for specific deterrence required in relation to the alleged offender
- Need for a wider deterrence required in respect of this activity
- Significance to iwi
- How does the unlawful activity align with the purposes and principles of the legislation?
- Is the decision to prosecute (or not prosecute) in line with the Solicitor General's guidelines

The factors listed above are not intended to be exhaustive and not every factor will be relevant on every occasion and one single factor may be sufficiently aggravating, or mitigating, such that it may influence the ultimate decision. Each case is unique, and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome.

Notwithstanding this, Tasman District Council may proceed directly to enforcement action, including prosecution where the circumstances support this. The discretion to take enforcement action, or not, sits solely with the regulatory agency

### 9.1 Who Can Make a Decision?

Taking any kind of enforcement action can have a profound impact on the subject of the action and cannot be taken lightly. Decisions on enforcement action must be based on reliable and correctly obtained information. The Tasman District Council Appointment Register identifies warranted powers available to Council enforcement officers and the Delegation Register will cover specific delegated enforcement powers.

For low level breaches, warranted officers can provide education and advice, issue formal warnings, infringement notices and abatement notices. The officer will consult with team leaders and/or managers in making that decision. If a matter is complex, has a high public profile, requires specific guidance or simply there is no precedent, then the warranted officer will seek support from peers, team leaders, or managers, and, if necessary, legal advisors.

If the matter is being considered for prosecution or other remedies involving Court action, then it must ultimately be authorised by the Group Manager, Environmental Assurance. In such circumstances, the case will first be considered by an enforcement decision making panel prior to escalation and ultimately subjected to independent legal review before court initiation.



## 10. Enforcement Options

Tasman District Council enforcement officers have a broad range of enforcement options available to them to address matters of non-compliance.

Enforcement tools can be categorised into three main types.

- Informal actions that focus on providing education and incentive-based responses to allow the person to become better informed and develop their own means to improved compliance.
- Directive actions that are about looking forward and giving direction and righting the wrong.
- Punitive actions that are about looking back and holding people accountable for what they have done.



## 11. Decision to Prosecute

If the Council considers an offence is serious enough to bring a prosecution, before it initiates any proceedings it must test its case against the Solicitor General's prosecution guidelines<sup>3</sup> to establish that:

- (a) the evidence which can be adduced in court is sufficient enough to prove the proposed charge beyond reasonable doubt, (the Evidential Test) and,
- (b) does the public interest require a prosecution to be brought, (the Public Interest Test).

As the prosecutor, Council will only commence a prosecution if both tests are met for the charge or charges it wishes to bring. The tests will be applied in sequence with the evidential test applied first.

Council must evaluate all of the evidence and information it is relying on in a thorough, critical and impartial manner. This analysis will be undertaken in conjunction with in-house legal counsel, a Crown Solicitor, or an independent law firm.

### The Evidential Test

The first test is the evidential test to ensure the prosecutor is satisfied that there is sufficient evidence to prove the proposed charge beyond reasonable doubt. The tests should be expected to establish:

- The evidence is available. Only evidence which is actually available to the prosecutor to adduce in court should be considered.
- The evidence is admissible i.e. the council can produce the evidence before the court, and it is likely it will be admitted by the court
- The evidence is credible. If a piece of evidence is clearly contradicted by the weight of other evidence, or there is some other factor suggesting the evidence is not credible, it should be discounted
- The evidence is considered reliable.

### Applying the test to the evidence

As prosecutor, when assessing availability, admissibility, credibility and reliability, the Council (including its legal counsel) will ask the investigator to make further enquiries about any piece of evidence if there is any doubt about whether it should be relied upon.

If a case does not pass the Evidential Test, it will not proceed to prosecution, no matter how important it may be.

We will also continually assess whether the Evidential Test is being met during the course of a prosecution. If, as a result of continued investigation following the laying of charges, it considers that:

- (a) another charge is more suitable; the council may amend the charge (or seek the leave of the Court to do so); or
- (b) a charge should be withdrawn; it will withdraw that charge.

### The public interest test

Once it has been established that there is sufficient evidence to provide a reasonable prospect of conviction, the test for prosecution then requires consideration of whether the public interest requires a prosecution.

Council is not required to prosecute all offences for which there is sufficient evidence. This is reflected in the enforcement objectives and procedures within this policy.

<sup>3</sup> [Prosecution Guidelines » Crown Law](#)

The public interest test is therefore important to ensure that only the most serious cases are considered for further action and that the discretion to prosecute is appropriately exercised. This ensures that limited resources are not consumed on offences which, although the evidence is sufficient to provide a reasonable prospect of conviction, the offence is not serious, and prosecution is not required in the public interest.

The list of factors to be considered in the Solicitor-General's Prosecution Guidelines 2024 are not intended to be exhaustive. In a regulatory context, particularly around environment, some of the factors to be considered include such things as,

- the seriousness of the offence,
- the individual's involvement and level of culpability
- the likelihood of offending continuing or being repeated
- the extent of the harm caused to the natural environment and its ecological values
- the extent of the harm caused to iwi and communities
- the financial loss to an individual, company or section of society caused by the offending
- premeditation of the offending party
- relevant previous warnings or convictions against the defendant
- Financial gain from offending
- whether there is a particular need to deter that type of offending

Other factors may include things such as cost (including resources and funding) weighed against the seriousness of the offending and any likely penalty or sentence when making an overall assessment of the public interest.

## 12. Evaluating Effectiveness

In order to maintain an effective enforcement process in Council, all enforcement action undertaken by officers should be evaluated for effectiveness in achieving the desired outcome.

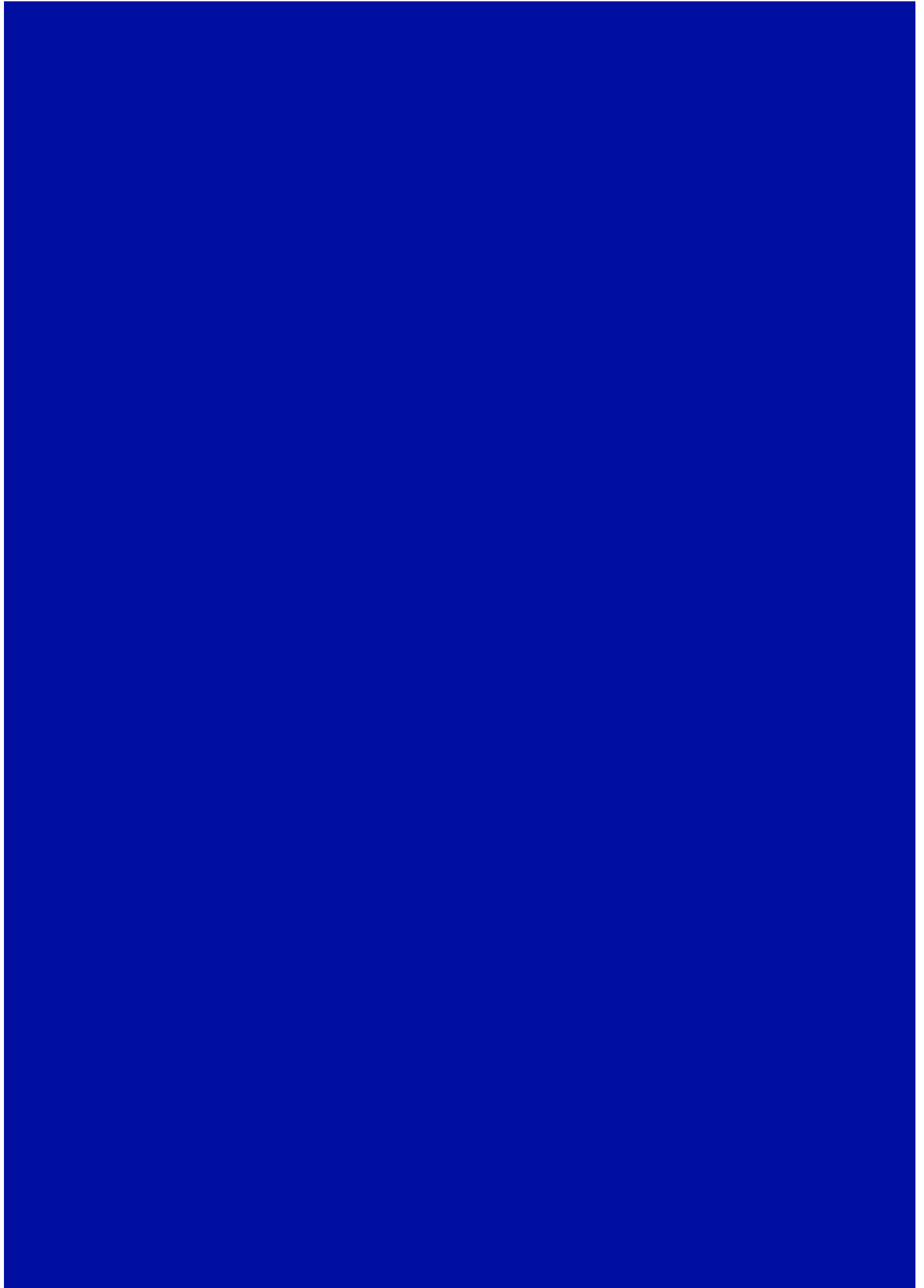
In both successful and unsuccessful actions where further enforcement action was required, it is useful to examine what was effective or not, what could have been improved or changed to make the process more effective and robust. This information should be fed back to the relevant decision makers to implement change if necessary.

## 13. Cost Recovery

Council endeavours to make all reasonable efforts to ensure that the cost of compliance is met by the person or company responsible for the non-compliance and not by the Tasman ratepayers.

Such cost recovery is in line with the Council Fees and Charges regime. These fees and charges are available for view on the Council's website. [Fees and charges | Tasman District Council](#)







Resource Management Act 1991

## Compliance Monitoring and Incident Response Guidelines





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## 1. Purpose

Tasman District Council has a core responsibility through the Resource Management Act (the Act) to ensure the sustainable management of our natural and physical resources.

As a key part of this, Council monitors activities occurring in the district that are regulated by the Tasman Resource Management Plan (TRMP), resource consents, and national regulations, to ensure activities are being undertaken in a manner that is compliant. The council also provides a 24 hour, seven days a week environmental complaint and incident response service as part of this function.

To achieve this, a dedicated compliance and investigation team sits within the Environmental Assurance group, directly tasked with monitoring, investigation, and enforcement.

In order to deliver an effective and efficient service, a compliance monitoring and incident response strategy interwoven with an enforcement strategy supports this team achieve goals and objectives.

This document, titled Compliance Monitoring and Incident Response Guidelines is designed to provide context around the principles and practices underpinning our monitoring and incident response. It should be read in conjunction with our Enforcement Guidelines.

In developing these guidelines and the associated Enforcement guidelines, acknowledgement is given to the Ministry for the Environment, Best Practice Guidelines for Compliance Monitoring and Enforcement<sup>1</sup> and the Compliance and Enforcement Special Interest Group, Regional Strategic Compliance Framework 2019-2024<sup>2</sup>.

## 2. Key Drivers Behind our Compliance Monitoring and Incident Response Strategy.

### 2.1. Relevant Legislation

Under the RMA a number of obligations rest on Council to monitor and record activities affecting our districts natural resources. Some of the key legislative obligations are:

- Section 35(2)(d) that sets out that every local authority shall monitor the exercise of the resource consents that have effect in its region or district and take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary.
- Section 35(3) that states Council must “keep reasonably available at [their] principal office” information relevant to the administration of policy statements and plans, the monitoring of resource consents, and current issues relating to the environment of the area to enable the public to be informed of their duties and the council’s functions, powers, and duties, and to participate effectively in the Act.
- Section 35(5)(i) also requires Council to keep a summary of all written complaints received by it during the preceding five years concerning alleged breaches of the Act or a plan, and information on how it dealt with each such complaint.

<sup>1</sup> Ministry for the Environment 2018, Best Practice Guidelines for Compliance Monitoring and Enforcement under the Resource Management Act 1991.

<sup>2</sup> Compliance and Enforcement Special Interest Group, Regional Strategic Compliance Framework 2019-2024

- Section 84 requires council to observe its policy statements and plans and to “enforce the observance of the policy statement or plan”. This creates a general duty on the council to implement plans and policy statements, which therefore requires councils to carry out CME to monitor compliance and respond to non-compliance.
- Section 44A (8) requires councils to enforce the observance of national environmental standards, as far as its powers allow it to do so.

## **2.2. Issues of Significance to Manawhenua Iwi**

Council has an obligation when exercising its powers under the RMA in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

Identifying resource management issues for Iwi, harnessing their knowledge, and incorporating these into monitoring and enforcement strategies is fundamental to meeting our commitment with manawhenua and in supporting Mātauranga Māori.

## **2.3. Issues of significance to communities**

Our community can provide valuable feedback and assist in understanding where issues are or may be emerging. This can allow us to develop or adjust our monitoring and incident response strategies to achieve objectives.

## **2.4. Issues emerging from environmental monitoring.**

State of the environment monitoring, scientific studies and collated data analysis can expose issues, trends, and emerging problems that support targeted compliance monitoring investigations or reassessment of monitoring programmes and staff resourcing.

## **2.5. Input into Consenting Decisions and Resource Management Policy**

Compliance monitoring of activities as well as responding to public complaints can identify trends and issues and allow feedback on consenting or plan effectiveness as well as inform future plan development.

### 3. Aligning with our Values

In order to be effective and consistent, our compliance monitoring strategy should align and strive to give effect to the Council's wider core values. We will achieve this through the following principles.

|  |
|--|
| <p>Our monitoring and incident response strategies, support where possible the visions, aspirations and values of our iwi partners and communities by.</p> <ul style="list-style-type: none"> <li>▪ Respecting Mātauranga Māori and the exercise of kaitiakitanga where possible</li> <li>▪ Recognise and support the priorities and concerns of Tasman's communities.</li> <li>▪ Work with our staff across council in delivering wider environmental outcomes</li> </ul>   |
| <p>We design and maintain robust and relevant data information systems to allow us to:</p> <ul style="list-style-type: none"> <li>▪ Identify and respond to issues having an adverse impact on human and ecosystem health.</li> <li>▪ Implement meaningful evidence-based strategies around monitoring and incident response.</li> <li>▪ Deliver on objectives of our local plans and policies as well as national regulations.</li> </ul>   |
| <p>Support our goal to be good custodians of the natural, built, and human environments by,</p> <ul style="list-style-type: none"> <li>▪ Monitoring those users of our natural resources to ensure they are meeting expectations.</li> <li>▪ Responding appropriately to issues and community concerns.</li> <li>▪ Looking for opportunities to promote compliance and good practice to avoid impacts on our environment.</li> <li>▪ Report to the community on our monitoring and incident response activities.</li> </ul>  |
| <p>We endeavour to deliver strategic and efficient monitoring and incident response by:</p> <ul style="list-style-type: none"> <li>▪ Prioritising our monitoring towards the highest risk activities and sensitive environments.</li> <li>▪ Constantly looking for opportunities to deliver our service in the most cost-effective and efficient way.</li> <li>▪ Develop methods to communicate more effectively with the public and resource users around our procedures and practices.</li> <li>▪ Assisting our community to understand their obligations and enable them to undertake their activities with the best information available</li> </ul> |

## 4. Principles Underpinning our Monitoring and Incident Response

When meeting our compliance monitoring and incident response obligations, we will adhere to the following set of core principles<sup>3</sup>.

### Transparent

We will provide clear information and explanation to the community about the standards and requirements for compliance. We will ensure that the community has access to information about industry environmental performance as well as actions taken by us to address environmental issues and non-compliance.

### Based in evidence

We will use an evidence-based and informed approach to our decision-making. Our decisions will be informed by a range of sources, including sound science and information received from other regulators, members of the community, industry, and interest groups

### Fairness and proportionality

We will apply regulatory interventions and actions appropriate for the situation. We will use our discretion justifiably, and ensure our decisions are appropriate to the circumstances and that our interventions and actions will be proportionate to the risks posed to people and the environment and the seriousness of the non-compliance.

### Legal, accountable and ethical.

We will conduct ourselves lawfully, impartially and in accordance with these principles, as well as relevant policies and guidance. We will document and take responsibility for our regulatory decisions and actions. We will measure and report on our regulatory performance

### Communicative

We will communicate with all relevant parties to ensure that there is full understanding of Councils responsibilities and its potential responses; and to assist all parties to understand their responsibilities and what constitutes a non-compliance or a breach

### Consistency of process

Our actions will be consistent with the legislation and within our powers. Compliance and enforcement outcomes will be consistent and predictable for similar circumstances. We will ensure that our staff have the necessary skills and are appropriately trained; and that there are effective systems and policies in place to support them.

### Outcomes focussed.

We will focus on the most important issues and problems to achieve the best environmental outcomes. We will target our regulatory intervention at poor performers and illegal activities that pose the greatest risk to the environment. We will apply the right tool for the right problem at the right time

### Collaborative approach

We will work with and, where possible, share information with, other regulators and stakeholders to ensure the best compliance outcomes for our regions. We will consider the public interest and engage with the community, those we regulate, and central government, to explain and promote environmental requirements and achieve better community and environmental outcomes

### Responsive and effective

We will consider all alleged non-compliance to determine the necessary interventions (using a risk-based approach) and actions to minimise impacts on the environment and the community and maximise deterrence. We will respond in an effective and timely manner in accordance with legislative and organisational obligations.

<sup>3</sup> These principles are based on those contained in the Ministry for the Environment's Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991.



#### 4.1. Using the Regulatory Spectrum

We will also take a graduated approach to compliance which recognises the regulatory spectrum available to resolve non-compliance. This will ensure that responsible and compliant resource users are acknowledged while those who are not are given the opportunity to voluntarily gain compliance. Those who do not are then held accountable for their actions. The model<sup>4</sup> in the following figure 1 best illustrates the fundamentals of this approach.

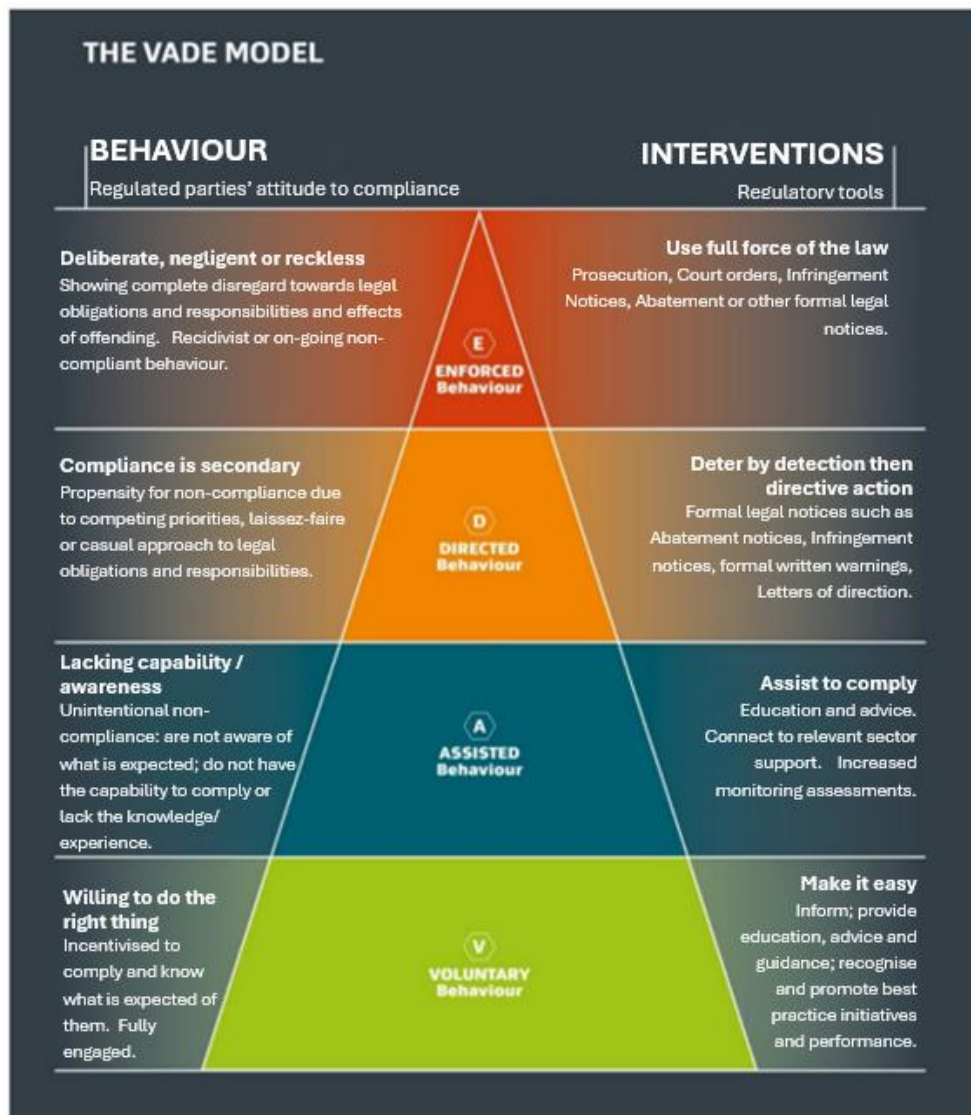


Figure 1. The VADE Model.

<sup>4</sup> VADE model diagram taken and adapted from the New Directions for Resource Management in New Zealand - Report of the Resource Management Review Panel – June 2020

#### 4.2. Encouraging Compliance

When Council does detect non-compliance with a consent condition, plan rule or regulation we will take a comprehensive approach to gaining compliance to develop understanding and changes of behaviour that avoid repeat non-compliance. The different components of this approach are referred to as the 4Es: engage, educate, enable and enforcement. These are not exclusive of each other, and components of the model may be carried out by different parts of council to support achieving an outcome.

**Engagement** with people, stakeholders and the community on matters that may affect them. This will promote greater understanding of the challenges and constraints; engender support and identify opportunities to work with others.

**Education** for those who are unaware of the rules and regulations or need reminding of their obligations. It is also important in providing the community with information about what rules and regulations are in place and what is acceptable behaviour.

**Enabling** individuals, stakeholders and supporting them to develop best practice by linking with resources and advice and promoting examples of best practice.

**Enforcement** when breaches of rules and regulations are identified using the range of enforcement tools council has available to it to bring about positive change.

### 5. Risk Based Monitoring

The RMA is one of our principal laws governing use and management of our natural resources. As well as managing activities affecting air, soil, freshwater and the coastal marine area, (regional activities) the Act also regulates land use activities (district activities) that affect communities within the natural and built environments.

The Act essentially restricts any person from undertaking a regional activity unless it is specifically allowed in a regional plan or a resource consent. This differs from a land use activity where there is a presumption that it is permitted unless it is restricted by a rule in a district plan. If any activity can't meet the rules, then a resource consent is required. In Tasman District both the district and regional rules are contained in one plan, the TRMP.

Tasman District has many thousands of regional and district resource consents active at any one time. There are also a range of activities that, while permitted, require some level of targeted monitoring. These types of activities are often also subject to National Environment Standards (NES) restrictions.

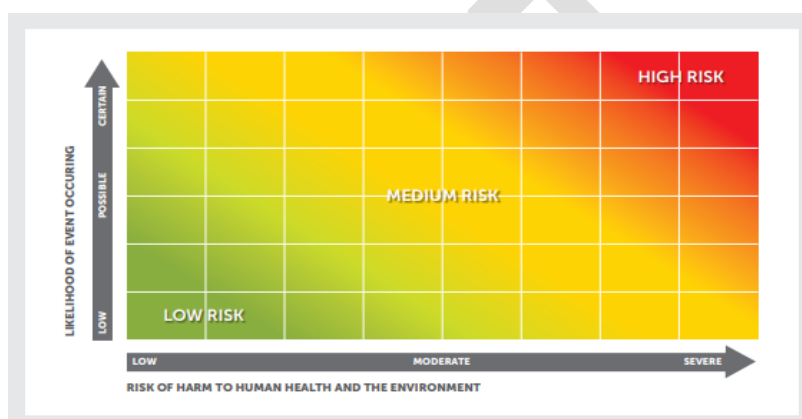
Recognising that we have limited resources, prioritising what we monitor is critical to ensuring that risks to human health and the environment are minimised as much as possible, and that we remain adaptive to changes.

The key objectives of this risk-based approach are:

- Ensuring we deliver our resource management responsibilities as effectively and efficiently as possible.
- Applying an appropriate level of oversight on higher risk activities to our environment.

- Allow forward planning to ensure capacity, and resources are available to address changes and trends.
- Respond to issues with targeted strategies to assist people understand and achieve better compliance where issues are evident.
- Identify environmental, economic, social, or cultural impacts from activities, to help inform the effectiveness of policy settings, plan rules as well as provide information to support science strategies and consenting.
- Enable reporting to the community and central government around levels of compliance, and regulatory actions.

Figure 2. below illustrates the conceptual environmental risk-based model underpinning our monitoring strategy<sup>5</sup>.



### 5.1. Ngā Iwi in Compliance Monitoring

Councils approach to compliance monitoring and enforcement recognises the unique relationship that Māori have with the environment and the specific functions that iwi have under the RMA in relation to their culture and traditions within their ancestral lands, water, sites, wāhi tapu, and other taonga as well as taking into account the principles of the Treaty of Waitangi<sup>6</sup> and the principles of Te Mana o te Wai<sup>7</sup>.

The Council is committed to enabling tangata whenua to more fully carry out their kaitiaki responsibilities, as well as opportunity to incorporate mātauranga Māori within the area of compliance and monitoring. To this end, it is incumbent on us to understand the objectives and aspirations of local iwi when designing and delivering our compliance monitoring programmes.

<sup>5</sup> Adapted from the Compliance and Enforcement Special Interest Group. Regional Sector Strategic Compliance Framework 2019–2024

<sup>6</sup> Section 8, Resource Management Act 1991

<sup>7</sup> [Essential Freshwater: Te Mana o te Wai factsheet | Ministry for the Environment](#)



In addition to this, where serious issues of non-compliance occur within a particular rohe, the Council will endeavour to inform Iwi of the non-compliance and without compromising the integrity of any investigation, endeavour to keep Iwi informed of progress where possible.

Where appropriate, Council will also seek to obtain Cultural Impact Statements from Iwi when offending results in court action and incorporate these into proceedings.

## **6. Monitoring and Incident Response in Practice**

Effective compliance monitoring and incident response is made up of many components. These include desktop assessments such as receiving and reviewing data, reports, and plans, as well as scheduled site visits to monitor performance against conditions, or to assess the lawfulness of an activity following a public complaint.

Monitoring of resource consented activities, depending on the conditions of consent, may require multiple visits across the life of the consent, while for others it may only be one inspection.

Activities found in non-compliance, whether from routine monitoring or complaint response, will generally receive additional visits until Council is satisfied that compliance is regained. This is particularly relevant if more formal enforcement mechanisms are applied.

### **6.1. Site Visits – Entering Private Property**

Officers are required to enter on to private property as part of the need to physically view and assess an activity for compliance with a rule, a regulation or resource consent conditions.

Under section 332 of the RMA, enforcement officers have the power to enter and inspect private property except a dwelling house, at any reasonable time, for this purpose.

All of Tasman District Councils compliance officers are duly appointed enforcement officers under the RMA for that explicit purpose. These officers are issued and will carry this warrant of authority and produce it at time of inspection.

Where practical, officers intending to conduct any site visit will endeavour to contact the landowner, occupier, or person undertaking the activity to notify of the intention to inspect and provide opportunity to meet. There will, however, be occasions where it is not practicable or sensible to make contact, particularly when investigating a reported offence. In these cases, the officer is entitled to enter without permission or invitation of the lawful landowner or occupier, for the purpose of assessing the extent of compliance.

If an officer exercises their power to enter private property and undertake an inspection, the property owner or occupier must allow them to do their inspection tasks. It is an offence to obstruct an enforcement officer.

There may also be instances where a property must be accessed under authority of a search warrant from the court. This method of entry to private property is usually reserved for occasions when the use of the power of authority to inspect or informed consent are no longer appropriate. The Courts have set out clear direction as to when an officer can rely on their warrant of authority or when a search warrant to enter property is required. All occasions when officers have the need to enter private property, the reasons are always carefully assessed on a case-by-case basis.



If the Council considers entering a property under a search warrant is required, the case and draft application will be reviewed by legal counsel prior to lodging the application for a warrant before an appointed issuing officer under the Search and Surveillance Act 2012.

## **6.2. When no one is home**

If the owner or occupier of a place subject to inspection is not present at the time of the inspection, the officer will leave in a prominent position, a written notice showing the date and time of the inspection and the name of the officer carrying out the inspection and contact details.

## **6.3. Taking samples, measurements and photographs**

While on site the enforcement officer may also take

- samples of water, air, soil, or organic matter.
- samples of any substance where they have reasonable cause to believe that substance is a contaminant of any of these
- any relevant measurements or photographs, and to record their observations. This may include making audio or visual recordings of their inspection and/or field interviews.

## **6.4. Using assistance**

Enforcement officers have the power to bring assistance with them if needed, such as a scientist, surveyor or additional people for health and safety reasons.

If the Council is entering private property under a search warrant issued by an 'issuing officer' under the Search and Surveillance Act, then section 335 of the RMA requires a police constable to be present when the search warrant is executed. RMA search warrants cannot be executed by an enforcement officer alone.

On occasions it may be necessary for enforcement officers to employ a drone to assist with an inspection on private property. For instance, if monitoring rural activities such as commercial forestry. All drone operators are fully trained and cognisant of the relevant legislation pertaining to their use including sensitivities around protecting privacy rights, particularly if considering their use near dwellings.

## **6.5. Health and safety while undertaking inspections**

Under the Health and Safety at Work Act 2015 (HSWA) the Council is a PCBU (person conducting a business or undertaking). An enforcement officer carrying out their normal duties is defined as a worker by the HSWA. A PCBU's worker's workplace includes any place where a worker goes, or is likely to be, while at work.

Council staff have a responsibility to-

- take reasonable care for their own health and safety while on a site.
- take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons.
- comply, as far as they are reasonably able, with any reasonable instruction that is given.





Councils' enforcement officers receive comprehensive health and safety training and will manage themselves provided they are properly informed about hazards.

A property owner cannot prevent an enforcement officer from conducting a lawful inspection of their property under section 332 of the RMA on health and safety grounds.

There may be occasions where enforcement officers rely on the use of body cameras when executing their duties. These serve as a useful tool in accurately recording officer interactions in the case of any public complaints and can assist in de-escalating some situations. When activated their use is brought to the attention of the member of the public.

#### **6.6. Desktop monitoring - Reviewing Information**

Increasing numbers of resource consents and many NES regulations require reports and certain information to be provided as part of demonstrating compliance with conditions. Depending on the scale of the activity or the complexity of the conditions, the amount of information can vary widely and can often be extensive. Environmental management plans, specialised reports, sampling and servicing as well as quarterly and annual performance reports are all routinely required through modern consents.

All these reports once received must be assessed to determine compliance with the relevant conditions and this information uploaded into the system to ensure monitoring records are up to date and accurate.

### **7. Working with the Regulated Community and Sector Groups**

Council is committed to working with individuals, sector groups and collectives to promote good practice and maintain positive compliance outcomes with the regulated community. The Council may achieve this through direct engagement, facilitating or participating in workshops, field days and information sharing exercises to provide advice or education around compliance monitoring and enforcement.

The Council will also maintain relevant information relating to compliance monitoring and enforcement on its website as well as good practice guides and supporting documents to assist and inform the regulated community and public.

Engaging in these activities does not diminish the role of Council as regulator but recognises the importance of education and assistance as part of the spectrum of effective compliance.



## 8. Responding to Community Concerns

The public are entitled to raise concerns about an environmental matter affecting them and the Council has a duty to investigate those concerns. This is important as the Council does not have the resources to be everywhere at all times and this information is often key in alerting us to issues occurring in the district.

### 8.1. Complaint receipt

The Council is available to receive complaints 24 hours a day, seven days a week and endeavours to respond as soon as possible.

Complaints may be lodged through:

- Phone calls using the main Council phone number at any time including weekends and after hours.
- Emails to Council through its contact address.
- Use of Councils apps.
- Referrals by other agencies
- Written letters or petitions

Council generally discourages anonymous complaints about environmental issues as it may limit the effectiveness of an investigation. However, the Council recognises that individuals may feel need to withhold their identity due to safety concerns or risk to their employment. Council has procedures in place that provide a safe environment for people to report issues.

All complaints received are immediately uploaded into our system along with any supporting photographs and referred for follow up.

## 8.2. Prioritising complaint response

Council receives a lot of calls around environmental incidents and not all may be urgent. Council must triage incidents to ensure proper and timely response to the matters that carry greater risk of environmental harm or impact on our communities.

The following matrix is used by Council in setting an appropriate priority response time to environmental incidents and complaints.

| Priority | Response time     | Description   |
|----------|-------------------|---|
| 1        | Immediate         | Significant adverse environmental effect occurring on the environment, extensive contamination, or impacts on businesses, human population. May comprise a full Council/multi agency response.          |
| 2        | Within 24 Hours   | Moderate to significant adverse environmental effect, damage to property or impact on business, human population or amenity value. Calls should be responded to as soon as possible after notification. |
| 3        | Within 14 days    | Minor impacts on environment, property, or business or amenity value requiring a physical response but extended out as no real risk of significant adverse environmental effects.                       |
| 4        | Next time in area | Nil or less than minor adverse effects on environment, property, business or amenity value requiring a physical response but with no urgency.   |
| 5        | Record Only       | Does not require a physical response as caller providing information for our benefit or to note for records only.   |

Unfortunately, the need to prioritise may mean a delay in attending to some matters with less urgency.

Regardless of the level of response assigned, the Council will always ensure that:

- all valid complaints are properly recorded and actioned.
- the personal details of the complainant are held in the strictest confidence.
- the complainant is updated on any subsequent action that may result as soon as reasonably practicable.
- Council will not take sides in a dispute, instead judge what action is appropriate according to the evidence, particular circumstances and its guiding policies and procedures.

## 9. Investigations and dealing with non-compliance

Councils' Enforcement Guidelines publication describes in detail the procedures surrounding investigation and enforcement decision making when non-compliance is detected. That guideline should be read in conjunction with this document.

Where non-compliance is identified in any proactive monitoring or incident response, Council will investigate and respond in a manner that is proportionate to the overall circumstances of the non-compliance and in accordance with its enforcement procedures.

If the matter is outside the jurisdiction of the enforcement officer i.e. not an RMA matter, the officer will be expected to refer the matter to the appropriate department or other agency through formal processes.

Generally, an investigation will be expected to achieve the following:

- Determine whether there has been a breach of a resource consent, rule in a plan, national environment standard or regulation.
- Determine the nature and scale of the effect on the environment from that breach.
- Collect evidence that if required, can be used in criminal proceedings.
- Identify an appropriate action and timeline to address any environmental impact.
- Establish an appropriate response to level of offending.
- Give the public confidence in the integrity of the compliance monitoring and regulatory system.



The level of investigations by Council will be determined by the seriousness of the offence and impact on the environment. Serious non-compliance is expected to be approached as a full investigation and evidence gathering with a view to supporting a potential for the matter be heard in the Court.

## 10. Communication

Council is committed to communicating transparently with all relevant parties to inform them of the situation, what action is required or what can be expected in compliance monitoring and complaint response.

Following any monitoring we will advise of the outcome of that inspection and what level of compliance was achieved. If conditions are not being met, we will advise them accordingly along with any action that may be required and timelines to achieving this. We will also fairly inform them of any consideration of likely enforcement action.

Where serious offending is identified that prompts a more comprehensive level of investigation, we will, where possible, provide interim notification to the offending party on that investigation.

If the non-compliance is associated with an organisation, we will often communicate in writing with the most senior management positions within that organisation.

## 11. Cost Recovery

The RMA under section 36(1) (c) enables local authorities to set charges for the administration and monitoring of compliance with resource consents and permitted activities in accordance with the Act.

This section also provides the ability for the local authority to set charges to recover actual and reasonable costs incurred investigating and resolving breaches of the Act, a national environment standard, regulation, rule in a plan or resource consent.

Tasman District Council as the local authority has a policy of recovering actual and reasonable administration and monitoring costs associated with a person's activities. This cost may include:

- Time spent by council officers identifying and confirming that the activity is taking place or has taken place.
- Time spent by council officers identifying and confirming the person or organisation responsible for causing or allowing the activity to take place or to have taken place
- Time spent by council officers alerting and informing the person or organisation responsible of their responsibilities in relation to the activity, including any suggestions or advice relating to how any adverse effects might be managed.
- Costs of disbursements (such as laboratory analysis costs, expert or professional services, clean-up costs and materials).
- Time spent confirming compliance with an enforcement order, interim enforcement order or abatement notice.

These charges are detailed in the Councils Schedule of Charges which is set and published each year<sup>8</sup>.

## 12. Review

Rapid changes occur in environmental legislation and the practice of compliance monitoring and enforcement. There is a need to ensure a regular review occurs to take into account changes and ensure consistency.

This guideline is reviewed every two years for that purpose but may be reviewed earlier if deemed necessary.

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<sup>8</sup> [Fees and charges | Tasman District Council](#)





### 7.3 PROPOSED NAVIGATION SAFETY INFRINGEMENT OFFENCES AND FEES

Decision Required

|                            |   |
|----------------------------|---|
| <b>Report To:</b>          | Environment and Regulatory Committee                              |
| <b>Meeting Date:</b>       | 17 July 2025  |
| <b>Report Author:</b>      | Amy Smith, Community Policy Advisor; Peter Renshaw, Harbourmaster |
| <b>Report Authorisers:</b> | Kim Drummond, Group Manager - Environmental Assurance             |
| <b>Report Number:</b>      | RRC25-07-3  |

#### 1. Purpose of the Report / Te Take mō te Pūrongo

- 1.1 This report seeks approval from the Tasman District Council to commence the process of creating infringement regulations for breaches of the Tasman District Council's Navigation Safety Bylaw 2024 (the Bylaw).

#### 2. Summary / Te Tuhinga Whakarāpoto

- 2.1 This paper seeks Council endorsement to commence the process of creating infringement regulations (infringement offences and fees) for breaches of the Bylaw. This will help us to implement the VADE model in relation to the Bylaw and supports our commitment to the new enforcement policy.
- 2.2 The initial steps of the process involve proposing infringement offences and fees for the Bylaw and formally requesting the Ministry of Transport to make new infringement regulations for the Bylaw. The legislative process takes approximately six months.

#### 3. Recommendation/s / Ngā Tūtohunga

**That the Environment and Regulatory Committee**

1. **receives the Proposed Navigation Safety Infringement Offences and Fees Report RRC25-07-3; and**
2. **endorses the proposed infringement offences and fees for the Tasman District Council's Navigation Safety Bylaw 2024; and**
3. **delegates authority to the Chief Executive to make a formal request to the Ministry of Transport to make new infringement regulations for the Tasman District Council's Navigation Safety Bylaw 2024.**

#### 4. Background / Horopaki

- 4.1 The [Bylaw](#) came into force on 1 December 2024. The Harbourmaster team have been out and visible over the summer, promoting the new rules and explaining the changes for water users. The community has responded well to this education-first approach, but there will

always be some people who choose serious, negligent or reckless behaviour, rather than compliance.

4.2 Under the Maritime Transport Act 1994<sup>1</sup>, the Governor-General may, by Order in Council, make regulations:

- a) *specifying which breaches of navigation bylaws are infringement offences;*
- b) *prescribing an infringement fee, not exceeding \$1,000, for any infringement offence specified under paragraph a);*
- c) *prescribing the form of infringement notices for infringement offences.*

4.3 New regulations will provide an effective tool to enforce non-complaint behaviour in relation to the Bylaw. This regulatory intervention will help us to implement the VADE model and supports our commitment to the new enforcement policy, which guides when and how we use such interventions.

4.4 Staff have consulted with the Ministry of Transport (“MoT”) on the process to create infringement regulations. The general process takes approximately six months as follows:

- Council makes a formal request to the MoT to make new infringement regulations for the Bylaw;
- Council provides the MoT a copy of the Bylaw, along with Council’s proposed infringement fees;
- The MoT requests the Minister’s permission to instruct the Parliamentary Counsel Office, so that they can draft the infringement regulations;
- The MoT consults with the Council on the draft infringement fees then undertakes a consultation process with other government departments, including the Ministry of Justice, before the Minister takes the regulations to Cabinet for approval.
- The Regulations are gazetted and come into force 28 days later.

## 5. Analysis and Advice / Tātaritanga me ngā tohutohu

5.1 Infringement fees are a tool in the regulatory toolkit for enforcing bylaws. The Maritime Transport Act 1994 expressly provides for infringement offences relating to breaches of navigation safety bylaws.

5.2 Infringement regulations must be in place before the Council’s Harbourmaster or enforcement officers can issue infringement notices for non-compliance with the Bylaw.

5.3 The Council’s Harbourmaster, with the Strategic Policy team, has aligned various rules within the Bylaw and assigned proposed infringement grades (and infringement fees). The proposed infringement offences, corresponding Bylaw clause (provision), and proposed infringement fees are set out in **Attachment 1**.

5.4 The infringement schedule comparison analysis table (**Attachment 2**) records the applicable Bylaw clause, the proposed infringement description, and comparable infringement fees (for similar activities) from the navigation safety regulations for three other Councils<sup>2</sup> and for

<sup>1</sup> Section 330 of the Maritime Transport Act 1994

<sup>2</sup> The councils are Otago Regional Council, Hawkes Bay Regional Council and Northland Regional Council.

Nelson City Council. This analysis has then informed the proposed infringement grades and infringement fees for the Bylaw.

- 5.5 The proposed infringement fees relate to the infringement grading proposed by the Harbourmaster. The proposed infringement grades and fees for the Bylaw are:

|                    |       |        |       |
|--------------------|-------|--------|-------|
| Infringement Grade | Low   | Medium | High  |
| Infringement Fee   | \$150 | \$300  | \$500 |

- 5.6 The highest proposed infringement fee for the Bylaw is \$500. This sum reflects the maximum penalty specified in [section 33N](#) of the Maritime Transport Act 1994 for breaches of a navigation bylaw. This level is consistent with the most recent navigation safety regulations.<sup>3</sup>
- 5.7 The infringement fee levels in the [Maritime Transport Regulations 2016](#) for the TDC Navigation Safety Bylaw 2015 were \$50, \$100 and \$200. NCC's infringement fees are currently \$100, \$200 and \$500.
- 5.8 There are 70 proposed infringement offences to support enforcement of the Bylaw. This compares with 64 in the Maritime Transport Regulations 2016. We have reviewed and aligned the wording of the proposed infringement offences with the four other councils' infringement regimes, where relevant. However, there isn't one comparable council we can look to, as council bylaws include both general, similar clauses and location specific clauses.
- 5.9 If endorsed by Council, the proposed infringement offences and fees will be submitted and reviewed by the MoT's legal team and the Parliamentary Counsel Office. The proposed infringement fees may require amendments, following feedback from the Parliamentary Counsel Office.
- 5.10 The key advantage of an infringement regime is that it provides an economic and efficient process to address non-compliance. However, it is open for a recipient of an infringement notice to deny liability and request a court hearing. In such circumstances additional Council costs would be incurred.
- 5.11 The functions and powers of a regional or unitary council include the power to enforce navigation bylaws. An infringement regime for the Bylaw would be consistent with most other councils.<sup>4</sup>
- 5.12 There is no consultation requirement for the Council to consult on the infringement fees. The MoT are required by the Cabinet Manual to consult with the Ministry of Justice on any legislation or regulations that has an infringement fees component.
- 5.13 The MoT requires that we provide a brief summary, including timeline, of the public consultation undertaken in relation to the new 2024 bylaw.

<sup>3</sup> The most recent regulations support the bylaws of Otago Regional Council (2023 regulations) and Hawkes Bay Regional Council (2019 regulations).

<sup>4</sup> Councils with an infringement regime include: Nelson City Council, Gisborne Regional Council, Wellington Regional Council, Environment Canterbury, Hawkes Bay Regional Council, Central Otago District Council, Queenstown Lakes District Council and Northland Regional Council.

## 6. Financial or Budgetary Implications / Ngā Ritenga ā-Pūtea

- 6.1 Under [section 33Q](#) of the Maritime Transport Act 1994, the Council is entitled to retain any infringement fee it receives in respect of an infringement offence, provided the infringement notice was issued by a harbourmaster or an enforcement officer of the Council.
- 6.2 There will be a cost of enforcing each bylaw breach through an infringement notice (or where applicable through the District Court).
- 6.3 Implementation of the regulatory activities in the Bylaw, including enforcement of non-compliance, will be covered within the Environmental Assurance Group budget.

## 7. Options / Kōwhiringa

- 7.1 The options are outlined in the following table:

| Option |   | Advantages  | Disadvantages   |
|--------|---|---|---|
| 1.     | The Council agrees to progress with infringement regulations.       | <ul style="list-style-type: none"> <li>The Bylaw is supported by an effective infringement regime and bespoke regulations.</li> <li>Consistency with the infringement approach for the Council's prior bylaw</li> </ul> | <ul style="list-style-type: none"> <li>No material disadvantages.</li> </ul>  |
| 2.     | The Council does not agree to proceed with infringement regulations | <ul style="list-style-type: none"> <li>No material advantages.</li> </ul>   | <ul style="list-style-type: none"> <li>The Council is limited to using the harbourmasters general powers or section 33N of the Maritime Transport Act 1994 to enforce non-compliance with the Bylaw.</li> <li>The infringement regime for the Bylaw is not supported by bespoke regulations.</li> </ul> |

- 7.2 **Option One** is recommended.

## 8. Legal / Ngā ture

- 8.1 [Section 33O](#) of the Maritime Transport Act 1994 provides for the making of infringement regulations.
- 8.2 If the Council decides not to proceed with infringement regulations, some offences may be covered by the [Maritime \(Offences\) Regulations 1998](#) which sets out the general maritime offence provisions and penalties in accordance with [section 33N](#) of the Act. These regulations, including the fees, have not been updated in some time.



**9. Iwi Engagement / Whakawhitiwhiti ā-Hapori Māori**

9.1 Engagement with tāngata whenua is not needed for this decision.

**10. Significance and Engagement / Hiranga me te Whakawhitiwhiti ā-Hapori Whānui**

10.1 Staff have considered the significance of this decision in accordance with the Council's Significance and Engagement Policy. The decision is whether to progress with navigation safety infringement regulations.

10.2 The recommendations are not a significant decision in terms of the Council's significance policy. The Council would inform the community about the infringement regulations, once they have been approved by Cabinet and before they come into force.

|    | Issue   | Level of Significance | Explanation of Assessment   |
|----|---|-----------------------|---|
| 1. | Is there a high level of public interest, or is decision likely to be controversial?  | Moderate              | The decision on progressing with infringement regulations may attract significant interest from some members of the community, particularly on the fee levels, but low to moderately significant to most of the public. |
| 2. | Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future? | Moderate              | Infringement regulations support enforcement of the Bylaw, which is intended to improve maritime safety and will have a positive effect on the community.   |
| 3. | Is there a significant impact arising from duration of the effects from the decision?   | Low                   |   |
| 4. | Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)                | No                    |   |
| 5. | Does the decision create a substantial change in the level of service provided by Council?  | No                    | This proposal supports the Council's current enforcement activities   |
| 6. | Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?      | Low                   | Enforcement activities to support the Bylaw have been allowed for in the Environmental Assurance budget.  |
| 7. | Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?                              | No                    |   |

|     | Issue  | Level of Significance | Explanation of Assessment |
|-----|--|-----------------------|---------------------------|
| 8.  | Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?   | No                    |                           |
| 9.  | Does the proposal or decision involve Council exiting from or entering into a group of activities?   | No                    |                           |
| 10. | Does the proposal require particular consideration of the obligations of Te Mana O Te Wai (TMOTW) relating to freshwater or particular consideration of current legislation relating to water supply, wastewater and stormwater infrastructure and services? | No                    |                           |

#### **11. Communication / Whakawhitiwhiti Kōrero**

- 11.1 New infringement offences and fees will be communicated to the public, once the statutory process is complete and before the new regulations are in effect.

#### **12. Risks / Ngā Tūraru**

- 12.1 If the Council decides not to proceed with infringement regulations, the Council would be restricted to using the Harbourmaster's general powers or section 33N of the Maritime Transport Act 1994 to enforce non-compliance with the Bylaw. This does not support effective enforcement of the Bylaw and is inconsistent with the approach that the Council has previously taken for its navigation safety infringement regime.

#### **13. Climate Change Considerations / Whakaaro Whakaaweawe Āhuarangi**

- 13.1 The decision on progressing navigation safety infringement regulations is not impacted by a changing climate and neither contributes to, nor detracts from, the Council's or central government policies and commitments relating to climate change.

#### **14. Alignment with Policy and Strategic Plans / Te Hangai ki ngā aupapa Here me ngā Mahere Rautaki Tūraru**

- 14.1 New infringement regulations support effective implementation and enforcement of the Bylaw. This regulatory intervention also supports our commitment to the new enforcement policy and will be implemented in alignment with this approach to ensure consistency and fairness.





## 15. Conclusion / Kupu Whakatepe

- 15.1 Council endorsement is sought to commence the process of creating infringement regulations (infringement offences and fees) for breaches of the Tasman District Council's Navigation Safety Bylaw 2024.
- 15.2 The Harbourmaster and the Strategic Policy Team have prepared proposed infringement offences and fees to enable effective enforcement of the Bylaw. The legislative process is expected to take at least six months.

## 16. Next Steps and Timeline / Ngā Mahi Whai Ake

- 16.1 The Chief Executive will make a formal request to the MoT to make new infringement regulations for the Bylaw. We will provide a copy of the Bylaw to MoT, along with Council's proposed infringement offences and fees.

## 17. Attachments / Tuhinga tāpiri

- |  |  |    |
|--|--|----|
| 1.   | Proposed Navigation Safety Infringement Offences and Fees                | 81 |
| 2.   | Navigation Safety Regulations: Infringement Schedule Comparison Analysis | 85 |

**TDC Navigation Safety Bylaw 2024: Proposed Infringement Offences and Fees**

| Provision     | TDC NSB 2024 Clause (in full)   | Proposed Description of Infringement Offence   | Proposed Fee (\$) |
|---------------|---|--|-------------------|
| <b>7.1(a)</b> | Every person in charge of a pleasure craft that is 6 metres or less in length shall ensure that: (a) (b) while the vessel is underway, each person on board wears a properly secured personal flotation device of an appropriate size that securely fits each person  | <b>Failing to wear a properly secured personal flotation device of an appropriate size at all times when on a vessel 6 metres or less in length</b>      | <b>300</b>        |
| <b>7.1(b)</b> | Every person in charge of a pleasure craft that is 6 metres or less in length shall ensure that while the vessel is not underway, sufficient personal flotation devices of an appropriate size to securely fit each person on board must remain in a readily accessible location  | <b>Failing to have sufficient personal flotation devices for each person onboard</b>   | <b>300</b>        |
| <b>7.2</b>    | If instructed to do so by the person in charge, every person on board a vessel greater than 6 metres in length shall wear a properly secured personal floatation device, of an appropriate size to securely fit each person   | <b>Failing to wear properly secured personal flotation device of an appropriate size on a vessel 6 metres or more in length when instructed to do so</b> | <b>300</b>        |
| <b>8.1</b>    | A person in charge of the vessel must be nominated prior to the commencement of a voyage  | <b>Failure to nominate person in charge of the vessel</b>  | <b>150</b>        |
| <b>8.2</b>    | The person in charge of a vessel is responsible for the safety and wellbeing of every person onboard and for the safe operation of the vessel, including the carriage and wearing of personal flotation devices by persons onboard the vessel, and anyone being towed.  | <b>Failing to safely operate any vessel, including the carriage and wearing of personal floatation devices by everyone onboard or being towed</b>        | <b>500</b>        |
| <b>8.3</b>    | The person in charge of the vessel must not cause or permit any act to be done in a manner which causes any unnecessary danger or risk to any other vessel or person in the water, irrespective of whether or not any injury or damage occurs.  | <b>Causing or permitting any act that causes unnecessary danger or risk to any other vessel or person in the water</b>                                   | <b>500</b>        |
| <b>9.1</b>    | No person shall navigate or keep or place on the water any vessel in circumstances where the vessel is unseaworthy, except to remove the vessel from the water or to move it to a safe area   | <b>Navigating, keeping or placing any unseaworthy vessel on the water</b>  | <b>300</b>        |
| <b>9.2</b>    | No person shall navigate or keep or place on the water any vessel in circumstances where persons on board or in charge have been advised by the Harbourmaster or an Enforcement Officer that the vessel is unseaworthy, except to comply with the directions of the Harbourmaster or Enforcement Officer to proceed to a safe area.   | <b>Operating any vessel after being advised by the Harbourmaster or Enforcement Officer that vessel is unseaworthy</b>                                   | <b>500</b>        |
| <b>10.1</b>   | No person navigating a vessel may impede a seaplane in the process of landing or taking off.  | <b>Impeding take-off or landing of seaplane while navigating vessel</b>  | <b>300</b>        |
| <b>10.2</b>   | Except in an emergency, no person shall take off, land, or attempt to take off or land any seaplane or other aircraft in any prohibited area identified in Schedules 1 (Coastal waters) and 2 (Inland waters) or in any other area, without the prior written permission of the Harbourmaster. Written notification must be received by the Harbourmaster not less than 48 hours before the proposed landing or taking off.   | <b>Taking off, landing, attempting to take off, or attempting to land seaplane or other aircraft in a prohibited area or without permission</b>          | <b>300</b>        |
| <b>11.1</b>   | The person in charge of a vessel must ensure appropriate equipment (including fuel where applicable) is on board for the duration of any intended voyage to: (a) navigate safely; and (b) communicate using two independent forms of communication at any time with a land-based person from any area where the vessel is intended to be operated; and 10 Tasman District Council Navigation Safety Bylaw 2024(c) in the case of a vessel under 6 metres in length, is able to be operated following submersion in sea water; and (d) 11.2. is adequate to provide communications for the duration of the voyage. | <b>Failing to carry appropriate equipment for specified purposes for the duration of any intended voyage</b>   | <b>300</b>        |
| <b>11.2</b>   | The equipment referred to in clause 11.1 must be in good working condition.   | <b>Failing to ensure equipment is in good working condition</b>  | <b>300</b>        |
| <b>11.4</b>   | Despite subclause 11.1, a person in charge of a non-powered vessel being operated within 200m from shore, must ensure that one waterproof means of communication is carried on board the vessel.  | <b>Failing to ensure a waterproof means of communication is carried onboard a non-powered vessel</b>   | <b>300</b>        |
| <b>12.1</b>   | No person shall jump, dive, swim or undertake related activities: (a) (b) (c) (d) 12.2. from, or within 50 metres of a landing place – (i) (ii) while it is in use for berthing and/or unberthing of vessels; when a vessel is approaching to berth, or manoeuvring alongside, or departing; or within any designated large ship anchorage; or within any marked navigation channel or any other navigational channel leading to a landing place; or within the commercial port areas of Tarakohe or Motueka, without the prior written permission of the Council   | <b>Jumping, diving, swimming, or undertaking related activities in certain areas</b>   | <b>150</b>        |
| <b>13.1</b>   | No person shall navigate any vessel underneath any wharf in the commercial port areas of Tarakohe or Motueka without the prior written permission of the Council.   | <b>Navigating a vessel underneath any wharf in the commercial port areas of Tarakohe or Motueka without permission</b>                                   | <b>150</b>        |
| <b>14.1</b>   | No person shall operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading to or from a boat trailer at any launching ramp, in such a way that it may injure any person or cause damage to the launching ramp or adjacent area. This clause does not preclude the use of the propulsion system for the safe berthing or un-berthing of any vessel at a wharf.   | <b>Operating propulsion system of vessel at wharf or ramp in manner that could injure any person or damage the ramp or adjacent area</b>                 | <b>150</b>        |

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|-------------|---|---|------------|
| <b>14.2</b> | The person in charge of a commercial vessel shall ensure that a crew member shall: (a) be stationed forward and aft on any vessel while that vessel is lying at any wharf and about to test, or testing the main engine system; and (b) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested.   | <b>Failing to comply with requirements before and during testing of engines</b>   | <b>150</b> |
| <b>15.1</b> | No person shall use blue flashing lights and/or sirens other than Police, Customs, Harbourmaster or other enforcement vessels authorised by the Harbourmaster.  | <b>Fitting or using unauthorised flashing lights and/or sirens</b>  | <b>150</b> |
| <b>16.1</b> | No person shall operate any recreational vessel that is fitted with a CPC compliance placard, or any equivalent alternative, in contravention of any specified or recommended maximum occupancy number, maximum weight or maximum engine power rating shown on that plate   | <b>Operating a recreational vessel in contravention of CPC compliance placard or equivalent alternative</b>   | <b>300</b> |
| <b>16.2</b> | No person shall continue to operate a recreational vessel after being advised by a Harbourmaster that in that officer's opinion the vessel is overloaded or any load is distributed to the detriment of stability, unless that officer is satisfied with actions taken to correct the situation.  | <b>Continuing to operate recreational vessel after being advised by Harbourmaster that vessel is overloaded or unstable, unless Harbourmaster satisfied with operation</b>  | <b>300</b> |
| <b>17.1</b> | No person shall place, discharge, drop, or cause or allow to be placed, discharged or dropped into any waterway any cargo or any other thing from any vessel, wharf or from land that may constitute or could become a danger to maritime safety.   | <b>Placing, discharging, dropping or causing or allowing anything to be discharged or dropped from vessel, wharf, or land that could constitute or become a danger to maritime safety</b>                                       | <b>500</b> |
| <b>18.1</b> | The owner of any maritime facility or landing place, must at all times keep the maritime facility in good repair, such that it does not pose a danger to maritime safety.   | <b>Failing to maintain maritime facility in good repair</b>   | <b>300</b> |
| <b>18.2</b> | Where any landing place has fallen into disrepair and in the opinion of the Harbourmaster is a danger or potential danger to navigation, the owner shall in consultation with the Harbourmaster close it either generally or for specific purposes and: (a) (b) (c) demolish and remove it; or make such repairs as are considered necessary; or take such other action as is considered necessary; to remove the danger or potential danger.   | <b>Failing to consult the Harbourmaster and take necessary action to remove the danger/potential danger of any landing place in disrepair</b>   | <b>150</b> |
| <b>20.1</b> | No person may tie a vessel to any beacon, navigation marker, navigation buoy, light or other navigation structure, without the prior written permission of the Harbourmaster  | <b>Tying a vessel to a navigation aid without permission</b>  | <b>150</b> |
| <b>20.2</b> | No person may damage, remove, deface, or otherwise interfere with any aid to navigation erected by, or duly authorised by, the Harbourmaster as an aid to navigation or warning   | <b>Damaging, removing, defacing, or otherwise interfering with navigation aid or warning</b>  | <b>500</b> |
| <b>20.3</b> | No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid and/or which may be used or mistaken as a navigational aid or warning, without the prior written permission of the Harbourmaster.   | <b>Erecting, maintaining, or displaying, without permission, any navigation aid or warning that may be used as or taken to be navigation aid</b>  | <b>150</b> |
| <b>21.2</b> | Every person who believes they may have fouled a submarine cable or pipeline shall take all practicable steps to minimise damage, including slipping and buoying the anchor and notifying the Harbourmaster without delay   | <b>Failure to take all practicable steps to minimise damage to fouled submarine cable or pipeline and/or failure to notify the Harbourmaster without delay</b>  | <b>150</b> |
| <b>22.4</b> | All persons undertaking activities under clause 22.3 shall keep a detailed record (log) of all such activities; the log to be available, upon request, to the Harbourmaster.<br>The prior approval of the Harbourmaster is required for all training, monitoring and management activities carried out under clause 22.3 in a Reserved Area.<br>The Harbourmaster may set any conditions on the activity considered necessary for navigation safety purposes including requirements for any vessel to be appropriately marked for identification purposes | <b>Operating vessel in reserved area without approval and/or in breach of a specified condition imposed by Harbourmaster</b>  | <b>300</b> |
| <b>22.6</b> | Any person intending to conduct a special event such as race, speed trial, competition, or other organised water activity in any area to which this Bylaw applies and where it is desirable to have exclusive use of that area to run the event, must apply to the Harbourmaster to: (a) (b) temporarily suspend the application of clause 22.1 in part or in total in that area for the purposes for facilitating the event; and temporarily reserve the area for the purpose of that activity   | <b>Undertaking a special event that requires exclusive use not an area without obtaining a temporary suspension of clause 22.1 of the Bylaw and/or temporary reservation over the special event area from the Harbourmaster</b> | <b>300</b> |
| <b>24.1</b> | No person may undertake any specified prohibited activity within any prohibited zone, except in an emergency.   | <b>Undertaking a specified prohibited activity within any prohibited zone</b>   | <b>300</b> |
| <b>25.1</b> | No person may anchor or moor any vessel in such a manner that the vessel or associated equipment are within any prohibited anchorage area as prescribed in Schedule 1 (Coastal waters).   | <b>Anchoring or mooring a vessel within a prohibited anchorage</b>  | <b>300</b> |
| <b>25.2</b> | No person may anchor or moor a vessel within 25 metres of the nominal line between any pair of Type 5 submarine crossing signs, or where such crossings are shown on a nautical chart for that area, except in mooring areas.   | <b>Anchoring or mooring within 25 metres of nominal line between any pair of Type 5 submarine crossing signs or any place where such crossing shown on nautical chart</b>   | <b>300</b> |
| <b>25.4</b> | No person shall anchor a vessel within a mooring area.  | <b>Anchoring a vessel within a mooring area</b>   | <b>300</b> |
| <b>25.5</b> | No person shall anchor a vessel outside a mooring area within 50 metres of any mooring buoy or within 50 metres of a vessel on a mooring.   | <b>Anchoring a vessel within 50m of any mooring buoy or any vessel on a mooring</b>   | <b>300</b> |



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| <b>26.3</b> | A person who is permitted to propel or navigate a vessel at a proper speed exceeding 5 knots as a result of a speed uplifting must do so in a manner that does not endanger or unduly interfere with any other person who is: (a) (b) on, in or using the water; or fishing or undertaking recreational activity in the vicinity of the vessel   | <b>Propelling or navigating a vessel with a permitted speed exceeding 5 knots in manner likely to endanger or unduly interfere with any other person</b>                     | <b>300</b> |
| <b>27.1</b> | A person in charge of a vessel on a river must not exceed a speed of 5 knots on any river unless in an area designated as a Speed Uplifted Area  | <b>Exceeding speed of 5 knots in area of river outside of Speed Uplifted Area</b>  | <b>500</b> |
| <b>28.1</b> | No person under the age of 15 years shall be in charge of, or propel or navigate, a power-driven vessel that is capable of a speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is in immediate reach of the controls  | <b>Being in charge of power-driven vessel if under 15 years of age without direct supervision</b>  | <b>500</b> |
| <b>28.2</b> | The owner of a power-driven vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of or navigate that vessel, unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls   | <b>Allowing person under 15 years of age to be in charge of or navigate power-driven vessel unsupervised</b>   | <b>500</b> |
| <b>29.1</b> | A person must not, without reasonable excuse, operate a vessel (including allowing themselves to be towed by the vessel) at a proper speed exceeding 5 knots within: (a) 50 metres of any other vessel, raft or person in the water;   | <b>Operating a vessel at speed exceeding 5 knots within 50 metres of any vessel, raft or person in the water</b>   | <b>500</b> |
| <b>29.1</b> | or (b) (c) (d) (e) 29.2. either 200 metres of the shore or any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure;  | <b>Operating vessel at speed exceeding 5 knots within either 200 metres of the shore or structure or on inshore side of buoys marking 200 metres from shore or structure</b> | <b>300</b> |
| <b>29.1</b> | or 200 metres of any vessel or structure that is displaying Flag A (diver's flag);   | <b>Operating vessel at speed exceeding 5 knots within 200 metres of any vessel or structure displaying Flag A (divers' flag)</b>   | <b>500</b> |
| <b>29.1</b> | or any reserved area made under clause 22 (Reserved areas) that has a 5-knot speed limit; or any mooring area  | <b>Operating vessel at speed exceeding 5 knots within a reserved area and/or any mooring area</b>  | <b>300</b> |
| <b>29.2</b> | No person may operate a power-driven vessel at a speed or in a manner that any wake or draw-off endangers persons or property  | <b>Operating power-driven vessel at speed or in manner that creates wake that endangers person or property</b>   | <b>300</b> |
| <b>29.3</b> | No person may propel or navigate a vessel (including a tender and including a vessel towing someone or some object) at a proper speed exceeding 3 knots in the anchorages or areas specified and during the periods specified for those anchorages or areas in Schedules 1 (Coastal waters) and 2 (Inland waters)  | <b>Propelling or navigating a vessel at a speed exceeding 3 knots in a specified anchorage or area during a specified period</b>   | <b>300</b> |
| <b>30.1</b> | No person shall navigate a vessel unless it displays an identifying name or number displayed above the waterline on each side of the vessel by the owner of the vessel: (a) consisting of letters of the Roman alphabet or numbers; and (b) (c) (d) 30.2. that are not the vessel's brand, make or model; and that is distinct to that vessel; and unless complying with the requirements of an organisation listed in subclause 30.2(a), be a minimum height of 90 millimetres and be distinguishable to the naked eye by day from a distance of at least 50 metres | <b>Failing to display an identifying name or number on a vessel as required</b>  | <b>150</b> |
| <b>30.5</b> | A person or persons using a paddle craft (for example, kayak, stand up paddle board or waka) beyond 200 metres from the shore, must ensure the craft is clearly visible to any other water user (for example, by using high visibility personal flotation devices or equipment, or lights).  | <b>Failing to enhance visibility of a paddle craft beyond 200m from the shore</b>  | <b>150</b> |
| <b>31.1</b> | The person in charge of a vessel shall ensure that it is properly and effectively secured when at any landing place or at any swing mooring or at anchor   | <b>Failing to ensure vessel at any landing place or swing mooring or at anchor is properly secure</b>  | <b>300</b> |
| <b>31.2</b> | No person shall secure a vessel to any post, wharf, ring, fender, buoy or any other structure not intended for that purpose  | <b>Securing vessel to structure that is not intended for that purpose</b>  | <b>300</b> |
| <b>31.3</b> | No person shall leave any vessel or property on the banks or shore or in an intertidal area where it may re-float and create a navigation hazard or where it may interfere with the normal use of the waters by other persons  | <b>Leaving vessel or property in a location where it may cause navigational hazard or interfere with normal use of waters</b>  | <b>300</b> |
| <b>31.4</b> | No person shall, without the permission of the Harbourmaster, cut, break, or destroy: (a) (b) (c) the mooring of any vessel; or the fastening securing any vessel lying in a dock; or at or near a wharf or landing place  | <b>Cutting, breaking, or destroying any vessel's mooring or fastening without the Harbourmaster's permission</b>   | <b>500</b> |
| <b>32.1</b> | No person shall leave any vessel unattended at: (a) (b) 32.2. any landing place without permission of the owner; or secured to or on the beach or foreshore except in an area specified for this purpose by the Harbourmaster  | <b>Leaving any vessel unattended at any landing place without the Harbourmaster's permission; or secured or on the beach or foreshore not specified for this purpose</b>     | <b>300</b> |
| <b>32.3</b> | If directed by the Harbourmaster the person in charge or the owner of a vessel shall: (a) (b) not leave that vessel unattended; and crew that vessel according to the Harbourmaster's directions   | <b>Failing to ensure vessel is attended at all times if directed by the Harbourmaster to do so</b>   | <b>300</b> |
|             |  | <b>Failing to ensure vessel is crewed as directed by the Harbourmaster</b>   |            |
| <b>33.1</b> | No person shall navigate a vessel so as to be within the MPZ for any vessel within three nautical miles of the coast between the Ports of Tarakohe and Motueka.  | <b>Navigating vessel within the Moving Prohibited Zone of any vessel within 3 nautical miles of the coast between the Ports of Tarakohe and Motueka</b>                      | <b>300</b> |
| <b>34.1</b> | The person in charge of any vessel 500 gross tonnage or greater or 40 metres LOA or greater (large vessel) shall not anchor in Tasman regional waters without permission from the Harbourmaster.   | <b>Anchoring a vessel 500 gross tonnage or greater or 40 metres LOA or greater in Tasman regional waters without the Harbourmaster's permission</b>                          | <b>500</b> |



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| <b>34.2</b> | The Harbourmaster may, within the Harbourmaster's sole discretion require a passage plan to be submitted before a large vessel is directed to an anchorage site or port within the Bylaw area  | <b>Failing to submit a passage plan for transiting an anchorage site or port, if required by the Harbourmaster</b>   | <b>300</b> |
| <b>34.5</b> | The owner, operator and/or the person in charge of any commercial vessel 500 gross tonnage or greater or 40m LOA or greater within the Bylaw area that wishes to immobilise and/or test engines must seek permission from the Harbourmaster and comply with any conditions reasonably determined by the Harbourmaster. This includes maintenance on one or more of the main propulsion units and/or steering systems.  | <b>Immobilising or testing engines of commercial vessel of 500 gross tonnage or greater or 40 metres LOA or greater, without prior permission of Harbourmaster, and/or failing to comply with any conditions imposed</b> | <b>500</b> |
| <b>34.6</b> | The person in charge of any commercial vessel 500 gross tonnage or greater or 40m LOA or greater within the Bylaw area that wishes to conduct safety drills or exercises, including, but not limited to, lowering of lifeboats, shall, prior to commencing the drill or exercise inform the Harbourmaster of their intention and take heed of any advice given relating to the safe conclusion of the drill or exercise.   | <b>Failing to inform the Harbourmaster prior to commencing safety drills or exercises for a commercial vessel of 500 gross tonnage or greater or 40 metres LOA or greater</b>  | <b>300</b> |
| <b>35.1</b> | All commercial vessel operators who through the course of normal operations operate along the coastline within 1NM of the coast from Motueka to Tarohe inclusive and on Lake Rotoiti are required to pay a navigation aid levy as set out in Schedule 3 (Maritime fees and charges).   | <b>Failing to follow the Harbourmaster's advice in conducting safety drills or exercises for a commercial vessel of 500 gross tonnage or greater or 40 metres LOA or greater</b>   |            |
| <b>36.2</b> | Fuel changeovers within regional waters is strictly prohibited.  | <b>Failing to pay the required navigation aid levy</b>   | <b>150</b> |
| <b>36.3</b> | Ship to ship transfers of oil within regional waters are strictly prohibited, unless evidence of an MNZ audited SOP has been provided to the Harbourmaster.  | <b>Conducting fuel changeovers within Tasman regional waters</b>   | <b>500</b> |
| <b>37.1</b> | The person in charge of any vessel at any maritime facility or at anchor within Tasman regional waters, on board which, or on the hull of which, it is proposed to carry out welding or flame-cutting operations in or from any position, whether on board the vessel or not, must notify the Harbourmaster, not less than two hours before commencing work in a form and manner approved by the Harbourmaster   | <b>Conducting ship to ship transfers of oil within Tasman regional waters without providing required evidence to the Harbourmaster</b>   | <b>300</b> |
| <b>38.2</b> | The owner or person in charge of every vessel required to transmit an AIS signal under this Bylaw must ensure that: (a) (b) The AIS transmits such information in accordance with the standards and requirements specified by the Harbourmaster and in accordance with the manufacturer's specifications; and The AIS operates continuously when the vessel is navigating within Tasman regional waters.   | <b>Failing to comply with notification requirements before commencing hot works</b>  | <b>300</b> |
| <b>39.2</b> | The approval of the Harbourmaster may be required before trans-shipping can commence   | <b>Failing to comply with AIS signal transmitting requirements</b>   | <b>300</b> |
| <b>39.3</b> | Where cargo, goods, merchandise or other material is trans-shipped in any location within the district other than alongside a wharf, a trans-shipping charge shall be paid to the Council (Harbourmaster) on demand, by the person in charge of the vessel, agent or owner of the vessel discharging the cargo   | <b>Transshipping without the Harbourmaster's approval, if required.</b>  | <b>300</b> |
| <b>40.1</b> | No person shall operate any commercial vessel for hire or reward or any vessel involved in a commercial operation or any vessel hire operation if, in the opinion of the Harbourmaster, such operation may be deficient in terms of safety or compliance with good practice for such an operation, and the Harbourmaster directs them to cease operating   | <b>Failure to pay trans-shipping charge to the Harbourmaster, when demanded</b>  | <b>300</b> |
| <b>42.1</b> | No person may place or use a Mooring in a Mooring Area unless the Mooring is a permitted activity in the Tasman Resource Management Plan or they hold a coastal permit for that Mooring.   | <b>Operating any commercial vessel for hire or reward or any vessel in a commercial operation or vessel hire operation, when such operation has been directed to cease by the Harbourmaster</b>                          | <b>500</b> |
| <b>42.2</b> | No person shall place a Mooring in a Mooring Area without holding a Mooring Licence issued by Council, unless the Mooring is authorised by a coastal permit.   | <b>Placing or using a Mooring in a Mooring Area without coastal permit or other authorisation under Tasman Resource Management Plan</b>  | <b>300</b> |
| <b>43.4</b> | Failure to comply with any condition of a Mooring Licence is a breach of this Bylaw  | <b>Placing a Mooring in a Mooring Area without a Mooring Licence</b>   | <b>300</b> |
| <b>48.1</b> | The person owning or having responsibility for, or in charge of, or having conduct of any vessel, other maritime facility, structure or object that: (a) has been involved in any accident, incident, or mishap involving a vessel; or (b) in any manner gives rise to an obstruction; shall, as well as complying with any accident reporting requirements of Maritime Rules and the Maritime Transport Act 1994 and the Health and Safety at Work Act 2015, as soon as practicable report the occurrence to the Harbourmaster and provide the Harbourmaster with full details of the occurrence in writing | <b>Failing to comply with conditions of a Mooring Licence</b>  | <b>150</b> |
|             |  | <b>Failing to comply with incident reporting requirements</b>  | <b>300</b> |

## TDC NSB 2024 Infringement Schedule Comparison Analysis

| Offences  |   |   | Infringement grade / fee |                  |                       |                      |                      |             |
|-----------|---|---|--------------------------|------------------|-----------------------|----------------------|----------------------|-------------|
| Provision | TDC NSB Bylaw 2024 Clause   | Proposed description of offence   | Nelson<br>CC 2015        | Otago<br>RC 2023 | Hawkes Bay<br>RC 2019 | Northland<br>RC 2018 | Proposed<br>TDC 2025 | TDC<br>2016 |
| 7.1(a)    | Every person in charge of a pleasure craft that is 6 metres or less in length shall ensure that: (a) (b) while the vessel is underway, each person on board wears a properly secured personal flotation device of an appropriate size that securely fits each person  | Failing to wear properly secured personal flotation device of appropriate size at all times when on a vessel 6 metres or less in length           | 100                      |                  | 300                   | 200                  | 300                  |             |
| 7.1(b)    | Every person in charge of a pleasure craft that is 6 metres or less in length shall ensure that while the vessel is not underway, sufficient personal flotation devices of an appropriate size to securely fit each person on board must remain in a readily accessible location  | Failing to have sufficient personal flotation devices for each person onboard   | 100                      | 300              | 300                   | 200                  | 300                  |             |
| 7.2       | If instructed to do so by the person in charge, every person on board a vessel greater than 6 metres in length shall wear a properly secured personal flotation device, of an appropriate size to securely fit each person  | Failing to wear properly secured personal flotation device of an appropriate size on a vessel 6 metres or more in length when instructed to do so |                          |                  | 300                   |                      | 300                  |             |
| 8.1       | A person in charge of the vessel must be nominated prior to the commencement of a voyage  | Failure to nominate person in charge of the vessel  |                          | 150              |                       | 200                  | 150                  |             |
| 8.2       | The person in charge of a vessel is responsible for the safety and wellbeing of every person onboard and for the safe operation of the vessel, including the carriage and wearing of personal flotation devices by persons onboard the vessel, and anyone being towed.  | Failing to safely operate any vessel, including the carriage and wearing of personal flotation devices by everyone onboard or being towed         |                          | 500              |                       | 200                  | 500                  |             |
| 8.3       | The person in charge of the vessel must not cause or permit any act to be done in a manner which causes any unnecessary danger or risk to any other vessel or person in the water, irrespective of whether or not any injury or damage occurs.  | Causing or permitting any act that causes unnecessary danger or risk to any other vessel or person in the water                                   |                          |                  |                       |                      | 500                  |             |
| 9.1       | No person shall navigate or keep or place on the water any vessel in circumstances where the vessel is unseaworthy, except to remove the vessel from the water or to move it to a safe area   | Navigating, keeping or placing any unseaworthy vessel on the water  | 200                      | 300              | 200                   | 200                  | 300                  | 200         |
| 9.2       | No person shall navigate or keep or place on the water any vessel in circumstances where persons on board or in charge have been advised by the Harbourmaster or an Enforcement Officer that the vessel is unseaworthy, except to comply with the directions of the Harbourmaster or Enforcement Officer to proceed to a safe area.   | Operating any vessel after being advised by the Harbourmaster or Enforcement Officer that vessel is unseaworthy                                   |                          | 500              |                       | 200                  | 500                  |             |
| 10.1      | No person navigating a vessel may impede a seaplane in the process of landing or taking off.  | Impeding take-off or landing of seaplane while navigating vessel  | 200                      |                  | 200                   | 200                  | 300                  | 200         |
| 10.2      | Except in an emergency, no person shall take off, land, or attempt to take off or land any seaplane or other aircraft in any prohibited area identified in Schedules 1 (Coastal waters) and 2 (Inland waters) or in any other area, without the prior written permission of the Harbourmaster. Written notification must be received by the Harbourmaster not less than 48 hours before the proposed landing or taking off.   | Taking off, landing, attempting to take off, or attempting to land seaplane or other aircraft in a prohibited area or without permission          | 100                      |                  |                       | 200                  | 300                  | 200         |
| 11.1      | The person in charge of a vessel must ensure appropriate equipment (including fuel where applicable) is on board for the duration of any intended voyage to: (a) navigate safely; and (b) communicate using two independent forms of communication at any time with a land-based person from any area where the vessel is intended to be operated; and 10 Tasman District Council Navigation Safety Bylaw 2024(c) in the case of a vessel under 6 metres in length, is able to be operated following submersion in sea water; and (d) 11.2. is adequate to provide communications for the duration of the voyage. | Failing to carry appropriate equipment for specified purposes for the duration of any intended voyage   | 100                      |                  |                       |                      | 300                  |             |
| 11.2      | The equipment referred to in clause 11.1 must be in good working condition.   | Failing to ensure equipment is in good working condition  |                          |                  |                       |                      | 300                  |             |
| 11.4      | Despite subclause 11.1, a person in charge of a non-powered vessel being operated within 200m from shore, must ensure that one waterproof means of communication is carried on board the vessel.  | Failing to ensure a waterproof means of communication is carried onboard a non-powered vessel   |                          |                  |                       |                      | 300                  |             |

|             |   |   |     |     |     |           |     |     |
|-------------|---|---|-----|-----|-----|-----------|-----|-----|
| <b>12.1</b> | No person shall jump, dive, swim or undertake related activities: (a) (b) (c) (d) 12.2. from, or within 50 metres of a landing place – (i) (ii) while it is in use for berthing and/or unberthing of vessels; when a vessel is approaching to berth, or manoeuvring alongside, or departing; or within any designated large ship anchorage; or within any marked navigation channel or any other navigational channel leading to a landing place; or within the commercial port areas of Tarakohe or Motueka, without the prior written permission of the Council | <b>Jumping, diving, swimming, or undertaking related activities in certain areas</b>  | 50  | 150 | 200 | 50        | 150 | 100 |
| <b>13.1</b> | No person shall navigate any vessel underneath any wharf in the commercial port areas of Tarakohe or Motueka without the prior written permission of the Council.   | <b>Navigating a vessel underneath any wharf in the commercial port areas of Tarakohe or Motueka without permission</b>  |     | 150 |     |           | 150 |     |
| <b>14.1</b> | No person shall operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading to or from a boat trailer at any launching ramp, in such a way that it may injure any person or cause damage to the launching ramp or adjacent area. This clause does not preclude the use of the propulsion system for the safe berthing or un-berthing of any vessel at a wharf.   | <b>Operating propulsion system of vessel at wharf or ramp in manner that could injure any person or damage the ramp or adjacent area</b>  | 100 |     | 200 | 200       | 150 |     |
| <b>14.2</b> | , the person in charge of a commercial vessel shall ensure that a crew member shall: (a) be stationed forward and aft on any vessel while that vessel is lying at any wharf and about to test, or testing the main engine system; and (b) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested.   | <b>Failing to comply with requirements before and during testing of engines</b>   |     |     | 200 | 200       | 150 |     |
| <b>15.1</b> | No person shall use blue flashing lights and/or sirens other than Police, Customs, Harbourmaster or other enforcement vessels authorised by the Harbourmaster.  | <b>Fitting or using unauthorised flashing lights and/or sirens</b>  |     |     | 200 | 200       | 150 |     |
| <b>16.1</b> | No person shall operate any recreational vessel that is fitted with a CPC compliance placard, or any equivalent alternative, in contravention of any specified or recommended maximum occupancy number, maximum weight or maximum engine power rating shown on that plate   | <b>Operating a recreational vessel in contravention of CPC compliance placard or equivalent alternative</b>   |     |     |     |           | 300 | 100 |
| <b>16.2</b> | No person shall continue to operate a recreational vessel after being advised by a Harbourmaster that in that officer's opinion the vessel is overloaded or any load is distributed to the detriment of stability, unless that officer is satisfied with actions taken to correct the situation.  | <b>Continuing to operate recreational vessel after being advised by Harbourmaster that vessel is overloaded or unstable, unless Harbourmaster satisfied with operation</b>                |     |     | 200 |           | 300 | 200 |
| <b>17.1</b> | No person shall place, discharge, drop, or cause or allow to be placed, discharged or dropped into any waterway any cargo or any other thing from any vessel, wharf or from land that may constitute or could become a danger to maritime safety.   | <b>Placing, discharging, dropping or causing or allowing anything to be discharged or dropped from vessel, wharf, or land that could constitute or become a danger to maritime safety</b> | 100 | 500 | 300 | 200 / 300 | 500 | 100 |
| <b>18.1</b> | The owner of any maritime facility or landing place, must at all times keep the maritime facility in good repair, such that it does not pose a danger to maritime safety.   | <b>Failing to maintain maritime facility in good repair</b>   |     |     |     | 200       | 300 |     |
| <b>18.2</b> | Where any landing place has fallen into disrepair and in the opinion of the Harbourmaster is a danger or potential danger to navigation, the owner shall in consultation with the Harbourmaster close it either generally or for specific purposes and: (a) (b) (c) demolish and remove it; or make such repairs as are considered necessary; or take such other action as is considered necessary; to remove the danger or potential danger.   | <b>failing to consult the Harbourmaster and take necessary action to remove the danger/potential danger of any landing place in disrepair</b>   |     |     | 200 |           | 150 |     |
| <b>20.1</b> | No person may tie a vessel to any beacon, navigation marker, navigation buoy, light or other navigation structure, without the prior written permission of the Harbourmaster  | <b>Tying a vessel to a navigation aid without permission</b>  | 100 | 150 | 200 | 200       | 150 |     |
| <b>20.2</b> | No person may damage, remove, deface, or otherwise interfere with any aid to navigation erected by, or duly authorised by, the Harbourmaster as an aid to navigation or warning   | <b>Damaging, removing, defacing, or otherwise interfering with navigation aid or warning</b>  | 100 |     | 500 | 300       | 500 | 100 |
| <b>20.3</b> | No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid and/or which may be used or mistaken as a navigational aid or warning, without the prior written permission of the Harbourmaster.   | <b>Erecting, maintaining, or displaying, without permission, any navigation aid or warning that may be used as or taken to be navigation aid</b>  | 100 |     | 200 | 200       | 150 | 100 |

|      |   |  |     |     |     |     |     |     |
|------|---|--|-----|-----|-----|-----|-----|-----|
| 21.2 | Every person who believes they may have fouled a submarine cable or pipeline shall take all practicable steps to minimise damage, including slipping and buoying the anchor and notifying the Harbourmaster without delay   | Failure to take all practicable steps to minimise damage to fouled submarine cable or pipeline and/or failure to notify the Harbourmaster without delay            |     |     | 200 |     | 150 |     |
| 22.4 | All persons undertaking activities under clause 22.3 shall keep a detailed record (log) of all such activities; the log to be available, upon request, to the Harbourmaster.<br>The prior approval of the Harbourmaster is required for all training, monitoring and management activities carried out under clause 22.3 in a Reserved Area.<br>The Harbourmaster may set any conditions on the activity considered necessary for navigation safety purposes including requirements for any vessel to be appropriately marked for identification purposes | Operating vessel in reserved area without approval and/or in breach of a specified condition imposed by Harbourmaster  | 100 | 300 | 200 | 200 | 300 | 100 |
| 22.6 | Any person intending to conduct a special event such as race, speed trial, competition, or other organised water activity in any area to which this Bylaw applies and where it is desirable to have exclusive use of that area to run the event, must apply to the Harbourmaster to: (a) (b) temporarily suspend the application of clause 22.1 in part or in total in that area for the purposes for facilitating the event; and temporarily reserve the area for the purpose of that activity   | Failure to apply to the Harbourmaster to suspend bylaw and reserve the area when intending to conduct a special event  | 200 |     |     |     | 300 | 100 |
| 24.1 | No person may undertake any specified prohibited activity within any prohibited zone, except in an emergency.   | Undertaking a specified prohibited activity within any prohibited zone   |     |     |     | 200 | 300 | 100 |
| 25.1 | No person may anchor or moor any vessel in such a manner that the vessel or associated equipment are within any prohibited anchorage area as prescribed in Schedule 1 (Coastal waters).   | Anchoring or mooring a vessel within a prohibited anchorage  | 100 |     | 200 | 200 | 300 | 100 |
| 25.2 | No person may anchor or moor a vessel within 25 metres of the nominal line between any pair of Type 5 submarine crossing signs, or where such crossings are shown on a nautical chart for that area, except in mooring areas.   | Anchoring or mooring within 25 metres of nominal line between any pair of Type 5 submarine crossing signs or any place where such crossing shown on nautical chart | 100 |     | 200 | 200 | 300 | 200 |
| 25.4 | No person shall anchor a vessel within a mooring area.  | Anchoring a vessel within a mooring area   |     |     |     | 200 | 300 |     |
| 25.5 | No person shall anchor a vessel outside a mooring area within 50 metres of any mooring buoy or within 50 metres of a vessel on a mooring.   | Anchoring a vessel within 50m of any mooring buoy or any vessel on a mooring   |     |     |     | 200 | 300 |     |
| 26.3 | A person who is permitted to propel or navigate a vessel at a proper speed exceeding 5 knots as a result of a speed uplifting must do so in a manner that does not endanger or unduly interfere with any other person who is: (a) (b) on, in or using the water; or fishing or undertaking recreational activity in the vicinity of the vessel  | Propelling or navigating a vessel with a permitted speed exceeding 5 knots in manner likely to endanger or unduly interfere  |     |     | 200 |     | 300 |     |
| 27.1 | A person in charge of a vessel on a river must not exceed a speed of 5 knots on any river unless in an area designated as a Speed Uplifted Area   | Exceeding speed of 5 knots in area of river outside of Speed Uplifted Area   | 100 | 500 |     |     | 500 |     |
| 28.1 | No person under the age of 15 years shall be in charge of, or propel or navigate, a powerdriven vessel that is capable of a speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is in immediate reach of the controls  | Being in charge of power-driven vessel if under 15 years of age without direct supervision   |     |     |     | 200 | 500 |     |
| 28.2 | The owner of a power-driven vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of or navigate that vessel, unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls  | Allowing person under 15 years of age to be in charge of or navigate power-driven vessel unsupervised  | 100 | 500 | 200 | 200 | 500 |     |
| 29.1 | A person must not, without reasonable excuse, operate a vessel (including allowing themselves to be towed by the vessel) at a proper speed exceeding 5 knots within: (a) 50 metres of any other vessel, raft or person in the water;  | Operating a vessel at speed exceeding 5 knots within 50 metres of any vessel, raft or person in the water  | 200 | 500 |     | 200 | 500 |     |



|      |  |  |     |     |     |     |     |     |
|------|--|--|-----|-----|-----|-----|-----|-----|
| 29.1 | or (b) (c) (d) (e) 29.2. either 200 metres of the shore or any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure;  | Operating vessel at speed exceeding 5 knots within either 200 metres of the shore or structure or on inshore side of buoys marking 200 metres from shore or structure  | 200 | 300 |     | 200 | 300 |     |
| 29.1 | or 200 metres of any vessel or structure that is displaying Flag A (diver's flag);   | Operating vessel at speed exceeding 5 knots within 200 metres of any vessel or structure displaying Flag A (divers' flag)  | 200 | 500 |     | 200 | 500 |     |
| 29.1 | or any reserved area made under clause 22 (Reserved areas) that has a 5-knot speed limit; or any mooring area  | Operating vessel at speed exceeding 5 knots within a reserved area and/or any mooring area   | 200 |     | 200 |     | 300 | 200 |
| 29.2 | No person may operate a power-driven vessel at a speed or in a manner that any wake or draw-off endangers persons or property  | Operating power-driven vessel at speed or in manner that creates wake that endangers person or property  | 100 | 300 |     | 200 | 300 | 200 |
| 29.3 | No person may propel or navigate a vessel (including a tender and including a vessel towing someone or some object) at a proper speed exceeding 3 knots in the anchorages or areas specified and during the periods specified for those anchorages or areas in Schedules 1 (Coastal waters) and 2 (Inland waters)  | Exceeding 3 knots in a specified anchorage or area during a specified period   | 100 |     |     |     | 300 | 200 |
| 30.1 | No person shall navigate a vessel unless it displays an identifying name or number displayed above the waterline on each side of the vessel by the owner of the vessel: (a) consisting of letters of the Roman alphabet or numbers; and (b) (c) (d) 30.2. that are not the vessel's brand, make or model; and that is distinct to that vessel; and unless complying with the requirements of an organisation listed in subclause 30.2(a), be a minimum height of 90 millimetres and be distinguishable to the naked eye by day from a distance of at least 50 metres | Failing to display an identifying name or number on a vessel as required   | 100 | 150 | 200 | 200 | 150 |     |
| 30.5 | A person or persons using a paddle craft (for example, kayak, stand up paddle board or waka) beyond 200 metres from the shore, must ensure the craft is clearly visible to any other water user (for example, by using high visibility personal flotation devices or equipment, or lights).  | Failing to enhance visibility of kayak or paddle craft   |     |     | 200 |     | 150 |     |
| 31.1 | The person in charge of a vessel shall ensure that it is properly and effectively secured when at any landing place or at any swing mooring or at anchor   | Failing to ensure vessel at any landing place or swing mooring or at anchor is properly secure   | 100 | 300 | 200 | 200 | 300 |     |
| 31.2 | No person shall secure a vessel to any post, wharf, ring, fender, buoy or any other structure not intended for that purpose  | Securing vessel to structure that is not intended for that purpose   |     | 300 |     |     | 300 |     |
| 31.3 | No person shall leave any vessel or property on the banks or shore or in an intertidal area where it may re-float and create a navigation hazard or where it may interfere with the normal use of the waters by other persons  | Leaving vessel or property in a location where it may cause navigational hazard or interfere with normal use of waters   |     | 300 |     | 200 | 300 |     |
| 31.4 | No person shall, without the permission of the Harbourmaster, cut, break, or destroy: (a) (b) (c) the mooring of any vessel; or the fastening securing any vessel lying in a dock; or at or near a wharf or landing place  | Cutting, breaking, or destroying any vessel's mooring or fastening   |     | 500 | 500 | 200 | 500 | 200 |
| 32.1 | No person shall leave any vessel unattended at: (a) (b) 32.2. any landing place without permission of the owner; or secured to or on the beach or foreshore except in an area specified for this purpose by the Harbourmaster  | Leaving any vessel unattended at any landing place without permission; or secured or on the beach or foreshore not specified for this purpose                          |     |     |     | 200 | 300 |     |
| 32.3 | If directed by the Harbourmaster the person in charge or the owner of a vessel shall: (a) (b) not leave that vessel unattended; and crew that vessel according to the Harbourmaster's directions   | Failing to ensure vessel is attended at all times if directed by the Harbourmaster to do so<br><br>Failing to ensure vessel is crewed as directed by the Harbourmaster |     |     |     | 200 | 300 |     |

|      |  |   |     |     |     |     |     |     |
|------|--|---|-----|-----|-----|-----|-----|-----|
| 33.1 | No person shall navigate a vessel so as to be within the MPZ for any vessel within three nautical miles of the coast between the Ports of Tarakohe and Motueka.  | Navigating vessel within the Moving Prohibited Zone of any vessel within 3 nautical miles of the coast between the Ports of Tarakohe and Motueka  | 200 | 300 | 200 | 200 | 300 |     |
| 34.1 | The person in charge of any vessel 500 gross tonnage or greater or 40 metres LOA or greater (large vessel) shall not anchor in Tasman regional waters without permission from the Harbourmaster.   | Anchoring a vessel 500 gross tonnage or greater or 40 metres LOA or greater in Tasman regional waters without Harbourmaster permission  |     | 500 |     |     | 500 | 100 |
| 34.2 | The Harbourmaster may, within the Harbourmaster's sole discretion require a passage plan to be submitted before a large vessel is directed to an anchorage site or port within the Bylaw area  | Failing to submit a passage plan, if required by the Harbourmaster  |     |     |     | 300 | 300 |     |
| 34.5 | The owner, operator and/or the person in charge of any commercial vessel 500 gross tonnage or greater or 40m LOA or greater within the Bylaw area that wishes to immobilise and/or test engines must seek permission from the Harbourmaster and comply with any conditions reasonably determined by the Harbourmaster. This includes maintenance on one or more of the main propulsion units and/or steering systems.    | Immobilising or testing engines of commercial vessel of 500 gross tonnage or greater or 40 metres LOA or greater, without prior permission of Harbourmaster, and/or failing to comply with any conditions imposed                   |     |     |     | 300 | 500 | 100 |
| 34.6 | The person in charge of any commercial vessel 500 gross tonnage or greater or 40m LOA or greater within the Bylaw area that wishes to conduct safety drills or exercises, including, but not limited to, lowering of lifeboats, shall, prior to commencing the drill or exercise inform the Harbourmaster of their intention and take heed of any advice given relating to the safe conclusion of the drill or exercise. | Failing to inform the Harbourmaster prior to commencing safety drills or exercises for a commercial vessel of 500 gross tonnage or greater or 40 metres LOA or greater, or follow their advice in relation to the drill or exercise |     |     |     |     | 300 |     |
| 35.1 | All commercial vessel operators who through the course of normal operations operate along the coastline within 1NM of the coast from Motueka to Tarakohe inclusive and on Lake Rotoiti are required to pay a navigation aid levy as set out in Schedule 3 (Maritime fees and charges).   | Failing to pay the required navigation aid levy   |     |     |     |     | 150 |     |
| 36.2 | Fuel changeovers within regional waters is strictly prohibited.  | Conducting fuel changeovers within Tasman regional waters   |     |     |     |     | 500 |     |
| 36.3 | Ship to ship transfers of oil within regional waters are strictly prohibited, unless evidence of an MNZ audited SOP has been provided to the Harbourmaster.  | Conducting ship to ship transfers of oil within Tasman regional waters without providing required evidence to the Harbourmaster   |     |     |     |     | 300 | 200 |
| 37.1 | The person in charge of any vessel at any maritime facility or at anchor within Tasman regional waters, on board which, or on the hull of which, it is proposed to carry out welding or flame-cutting operations in or from any position, whether on board the vessel or not, must notify the Harbourmaster, not less than two hours before commencing work in a form and manner approved by the Harbourmaster           | Failing to comply with notification requirements before commencing hot works  |     | 500 | 200 | 200 | 300 |     |
| 38.2 | The owner or person in charge of every vessel required to transmit an AIS signal under this Bylaw must ensure that: (a) (b) The AIS transmits such information in accordance with the standards and requirements specified by the Harbourmaster and in accordance with the manufacturer's specifications; and The AIS operates continuously when the vessel is navigating within Tasman regional waters.                 | Failing to comply with AIS signal transmitting requirements   |     |     |     |     | 300 |     |
| 39.2 | The approval of the Harbourmaster may be required before trans-shipping can commence   | Failing to have Harbourmaster approval, if required, before trans-shipping commences  |     |     |     |     | 300 | 200 |
| 39.3 | Where cargo, goods, merchandise or other material is trans-shipped in any location within the district other than alongside a wharf, a trans-shipping charge shall be paid to the Council (Harbourmaster) on demand, by the person in charge of the vessel, agent or owner of the vessel discharging the cargo   | Failure to pay trans-shipping charge to the Harbourmaster, when demanded  |     |     |     |     | 300 |     |
| 40.1 | No person shall operate any commercial vessel for hire or reward or any vessel involved in a commercial operation or any vessel hire operation if, in the opinion of the Harbourmaster, such operation may be deficient in terms of safety or compliance with good practice for such an operation, and the Harbourmaster directs them to cease operating   | Operating any commercial vessel for hire or reward or any vessel in a commercial operation or vessel hire operation, when such operation has been directed to cease by the Harbourmaster  | 500 |     | 200 |     | 500 |     |



|             |  |   |     |     |     |     |  |            |     |
|-------------|--|---|-----|-----|-----|-----|--|------------|-----|
| <b>42.1</b> | No person may place or use a Mooring in a Mooring Area unless the Mooring is a permitted activity in the Tasman Resource Management Plan or they hold a coastal permit for that Mooring.   | <b>Placing or using a Mooring in a Mooring Area without coastal permit or other authorisation under Tasman Resource Management Plan</b> |     | 150 |     |     |  | <b>300</b> | 200 |
| <b>42.2</b> | No person shall place a Mooring in a Mooring Area without holding a Mooring Licence issued by Council, unless the Mooring is authorised by a coastal permit.   | <b>Placing a Mooring in a Mooring Area without a Mooring Licence</b>  |     | 150 |     | 200 |  | <b>300</b> |     |
| <b>43.4</b> | Failure to comply with any condition of a Mooring Licence is a breach of this Bylaw  | <b>Failing to comply with conditions of a Mooring Licence</b>   | 200 |     |     |     |  | <b>150</b> |     |
| <b>48.1</b> | The person owning or having responsibility for, or in charge of, or having conduct of any vessel, other maritime facility, structure or object that: (a) has been involved in any accident, incident, or mishap involving a vessel; or (b) in any manner gives rise to an obstruction; shall, as well as complying with any accident reporting requirements of Maritime Rules and the Maritime Transport Act 1994 and the Health and Safety at Work Act 2015, as soon as practicable report the occurrence to the Harbourmaster and provide the Harbourmaster with full details of the occurrence in writing | <b>Failing to comply with incident reporting requirements</b>   | 200 | 500 | 200 | 200 |  | <b>500</b> | 200 |

**7.4 CREATION OF EASEMENTS OVER 53 PATON ROAD****Decision Required**

|                            |   |
|----------------------------|---|
| <b>Report To:</b>          | Environment and Regulatory Committee                  |
| <b>Meeting Date:</b>       | 17 July 2025  |
| <b>Report Author:</b>      | Kevin O'Neil, Senior Property Officer                 |
| <b>Report Authorisers:</b> | Kim Drummond, Group Manager - Environmental Assurance |
| <b>Report Number:</b>      | RRC25-07-4  |

**1. Purpose of the Report / Te Take mō te Pūrongo**

- 1.1 To obtain consent to grant easements under Section 48(1) of the Reserves Act 1977 for the provision of services to 50 Cupola Crescent, Richmond over a Recreation Reserve (Paton Reserve).

**2. Summary / Te Tuhinga Whakarāpoto**

- 2.1 Council acquired 53 Paton Road, Hope on 1 July 2024 while it was for sale on the open market. The property was acquired using Reserve Financial Contributions (RFC's) for the creation of a Recreation Reserve. This location was very desirable as the property was located close to Richmond, was over five hectares in size and it was already extensively planted in trees.
- 2.2 There was also an executive house, cottage, tennis courts and swimming pool on the property that is surplus to Council's requirements. When the bulk of the property was vested as Recreation Reserve under the Public Works Act 1981 the house and balance land was issued a separate Title in order for Council to be able to dispose of this property.
- 2.3 The property was put on the open market and is currently under contract subject to easements being registered to provide all of the necessary services to the property.
- 2.4 There are five easements in total to be registered. All relate to services required for the operation of the homestead being sold. All services were in existence when the property was on a single title. The easements are necessary to allow the likes of water supply to the house and sewerage to be disbursed from the house.
- 2.5 The risk is assessed as very low. All the easement activities existed at the time of the purchase, and it is necessary to allow them to continue in order to separate the house site from the land being retained as reserve.
- 2.6 The Committee is making decisions acting in two capacities. The first is acting as the Council deciding to grant the easements, and the second is acting as the Ministers delegate to ensure that any easement is not in conflict with the intent of the Reserves Act 1977.

### 3. Recommendation/s / Ngā Tūtohunga

**That the Environment and Regulatory Committee acting on behalf of the local authority as administering body of the Paton Reserve:**

1. receives the Creation of Easements Over 53 Paton Road Report RRC25-07-4; and
2. agrees that public notification of the proposed easements at Paton Reserve is not required, as the easements do not:
  - 2.1 materially alter or permanently damage the Reserve; and
  - 2.2 permanently affect the public's rights to access the areas of Reserve; and
3. approves the creation of the easements for the right to convey electricity, telecommunications and water through Paton reserve, the right to drain water and for the right to drain sewerage located within the land retained as Reserve at Paton Reserve, Richmond; and
4. consents under Section 48(1)(a) of the Reserves Act 1977 to the creation of an easements over the areas of Paton Reserve marked "A" and "B" on SO 607626 and areas "A", "B" & "C" on LT 618124, Attachment 2 to the agenda report; and
5. delegates authority to the Reserves and Facilities Manager to apply conditions to the easements and execute all relevant documentation necessary to give effect to the decision; and
6. That the Regulatory Committee, acting on behalf of the local authority in exercising a delegation from the Minister of Conservation:
  - 6.1 confirms that the decision to grant easements over areas of Paton Reserve under Section 48(1) complies with the requirements of the Reserves Act 1977 in that:
    - 6.1.1 the status of the land has been correctly identified, and that the Council has the authority to make the decision; and
    - 6.1.2 the necessary statutory processes have been followed; and
    - 6.1.3 a decision has been taken not to publicly notify the proposed easements as there will be no material or permanent damage to the Reserve and the public right to access the Reserve will not be permanently affected.

### 4. Background / Horopaki

- 4.1 Paton Reserve is a "Recreation Reserve" held by the Council in Gazette Title 1236390. The motivation behind this request for easements is to allow for the existing services located in the reserve to be provided legally to 50 Cupola Crescent, Richmond.
- 4.2 The easements are being created under the provisions of Section 48(1) of the Reserves Act 1977. That provision allows the creation of easements over a Reserve.
- 4.3 Section 48(2) requires a proposal to grant an easement to be publicly notified with some exceptions to this being specified in Section 48 (3) like those that are applicable to this application. These are that the reserve is not likely to be materially altered or permanently damaged and the rights of the public in respect of the reserve are not likely to be permanently affected. Neither of these circumstances apply in this instance therefore we believe that public notification is not required.

- 4.4 The roles of the Council, and the Minister of Conservation are quite technical. In simple terms, the Council decides whether to grant the easement in its capacity as the administering body. The Minister has an oversight role in ensuring any easement doesn't conflict with the intent of the Reserves Act 1977. The Minister of Conservation has delegated their powers to the Council, which can be exercised by a Council Committee or by nominated staff under a sub-delegation.

## **5. Analysis and Advice / Tātaritanga me ngā tohutohu**

- 5.1 There are five easements in total to be registered. Two for the right to convey electricity, telecommunications and water through Paton Reserve as shown as areas "A" & "B" on SO Plan 607626, one for the right to drain water and sewage ("C") and two easements for the right to drain sewage located within the land retained as Reserve as shown as areas "A" & "B" in LT Plan 618124. Both SO Plan 607626 and LT Plan 618124 have been approved as to survey by LINZ and are appended to this report.
- 5.2 The two waste dispersal fields (areas "A" & "B" on LT 618124) have been retained on Council land due to the cost of relocating these, and the difficulty associated with repositioning these within the surveyed boundaries of 50 Cupola Crescent.
- 5.3 One of the waste dispersal fields (area "A") sits in an area that Council may need to develop when forming the Reserve and this easement will have provisions for this field to be relocated or disestablished if a sewer line becomes available nearby as a result of future development.
- 5.4 The easements are being created under the provisions of Section 48(1)(a) of the Reserves Act 1977.
- 5.5 As the easements will not materially alter or permanently damage the Reserve, and the rights of the public are not permanently affected there is no legal requirement for public notification in relation to the creation of these easements.
- 5.6 The Committee is acting as the Council in deciding (in its capacity as administering body) whether to grant the easements. It will need to also need to exercise a delegation from the Minister of Conservation in an oversight role to ensure the easements do not conflict with the Reserves Act 1977.
- 5.7 The Minister's role is to ensure that any decision does not conflict with the wider intention of the Reserves Act 1977, and to ensure that the appropriate level of public consultation is implemented. In this case all the easements are existing activities in place before the land became reserve. Section 48(3) of the Reserves Act acknowledges that public notice is not necessary where the reserve is not likely to be materially altered and the rights of the public are not permanently affected. T
- 5.8 The easement services existed before the land became reserve it is clear the Section 48(3) tests have been met. The public will have the ability to enjoy the reserve without any meaningful impediment. It is therefore considered the Minister's consent can be appropriately provided under delegated authority.

## 6. Financial or Budgetary Implications / Ngā Ritenga ā-Pūtea

- 6.1 The Reserve at 53 Paton Road was purchased a year ago using Reserve Financial Contributions. 50 Cupola Crescent used to form part of 53 Paton Road. By selling off the surplus house, cottage, pool and tennis court at 50 Cupola Crescent (at the agreed value and currently under contract) Council will recoup two thirds of the purchase price of 53 Paton Road while retaining the bulk of the land now held as Reserve.
- 6.2 Without the easements registered over the Reserve the current offer will almost certainly be withdrawn, and any future agreement will be at a significantly reduced level of sale proceeds.

## 7. Options / Kōwhiringa

- 7.1 The options are outlined in the following table:

| Option |  | Advantage   | Disadvantage  |
|--------|--|---|---|
| 1.     | Agree to the registration of the easements over Paton Reserve.     | The property at 50 Cupola Crescent will be able to be sold and Council can recoup a significant portion of the purchase price of the reserve. | There will be some easements over the reserve that could slightly impact the future develop of some sections of the reserve.  |
| 2.     | Not agree to the registration of the easements over Paton Reserve. | There will be less impediments over the land held as Reserve.   | The current offer on 50 Cupola Crescent will likely be withdrawn and it will be difficult to sell the property with no legal provision of services to the house and cottage. This will result in a Council not receiving a substantial payment recouping a significant portion of the RFC funds used to purchase Paton Reserve. |

- 7.2 Option one is recommended.

## 8. Legal / Ngā ture

- 8.1 All easements will be granted under Section 48(1)(a) of the Reserves Act 1977.
- 8.2 The Council's Environment and Regulatory Committee has delegated *"Power to act on behalf of Tasman District Council in relation to granting rights of way and other easements."*
- 8.3 The Reserves and Facilities Manager has *"Power to consent or refuse consent to administering body granting rights of way and other easements over any part of a vested reserve for any of the purposes specified in Section 48(1). Power to impose such conditions as it thinks fit in giving the consent."*
- 8.4 This proposal does not contravene any Council policy or plan.

8.5 The roles of the Council, and Minister of Conservation are quite technical. This report asks the Committee to decide whether to grant the easement in the Council's capacity as administering body. The Minister has an oversight role in ensuring any easement doesn't conflict with the intent of the Reserves Act. The Minister of Conservation has delegated their powers to the Council, which in turn, has subdelegated the powers. In this case the Environment and Regulatory Committee will exercise the Minister's oversight role.

8.6 A senior staff member will sign off the conditions of the easement.

## **9. Iwi Engagement / Whakawhitiwhiti ā-Hapori Māori**

9.1 Engagement with tāngata whenua is not needed for this decision.

## **10. Significance and Engagement / Hiranga me te Whakawhitiwhiti ā-Hapori Whānui**

10.1 Staff have assessed the overall level of significance of the decisions being sought in this report, as low. Therefore, the Council can make the decisions without the need to undertake community engagement or consultation.

|    | <b>Issue</b>  | <b>Level of Significance</b> | <b>Explanation of Assessment</b>   |
|----|---|------------------------------|--|
| 1. | Is there a high level of public interest, or is decision likely to be controversial?  | Low                          | The public won't be affected by the easements and there will be nothing visible or obvious.  |
| 2. | Are there impacts on the social, economic, environmental or cultural aspects of well-being of the community in the present or future? | No                           |  |
| 3. | Is there a significant impact arising from duration of the effects from the decision?   | No                           | While the duration of the easements is long term, the impact on the reserve is relatively minor.                                     |
| 4. | Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)                | No                           |  |
| 5. | Does the decision create a substantial change in the level of service provided by Council?  | No                           |  |
| 6. | Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?      | Yes                          | If the easements are not created the value of the property Council is selling will decrease and the current offer will be withdrawn. |
| 7. | Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?                              | No                           |  |



|     | Issue  | Level of Significance | Explanation of Assessment |
|-----|--|-----------------------|---------------------------|
| 8.  | Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?   | No                    |                           |
| 9.  | Does the proposal or decision involve Council exiting from or entering into a group of activities?   | No                    |                           |
| 10. | Does the proposal require particular consideration of the obligations of Te Mana O Te Wai (TMOTW) relating to freshwater or particular consideration of current legislation relating to water supply, wastewater and stormwater infrastructure and services? | No                    |                           |

#### **11. Communication / Whakawhitiwhiti Kōrero**

- 11.1 There is no need to communicate the registration of the easements with the general public, as the easement will not be visible and will not impact on public's use of Paton Reserve.

#### **12. Risks / Ngā Tūraru**

- 12.1 While there is minor risk due to easements over land creating some limitations regarding the use of the land over the easement area, the greater risk is that by not registering the easements it would be difficult for Council to sell 50 Cupola Crescent. This is necessary in order to recoup a large portion of the purchase cost of Paton Reserve.
- 12.2 Providing the services to the home without granting these easements is likely to be impossible without expensive new infrastructure. It may not be possible until reticulation is in place with further development – that is likely to be decades in the future.

#### **13. Climate Change Considerations / Whakaaro Whakaaweawe Āhuarangi**

- 13.1 The decision on registering easements over Paton Reserve does not have any impact on the changing climate and neither contributes to, nor detracts from, the Council's and central government policies and commitments relating to climate change.

#### **14. Alignment with Policy and Strategic Plans / Te Hangai ki ngā aupapa Here me ngā Mahere Rautaki Tūraru**

- 14.1 As this is a new reserve, it is not covered by any management plan. All the easement activities are in place now and the public will not be meaningfully impacted by the activities. As such the granting of the easement does not contravene any policy or plan.

## 15. Conclusion / Kupu Whakatepe

- 15.1 The creation of the easements over Paton reserve will enable Council to sell 50 Cupola Crescent which is the surplus land and buildings that used to form part of the same property. The sale will provide a significant return of approximately two thirds of the purchase cost of the entire property formally known as 53 Paton Road, Hope.

## 16. Next Steps and Timeline / Ngā Mahi Whai Ake

- 16.1 If the Environment and Regulatory Committee agree to the proposal, the Reserves and Facilities Manager will sign all documentation required to register the easements over Paton Reserve.
- 16.2 The Council's lawyers will arrange for registration of the easements as soon as the committee provide consent to the creation of the easements. This step is a necessary prerequisite for the sale of 50 Cupola Crescent.

## 17. Attachments / Tuhiinga tāpiri

- |  |                        |     |
|--|------------------------|-----|
| 1.   | Title Plan - SO 607626 | 98  |
| 2.   | Title Plan - LT 618124 | 102 |



# Title Plan - SO 607626

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**Survey Number** SO 607626  
**Surveyor Reference** U05  
**Surveyor** John Douglas William Batt  
**Survey Firm** Tasman Gowland Surveyors Ltd  
**Surveyor Declaration** I John Douglas William Batt, being a licensed cadastral surveyor, certify that--  
 (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and Cadastral Survey Rules 2021; and  
 (b) the survey was undertaken by me or under my personal direction.  
 Declared on 07 Feb 2025 04:02 PM

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## Survey Details

|                            |                       |                             |            |
|----------------------------|-----------------------|-----------------------------|------------|
| <b>Dataset Description</b> | Sections 1 & 2        |                             |            |
| <b>Status</b>              | Approved as to Survey |                             |            |
| <b>Land District</b>       | Nelson                | <b>Survey Class</b>         | Class A    |
| <b>Submitted Date</b>      | 07/02/2025            | <b>Survey Approval Date</b> | 07/02/2025 |
|                            |                       | <b>Deposit Date</b>         |            |

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## Territorial Authorities

Tasman District

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## Comprised In

RT NL13B/1284

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## Created Parcels

| Parcels                             | Parcel Intent    | Area             | RT Reference |
|-------------------------------------|------------------|------------------|--------------|
| Section 1 Survey Office Plan 607626 | Legalisation     | 4.4740 Ha        |              |
| Section 2 Survey Office Plan 607626 | Fee Simple Title | 0.6770 Ha        |              |
| Area A Survey Office Plan 607626    | Easement         |                  |              |
| Area B Survey Office Plan 607626    | Easement         |                  |              |
| <b>Total Area</b>                   |                  | <b>5.1510 Ha</b> |              |

Schedule / Memorandum

SO 607626 Schedule/Memorandum

|                            |                       |
|----------------------------|-----------------------|
| Land registration district | Territorial authority |
| Nelson                     | Tasman District       |

| Schedule of Easements                                       |       | Parcels shown with a prefix of <i>HL</i> - include height-limited boundaries |                |
|---|-------|--|----------------|
| PURPOSE   | SHOWN | BURDENED LAND  | BENEFITED LAND |
| Right to convey electricity, telecommunications, A, B water |       | Sect 1   | Sect 2         |

## Area Schedule

Land Registration District

NELSON

Plan Number

SO 607626

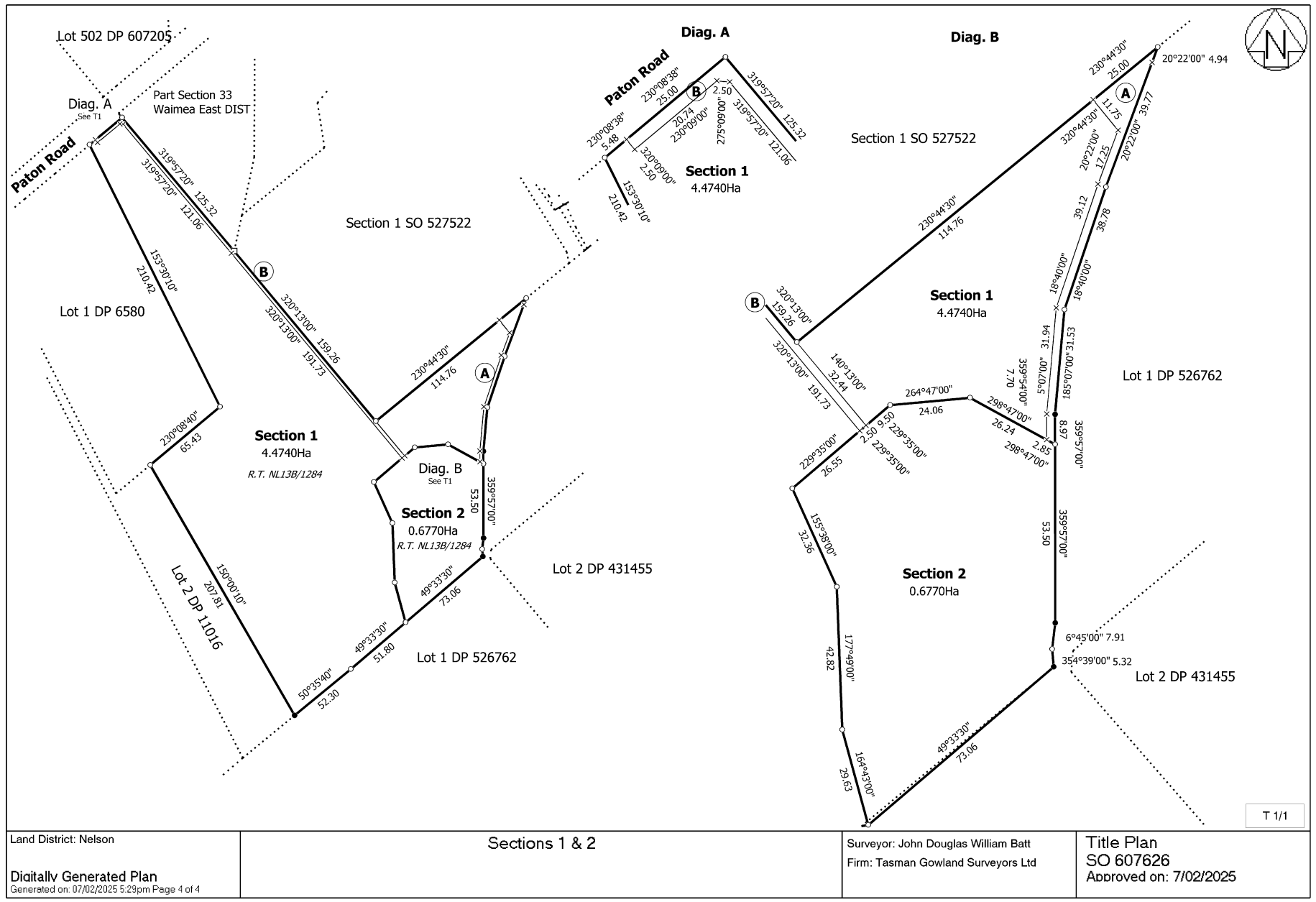
Territorial Authority (the Council)

Tasman District

**Schedule of Areas**

| Land to be Acquired for Recreation Reserve |                |                 |            |
|--|----------------|-----------------|------------|
| Shown                                      | Description    | Title Reference | Area       |
| Section 1                                  | Lot 1 DP 20243 | NL13B/1284      | 4.4740 Ha. |

| Land Remaining |                |                 |            |
|----------------|----------------|-----------------|------------|
| Shown          | Description    | Title Reference | Area       |
| Section 2      | Lot 1 DP 20243 | NL13B/1284      | 0.6770 Ha. |







# Title Plan - LT 618124

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**Survey Number** LT 618124  
**Surveyor Reference** U05  
**Surveyor** John Douglas William Batt  
**Survey Firm** Tasman Gowland Surveyors Ltd  
**Surveyor Declaration** I John Douglas William Batt, being a licensed cadastral surveyor, certify that--  
 (a) this dataset provided by me and its related survey are accurate, correct and in accordance with the Cadastral Survey Act 2002 and Cadastral Survey Rules 2021; and  
 (b) the survey was undertaken by me or under my personal direction.  
 Declared on 06 Jun 2025 03:06 PM

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## Survey Details

|                            |                                    |                             |            |
|----------------------------|------------------------------------|-----------------------------|------------|
| <b>Dataset Description</b> | Easements over Section 1 SO 607626 |                             |            |
| <b>Status</b>              | Approved as to Survey              |                             |            |
| <b>Land District</b>       | Nelson                             | <b>Survey Class</b>         | Class A    |
| <b>Submitted Date</b>      | 06/06/2025                         | <b>Survey Approval Date</b> | 28/06/2025 |
|                            |                                    | <b>Deposit Date</b>         |            |

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## Territorial Authorities

Tasman District

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## Comprised In

RT 1236390

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## Created Parcels

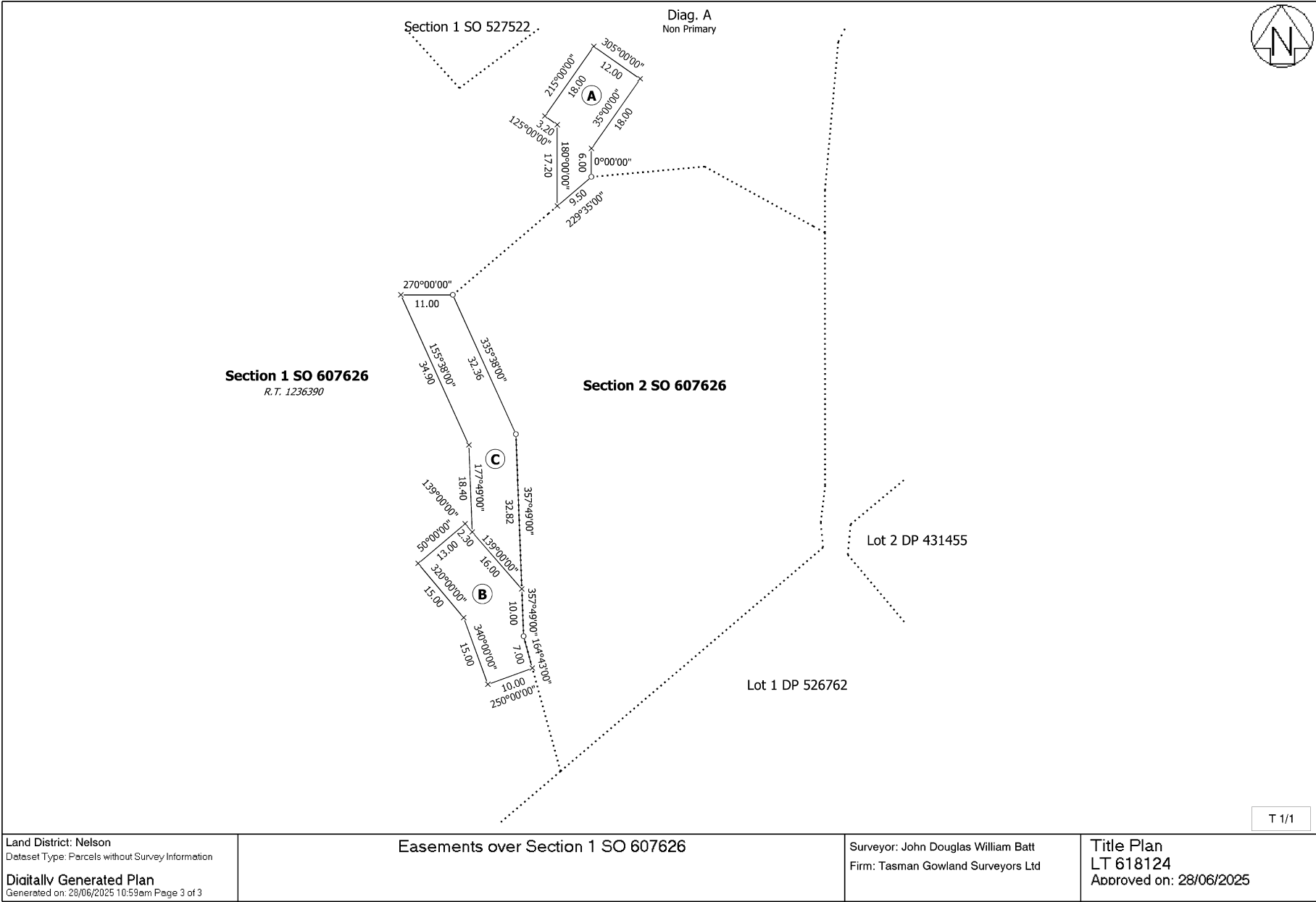
| Parcels                      | Parcel Intent | Area      | RT Reference |
|------------------------------|---------------|-----------|--------------|
| Area A Deposited Plan 618124 | Easement      |           |              |
| Area B Deposited Plan 618124 | Easement      |           |              |
| Area C Deposited Plan 618124 | Easement      |           |              |
| <b>Total Area</b>            |               | 0.0000 Ha |              |

Schedule / Memorandum

LT 618124 Schedule/Memorandum

|                            |                       |
|----------------------------|-----------------------|
| Land registration district | Territorial authority |
| Nelson                     | Tasman District       |

| Schedule of Easements |         | Parcels shown with a prefix of <i>HL</i> - include height-limited boundaries |                     |
|-----------------------|---------|--|---------------------|
| PURPOSE               | SHOWN   | BURDENED LAND  | BENEFITED LAND      |
| Right to drain sewage | A, B, C | Section 1 SO 607626  | Section 2 SO 607626 |
| Right to drain water  | C       | Section 1 SO 607626  | Section 2 SO 607626 |



### 8.3 DISTRICT-WIDE WATER MONITORING REPORT

Information Only - No Decision Required

|                            |  |
|----------------------------|--|
| <b>Report To:</b>          | Environment and Regulatory Committee                     |
| <b>Meeting Date:</b>       | 17 July 2025   |
| <b>Report Author:</b>      | Neil Green, Compliance and Investigations Officer        |
| <b>Report Authorisers:</b> | Carl Cheeseman, Team Leader - Monitoring and Enforcement |
| <b>Report Number:</b>      | RRC25-07-5   |

#### 1. Summary / Te Tuhinga Whakarāpoto

- 1.1 Over the year the Regulatory department undertook the compliance monitoring of ground and surface water takes across the district's water management zones.
- 1.2 Focus is on the consented takes with emphasis on the defined water meter period of 1 November through to 31 May, which is the period of peak demand and often reduced water availability.
- 1.3 The monitoring programme is in place to deliver on key objectives including.
  - Routine monitoring of consent holders for compliance with conditions.
  - Delivering appropriate regulatory response to poor compliance behaviour.
  - Supporting the Council in decision making around water resource management including dry weather rationing implementation.
  - Assisting the Council to meet regional and national reporting obligations on water resource use and user behaviour.
- 1.4 All monitored consent holders received a compliance grade depending on their compliance with consent conditions during the year.
- 1.5 Where consent holders did not meet their obligations, the Council employed a variety of approaches to address that non-compliance. These ranged from giving education and advice, abatement notices and infringement fines.
- 1.6 These interventions were effective and there was no continuing or repeat offending that required an escalation in enforcement response.
- 1.7 A summary of the 2024/25 year is as follows:
  - 1310 resource consented water takes sat in the system, the same as the previous year.
  - 1044 of those consents were actively taking and required to provide water use returns. This is up from the 1027 the previous year and predominantly due to land use change and leases.

- 96% of active users provided their returns through electronic means, either through telemetry, councils web-based portal, text or email. The most popular option was the council portal.
  - 34 consent holders still opted to use prepaid cards. This option will not be available next year due to cost, and the delay in receiving key data.
  - Compliance was very high this season. 99.9% of active resource consents were rated fully compliant. One was rated as moderate non-compliant. There was no significant non-compliance recorded.
  - The one incidence of moderate non-compliance resulted in formal enforcement action due to the nature of the offending. Along with an infringement fine, this consent holder received an abatement notice which remains in force.
  - No missing reading invoices were issued this season due to the consistency in meter returns and early interventions by compliance staff.
- 1.8 This season saw the successful implementation of an automated SMS (text message) notification system. Consent holders in the Waimea zones received immediate notification when respective river flow and storage level advisories are triggered affecting their consents. They also received subsequent notifications when rationing triggers were met. This was supported by delivery of automated emails advising consent holders of their individual compliance requirements per individual consent conditions for the restriction in place.

## **2. Recommendation/s / Ngā Tūtohunga**

**That the Environment and Regulatory Committee**

- 1. receives the District-wide Water Monitoring Report RRC25-07-5.**

## **3. Purpose / Kaupapa**

- 1.1 The purpose of this report is to summarise the compliance monitoring and enforcement activity undertaken as part of the 2024/2025 ground and surface water take compliance monitoring programme.
- 1.2 The report outlines the shape of the monitoring programme for the 2024/25 year and performance of individual consent holders' water use against consent restrictions. It also describes any enforcement response required where compliance was not being met.
- 1.3 Finally, the report touches on the effectiveness of the first year of the new system to manage the more complex rationing regime for consent holders subject to the Waimea Community Dam.

## **4 Introduction / Whakatakī**

- 4.1 Although some limited water take activity occurs throughout the year, intensive water use occurs in the summer when users come online to utilise the resource and create peak demand. This is also when the district encounters sustained periods of dry weather which affects water availability. This peak season is defined as 1 November through to 31 May

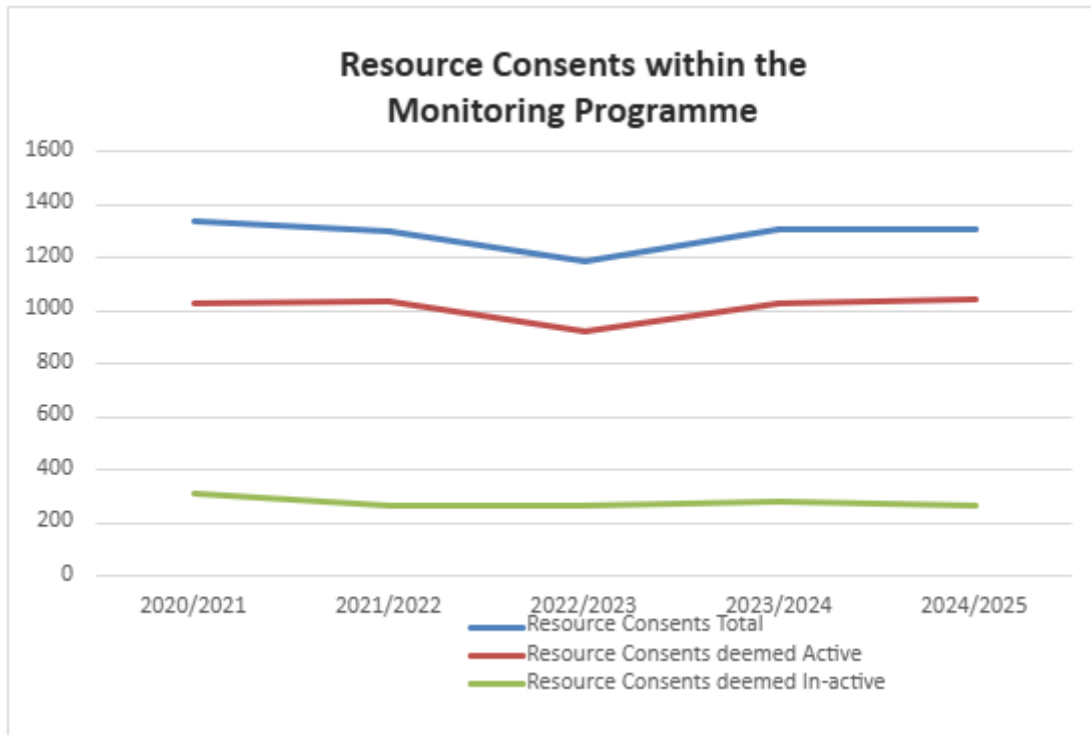
- 4.2 In Tasman district, outside the minor volumes controlled by permitted activity rules, most water takes require resource consent. These consents carry strict conditions around volumes, metering and rationing. These conditions also impose an obligation on users to provide year-round weekly water use information.
- 4.3 While a percentage of users report activity across the full year, the majority are only active during the summer peak season and are inactive for the remainder.
- 4.4 Given this periodic use pattern, the Council created a water meter year to manage this defined peak season to ensure proper management and protection of the resource. In this period, all users must provide their water use returns as per their consent unless they are inactive.
- 4.5 This approach allows the council to strategically target its monitoring and resources to deliver on key objectives including.
  - Routine monitoring of consent holders for compliance with their water take restrictions.
  - Providing appropriate regulatory response to poor compliance behaviour.
  - Supporting the Council in decision making around water resource management including during periods of dry weather and rationing implementation.
  - Assisting the Council to meet regional and national reporting obligations on water resource use and user behaviour
- 4.6 To support this effort the regulatory team runs a purpose-built monitoring database.
- 4.7 At the completion of each season, the objectives, structure, and delivery of the monitoring programme is subject to review to ensure that the Council is meeting its regulatory functions, including its enforcement interventions.

## **5. The 2024-2025 Compliance Monitoring Year in Review**

### **Consent Monitoring Numbers**

- 5.1 There were 1310 resource consents recorded within the monitoring database this year although not all of these were active and taking water.
- 5.2 The total number of consents in the system remained the same as the previous year, however, there was an uplift in consents (1044) becoming active at some point in the season. The primary reason for this was change of land use from lease arrangements and reactivation of dormant water takes.
- 5.3 For those going active, Consent holders will typically notify of intention to use water after pre-season contact by Council.
- 5.4 This is however, a dynamic system and the weather invariably determines the number of consents becoming and remaining active over the season. Wetter or drier springs and summers can see a change in the number of active users and when they come on and go offline.
- 5.5 There are inevitably a number of resource consent holders who remain inactive for many years for various reasons.
- 5.6 Figure 1 below displays the total number of resource consents, active and inactive as a ratio for this reporting year and tracked against the previous four years.

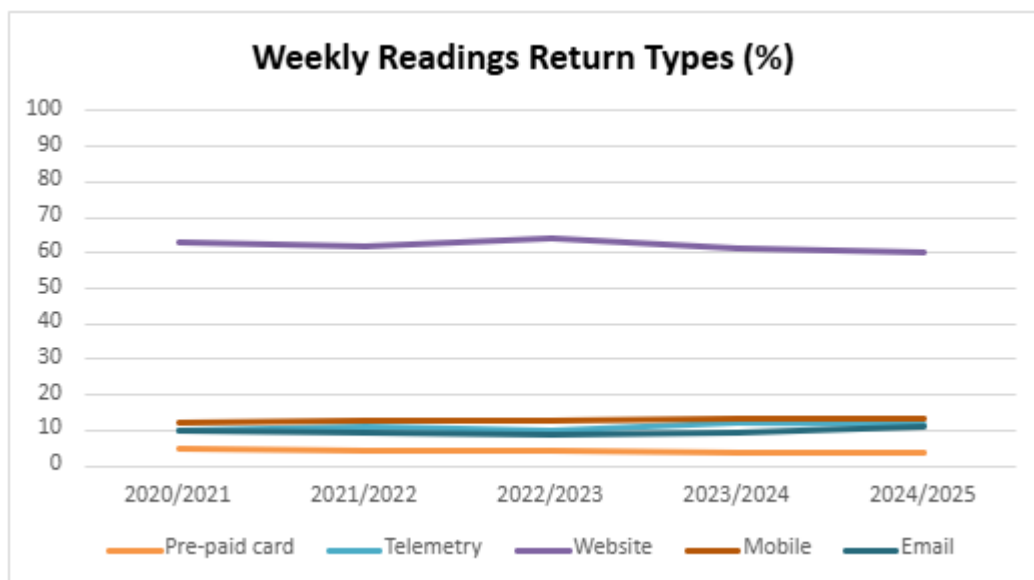




**Figure 1:** Trend in water take resource consent numbers, active and in-active users across last five years.

### Weekly Readings Return Types

5.7 The Council provides consent holders with a range of options to submit weekly reading returns to meet their needs ranging from electronic methods through to a postal card-based system. The following graph (figure 2) shows water user preference has not changed much in recent years.



**Figure 2:** Trend in water users preferred method of submitting water use over last five years.

- 1.4 Direct entry through the Councils website portal remains the method of choice for a lot of users. Website and telemetry certainly remain the preferred option for compliance monitoring purposes; however, any other electronic return method is desirable provided it is sent in a timely fashion.
- 5.9 The pre-paid card option has decreased year on year with only 34 still using this method this season. Unfortunately, given the cost incurred, delays in receipt of timely data, having impact on effective monitoring, especially in times of drought, this return method will not be offered next season. This has been conveyed to users in Council correspondence.
- 5.10 Telemetry returns changed very little with only a minor drop as an option. Whilst compulsory for some already, this is a matter in scope under the current review of the freshwater planning regime. While any final policy setting is yet to be determined, the fact is that both the data management system and the monitoring programme is tested and capable of managing any substantive change to the water management framework.

### Compliance Monitoring Results

- 5.11 Resource consents are graded one to four, according to the level of compliance with conditions of those consents. The overall compliance grade assigned for each Resource Consent is derived from the condition with the worst compliance grade.
- 5.12 The Council uses a compliance grading system that is described in the Ministry for the Environment's Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991.
- 5.13 The following table (table 1) describes this grading system with explanation.

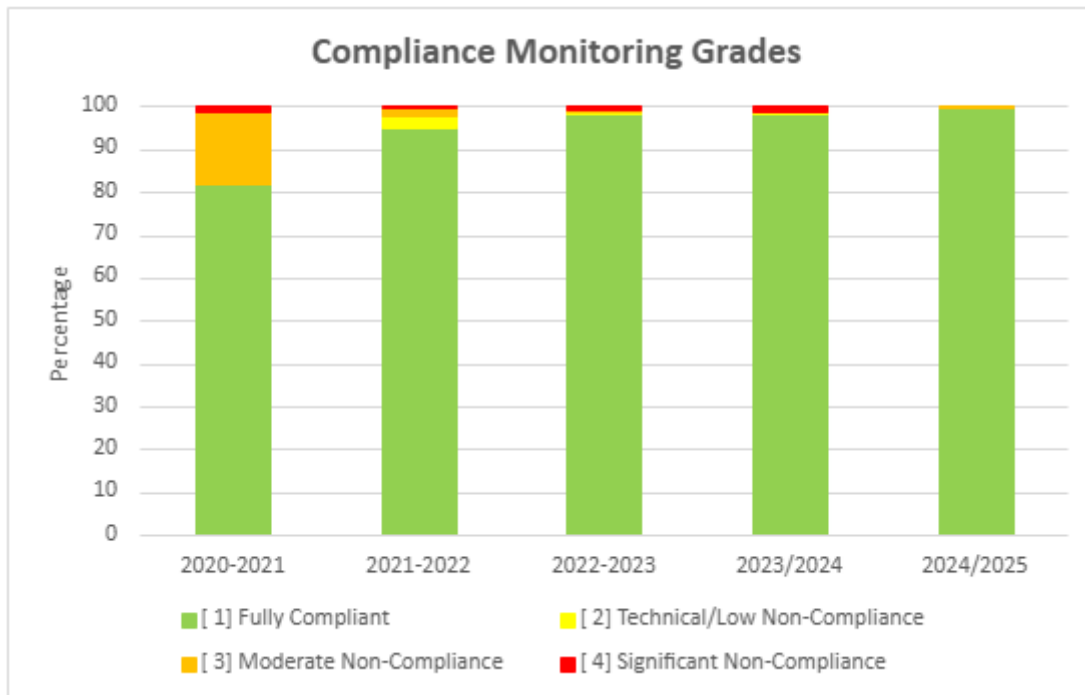
| COMPLIANCE GRADE |   |
|------------------|---|
| 1                | <b>Full Compliance:</b> All relevant consent conditions, plan rules, regulations, and national environmental standards are complied with.   |
| 2                | <b>Low Risk Non-Compliance:</b> Compliance with most of the relevant consent conditions, plan rules, regulations, and national environmental standards. Non-compliance carries a low risk of adverse environmental effects or is technical in nature (e.g., failure to submit a report) |
| 3                | <b>Moderate Non-Compliance:</b> Non-compliance with some of the relevant consent conditions, plan rules, regulations, and national environmental standards, where there are some environmental consequences and/or there is a moderate risk of adverse environmental effects.           |
| 4                | <b>Significant Non-Compliance:</b> Non-compliance with many of the relevant consent conditions, plan rules, regulations, and national environmental standards, where there are significant environmental consequences and/or there is a high risk of adverse environmental effects.     |

**Table 1:** Compliance monitoring grading system adapted from the Ministry for the Environment's Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991

- 5.14 A summary of consent holder performance for this reporting year was:
- 99.9% (1043 out of 1044 active resource consents) were rated fully compliant.
  - 0.1% (1 out of 1044 active resource consents) were rated moderate non-compliant.
- 5.15 There were no instances of significant non-compliance encountered during this year.
- 5.16 The high level of compliance this year can mainly be attributed to sustained good compliance behaviour from the majority of consent holders, as well as early intervention by the council when problems arose. This was mostly around missing readings of which there

were fewer again this year. Overtakes were not an issue this season and were accounted for as errors. It was also apparent that the weather encountered across the main part of summer assisted by reducing water demand.

- 5.17 The following graph plots this year's consent holder performance against the previous four seasons.



**Figure 3:** Compliance grading of active water consents as a percentage of total across five years.

### Water Meter Audits

- 5.18 The Council continues to undertake a targeted water meter auditing regime as part of its summer compliance monitoring strategy. This function is typically carried out by a student, employed by the Council between November and February with the primary purpose of conducting field-based auditing of water meters.
- 5.19 This remains a very efficient and cost-effective means of auditing most of the consented water take meters at the start, and during a season.
- 5.20 Inspections allow meters to be read and reconciled with recorded and incoming data as well as checks of meter and well head integrity.
- 5.21 The 2024/25 season allowed opportunity to push out across the wider district to audit more meters that weren't targeted in the drought affected areas of last season.

### Missing Water Meter Readings

- 5.22 As highlighted, given the high levels of compliance encountered this season, there was the obvious improvement in timely water meter returns, with low levels of missing readings.
- 5.23 Correspondingly, there were no invoices issued for missing reading audits in the reporting year. All missing readings were resolved quickly using non-regulatory approaches.

## **6. Enforcement Over the 2024/25 Irrigation Season**

- 1.5 Enforcement is an integral part of achieving positive compliance behaviour and the Council uses a full spectrum approach to gain sustained compliance. Education and advice are an important first step to drive positive change, but other enforcement tools are available and employed when expected standards are not met.
- 1.6 Over the reporting period little intervention was needed. Most could be resolved with contact and discussion but one incident late in the season did result in the use of a stronger approach to gain compliance.
- 1.7 The issuing of an infringement fine and abatement notice related to one consent holder failing to maintain a residual flow below their surface point of take as required by consent conditions. Due to the nature of this offence, the abatement notice will remain in force until Council is satisfied that compliance will be maintained.
- 1.8 A summary of the formal enforcement actions taken in response to breaches is as follows:
  - No formal warnings were issued
  - One (1) abatement notice was issued
  - One (1) infringement notice was issued.

## **7. Operational Waimea Dam**

- 7.1 The Compliance team were prepared for a fully operative dam prior to the start of this water season.
- 7.2 To enable a smooth and seamless as possible transition, guidance material was sent out to aid understanding of the new staged rationing and cease take obligations prior to any dry period being encountered.
- 7.3 The new monitoring system built to support the operative Waimea dam consent regime was also switched to an operational environment. This new system of real time trigger level alerts and notifications was tested on several occasions by unmodified flows triggering rationing for the Unaffiliated users. The alert system worked well with only one minor issue requiring a quick fix following the first alert release. This was around an automated email glitch. Subsequent rationing notifications were sent without issue, day or night at the trigger points.
- 7.4 The compliance monitoring system for unaffiliated consent holders is rationing phases is fully functional for the coming season.

## **8. Conclusions**

- 8.1 Overall, this season saw an improvement in levels of compliance, with very little overtakes and low levels of missing water meter reading returns. The result was less need for the regulatory team to intervene with stronger enforcement as early contact resolved most issues quickly.
- 8.2 The non-compliance that was encountered typically turned out to be user end system faults, human error, and new users' unfamiliarity with process. There were cases involving tardy

response, but these were resolved quickly with reminders being sent and subsequent compliance was maintained thereafter.

- 8.3 The Waimea Community Dam was operational this season and all affected consents were switched over to the new consenting regime. The prior planning and preparation put in place allowed Compliance to provide timely and effective monitoring of these consents, and users were informed in real time when rationing came into effect and when removed. This affected the unaffiliated users who did go into staged rationing several time late in the season.
- 8.4 With the new system tested this year without issues, it is considered that we have a fit for purpose system that can administer the Waimea consent holders to the appropriate compliance level whatever the weather in the coming seasons.
- 8.5 Despite that, effort will still be required out in the field and from the office to drive compliant behaviour especially if sustained dry periods are encountered.

|  |
|--|
| <b>1. Attachments / Tuhinga tāpiri</b> |
|--|

Nil

## 7.6 CONTACT RECREATION WATER QUALITY - 2024-25 SEASON REPORT

Information Only - No Decision Required

|                            |  |
|----------------------------|--|
| <b>Report To:</b>          | Environment and Regulatory Committee                               |
| <b>Meeting Date:</b>       | 17 July 2025   |
| <b>Report Author:</b>      | Trevor James, Principal Scientist - Freshwater & Estuarine Ecology |
| <b>Report Authorisers:</b> | Rob Smith, Group Manager - Environmental Science                   |
| <b>Report Number:</b>      | RRC25-07-6   |

### 1. Summary / Te Tuhinga Whakarāpoto

- 1.1 Tasman District Council has monitored popular swimming holes and beaches since the mid 1990's following Ministry for the Environment/Ministry of Health guidelines, and the National Policy Statement for Freshwater Management 2020 (NPS-FM) for the purposes of managing the health of people using these waterways.
- 1.2 A total of 239 samples were taken at 12 sites (3 freshwater sites, 6 marine sites, and 3 tidal river mouths) were sampled for faecal indicator bacteria between 2 December 2023 and 17 February 2024.
- 1.3 A total of 14 ("Alarm/Red") exceedances of water quality standards/guidelines were recorded at seven sites. Of these 21 exceedances, five "Alarm/Red" of these were during fine weather periods. All of these five were at coastal sites.
- 1.4 Over all samples in **all weather** conditions, **94.1%** of samples met the guidelines at the "Alarm" level. This rate of compliance is above the Long Term Plan goal of 92%. The **fine weather** compliance rate was **97.6%** which is almost precisely at the 10-year average of 97.5%. These high-level results are heartening considering that four of the sites that were added to the programme in recent years are considered particularly high risk of faecal contamination but have not pulled the average rate of compliance down significantly.
- 1.5 For **coastal sites**, the fine weather non-compliance ("Alarm" and "Alert" level) sample results were recorded at Stephens Bay Lagoon (3), Kaiteriteri Beach (3), Collingwood at Boat Ramp (2), Rototai Reserve at Motupipi Mouth (1), and Riwaka Port Wharf Road end (1). For swimmers using Stephens Bay Lagoon, Port Riwaka, Rototai Reserve at Motupipi Mouth or Collingwood Boat Ramp it would be advisable to do so on the incoming tide rather than the outgoing tide. As per general advisories in Tasman, Nelson and throughout Aotearoa, swimming, water skiing or any other contact recreation should be avoided at sites during rain or within 48 hours of rain. Using the Ministry for the Environment's "Suitability for Recreation Grade" criteria, Rabbit Island main beach remains at the "Very Good" grade, Māpua remains at the "Good" grade, and Kaiteriteri has downgraded to "poor" and Pōhara has upgraded to "Good".



**Summary Statistics for the 2024-25 Contact Recreation Bathing Water Quality season**

| <b>Statistic</b>                              | <b>Result</b> | <b>Ratio</b> |
|---|---------------|--------------|
| Total number of samples                       | 239           | -            |
| Total number of exceedances (alarm and alert) | 21            | -            |
| Exceedances – Freshwater                      | 4.8%          | (3/63)       |
| Exceedances – Marine                          | 10.2%         | (18/176)     |
| All weather rate of compliance (alarm only)   | 94.1%         | (14/239)     |
| Fine weather rate of compliance (alarm only)  | 97.6%         | (5/205)      |

- 1.7 For **freshwater sites**, the all-weather sample results were graded/assessed using the NPS-FM standards. Despite no fine-weather exceedances at any of these sites, the Lee at Reserve and Roding at Twin Bridges were downgraded to “Fair”. The site at Takaka at Paines Ford remained at “Good”. If considering fine weather samples only, then all sites are graded as “Excellent/Blue”.
- 1.8 The **Lee River** appears to have lower water clarity since 2020 when the building of the Waimea Community Dam started. The amount of undesirable growths (mostly algae) attached to the bed of the Lee River at Meads Reserve appears to be slightly greater than the Roding at Twin Bridges. Council continues to get complaints alleging a decline in water quality and increase in ‘slime’ in the Lee River upstream of the Roding confluence.
- 1.9 **Toxic algae** levels only recorded as exceeding the guideline of 20% coverage by a small amount (by 1%) on the **Wai-iti River** on 30 December. However, by the evening of that day there was a flushing flow meaning that warnings to the public were not deemed necessary. After the low coverage of early January, coverage on the Wai-iti River increased to 15-16% in mid to late January, after which there were several small flushing flows and coverage remained relatively low.

**2. Recommendation/s / Ngā Tūtohunga**

**That the Environment and Regulatory Committee**

1. **receives the Contact Recreation Water Quality - 2024-25 Season Report RRC25-07-6.**

**3. Background**

- 3.1 This report’s purpose is to present information from the 2024-25 summer Contact Recreation Water Quality Monitoring Programme, toxic algae issues and investigations into the source or cause of issues that arose over the season.

**Sampling for Faecal Indicator Bacteria at Contact Recreation Sites**

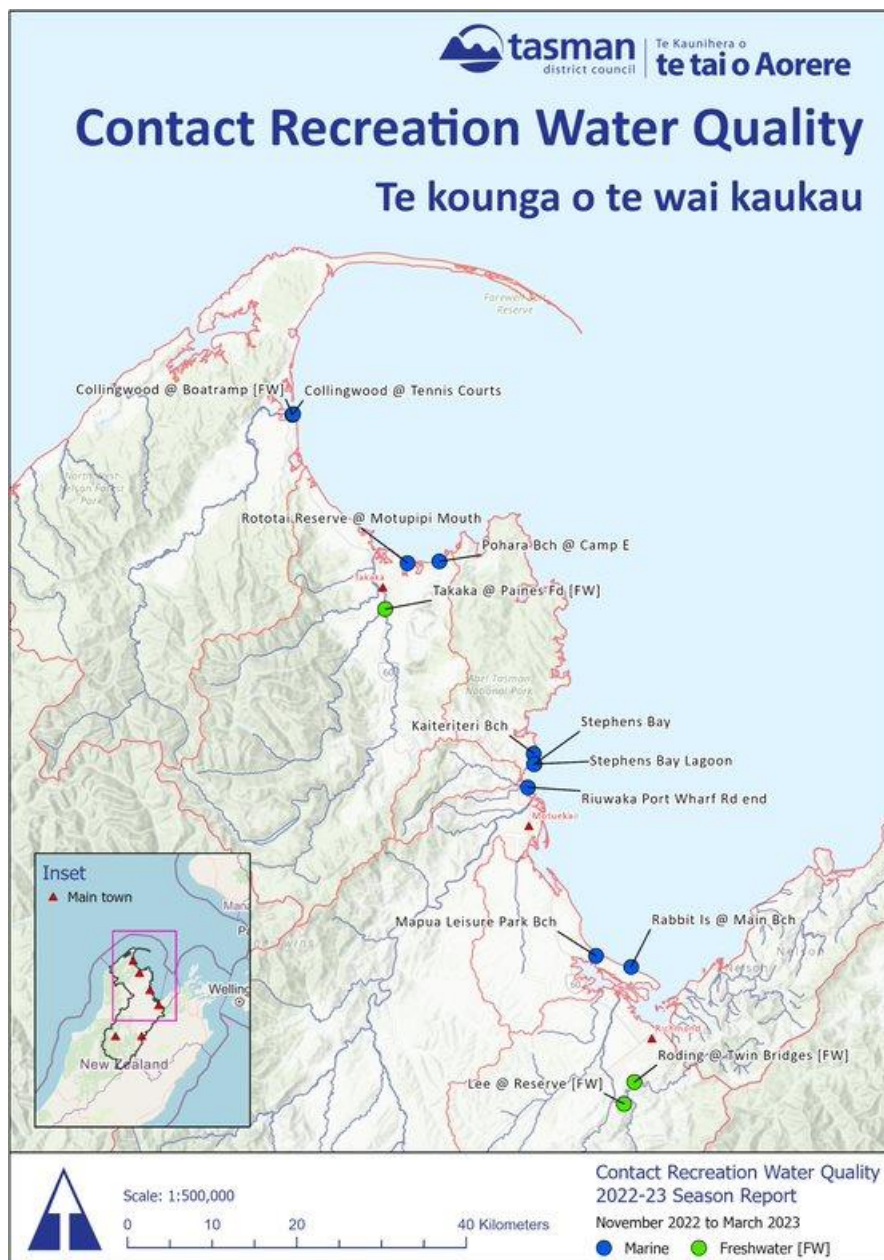
- 3.2 Since the mid-1990s, Tasman District Council has monitored popular swimming holes and beaches under the guidelines set in the [National Policy Statement for Freshwater Management \(NPS-FM 2020\)](#). This policy states that every regional council must monitor primary contact sites for the risk to human health and the suitability for recreation activities that take place at these sites. An example of these activities includes swimming, water skiing and kayaking. The methods in our monitoring programme have been derived from the

[Microbiological Water Quality Guidelines \(Ministry for the Environment and Ministry of Health, 2003\)](#).

- 3.3 Faecal Indicator Bacteria sampling helps us identify what popular swimming sites in our region may pose a risk to human health. When water is consumed that is contaminated with human, farm animal, wild animal, or bird faeces there is a risk to human health from the disease-causing organisms that are present in these faeces. The bacteria that we sample for as indicators for faeces are *E.coli* in freshwater samples and *enterococci* in saltwater samples. The risks to human health associated with these bacteria are gastro and respiratory related but more serious diseases can occur such as hepatitis A, cryptosporidiosis, campylobacteriosis, and salmonellosis. The risk to human health increases as the concentration of these disease-causing organisms increases. The Alarm-level limit is 540 *E.coli*/100ml and 280 *enterococci*/100ml and the Alert level limit is 260 *E.coli*/100ml and 140 *enterococci*/100ml respectively.
- 3.4 The selection of sampling sites is determined by the popularity of the site and the risk swimming or other contact recreation presents to human health. A survey done in the 2010-2011 season gave an indication of the most popular sites in our region for swimming. The process of determining a 'Sanitary Inspection Category' under the [Microbiological Water Quality Guidelines \(Ministry for the Environment and Ministry of Health, 2003\)](#) sets a process to determine the risk to human health from this recreation.
- 3.5 This season we only sampled the core sites, of which three were freshwater, six were coastal, and three tidal river mouth freshwater sites (considered coastal). Of these 12 sites, seven of these have been sampled consistently with three of these being annually sampled (at least 20 samples per season) since 2000 (Māpua Leisure Park Beach, Kaiteriteri Beach, Rabbit Island Main Beach) and the remaining four have been annually since 2010 (Takaka River at Paines Ford, Pōhara Beach, Roding River, and Lee River).
- 3.6 There are a further 60+ sites that have been occasionally sampled over the last 20 years. This helps us to have a greater coverage across the region and highlight any water quality issues that need addressing. If a site is not very popular and has consistently good water quality, then it won't get sampled as often as sites that have poorer water quality and higher popularity. Additional sites are brought into the programme if there is a reasonable risk (e.g. a moderately popular location with medium to high concentrations of faecal indicator bacteria) or if the public raises concerns. We continue to monitor these sites until we're confident the risk is insignificant, or the issue is resolved. Often there is additional short-term investigations needed to get to the source of contamination.
- 3.7 The Contact Recreation Water Quality 2024-25 sampling programme started on 2 December and finished in mid-February. Sampling started at once-a-week frequency then built up to twice per week and three times a week over January and early February (the most popular time for contact recreation) when recreation activities were at their peak. By increasing our sampling effort over the most popular period for bathing activities we can locate any increased risks of poor water quality as soon as possible. Due to the summer students leaving in early-February and the limited availability of permanent staff, sampling ends when they leave. The sites sampled this season can be seen in Figure 1.
- 3.8 Our sampling follows the national guidelines, and the Alert/Alarm criteria set by the Ministry for the Environment within the National Policy Statement for Freshwater Management 2020 and the Microbiologic Water Quality Guidelines for Marine and Freshwater Recreation Areas. All the results for this sampling gets posted on the Council website at [Swimming water quality in Tasman | Tasman District Council](#) as well as on the LAWA website at [Land](#).

[Air, Water Aotearoa \(LAWA\) - Can I swim here?](http://www.lawa.org.nz) ([www.lawa.org.nz](http://www.lawa.org.nz)) On the website we also include information and background on the sites and the sampling programme. All staff involved in the sampling also receive text messages with results that exceed the alarm levels so there can be a quick response if resampling is needed.

- 3.9 Rain influences faecal indicator bacteria concentration. The likelihood of an exceedance of the guidelines increases when there is 20mm or more rainfall in the catchment. These increased concentrations of bacteria normally return to low concentrations 36-48 hours after rainfall. Sites that have intensive farming or urban land use upstream are more likely to have exceedances caused by rainfall and run-off. Some sites can even exceed the guidelines with as little as 10mm of rain.



**Figure 1: Contact Recreation Water Quality Core Monitoring Sites in Tasman District**

### Toxic Algae (Cyanobacteria)

- 3.10 In New Zealand we have one native riverine cyanobacteria that is toxic and has been a cause of many dog deaths in the country, but to date we have only recorded four dog deaths, and all were between 2010 and December 2014. All of these were on the lower Wai-iti and Waimea Rivers, except for one on the Takaka River.
- 3.11 This alga is in the genus *Microcoleus*, and they produce a wide range of toxins that can cause liver, nerve, and skin damage as well as nausea, diarrhoea, gastroenteritis and possibly cancer. The greatest risk is to dogs and young children who may consume the algae. Fortunately, there is a very small number of reported cases of people in New Zealand becoming ill however there is still a reasonable risk for unsupervised toddlers who may play in the river's edge and put things in their mouths.
- 3.12 *Microcoleus* is easily recognisable, being a soft, gelatinous dark green/black mat with a musty odour. It can be found in low coverage (<2% cover) in our most pristine rivers. Coverage of this organism can increase when conditions are favourable and then they can form blooms that become detached and accumulate on the rivers edges and float downstream. This increases the risk to young children and dogs that are the likeliest suspects to consume the organism. Optimal conditions for *Microcoleus* growth are warm temperatures, sunlight, low/stable river flows, nutrients, and fine sediment.
- 3.13 Toxic algae coverage levels are sampled using the full protocols at one site: Wai-iti River at 300m downstream of Brightwater Br. This site gives us early indication of how *Microcoleus* coverage levels are responding compared to the rest of the district so once we start seeing higher levels here, we will assess coverage at further sites. The methods that outline this type of sampling are written in the New Zealand Guidelines for Cyanobacteria in Recreational Fresh Waters. In these guidelines an exceedance of 20% coverage for a site warrants a public notification. We publish the results of these surveys on our website at [Toxic algae monitoring results | Tasman District Council](#). In addition to the Wai-iti site, toxic algae levels are estimated at all freshwater contact recreation site through the sampling programme. Of all the sites sampled regularly in this programme, it is only the Wai-iti River that regularly exceeds the NZ Guidelines (although there are some other rivers in the region that are not monitored that have recorded exceedances).

## 4. Results and Discussion

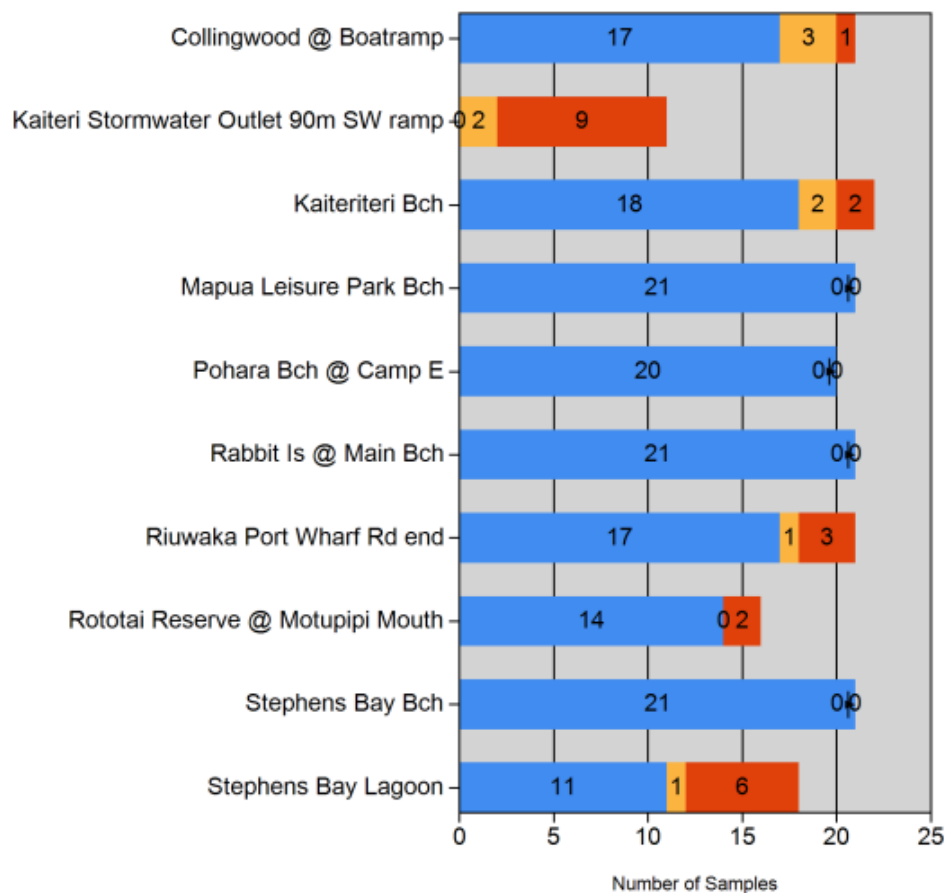
- 4.1 This season we sampled a total of 12 sites (three freshwater, six coastal/marine, and three tidal river mouths) between December and March (note that the Collingwood site is grouped in the "marine" group for the purposes of this summary).
- 4.2 Over all samples in **all weather** conditions, **94.1%** of samples met the guidelines at the "Alarm" level (see Table 1 for all the key statistics, including 'Alert' level exceedances). This rate of compliance is well above the Long Term Plan goal of 92%. The **fine weather** compliance rate was **97.6%** (at the Alarm level) which is just below the almost precisely the 10-year average of 97.5%.

**Table 1:** Summary Statistics for the 2024-25 Contact Recreation Bathing Water Quality season

| Statistic  | Result | Ratio    |
|--|--------|----------|
| Total number of samples  | 239    | -        |
| Total number of exceedances (alarm and alert)                    | 21     | -        |
| Exceedances – Freshwater (alarm and alert)                       | 4.8%   | (3/63)   |
| Exceedances – Marine (alarm and alert)                           | 10.2%  | (18/176) |
| All weather rate of compliance with guidelines (alarm and alert) | 91.2%  | (21/239) |
| All weather rate of compliance with guidelines (alarm only)      | 94.1%  | (14/239) |
| Fine weather rate of compliance (alarm and alert)                | 95.1%  | (10/205) |
| Fine weather rate of compliance (alarm only)                     | 97.6%  | (5/205)  |

### Discussion of Results for Coastal/Marine Sites

- 4.3 Data for the whole 2024-25 summer sampling season are presented below in Figure 2.
- 4.4 **Collingwood Boat ramp** site recorded two exceedances during fine weather, and both were only 'Alert' level. This is a relatively good result for this site.
- 4.5 **Rototai Reserve** at the mouth of the Motupipi River also only exceeded Alarm guidelines twice this season with a maximum of ~400 enterococci/100ml. This is also a more pleasing result than previous years. Please note: 1. that this site is only sampled on an outgoing tide within two hours of high tide, and 2. with this limitation and the early afternoon courier drop off time, we only achieved 16 of the target 20 samples within the season.



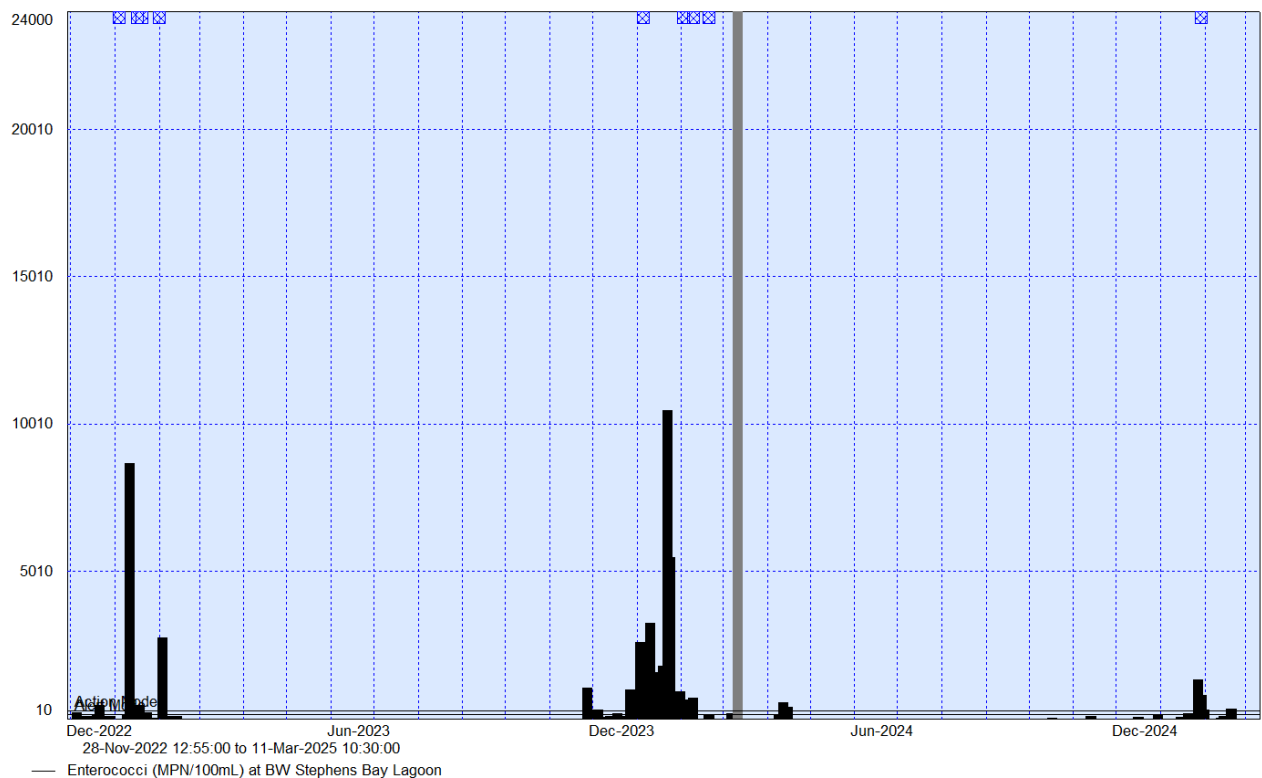
**Figure 2:** Number of samples exceeding national guidelines for contact recreation water quality at coastal beach sites for the 2024-2025 season. Red results are over Alarm levels (>280 enterococci/100ml) and orange results are in the Alert range (140-280 enterococci/100ml).

Note: The Kaiteriteri Stormwater Outlet site is not a swimming site but a potential source of Faecal Indicator Bacteria.

### Stephens Bay Beach and Lagoon

- 4.6 These sites were added to the full sampling programme in 2022 after several sewage overflows had occurred in the catchment upstream in the previous year. No overflows have been recorded in the last two years. The beach site was fully compliant in the 2024-25 season even in wet weather (the highest concentration recorded was 41 enterococci/100ml which is very low). The lagoon site saw six Alarm exceedances which was much lower than the previous season. Similar to previous seasons, the majority of exceedances were during fine weather. While it is too soon to say with confidence, we seem to be seeing an improvement in enterococci at the lagoon site (see Figure 3 and Table 2 below). The highest few results were much lower than the previous two years. This could mean that the faecal contamination discharged to this site is finally working its way through after 2-3 years.





**Figure 3:** Faecal indicator bacteria results for Stephens Bay Lagoon for the past three swimming seasons (units in enterococci/100ml).

**Table 2:** Median and 95<sup>th</sup> Percentile Statistics for Stephens Bay Lagoon. Units: enterococci/100ml

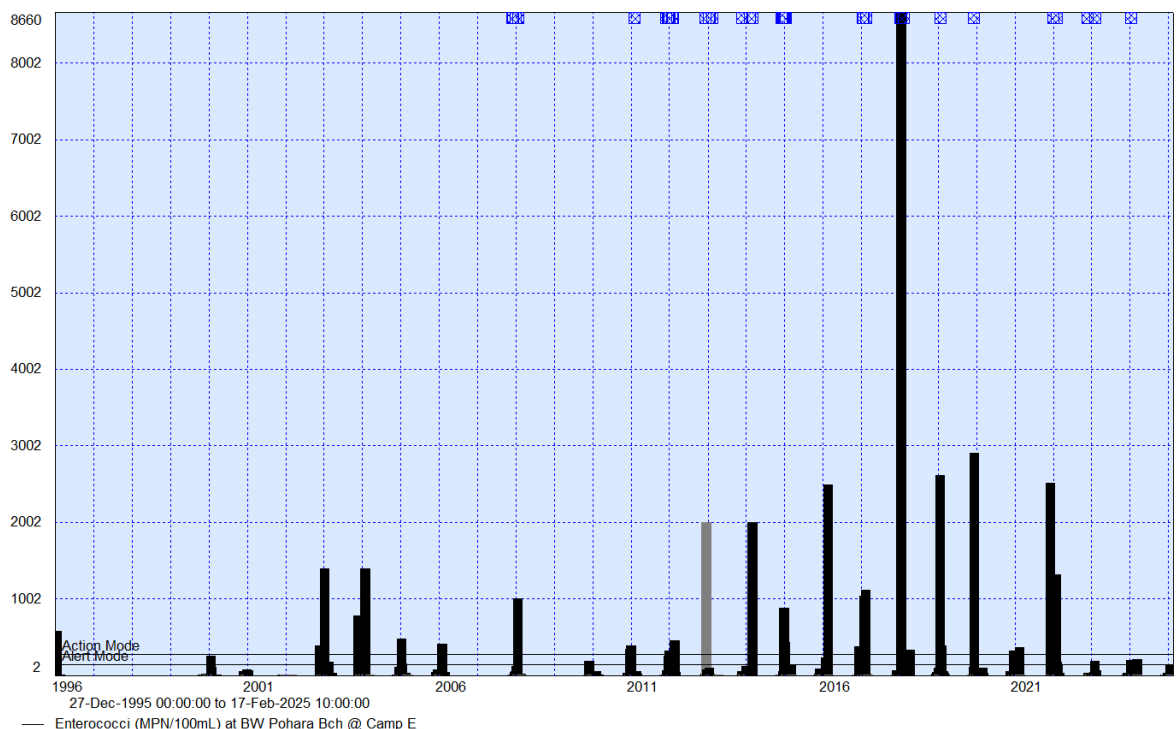
| Season  | Median | 95 <sup>th</sup> Percentile |
|---------|--------|-----------------------------|
| 2022-23 | 98     | 3055                        |
| 2023-24 | 390    | 7970                        |
| 2024-25 | 86     | 926.8                       |

Note: depending on the time of the moon cycle, the lagoon site only fills with sea water some of the time (around half the time) and varies in water depth up to an average of about 400-500mm. This makes it ideal for families with young children. When the lagoon is empty the only water there is the shallow thread of the creek which is too shallow to swim in. Even when the lagoon fills, it mostly empties again within a few hours of high tide. The site is mostly sampled on an outgoing tide within two hours of high tide. This is because the lagoon is so close to the beach and sampling on an incoming tide would effectively be sampling mostly water from the sea. We have been sampling the sea water at Stephens Bay Beach, so we know the faecal indicator bacteria is not coming from seaward.

- 4.7 **Kaiteriteri Beach** had two exceedances of the Alarm level and two of the Alert level (but below the Alarm level). Only one of these exceedances was during wet weather (the highest exceedance of 933 enterococci/100ml). As seems to be the case every year (out of 530 samples taken since 1995), faecal indicator bacteria concentrations are very low in November-December and most exceedances occurred in January and into early February.
- 4.8 It is important to note that the core site used for sampling in this programme is taken at a location about 60m south of a stormwater drain that runs into the beach.

That stormwater drain continues to be the source of high faecal indicator bacteria and the further away from that drain outlet, the more it is likely that water quality improves. Occasional concomitant samples taken about 200m to the south of the core Kaiteriteri Beach site, have shown very low enterococci concentrations. It is suggested that we increase sampling at this additional site to confirm the limited spatial extent of the poor water quality around the stormwater outlet.

- 4.9 It is considered by staff that there is a reasonable likelihood of uncontrolled discharges into the stormwater drain through open grates within the Kaiteriteri Campground and on the roadside. An example of this risk was recorded on 3 December, 2024: Council received a complaint about a freedom camper who allegedly emptied their blackwater container into one of the roadside sumps that fed into this stormwater drain. Council organised a speedy response to pump out this sump. Early in 2024 all the open grates in the campground were adorned with signs to persuade people not to dump materials down them. However, these grates are hidden from view by campers, so it would be easy for dumping to go unnoticed. There may be solutions for this such as more solid covers over the grates and some soakage system so water during rainfall still gets away efficiently.
- 4.10 **Port Riwaka** at Wharf Rd end had three exceedances of guidelines with one fine weather exceedance this season. This was similar to recent years.
- 4.11 **Pōhara Beach** appears as a stand-out positive news story with no exceedances this year (even of Alert levels). It is now three seasons of results where there has not been an Alarm-level exceedance (see Figure 4 below). Prior to that there were regular exceedances of over 2000 enterococci/100ml.



**Figure 4:** Faecal indicator bacteria results for Pōhara Beach (units in enterococci/100ml).

- 4.12 There appeared to be little relationship between the enterococci concentration and the timing of sampling relative to the tide time for this season's data for Collingwood, Riwaka and Kaiteriteri.
- 4.13 Signage has been erected at Collingwood Boat Ramp, Rototai Beach, Stephens Bay Lagoon and Port Riwaka sites, warning of occasional poor water quality (see Figure 5a-d below). It is

anticipated that these signs will be upgraded and better integrated with all the other notices at the sites.



**Figure 5a:** Photo of sign (circled in red) warning about potentially poor water quality at Collingwood Boat Ramp.



**Figure 5b and c:** Photo of sign (circled in red) warning about potential poor water quality at two sites at Rototai Beach.



**Figure 5d:** The sign used at Collingwood Boat Ramp, Rototai Beach, Stephen's Bay Lagoon and Port Riwaka.

4.12 Table 3 shows the grades for each coastal site according to the [Microbiological Water Quality Guidelines \(Ministry for the Environment and Ministry of Health, 2003\)](#).

Unfortunately, the Kaiteriteri Beach site has fallen to a lower grade ("poor") since 2022-23. The good news is that Pōhara Beach continues to improve. Port Riwaka, Stephens Bay Lagoon, Stephens Bay Beach, Rototai and Collingwood Boat Ramp are considered 'interim' grades as we only have four (not five) seasons of data i.e. they are one season short from having an official grade.

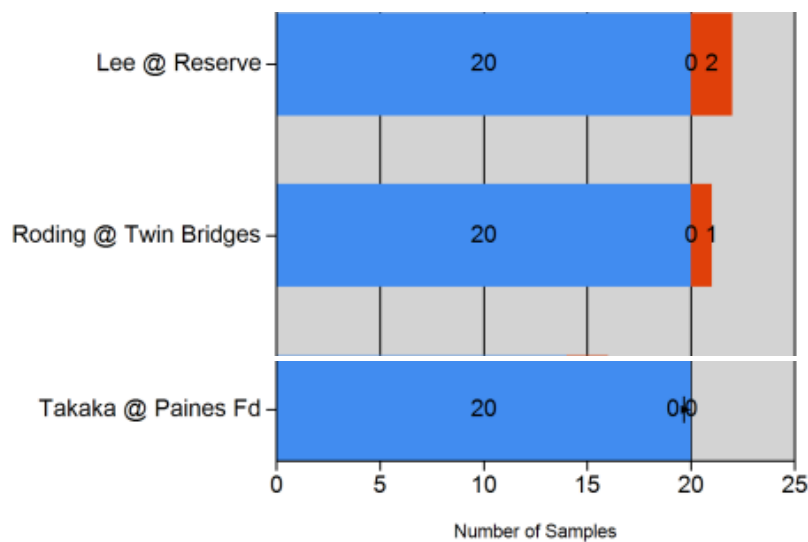


**Table 3: Assessment of Suitability for Recreation Grade for coastal sites in the Contact Recreation Bathing Water Quality Programme.** Statistics cover five sampling seasons (November 2020 to February 2025). This is for samples taken in all weather. 'NC' = no change. '\*' = On an outgoing tide only. '-' = Not assessed in 2022-23

| Site                             | From       | To         | N   | Hazen 95th percentile | Microbiological Assessment Category | Sanitary Inspection Category | Suitability for Recreation Grade | Change since 2022-23 |
|----------------------------------|------------|------------|-----|-----------------------|-------------------------------------|------------------------------|----------------------------------|----------------------|
| Collingwood @ Boat ramp          | 2022-11-28 | 2025-02-17 | 66  | 231                   | B                                   | High                         | "Follow Up"                      | -                    |
| Kaiteriteri Bch                  | 2020-11-17 | 2025-02-19 | 112 | 594                   | D                                   | Moderate                     | Poor                             | ↓                    |
| Māpua Leisure Park Bch           | 2020-11-17 | 2025-02-19 | 109 | 41                    | A                                   | Moderate                     | Good                             | NC                   |
| Pōhara Bch @ Camp E              | 2020-11-25 | 2025-02-17 | 108 | 198                   | B                                   | Moderate                     | Good                             | ↑                    |
| Rabbit Is @ Main Bch             | 2020-11-17 | 2025-02-19 | 107 | 20                    | A                                   | Very Low                     | Very Good                        | NC                   |
| Riwaka Port Wharf Rd end         | 2021-12-08 | 2025-02-19 | 82  | 883                   | D                                   | High                         | Very Poor*                       | -                    |
| Rototai Reserve @ Motupipi Mouth | 2021-11-29 | 2025-02-17 | 83  | 1,570                 | D                                   | Moderate                     | Poor*                            | -                    |
| Stephens Bay Bch                 | 2022-11-28 | 2025-02-19 | 69  | 61                    | A                                   | High                         | "Follow Up"                      | -                    |
| Stephens Bay Lagoon              | 2022-11-28 | 2025-02-19 | 69  | 5,639                 | D                                   | High                         | Very Poor*                       | -                    |

### Discussion of Results for Freshwater Sites

4.13 Figure 6 below shows data for the freshwater and tidal river (Rototai and Collingwood) sites for the Contact Recreation Bathing Water Quality programme 2024-2025.



**Figure 6:** Number of samples exceeding national guidelines for contact recreation water quality at freshwater swimming sites for the 2024-2025 season. Red results are over Alarm levels (>5400 *E.coli*/100ml) and orange results are in the Alert range (260-540 *E.coli*/100ml).

- 4.14 No exceedances were recorded this season at any freshwater site during fine weather. While exceedances occurred during rain at the Lee and Roding sites, they were never above 2,500 *E.coli* /100ml.
- 4.15 The Takaka at Paines Ford site was fully compliant even in wet weather with the Alarm and Alert criteria.

### Swim-ability Categorisation

- 4.16 Our three core freshwater sites were assessed against the criteria shown in Table 4. This is the Ministry for the Environment's required methodology for assessing the suitability for swimming. These core sites are all very suitable for contact recreation during fine weather as they all placed in the A (blue) category (see Table 5b). For data collected during all weather conditions, as well as being suitable for swimming (i.e. physical safe to swim and not in flood), showed higher risk, but still acceptable (see Table 5a). The Lee and Roding sites dropped down to a 'C' grade this year as they were affected by two rain events (sampling was expedited as these river sites remained physically safe for swimming despite the rain).



| <b>Value</b>   | Human contact   |                               |                              |   |
|--|---|-------------------------------|------------------------------|---|
| <b>Freshwater body type</b>  | Lakes and rivers  |                               |                              |   |
| <b>Attribute unit</b>  | <i>E. coli</i> /100 mL (number of <i>E. coli</i> per hundred millilitres) |                               |                              |   |
| <b>Attribute band and description</b>  | <b>Numeric attribute state</b>  |                               |                              |   |
| Description of risk of <i>Campylobacter</i> infection (based on <i>E. coli</i> indicator)  | % exceedances over 540/100 mL   | % exceedances over 260/100 mL | Median concentration /100 mL | 95th percentile of <i>E. coli</i> /100 mL |
| <b>A (Blue)</b><br><br>For at least half the time, the estimated risk is <1 in 1,000 (0.1% risk).<br><br>The predicted average infection risk is 1%.   | <5%   | <20%                          | ≤130                         | ≤540                                      |
| <b>B (Green)</b><br><br>For at least half the time, the estimated risk is <1 in 1,000 (0.1% risk).<br><br>The predicted average infection risk is 2%.  | 5-10%   | 20-30%                        | ≤130                         | ≤1000                                     |
| <b>C (Yellow)</b><br><br>For at least half the time, the estimated risk is <1 in 1,000 (0.1% risk).<br><br>The predicted average infection risk is 3%. | 10-20%  | 20-34%                        | ≤130                         | ≤1200                                     |
| <b>D (Orange)</b><br><br>20-30% of the time the estimated risk is ≥50 in 1,000 (>5% risk).<br><br>The predicted average infection risk is >3%.         | 20-30%  | >34%                          | >130                         | >1200                                     |
| <b>E (Red)</b><br><br>For more than 30% of the time the estimated risk is ≥50 in 1,000 (>5% risk).<br><br>The predicted average infection risk is >7%. | >30%  | >50%                          | >260                         | >1200                                     |

**Table 4:** Ministry for the Environment proposed *E. coli* “swimming categories” (attribute states).

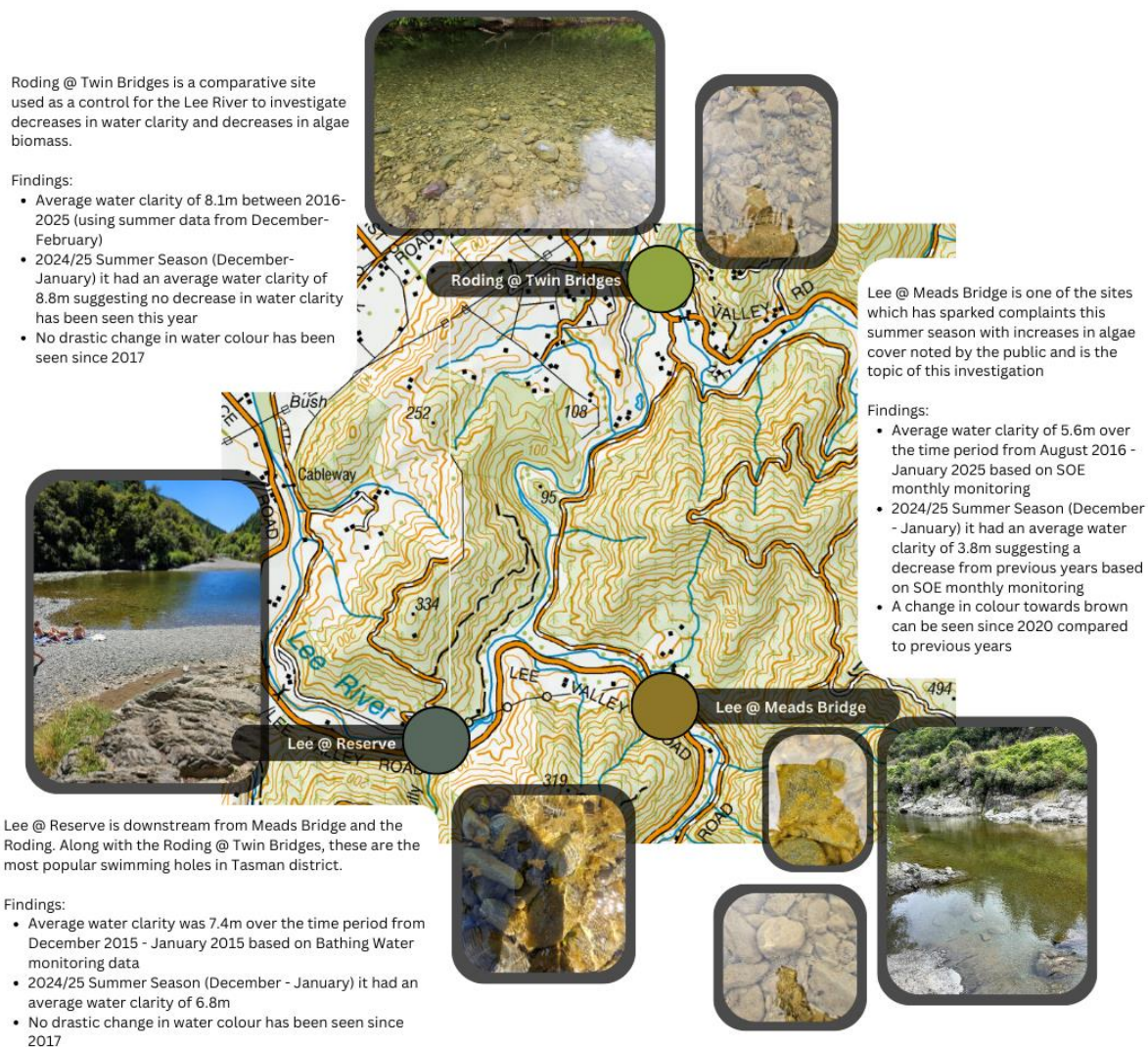
**Table 5a:** Analysis of E.coli taken in All Weather at core freshwater monitoring sites against the swimming categories in the National Policy Statement for freshwater management 2020 and the Microbiological Assessment Category from the Microbiological Water Quality Guidelines 2003. Statistics cover five sampling seasons (November 2020 to February 2025).

| Site                  | From       | To         | N   | Percentage of samples over 260 E.coli/100ml | Percentage of samples over 540 E.coli/100ml | Median E.coli/100ml | 95th percentile E.coli/100ml | Hazen 95th percentile | Microbiological Assessment | Change since 2022-23 |
|-----------------------|------------|------------|-----|---|---|---------------------|------------------------------|-----------------------|----------------------------|----------------------|
| Lee @ Reserve         | 2020-11-17 | 2025-02-19 | 104 | 5.8   | 3.8   | 32                  | 309                          | 366                   | C                          | ↓                    |
| Roding @ Twin Bridges | 2020-11-17 | 2025-02-19 | 106 | 5.7   | 3.8   | 49                  | 307                          | 368                   | C                          | ↓                    |
| Takaka @ Paines Fd    | 2020-11-25 | 2025-02-17 | 107 | 2.8   | 1.9   | 32                  | 185                          | 186                   | B                          | NC                   |

**Table 5b:** Analysis of E.coli taken in Fine Weather at core freshwater monitoring sites against the swimming categories in the Microbiological Assessment Category from the Microbiological Water Quality Guidelines 2003. Statistics cover five sampling seasons (November 2020 to February 2025).

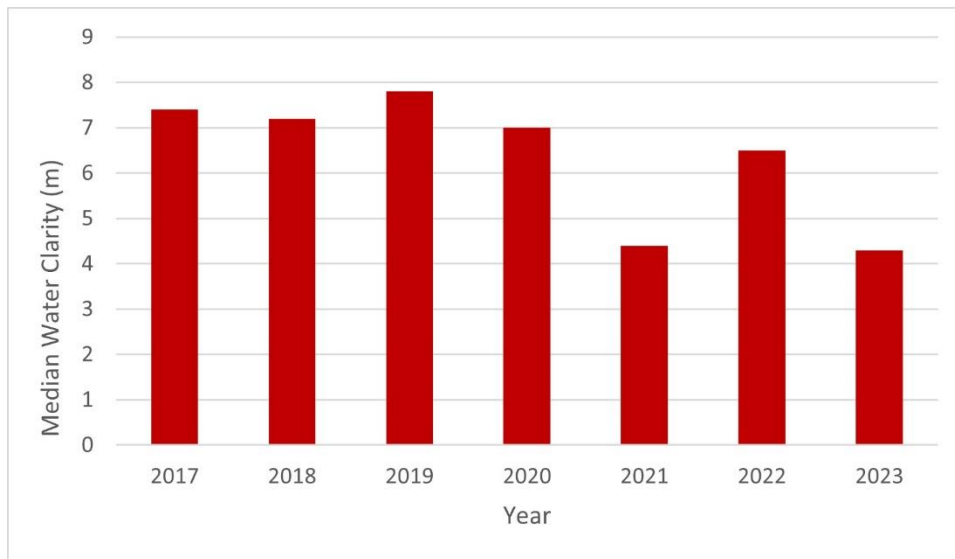
| Site                  | From       | To         | N  | Hazen 95th percentile | Microbiological Assessment Category |
|-----------------------|------------|------------|----|-----------------------|-------------------------------------|
| Lee @ Reserve         | 2020-11-17 | 2025-02-14 | 83 | 87                    | A                                   |
| Roding @ Twin Bridges | 2020-11-17 | 2025-02-14 | 84 | 115                   | A                                   |
| Takaka @ Paines Fd    | 2020-12-08 | 2025-02-17 | 91 | 103                   | A                                   |

4.17 The **Lee River**. Over the 2024-25 swimming season we responded to seven complaints (mostly from residents in the catchment) regarding water quality in the Lee River. The particular concern related to the reaches upstream of the Roding River confluence and particularly regarded water clarity, water colour and sliminess. We responded to this by collecting additional data at our long-term monitoring sites (both swimming water quality sites and the SOE river water quality site on the Lee River at Meads Bridge. A summary of water clarity and water colour findings is provided in the infographic below.

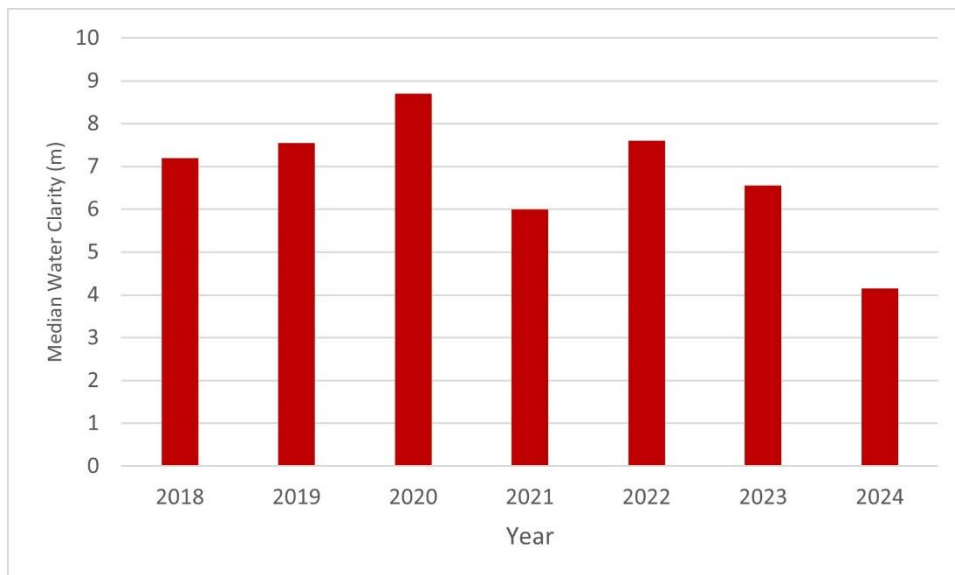


**Figure 7:** Map showing monitoring sites in the Lee and Roding catchments along with key findings for water clarity and water colour.

4.18 Annual median water clarity (based on monthly sampling) at the Lee River at Meads Bridge was regularly near or over seven metres prior to 2021, and after we experienced lower water clarity (see Figure 8a below). A similar pattern can be seen in data from our summertime contact recreation water quality monitoring programme further downstream at Lee at Reserve (see Figure 8b). Hopefully water clarity will improve as the construction of the Waimea Community Dam is complete and forest harvesting practices continue to improve. Little change appears evident in the macro-invertebrate community data suggesting that there have been limited ecological effects.



**Figure 8a:** Annual Median Water Clarity for the Lee River at Meads Bridge from 2017 to 2023 based on monthly 'State of the Environment' monitoring.



**Figure 8b:** Annual Summer Median Water Clarity for the Lee River at Reserve from 2018 to 2024 based on monitoring as part of our Contact Recreation Water Quality Monitoring Programme (January to April only).

- 4.19 Several assessments of 'slime' cover (periphyton, mostly algae) were undertaken at Lee at Meads Bridge and Roding at Twin Bridges through the season. Preliminary analysis shows:
- 4.19.1. There was slightly more 'slime' (higher coverage of filamentous green algae and thicker algae mats) at the Meads Bridge site than the Roding during the periods between flushing flows.
  - 4.19.2. Little change in 'sliminess' appeared evident after a 'fresh' on 8 January (of about 8 cumecs), but there was a major reduction in 'sliminess' after a flood of 20 cumecs.
- 4.20 This study provides useful information for the Flushing Flow Plan required by the resource consent held by the Waimea Community Dam and suggests that to achieve reasonable flushing of undesirable slime, a flow of between 8-20 cumecs is required (the consent currently only requires 5 cumecs). Future monitoring will provide a more precise flow range in which flushing is likely to occur. The consent requires monitoring of periphyton in the

river, and once this is available, a review of the conditions of consent for such flushing flows may be undertaken.

### **Toxic Algae**

- 4.21 This season saw the toxic algae coverage levels within guidelines on the lower Wai-iti River for the vast majority of the time (only one sample at 21% and that was short-lived). This could be due to the higher flows and greater number of flushing flows. As usual, the toxic algae coverage in the Lee and Roding Rivers was low (below 5%).
- 4.22 Fine sediment discharged to rivers is well known to increase coverage of toxic algae. The fine sediment deposition observed in much of 2023-24 in most of the Wai-iti River appears to have flushed on through. The fine sediment was possibly due to forest harvest and tracking activities that were apparent in the upper part of the Wai-iti catchment. A big flood in May 2023 could have mobilised sediment from the hillslopes.
- 4.23 Sampling ceased for the season after a decent flushing flow on 18-19 February.
- 4.24 It should be noted that there has not been a dog death due to toxic algae reported since 2014 and no human illness has ever been related to toxic algae.

### **Communications**

- 4.25 Council staff continue to be in proactive communication with Kaiteriteri Reserve Board, the Public Health Service of Health NZ and other parties.
- 4.26 While there is a need to better integrate and present signage on water quality at sites that present a risk to human health from swimming, signage is at least placed at appropriate locations so as people can make up their own minds if they wish to continue recreating at the site in a way that involved putting their head under the water.
- 4.27 In the winter of 2024 education material about toxic algae went out with dog registration notices.

## **5. Conclusion**

- 5.1 This season saw that 94.1% of all-weather samples met the regulations and guidelines for contact recreation water quality. When we considered only fine weather samples, the rate of compliance was 97.6%. This rate of compliance is only just below the Long Term Plan (stretch) target of 98% and just above the average dry weather compliance rate over the last 10 years (97.5%).
- 5.2 This means that, for the vast majority of the time, your health after swimming and other contact recreation is very likely to be unaffected if the waterway has not been influenced by rainfall. However, there are a few sites that have some cause for concern and where there is on-going work to improve the situation (Collingwood Boat Ramp, Rototai Beach at Motupipi River Mouth, Port Riwaka and Kaiteriteri Beach (at least the area 100m radius around the stormwater pipe)). While it is too early to confirm, it appears that the Stephens Bay Lagoon site is improving and maybe a significant proportion of the faecal contamination that was discharged to the catchment upstream in 2022 has attenuated.
- 5.3 There appears to be a reduction in water clarity in the Lee River at Meads Bridge and the water has changed to a more green-brown colour whereas it was more commonly green previously.

- 5.4 Toxic algae coverage levels at the Wai-iti River this season exceeded the 20% guidelines only very briefly on one occasion. Very low coverage was recorded at all other sites monitored.

## **6. Acknowledgements**

We acknowledge the efforts from our summer students who carried out the field data collection in the Tasman Bay during this program: Lydia Gilbert and Amelia Mephan. We also appreciate the efforts of Claire Webster who did all the field data collection in Golden Bay. A final acknowledgement goes to Jon McCallum for the statistical analyses in this report and Kay Anderson for maintaining the transfer of data to the website.

## **7. Next Steps/Timeline**

- 7.1 We will continue the investigation into potential sources of faecal contamination at Kaiteriteri Beach over the coming season.
- 7.2 It is suggested that an additional site be added to the programme at Kaiteriteri Beach about 200m to the south of the main site.

## **8. Attachments / Tuhinga tāpiri**

Nil



**7.7 ANNUAL DAIRY FARM COMPLIANCE MONITORING REPORT 2024 - 2025****Information Only - No Decision Required**

|                            |  |
|----------------------------|--|
| <b>Report To:</b>          | Environment and Regulatory Committee                     |
| <b>Meeting Date:</b>       | 17 July 2025   |
| <b>Report Author:</b>      | Jane Stuart, Senior Compliance & Investigations Officer  |
| <b>Report Authorisers:</b> | Carl Cheeseman, Team Leader - Monitoring and Enforcement |
| <b>Report Number:</b>      | RRC25-07-7   |

**1. Summary / Te Tuhinga Whakarāpoto****Monitoring programme and reporting**

- 1.1 This year the monitoring programme has been widened to encompass the full scope of activities subject to freshwater legislation as it relates to our region's dairy farms. This is incorporated into the annual report. Much of the regulation in this space is currently affected by central government reviews including amendments to freshwater national direction, stock exclusion regulations and the RMA reform.

**Farm Dairy Effluent Monitoring Performance**

- 1.2 Dairy effluent in Tasman District may be disposed of to land as a permitted activity under specific rules contained in the Tasman Resource Management Plan (TRMP), or alternatively to water, strictly under the conditions of a resource consent.
- 1.3 In the 2024/2025 milking season, a total of 111 dairy farms had active discharges in the Tasman District. All farms were inspected. Of that total, 109 relied solely on it being a permitted activity while two retained resource consents to discharge treated effluent to water as a contingency option.
- 1.4 The compliance results for the 2024/2025 survey were:
- 1.4.1 Full Compliance: 100 farms (90%)
  - 1.4.2 Low Risk Non-Compliance: 10 farms (9%)
  - 1.4.3 Moderate Risk Non-Compliance: Nil (0%)
  - 1.4.4 Significant Non-Compliance: 1 farm (1%)
- 1.5 The 2024/25 year's results continue the trend of 90% or greater of all dairy farms achieving full compliance seen in last 10 years.
- 1.6 Where low-risk non-compliance was detected, it was determined to be minor with no or little adverse environmental effect. Given the nature of these breaches, no formal enforcement action was required but the matters were dealt with at the time through education or other directives. The one recorded significant non-compliance related to a farm that came to Council's attention due to an incident notification. This farm had not received its scheduled annual inspection at the time of the incident. This farm, located in the Takaka area, was subject to a full investigation as a result of the event which resulted in uncontrolled discharges. This investigation has been concluded, and an enforcement decision is pending.

## **Synthetic Nitrogen Reporting**

- 1.7 Pastoral farmers have a 190kg N/ha/yr cap on the application of synthetic nitrogen to land grazed by livestock.
- 1.8 Dairy farmers are required to report their annual synthetic nitrogen use for the year 1 July – 30 June.
- 1.9 89% of dairy farmers within Tasman Region reported their synthetic nitrogen use for the 2023 – 2024 year with all farmers reporting usage below the 190 kg N/ha/yr limit.

## **Intensive Winter Grazing**

- 1.10 The three farms with resource consent to undertake intensive winter grazing were fully compliant.
- 1.11 Of the farms known to be operating under permitted activity conditions three breached the 5m setback to a waterway with setbacks of 3 – 5 m.
- 1.12 These breaches were dealt with at the time via education and other directives.

## **Stock Exclusion**

- 1.13 Improvements have been seen with stock exclusion from waterways and stock crossings on dairy farms throughout Tasman.
- 1.14 The survey that we conduct with dairy farmers relates to permanent fencing of waterways, those waterways which are not permanently fenced have stock excluded using temporary fencing measures where necessary.

## **Freshwater Farm plans**

- 1.15 This legislation is under review as part of the Governments RMA reform process with amended regulations expected to be in place by the end of the year.

## **2. Recommendation/s / Ngā Tūtohunga**

### **That the Environment and Regulatory Committee**

- 1. receives the Annual Dairy Farm Compliance Monitoring Report 2024 - 2025 Report RRC25-07-7.**

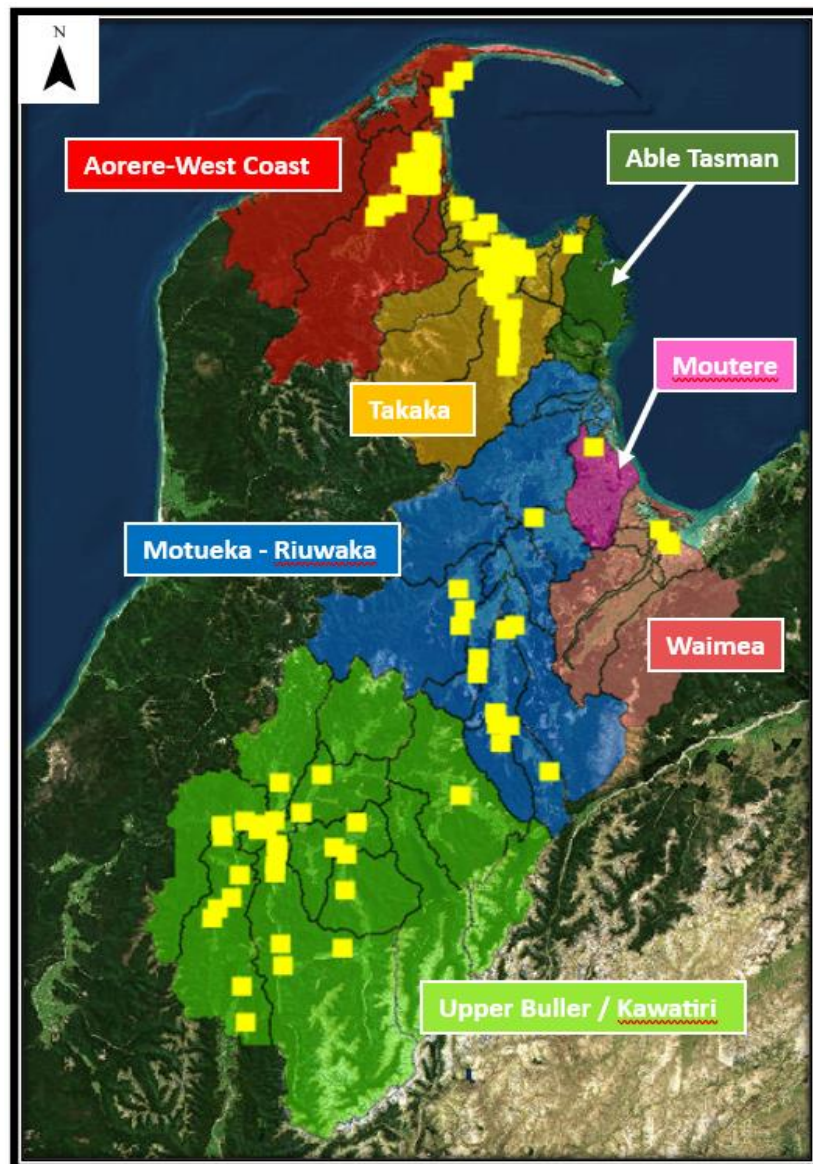
## **3. Introduction**

- 3.1 Each year the Council inspects all active dairy farms in the district for compliance with rules controlling the disposal of treated dairy shed effluent.
- 3.2 Dairy shed effluent may be disposed of to land as a permitted activity under specific rules contained in the Tasman Resource Management Plan (TRMP), or alternatively, to water under the conditions of a resource consent.
- 3.3 Two compliance officers split the monitoring and compliance function based on farm management units with Aorere-West Coast and Motueka–Riuwaka forming one compliance area, and Moutere, Waimea, Upper Buller–Kawatiri the other. This has allowed staff to provide a comprehensive catchment-focused approach to delivering monitoring and compliance requirements under the various freshwater legislation and rules framework. It has also allowed continuation of the relationships building with farmers, council catchment advisors and science team, industry and catchment groups working in this sector.

- 3.4 Currently all the districts active farms operate as permitted activities with two farms holding resource consents as contingency.
- 3.5 This report presents the results from the 2024/2025 compliance inspection of all active farms.
- 3.6 This report also outlines any enforcement responses that may have been required where it was established that compliance was not being met.

#### 4. Current Dairying Landscape in Tasman District

- 4.1 Tasman's dairy farms are mostly clustered within a few of the designated Freshwater Management Units (FMUs). The greatest number are situated in the river valleys of the Tākaka and Aorere/West Coast. The next highest number are located in the southern river valleys in the Upper Buller and Kawatiri. Outside of these areas, there are a small number scattered around the Upper Motueka, Moutere and Waimea Plains near Richmond.
- 4.2 The following map presents the spatial distribution of dairy farms within the corresponding FMUs in the Tasman Region.



**Figure 1:** The spatial distribution of dairy farms within their corresponding Freshwater Management Unit (FMU) in the Tasman Region.

The following table details the farms as a number and percentage within the current FMUs.

| FMU                      | Number of Farms | Regional Proportion |
|--------------------------|-----------------|---------------------|
| <b>Aorere-West Coast</b> | 33              | 30%                 |
| <b>Takaka</b>            | 34              | 31%                 |
| <b>Moutere</b>           | 1               | 1%                  |
| <b>Upper Motueka</b>     | 14              | 12%                 |
| <b>Waimea</b>            | 3               | 3%                  |
| <b>Murchison</b>         | 26              | 23%                 |

**Table 1:** Tasman's dairy farms as a number and percentage across the Freshwater Management Units.

- 4.3 Tasman District is relatively small as a dairy farming region and makes up one percent of the national herd and less than one percent of the total land area. The average farm area, herd size and stocking rates in Tasman are lower than the national average.
- 4.4 Table 2 below provides a useful statistical breakdown of the Tasman District in comparison to the National and South Island data. The table also includes the same data comparison for the FMUs for a more granular assessment.

|  | Number of Farms | Total Land Area (ha) | Average Farm Area (ha) | Total Dairy Population | Average Herd Size | Average Stocking Rate (cows/ha) |
|--|-----------------|----------------------|------------------------|------------------------|-------------------|---------------------------------|
| <b>National Statistics (2023 - 2024) *</b>     | 10,485          | 1,703,404            | 162                    | 4,701,596              | 448               | 2.76                            |
| <b>South Island Statistics (2023 - 2024) *</b> | 3,134           | 691,740              | 221                    | 2,018,024              | 644               | 2.92                            |
| <b>Tasman Statistics*</b>                      | 111             | 16104                | 145                    | 39622                  | 357               | 2.46                            |
| <b>Northern</b>                                |                 |                      |                        |                        |                   |                                 |
| <b>Aorere-West Coast + Takaka *</b>            | 67              | 8,887                | 133                    | 22,279                 | 332               | 2.51                            |
| <b>Central</b>                                 |                 |                      |                        |                        |                   |                                 |
| <b>Moutere + Upper Motueka</b>                 | 18              | 2,562                | 142                    | 6643                   | 369               | 2.59                            |
| <b>Southern</b>                                |                 |                      |                        |                        |                   |                                 |
| <b>Upper Buller/Kawatiri*</b>                  | 26              | 4,655                | 179                    | 10,700                 | 411               | 2.30                            |

**Table 2:** Dairy Farm data New Zealand and Tasman. Source: New Zealand Dairy Statistics 2023-2024.

### Changes in the dairying landscape in Tasman

- 4.5 Since the start of the monitoring regime in 2005, considerable change with dairy farming in this district has been observed.

- 4.6 One of the significant changes' year-on-year has been the steady decline in active farms. While land under a dairy platform and cow numbers remained relatively stable until 2015, the last 10 years have also seen a corresponding reduction in those measures indicating fundamental change. The following graph displays those trends across the last 20 monitored seasons.



**Figure 2:** Trend in dairy herd size, associated land area (ha) and number of farms between the 2005/2006 and 2024/2025 milking seasons.

- 4.7 From the surveys, much of this early decline was attributable to amalgamation of smaller farms into bigger entities along with smaller farms ceasing supply. In later years, land use change away from dairying to dairy support, beef and in some areas, hop gardens has seen the regions dairying profile change further.
- 4.8 With the current economic performance in the dairy sector, there appears to be increasing interest in dairying. Information being picked up is that a number of retired dairy farms within the region are potentially returning to milk production. It is uncertain at this stage to what extent this may be but enquires are being made about the process including regulatory requirements. This change is certainly in keeping with a national view that dairy conversions will increase where regulation allows.

### Milking Regimes

- 4.9 Our survey shows that the traditional twice a day (TAD) milking regime was preferred for 44% of farms this season. It appears that the higher milk solids pay out this season has encouraged many more to remain under the TAD system. These farms are switching to once a day only in response to dry weather conditions limiting pasture growth.
- 4.10 The full season once-a-day (FSOAD) system remains popular with 32 % of famers undertaking this throughout the milking season. FSOAD is the practice of milking cows once during a 24-hour period as opposed to the traditional twice a day (TAD) milking regime.



4.11 22% of farms utilise a hybrid milking regime, generally a 7/10 or 3/2 schedule, that is seven milkings every ten days or three milkings every two days.

4.12 The benefits of reduced milking regimes are:

- Less time spent milking cows
- Reduced labour, water and input costs
- Reduced staff pressure
- The size of contingency storage is reduced and thus installation costs are reduced as less effluent is collected in the yards and sheds
- Improved stock health from less stress and lameness (less walking to and from the farm dairy)
- Extended grazing rotation

4.13 Despite the system variabilities, there is no differentiation in the regulatory setting or compliance monitoring approach during the season.

### **Effluent storage infrastructure**

4.14 Effluent management practices, including storage systems, is a rapidly evolving space in dairying. The council has observed a lot of change on the farms in recent years, particularly around storage and a wide variety of effluent storage infrastructure is being encountered as farms upgrade.

4.15 Currently, 60 farms now have industry quality systems installed, these are either a fully lined pond or tank and bladders.

4.16 Of the remainder, 44 farms use a clay lined pond, six continue to use a sump for effluent storage and one utilizes small tanks.

4.17 On the change front, thirteen farms have had their dairy effluent storage requirements sized for a replacement system, nine of these have yet to action this, however two farms are in the process of installing new industry-standard ponds lined with geomembranes and equipped with leak detection.



**Photo 1 and 2:** Effluent storage tank and bladder



- 4.18 Table 3 below provides a breakdown of effluent storage types within Tasman Region as noted during the 2024 – 2025 monitoring round.

| Storage Type      | Golden Bay | Moutere Motueka Waimea | Murchison | Totals   |
|-------------------|------------|------------------------|-----------|----------|
| Clay Pond         | 34         | 4                      | 6         | 44 (40%) |
| Lined pond        | 13         | 3                      | 6         | 22 (20%) |
| Lined Tank        | 15         | 8                      | 12        | 35 (31%) |
| Bladder           | 2          | 0                      | 1         | 3 (3%)   |
| Sump              | 2          | 3                      | 1         | 6 (5%)   |
| Small Water Tanks | 1          | 0                      | 0         | 1 (1%)   |

*Table 3: Effluent storage types in Tasman Region 2024 - 2025 season*

### Next-Gen Farming

- 4.19 As well as effluent management systems, Tasman farmers are continuing to embrace new and innovative technologies. Worth noting is that four farms are now using virtual fencing and pasture management systems; two farms utilise the clean green effluent system; twelve Golden Bay farms have undertaken DNA testing of all soils on farm; and soil moisture meters have been installed to optimise effluent dispersal.

### Resource Consents to Discharge Treated Effluent to Water

- 4.20 The discharge of treated dairy effluent to water is not a permitted activity and requires resource consent under the TRMP.
- 4.21 When the monitoring programme started in 2005 there were 33 farms that held discharge permits, many of these were active and being used as the primary method of effluent disposal.
- 4.22 Over time there has been a steady surrender of these consents as farmers have moved to land application. Only two farms hold discharge consents and both of these farms are in high rainfall areas of Golden Bay, preferring to hold onto their consents as contingency for wet weather.

## 5. The Dairy Effluent Compliance Monitoring Survey 2024-2025

### The Dairy Effluent Compliance monitoring framework

- 5.1 The annual dairy farm effluent inspection process is designed around a standards framework to provide a consistent and auditable assessment each year.
- 5.2 The primary purpose of the inspection is to assess compliance with the individual permitted activity rules and any resource consent conditions where relevant.
- 5.3 At the completion of each inspection, a grade is assigned reflecting the level of compliance achieved at the time of inspection. The overall compliance grade is derived from the condition with the worst compliance grade. All results are inputted into a purpose-built data base.

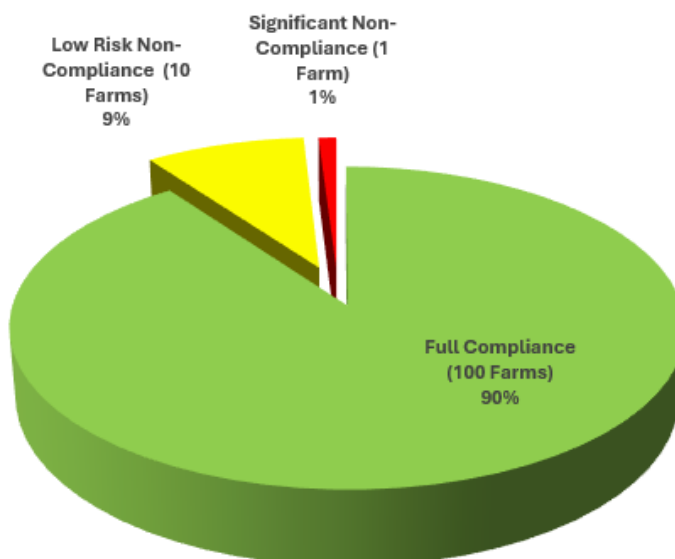
This Council uses the standardised compliance grading system that is described in the Ministry for the Environment’s “Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991”. Table 4 describes this grading system with explanation.

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

*Table 4: MfE (2018) four-tier compliance monitoring grading categories*

### The 2024/25 Survey Results

- 5.4 The following graph provides an overall summary of the compliance gradings achieved by all farms monitored in the 2024/25 season with respect to the permitted activities rules and resource consents.



*Figure 3: Compliance gradings of farms inspected during the 2024/2025 milking season with respect to Rule 36.1.2.3 of the TRMP or Resource Consent Conditions*

- 5.5 Of the 111 active dairy farms inspected during the 2024/2025 season, 100 (90%) achieved full compliance at the time of inspection.

- 5.6 Eleven farms failed to achieve full compliance status at the time of inspection. Ten of these farms were found with a low-risk non-compliance grade, failing a specific permitted activity condition.
- 5.7 For seven farms this involved minor ponding of effluent on the ground. For three farms this was due to part of the effluent system no longer being sealed.
- 5.8 These breaches did not result in a risk of environmental contamination either through run-off to freshwater or groundwater contamination.
- 5.9 Given the nature and scale of the breaches, Council resolved these matters at the time of inspection with instructions and other guidance.
- 5.10 One farm was rated as having significant non-compliance at the time of inspection. This farm came to the Council's attention due to an incident notification. This farm had not received its scheduled annual inspection at the time of the incident. The farm, located in the Takaka area, has been under investigation as a result of the event which resulted in uncontrolled discharges. This investigation has concluded, and an enforcement decision is pending.
- 5.11 As the incident involved an issue with a newer style of effluent storage, this has prompted Council staff to engage with industry to understand the standards, good management practice available for farmers using newer storage systems as well as supporting industry development of a code of practice for design and installation.
- 5.12 Circumstances surrounding this incident as well as the wider information sweep will assist in the development of the Council's Land and Water rule review.

## 6. Synthetic Nitrogen Reporting

- 6.1 The 2021 Essential Freshwater package imposed a 190kg N/ha/yr cap on the application of synthetic Nitrogen to land grazed by livestock.
- 6.2 Dairy farmers are required to report their annual synthetic nitrogen use for the year 1 July – 30 June.
- 6.3 The following table provides the statistics for the 2023 – 2024 synthetic nitrogen reporting period by dairy farms in the Tasman Region.

| Total Farms | Syn N reported | %   | Syn N reporting with rural professional | Syn N use exceeds 190kg/N/ha/yr cap | Syn N use of 170 – 190kg N/ha/yr |
|-------------|----------------|-----|---|-------------------------------------|----------------------------------|
| 111         | 99             | 89% | 4                                       | 0                                   | 10                               |

*Table 5: Synthetic Nitrogen reporting received 2023 – 2024 year*

- 6.4 A small number of farmers continue to struggle with the input of this data via their respective fertiliser company portal. Four farms continue to work with their Agri-Manager to set up systems.
- 6.5 The 2024-25 synthetic N reporting is due 31 July this year.

## 7. Intensive Winter Grazing

- 7.1 Intensive winter grazing (IWG) is the grazing of livestock on an annual forage crop 1 May – 30 September. This is often seen as 'strip' grazing of a winter crop behind an electric fence.

IWG became regulated as part of the National Environmental Standards Freshwater (NESFW) in 2020.

- 7.2 During the winter of 2024, three farms had active resource consents with the remaining farms operating under NESFW permitted condition requirements.
- 7.3 The three consented farms were monitored and found to be fully compliant with consent conditions.
- 7.4 Of the properties operating as per the NESFW permitted conditions, three were found to be in breach of the 5m setback to a waterway with setbacks of between 3 and 5m noted.
- 7.5 These breaches were dealt with at the time with education and good management practice discussions.
- 7.6 Winter 2024 was very dry resulting in minimal pugging, mud and damage to soils from winter grazing.



*Photo 3 and 4: Intensive winter grazing 2024*

- 7.7 The IWG regulations were subject to amendment in October 2024 and resource consent for this practice is no longer required. Messaging around the rule changes for winter 2025 has been well communicated within the rural community with the expectation that those undertaking IWG are now well versed in good management practices.
- 7.8 Regionally, the Council is aware of dairy farmers who undertake IWG, however we have limited information about other farming systems such as sheep, beef and deer undertaking IWG. This will change with the implementation of Freshwater farm plans as IWG will be deemed a high-risk activity to freshwater and this information will be made available to council via a farm plan.

## **8. Stock Exclusion**

- 8.1 The Amendments to the National Stock Exclusion Regulations 2020 require all intensively grazed beef cattle and deer, dairy cows, dairy support cattle and pigs to be excluded and kept at least 3m from waterways and natural wetlands identified in a Regional Plan.
- 8.2 Stock cannot cross the same lake or river more than twice in any month.

- 8.3 Stock exclusion and stock crossings are discussed with farmers during the dairy effluent monitoring visit and messaging is well communicated to the farming community.
- 8.4 It must be noted that the regulations do not specify how stock are to be excluded from a waterway, only that they are excluded. Electric fencing, virtual fencing, vegetation and permanent fencing are options available.
- 8.5 This information collated from our dairy farmers is to provide a picture of the current extent of achievements in the district and support future strategies and relates to permanent fencing structures. Table 6 shows the result of the 2024 – 2025 survey of dairy farms for stock exclusion and river crossings.

|  | Central Zone | Golden Bay Zone | Southern Zone |
|--|--------------|-----------------|---------------|
| <b>Stock Exclusion<br/>(permanent fencing)</b> | 100% fenced  | 98% fenced      | 81% fenced    |
| <b>Stock Crossings</b>                         | 1 remains    | 21 remain       | 4 remain      |

**Table 6:** Stock exclusion Tasman Dairy Farms 2024 – 2025 season

- 8.6 The council currently has limited information on the level of stock exclusion within farming systems outside of the dairy industry. We envisage this will change with the implementation of Freshwater Farm Plans as stock exclusion will be deemed a high-risk activity to freshwater and this information will be made available to the council via a farm plan.

## **9. Freshwater Farm Plans**

- 9.1 Looking to the future, it is evident that freshwater farm planning regulations will change the face of regulation within our agricultural and horticultural sectors. Whilst these regulations remain under review, we understand changes will refocus requirements to support and enable practical farm plans that are flexible and proportional to the level of risk to freshwater from the farming activity in the catchment it is being undertaken.
- 9.2 It is anticipated that this new regime will allow the farm operator to use their freshwater farm plan to meet freshwater regulatory requirements, such as regional rules and national environment standards, where the regulation specifically allows for a freshwater farm plan pathway to be used.
- 9.3 At this stage we are unsure how the compliance monitoring and enforcement function will be woven into the freshwater farm plan system. Clearer direction on the preferred approach is expected once the review of these regulations is completed later this year. Once that is understood, we can start to redesign our monitoring strategy to incorporate the implementation and delivery in our region.
- 9.4 Regional rules and resource consents will remain in effect and the Council will continue to have an obligation to monitor these. This will include the future plan changes that will take effect in support of the Te Waikoropupū Springs Water Conservation Order.
- 9.5 While our programme of work will evolve as the regulations change, our focus will be on the high-risk activities to fresh and ground water and working alongside farmers, growers and industry groups, ensuring best management practices are adhered to and farmers and growers are aware of their compliance obligations.

## **10. Consideration of Financial or Budgetary Implications**

- 10.1 There has not been ability for the Council to recover the costs incurred in monitoring permitted activity rules through the existing section 36 of the Resource Management Act. As such this has meant the dairy effluent monitoring programme has been ratepayer funded.
- 10.2 The Resource Management (Consenting and Other System Changes) Amendment Bill proposed a new section 36(1)(caaa) that would allow a local authority to charge a person undertaking a permitted activity. The charge would be for the purpose of the local authority monitoring the person's compliance with any rule in a plan related to the permitted activity.
- 10.3 Having been through select committee, changes to this clause have been recommended that will limit this so that it does not apply to a rule in a plan that permits the same activity as is permitted in a national environmental standard. It is expected that this amendment will go through unchanged and become law.
- 10.4 However, Section 36 (1) (cd) as existing legislation, allows council to recover costs of monitoring compliance of farm operators with Freshwater Farm Plan regulations once they come into force and this remains intact. This provision has already been built into our fees and charges schedule in anticipation of this legislation coming to force.
- 10.5 In the meantime, cost of monitoring permitted activity rules under this programme will fall to council funding.

## **11. Conclusion**

- 11.1 Dairy effluent disposal, by its very nature carries risk to freshwater quality, ecosystem health and receiving environments. It is intended to maintain this permitted activity monitoring programme as a high priority within the compliance monitoring strategy.
- 11.2 Unfortunately, in the present framework, the cost of monitoring this programme is reliant on rate payer funding. This is expected to change in the future with the introduction of the Freshwater Farm Plan Regime.
- 11.3 The monitoring programme this season has been widened to encompass the full scope of activities subject to freshwater legislation as it relates to our region's dairy farms. Much of the current national regulation is subject to review including amendments to freshwater national direction, stock exclusion regulations and the RMA reform and commentary is made in the relevant sections of the report.
- 11.4 Dairy farm inspections for the 2025/2026 season commence in October 2025. While the intention is to maintain the shape of the programme to enable us to monitor and report performance, given the above this will always be subject to strategic review to ensure it remains current and fit for purpose.
- 11.5 The intention is to also continue to provide an annual report at the completion of each monitoring season that captures and summarises the level of activity coming from this monitoring programme and forecast challenges ahead if relevant.

## **12. Attachments / Tuhinga tāpiri**

Nil