

Nelson City Council

Compliance Strategy

2020



Date of Council passing the Strategy	22 October 2020
The Strategy that was amended, revoked or replaced and replaced	Compliance Strategy 2017
Review by date	1 November 2023

TABLE OF CONTENTS

TABLE OF CONTENTS	2
1 PURPOSE OF THIS STRATEGY.....	3
1.1 Legal status.....	3
2 WHY DO WE NEED A COMPLIANCE STRATEGY?	4
3 PRINCIPLES.....	5
4 MONITORING	7
4.1 Purpose of a compliance programme under the Resource Management Act.....	7
4.2 Monitoring methods.....	7
4.3 Prioritising monitoring resources.....	8
5 ENFORCEMENT POLICY.....	9
5.1 Compliance promotion.....	9
5.2 Dealing with the effects of non-compliance.....	10
5.3 Investigation	10
5.4 Dealing with the effects of non-compliance.....	10
6 REPORTING & REVIEWING.....	14
6.1 Information to be collected.....	14
6.2 Reporting.....	15
7 SUPPORTING INFORMATION.....	16
7.1 Enforcement duties and responsibilities.....	16
7.2 Solicitor-General's prosecution guidelines	16
7.3 Current compliance monitoring programmes	17
7.4 Enforcement process.....	18

1 PURPOSE OF THIS STRATEGY

The purpose of this compliance strategy is to:

- provide a strategic approach to monitoring and enforcement;
- encourage a high level of compliance;
- provide guidance to ensure monitoring and enforcement duties are consistently applied by Council staff or contractors;
- provide a process to monitor and review the effectiveness of the compliance strategy;
- be consistent with the Regional Sector Strategic Compliance Framework 2019-2024;
- be consistent with the Ministry for the Environment's Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991.

1.1 Legal Status

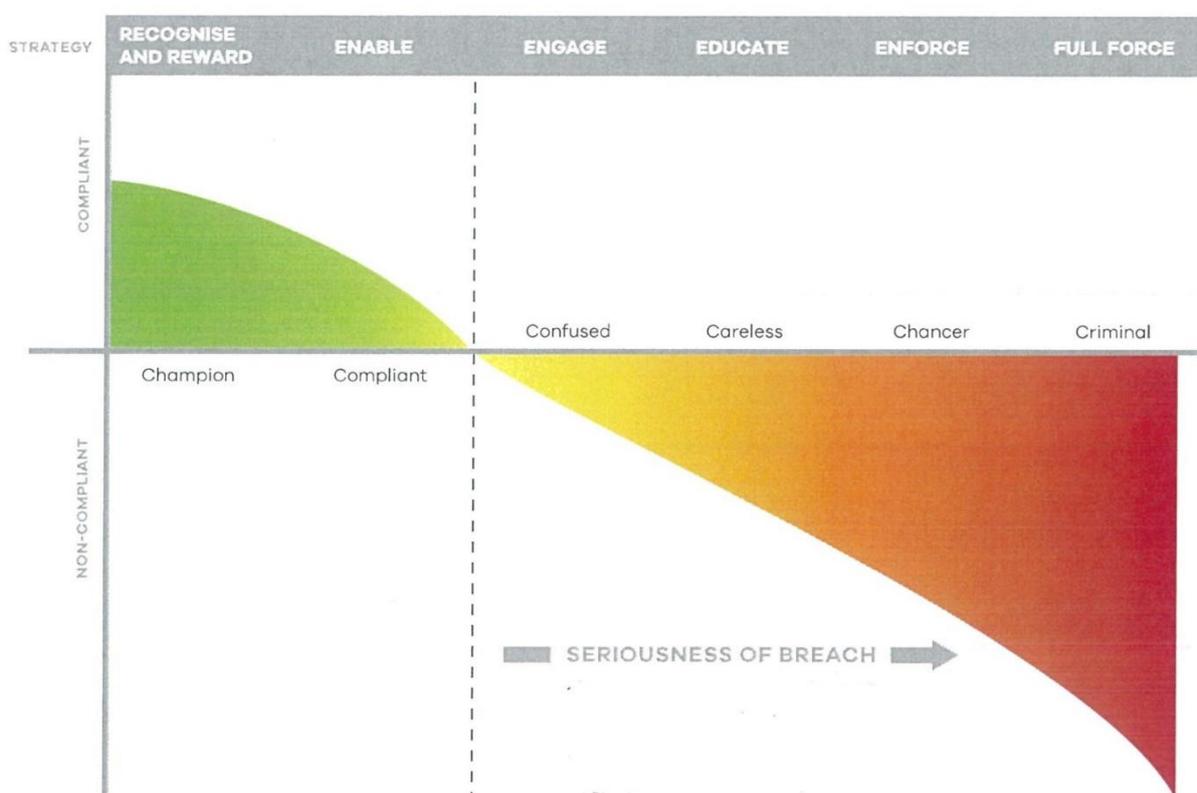
This strategy is not legally binding. It provides a Council endorsed approach to enforcement activities to be adopted or referenced in job descriptions or contracts for services to ensure principles of transparency, procedural fairness and natural justice are applied. The Strategy provides guidance on the exercise of discretion but does not define or limit the exercise of that discretions

2 WHY DO WE NEED A COMPLIANCE STRATEGY?

The challenges of increased population, intensification and diversity of industry and infrastructure puts pressure on Nelson’s natural and physical resources and also on Council’s resources to enforce the laws it administers. As a Unitary authority there are a broad range of Acts, Bylaws, Resource Management provisions and Policies seeking to ensure our community is healthy and safe and our environment is protected. There are a growing number of consented activities and growing cultural and community expectations that activities are monitored in a fiscally prudent manner.

This Compliance Strategy focuses Council resources to achieve the best possible outcome for the community. It manages the Council’s compliance and enforcement responsibilities and duties by employing a risk-based approach and dealing with non-compliance using a ‘toolbox’ of enforcement tools proportionate to the degree of non-compliance. The model below describes a strategic approach to achieving compliance:

Figure 1: Strategic Compliance



Source: *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991, Ministry for the Environment 2018.*

There are four major components to the Compliance Strategy:

- **Principles** – these guide the development of strategic compliance programmes
- **Monitoring** – how compliance monitoring programmes are developed;
- **Enforcement Policy** – how Council responds to non-compliance;
- **Reporting and review** – transparent reporting to the public and feedback to policy writers.

3 PRINCIPLES

The legislative framework provides the ability for Council to enforce the rules and regulations and the following principles guide the development of strategic compliance programmes for Nelson City Council:

Transparency

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

Consistency of process

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

Fair, reasonable and proportional approach

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

Evidence based, informed

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

Collaborative

Council will work with and, where possible, share information with other regulators and stakeholders to ensure the best compliance outcomes for the region. Council will engage with the community and consider public interest, those regulated, and Government to explain and promote requirements, and achieve better community and environmental outcomes.

Lawful, ethical and accountable

Council will conduct activities lawfully and impartially and in accordance with these principles and relevant policies and guidance. Council will document and take responsibility for the regulatory decisions and actions. Council will measure and report on regulatory performance.

Outcomes-focussed

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

Responsive and effective

Council will consider all alleged non-compliance to determine the necessary interventions and action to minimise impacts on the environment and the community and maximise deterrence. Council will respond in an effective and timely manner in accordance with legislative and organisational obligations.

4 MONITORING

A compliance monitoring programme ensures the appropriate resources are allocated to activities by determining the monitoring frequency and intervention method, dependant on the risk of that activity on the community and the environment. Limited resources are targeted at the highest-priority risks. Reviews occur to ensure proactive monitoring of changing and emerging risks in a cost effective manner.

The programming will consider the following:

- a) Criteria to assess the likelihood and consequence of non-compliance – priority areas, tangata whenua and community expectations, the health and safety of people, sensitive environments, growth patterns, compliance history of industry type;
- b) Ranking sites dependant on risk or activity groupings (e.g. forestry, water takes, earthworks etc.). See section 4.3 below for more information on risk assessments;
- c) Determining the type or level of intervention according to a risk profile and compliance history;
- d) Determining resourcing to match interventions – consider skills required, delegations, warrants, external expertise, self-monitoring practices and joint monitoring with other Councils or iwi;
- e) Determining monitoring frequencies – one-off, regular, tailor-made or performance-based; and
- f) Documenting procedures, charging regime, record keeping.

4.1 Purpose of a compliance monitoring programme under the Resource Management Act (RMA)

Compliance monitoring under the RMA is to:

- a) Check that consent holders are meeting the conditions of consent;
- b) Enable and ensure resource users avoid, remedy or mitigate adverse environmental effects;
- c) Monitor effects of activities to help assess the effectiveness of resource management documents through the monitoring of plan rules and permitted activity standards;
- d) Provide information for state of the environment monitoring and reporting; and
- e) Provide information for the Ministry for the Environment's National Monitoring System.

4.2 Monitoring methods

Compliance monitoring can be carried out in the following ways:

- a) Inspections – triggered by complaints, responding to environmental incidents, consent monitoring or permitted activity monitoring. A site is visited to gather information and evidence and assess compliance. If non-compliance is detected liability needs to be established, evidence collected to confirm the breach and inform any enforcement recommendation or decision or action;
- b) Desk top audits – a review of supplied monitoring data or reports to assess compliance;
- c) Pro-active campaigns or compliance promotion – targets particular activity types to encourage and support compliance through education.

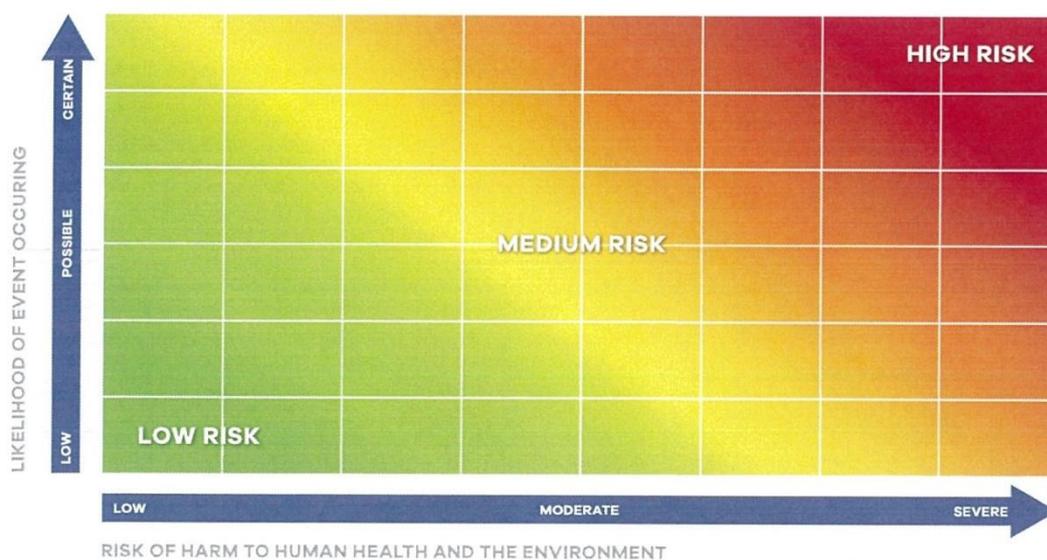
4.3 Prioritising monitoring resources

A risk-based approach to monitoring:

- a) Enables limited monitoring resources to be prioritised according to the level of risk to the environment;
- b) Allows for efficient use of those resources;
- c) Provides for robust and transparent decision-making;
- d) Provides for consistency.

Risk is calculated using the likelihood of a non-compliance occurring (low, possible or certain) and the consequent magnitude of harm to human health and the environment (low, moderate or severe) as shown in figure 2 below. The level of risk determines the appropriate monitoring response including the frequency, type and scale of monitoring required.

Figure 2: Generic Environmental Risk Matrix



Source: *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991, Ministry for the Environment 2018.*

5 ENFORCEMENT POLICY

Council has a statutory obligation to enforce its legal duties and responsibilities under the wide range of Acts it administers. The reasons to enforce the law include:

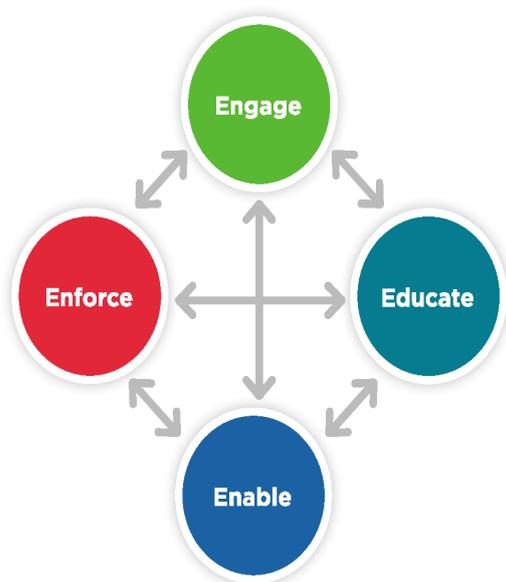
- To maintain people’s health and safety;
- Prevent environmental damage;
- Remediate damage;
- Penalise the offender, ensure reparation if this is possible and deter them from repeat offending;
- Deter others from offending.

Council responses need to be appropriate, proportionate and consistently applied. Responses include compliance promotion as well as utilising a range tools to deal with non-compliance

5.1 Compliance promotion

It is important the Council encourages the highest level of compliance through developing understanding and sustained behaviour change. The Strategic Compliance model (Figure 1) goes further than the 4Es Model to ensure responses are tailored relative to the seriousness of the breach and the true compliance champions are appropriately recognised and rewarded. The components are not exclusive of each other but may be delivered by different teams within Council. A high level of co-ordination and communication is key to ensure the full effect is being achieved.

Figure 3: The 4Es



Engage – Consult with regulated parties, stakeholders and community on matters that may affect them. Maintain relationships and communication to facilitate greater understanding of challenges and constraints, engender support and identify opportunities to work with others.

Educate – alert regulated parties to what is required to be compliant and where the onus lies to be compliant. Also to inform community and stakeholders about what regulations are in place around them so they will better understand what is compliant and what is not.

Enable – Provide opportunities for regulated parties to be exposed to industry best practice and regulatory requirements.

Enforce – Use a range of enforcement tools to bring about positive behaviour change. Enforcement is proportional to individual circumstances of the breach and culpability of the party.

Source: *Regional Sector Strategic Compliance Framework 2016-2018, Compliance and Enforcement Special Interest Group authors – Nick Zaman, Patrick Lynch, Marty Mortiaux, Susan Smith and Al Cross.*

An example of compliance promotion is proactive information flyers for residents prior to the start of a large development detailing how potential noise, sedimentation and dust effects are going to be managed. Council website information can helpfully provide guides for

activities (such as earthworks, forestry and farming) to achieve compliance with plan provisions.

5.2 Dealing with the effects of non-compliance

Upon discovery, the initial response will be to assess the actual or potential effects resulting from the offence. Significant adverse effects will require an immediate response prior to any other action. This may include:

- Pollution prevention – to prevent further serious environmental damage from starting or continuing;
- Immediate closure – of a premises or location to prevent risk to health and safety of people or prevent environmental damage spreading;
- Seizure of a dog in the case of a dog attack.

5.3 Investigation

To find out how and why the breach occurred and enable informed decisions to be made. The depth and scope of the investigation will be dependent on the seriousness of the incident and may include:

- Writing to the offender requiring a written explanation as to why the offence occurred and the circumstances leading to it;
- Inspecting a site – enforcement officers have the power to enter a site but must have a search warrant to enter a dwelling house. The officer's warrant of appointment must be produced on entry or upon any reasonable request. A search warrant is also required when the main reason for the site inspection is to gather evidence for a prosecution;
- Taking samples – soil, water, air or organic matter and any substance that may be a contaminant;
- Using equipment or other experts to assist with the inspection;
- Evidence collection – photographs, documents, maps, records of interviews, witness or offender statements, containers, vehicles, equipment or other items;
- Leaving a notice of inspection in a prominent place – if the owner or occupier is not present at the time of inspection. The notice outlines the date and time of inspection and the enforcement officer's name;
- File notes including notes taken at the time of inspection.

Enforcement officers do not have to give prior notice of inspections but will likely give prior notice when carrying out routine inspections, when the presence of the contact person would be helpful for health and safety and when the activities or processes need to be explained.

5.4 Dealing with non-compliance

When non-compliant activities are identified there needs to be an explicit response that is proportionate to the overall circumstances of the offending with outcomes that account for public interest factors. The response should be clear, efficient, legally robust, free of political influence or conflict of interest, consistent and be able to be understood by the culpable party as well as the community. Decisions on enforcement action must be based on reliable and correctly obtained information to determine whether a breach has occurred and the seriousness of that breach.

Enforcement options

Enforcement tools can be categorised into two main functions: directive (looking forward and righting the wrong) and punitive (looking back and holding people to account). The specific types of tools available depend on the various legislative provisions. Figures 4 and 5 below identify the tools available under the Resource Management Act. Other tools under other Acts or Bylaws are specified in Council process documents.

Figure 4: Directive actions

Directive actions

ACTION	DESCRIPTION OF ACTION	POTENTIAL IMPACTS ON THE LIABLE PARTY	WHEN MIGHT THIS ACTION BE APPROPRIATE?
 <p>Letter of direction</p>	<p>To prevent further breaches, or to remedy or mitigate the effects of non-compliance, council can give a written direction for a party to take or cease a particular action.</p>	<p>Such a direction is not legally enforceable.</p>	<p>Letters of direction should be reserved for dealing with co-operative parties, who are motivated to follow the direction, and where the breach is of a minor nature, consistent with a breach that would perhaps also receive a formal warning.</p>
 <p>Abatement notice</p>	<p>An abatement notice is a formal, written directive. It is drafted and served by council instructing an individual or company to cease an activity, prohibit them from commencing an activity or requiring them to do something. The form, content and scope of an abatement notice are prescribed in statute.</p>	<p>A direction given through an abatement notice is legally enforceable.</p> <p>To breach an abatement notice is to commit an offence against the RMA and make liable parties open to punitive actions.</p>	<p>An abatement notice may be appropriate any time that there is a risk of further breaches of environmental regulation or remediation is required as a result of non-compliance.</p>
 <p>Enforcement order</p>	<p>Like an abatement notice an enforcement order can direct a party to take particular action. However, an application for an enforcement order must be made to the Environment Court but can also be made during the course of a RMA prosecution.</p>	<p>A direction given through an enforcement order is legally enforceable.</p> <p>To breach an enforcement order is to commit an offence against the RMA and make liable parties open to punitive actions.</p>	<p>An application for an enforcement order may be appropriate any time there is a risk of further breaches of environmental regulation, or remediation or mitigation is required as a result of non-compliance.</p>

Source: *Regional Sector Strategic Compliance Framework 2016-2018, Compliance and Enforcement Special Interest Group authors – Nick Zaman, Patrick Lynch, Marty Mortiaux, Susan Smith and Al Cross.*

Where a breach has been established Council may also decide to require immediate action be taken to stop and/or remediate the impacts of the activity. The Council may also decide to take punitive action.

Figure 5: Punitive actions

Punitive actions

ACTION	DESCRIPTION OF ACTION	POTENTIAL IMPACTS ON THE LIABLE PARTY	WHEN MIGHT THIS ACTION BE APPROPRIATE?
 <p>Formal warning</p>	<p>A formal warning is documented by way of a letter to a culpable party informing them that an offence against the RMA has been committed, and that they are liable.</p>	<p>No further action will be taken in respect of that breach.</p> <p>However, the warning forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A formal warning may be given when:</p> <ul style="list-style-type: none"> • an administrative, minor or technical breach has occurred; and • the environmental effect or potential effect, is minor or trivial in nature; and • the subject does not have a history of non-compliance; and • the matter is one which can be quickly and simply put right; and • a written warning would be appropriate in the circumstances.
 <p>Infringement notice</p>	<p>An infringement notice is a written notice which requires the payment of a fine. The amount of the fine is set in law. Depending on the breach the fine will be between \$300 and \$1000.</p>	<p>No further action will be taken in respect of that breach. However, the Infringement notice forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>An infringement notice may be issued when:</p> <ul style="list-style-type: none"> • there is prima facie (on the face of it) evidence of a legislative breach; and • a one-off or isolated legislative breach has occurred which is of minor impact and which can be remedied easily; and • where an infringement notice is considered to be a sufficient deterrent.
 <p>Prosecution</p>	<p>A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions.</p> <p>RMA matters are heard by a District Court Judge with an Environment Court warrant.</p> <p>All criminal evidential rules and standards must be met in a RMA prosecution.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of the criminal law.</p>

Source: Regional Sector Strategic Compliance Framework 2016-2018, Compliance and Enforcement Special Interest Group authors – Nick Zaman, Patrick Lynch, Marty Mortiaux, Susan Smith and Al Cross.

Enforcement orders, a directive action, can also be obtained at a prosecution sentencing. They would seek to right the wrong and also prevent future transgressions

Decision making factors

Factors to consider in deciding which, if any, enforcement response is appropriate and proportionate include:

- the statutory limitation period – the timeframe from when the breach first became known to the filing of the charging document;

- the enforceability of the rule or consent condition – if the provision is ambiguous it is difficult to establish non-compliance;
- the requirement for actions to be taken to address the effects of the offending;
- the standard of proof required – is Council required to establish the non-compliance beyond reasonable doubt or the balance of probabilities?
- Statutory defences – does the offender have a statutory defence (e.g. sections 340 and 341 of the RMA).

The courts have provided useful guidelines as to what factors are appropriate to consider in Resource Management Act cases to determine the seriousness of a breach:

Impacts

- a) Actual adverse effects of the breach;
- b) Likely or potential adverse effects of the breach;
- c) The value or sensitivity of the environment affected by the breach;
- d) The toxicity of discharge;
- e) The significance of the receiving environment to iwi;

Nature of the offending

- f) Was the breach a result of deliberate, negligent or careless behaviour?
- g) Degree of care taken by the culpable party and how foreseeable was the incident;
- h) Efforts made by the culpable party to remedy or mitigate the effects of the breach;
- i) How effective was the remediation or mitigation;
- j) Whether steps have been put in place to prevent future occurrences;
- k) Any profit or gain by the culpable party from the breach;
- l) Is the incidence a repeat non-compliance or has previous enforcement action been taken against the culpable party for similar breaches; and
- m) Has the culpable party failed to act on prior instruction, advice or notice?

Legal considerations

- n) How the activity aligns with the purpose and principles of the RMA;
- o) If intending prosecution the alignment with the Solicitor-General's Prosecution Guidelines (see section 7.2);

Desired outcomes

- p) Does the enforcement action achieve desired environmental outcomes?
- q) The degree of deterrence required for the offender or wider general deterrence for the activity or industry; and
- r) Is the enforcement action the most cost-effective for the level of offending and desired outcomes sought?

Not every factor will be relevant and one single factor may be so overwhelmingly aggravating, or mitigating, that it may influence the ultimate decision. The individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome. There is also a need to demonstrate consistency in decision making for similar situations and in the exercise of Council's discretion.

Investigating officers are to prepare an enforcement recommendation for approval by the delegated officer in accordance with Council procedures. Decision making factors for other Acts or Bylaws will follow principles contained in the above and best practice including case law findings.

6 REPORTING AND REVIEWING

Monitoring, encouraging compliance and dealing with non-compliance activities need to be reported on and reviewed on a regular basis. This informs the Council, communities and industries on the level of compliance and what interventions have been used. It also confirms the Compliance Strategy is appropriately targeted and the community has a clear understanding of what to expect from enforcement action.

Analysis of monitoring and enforcement data will also assist in:

- Identifying trends in non-compliance – has the level of compliance increased or decreased and why?
- Using limited resources more effectively – how effective has compliance promotion or responses been?
- Targeting high risk areas;
- Establish the frequency of compliance visits;
- Refining the compliance programme and strategy;
- Inform bylaw, policy and plan provision development;
- Respond to media enquiries; and
- Complete central government compliance reporting requirements.

6.1 Information to be collected

Council systems are being reviewed to enable the capturing of the following information recommended to be collected and recorded in the Ministry for the Environment's Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991:

- a) The number of resource consents requiring monitoring and the number actually monitored;
- b) The frequency of monitoring;
- c) The type of activity monitored – e.g. forestry, farming, earthworks;
- d) The form of monitoring – site inspection, desk-top, drone etc.;
- e) Level of compliance – significant non-compliance, moderate non-compliance, low-risk non-compliance or full compliance;
- f) Type of breach – consent condition or RMA section;
- g) Enforcement decision – how the decision was reached;
- h) Response – no enforcement action, formal warning, abatement notice etc.;
- i) The effectiveness of the response – did it achieve the desired outcome, was it cost-effective?
- j) How an incident was detected – programmed monitoring, complaint, notification of an incident etc.;
- k) The nature of the incident;
- l) How an incident was dealt with;
- m) Numbers of incident notifications received.

Enforcement officers should also keep detailed records about site visits using notebooks, photographs etc. that incorporates when they produced their warrant and to who, the chain of custody for handling evidence, cautioning an offender or suspect when interviewing them. Information is to be retained in accordance with Council processes for saving and storing information in Council's database systems.

6.2 Reporting

Internal reporting to staff and councillors assist in informing decisions on the effectiveness of documents, levels of resourcing and reviews of strategies or programmes.

External or public reporting provides assurance that provisions are being enforced, educates the public on how the council responds to non-compliance and potentially deters future non-compliance. It can also provide further opportunity for compliance promotion and recognition of compliance improvements (specific names are not reported). Media releases supporting compliance outcomes based on particular cases are to be considered where general deterrence and education can be achieved.

Reporting back to consent holders on the completion of a monitoring event or cycle provides an opportunity to give feedback to the consent holder on how they are doing, what they need to do or reward them with a top rating if fully compliant.

7 SUPPORTING INFORMATION

7.1 Enforcement duties and responsibilities

The statutes the Council has enforcement responsibilities and duties include:

- Resource Management Act 1991
- Local Government Act 2002
- Local Government Act 1974
- Building Act 2004
- Food Act 2014
- Sale and Supply of Alcohol Act 2012
- Dog Control Act 1996
- Impounding Act 1955
- Health Act 1956
- Land Transport Act 1998
- Biosecurity Act 1993
- Maritime Transport Act 1994
- Hazardous Substances & New Organisms Act 1996
- Litter Act 1979
- Freedom Camping Act 2011
- Reserves Act 1977
- Council Bylaws including: Navigation Safety; Urban Environments; Parking and Vehicle Control, Reserves, City Amenity and Freedom Camping.

7.2 Solicitor-General's prosecution guidelines

The Council's prosecutions are conducted by external lawyers and the Solicitor-General's prosecution guidelines provide the basis for considering whether a prosecution should be initiated or continued.

Under the *Solicitor-General's Prosecution Guidelines* there are two tests to consider the value of taking a prosecution – an evidential test (is the evidence sufficient to provide reasonable prospect of a conviction) and the public interest test (is this in the best interest of the public to proceed). Legal advisors will advise on the evidential test whereas the prosecutor will advise on the public interest factors. A prosecution is more likely to be considered in the best interest of the public if:

- a) A conviction is likely to result in a significant sentence;
- b) The offence caused significant harm or created a risk of significant harm;
- c) The offence was committed against a person serving the public for example, a police officer or Council officer;
- d) The individual was in a position of authority or trust;
- e) The evidence shows that the individual was a ringleader or an organiser of the offence;
- f) There is evidence that the offence was premeditated;
- g) There is evidence that the offence was carried out by a group;

- h) The victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- i) The offence was committed in the presence of, or in close proximity to, a child;
- j) There is an element of corruption;
- k) The individual's previous convictions or cautions are relevant to the present offence;
- l) There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct;
- m) The offence, although not serious in itself, is widespread in the area where it was committed;
- n) A prosecution would have a significant positive impact on maintaining community confidence;
- o) The individual is alleged to have committed the offence while subject to an order of the court; and
- p) A confiscation or some other order is required and a conviction is a pre-requisite.

7.3 Current compliance monitoring programmes

Resource consents

All regional consents are monitored for compliance with resource consent conditions. Land use consents are monitored where there is a reliance on a condition being complied with that does not form part of another approval process (such as a building consent) or there is a safety or amenity outcome reliant on condition(s) being complied with.

Non-compliance matters requiring enforcement action are investigated then an enforcement recommendation report is prepared for signing by the appropriate manager.

Permitted activity standards and High-Risk activities

Approximately 800 hours of officer time each year is spent checking compliance with permitted standards on a risk and priority basis determined by the Manager Consents and Compliance and Group Manager Environmental Management. For the last two years the priority has been:

- a) checking industrial sites for hazardous substance storage and stormwater management;
- b) compliance with standards for wood burners in residential properties;
- c) a focus on forestry activities and earthworks compliance; and
- d) dairy farms are inspected at least annually.

Bylaws

Largely respond to complaints although the Freedom Camping Bylaw requires routine patrols and checks of the restricted areas.

Food and alcohol premises

Routine checks are conducted apart from the relicensing process.

7.4 Enforcement process

All officers involved in the investigation, preparation or conduct of any enforcement action will act fairly, promptly, without any actual or perceived conflict of interest and in accordance with the law. The first step is usually to educate and escalate to appropriate enforcement action where there is a deliberate activity or where the impact of the activity has an environmental, health or safety consequence.

After investigation the officer prepares an enforce recommendation reviewed and authorised by the team leader and manager. Any enforcement decision will be free from undue or improper pressure from any source, political or otherwise. The decision to prosecute is made by the Group Manager Environmental Management after obtaining legal advice.

Property seizure

The steps to seize property are identified in the Local Government Act s164-168:

- a) Make every effort to find the owner and make them aware of their responsibilities – provide a written warning to resolve the issue within a reasonable timeframe and what the Council will do after that date if there's been no action;
- b) If the owner cannot be found put at least two public notices in the paper identifying the issue and what needs to happen by a date and contact details (also consider using community/club noticeboards and document what was done);
- c) After the deadline if no contact was made and the issue remains take the required action taking photos demonstrating due care;
- d) Keep the item for a further period of time (6 months) to enable the owner to make contact, if no contact made proceed to dispose of the property.

Lease non-compliance

Leases of public spaces include the outdoor dining areas in the CBD and marina berths. Any non-compliance or disputes are currently pursued by the Council team managing the lease. Legal advice is sought prior to undertaking actions in accordance with the terms of the lease.

There is opportunity for regulatory enforcement officers to be involved in monitoring compliance with some of Council's lease agreements provided there is a clear separation of any commercial and regulatory actions to ensure the appropriate delegations and enforcement action (if required) are used.