



s.7(2)(a) - protect the privacy  
f t i i di

Civic House, 110 Trafalgar Street  
PO Box 645, Nelson 7040, New Zealand

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P (03) 545 8740  
E [mandy.bishop@ncc.govt.nz](mailto:mandy.bishop@ncc.govt.nz)  
[nelson.govt.nz](http://nelson.govt.nz)

s.7(2)(a) -  
protect the  
privacy of

Dear s.7(2)  
( )

### OFFICIAL INFORMATION REQUEST

On 5 September 2021 you asked Council for information relating to s35(2)(d) of the Resource Management Act (RMA) – the monitoring of the exercise of the resource consents that have effect in its region or district. My responses follow your questions repeated below:

1. *Has the Council delegated its duty under Section 35(2)(d) of the RMA [as provided for under Sections 34 and 34(A) of the RMA].*

Yes

2. *If the Council has done so, to which council committee, hearings commissioner, and/or council employer (as the case maybe) has that duty been delegated. (Note: in the case of council employees, position titles only are required, not staff personal identifiers.)*

The Environment and Climate Committee areas of responsibility include:

- Policies and strategies relating to compliance, monitoring, and enforcement
- Regulatory enforcement and monitoring

The Chief Executive can delegate to an employee or hearings commissioner such functions, powers or duties as may be delegated (s34A).

The Chief Executive can authorise officers to carry out all or any of the functions and powers as Enforcement Officer under the RMA (s38). He/she can also authorise holders of a security guard licence to carry out functions and powers of an Enforcement Officer under s327 for excessive noise.

Various monitoring and enforcement delegations to officers are recorded in the Officer Delegations Manual and are included below.

3. *Has the Council transferred the duty under Section 35(2)(d) of the RMA [as provided for under Section 33 of the RMA].*

No.

4. *If the Council has done so, to which public authority (or authorities) has that duty been transferred.*

Not applicable.

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5. *Where the Council has delegated and/or transferred the duty under Section 35(2)(d) of the RMA, a copy of the relevant document that officially records the delegation/transfer as the case maybe. (Note: this can be provided with a link to an appropriate council website if this is available.)*

The Delegation Register for Council Committees and the Chief Executive can be found on Council's website [here](#). The relevant sections of the Officer Delegations Manual are included below.

6. *Where the Council has not delegated the duty under Section 35(2)(d) of the RMA, why has the Council not done so.*

Not applicable.

7. *Where the Council has not delegated the duty under Section 35(2)(d) of the RMA, by what process does the Council fulfil its duty under Section 35(2)(d) of the RMA.*

Not applicable.

8. *Does the Council have a RMA monitoring strategy that addresses the duty imposed under Section 35(2)(d) of the RMA.*

Yes.

9. *If the Council has such as strategy, a copy of that document (Note: this can be provided with a link to an appropriate council website if this is available), as well as relevant citations to sections/pages that reference to Section 35(2)(d) of the RMA.*

Council's Compliance Strategy 2020 is available on our website [here](#). The Strategy is designed to cover all of Council's duties to monitor and enforce under various legislation so does not specifically reference s35(2)(d) of the RMA. However, the content on page 7 of the Strategy is in accordance with that section.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or Freephone 0800 802 602. If you wish to discuss this decision with us, please feel free to call me.

Yours sincerely



**Mandy Bishop**

Manager Consents and Compliance

Officer Delegations Manual – relevant excerpts:

<p><b>RMA6</b></p>	<p><b>Section 34A</b>  <b>Delegation of powers and functions to employees and other persons</b></p> <p>To delegate to an employee, or hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), such functions, powers or duties as may be delegated.</p>	<p>CE (on recommendation of GM Environmental Management)</p>
<p><b>RMA101</b></p>	<p><b>Section 267</b></p> <p>Appearance at Environment Court Conference.</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents  Manager Planning  in consultation with Solicitor acting for Council and GM Environmental Management</p>
<p><b>RMA102</b></p>	<p><b>Section 268</b>  <b>Alternative dispute resolution proceedings</b></p> <p>Authority to accept, on behalf of the Council, any decision reached as a result of alternative dispute resolution.</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents  Senior Planner  Manager Planning  in consultation with Solicitor acting for Council and GM Environmental Management</p>
<p><b>RMA103</b></p>	<p><b>Section 281</b></p> <p>Application to apply to Environment Court for waiver or direction.</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents  Manager Planning  in consultation with Solicitor acting for Council and GM Environmental Management</p>
<p><b>RMA104</b></p>	<p><b>Section 294</b>  <b>Review of decision by Environment Court</b></p> <p>Decision to apply for review on basis of new evidence or change in circumstances.</p>	<p>GM Environmental Management  in consultation with Solicitor acting for Council and GM Environmental Management and report to Council</p>

RMA105	<p><b>Section 299</b>  <b>Appeal to High Court on question of law</b></p> <p>To appeal against a decision or recommendation of the Environment Court to High Court on point of law.</p>	<p>Resource Management Procedures Committee, in consultation with Solicitor acting for Council and GM Environmental Management. All decisions to be reported to Council.</p>
RMA106	<p><b>Section 305</b>  <b>Additional appeals on point of law</b></p> <p>Decision to appeal on a point of law where Council is not appellent.</p>	<p>Resource Management Procedures Committee in consultation with Solicitor acting for Council and GM Environmental Management. All decisions to be reported to Council.</p>
RMA107	<p><b>Appeals before the Environment Court</b></p> <p>Entering into negotiations about, and agreeing to, costs, consent orders, withdrawals and modifications which may arise during the course of any appeal or other matter relating to a Resource Consent decision before the Environment Court.</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents  Manager Planning  In consultation with solicitor acting for the Council and GM Environmental Management. All outcomes to be reported to the Council.</p>
RMA108	<p><b>Section 311</b></p> <p>Application for declaration.</p>	<p>Resource Management Procedures Committee, in consultation with Solicitor acting for Council and GM Environmental Management. All decisions to be reported to Council.</p>
RMA109	<p><b>Sections 315, 316, 320 and 321</b>  <b>Enforcement orders</b></p> <p>Ensure compliance with an order, apply for an order, apply for an interim order and change or cancellation of an enforcement order.</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents or Enforcement Officer appointed under s38</p>
RMA110	<p><b>Section 322, 323, 324</b>  <b>Abatement Notice</b></p> <p>Power to serve an abatement notice, to enter premises for compliance with an abatement</p>	<p>Manager Consents and Compliance  Team Leader Resource Consents</p>

	notice, and form and content of an abatement notice.	or Enforcement Officer appointed under s38
<b>RMA111</b>	<b>Section 325A</b> Cancellation of an abatement notice.	Manager Consents and Compliance Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA112</b>	<b>Section 325B</b> Restrictions on certain applications for enforcement orders and abatement notices.	Manager Consents and Compliance Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA113</b>	<b>Section 327, 328</b> <b>Excessive Noise Direction</b> Power to issue excessive noise direction and require compliance with excessive noise direction.	Manager Consents and Compliance Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA117</b>	<b>Section 332, 333</b> <b>Power of entry</b> Power of entry for inspection and power of entry for survey.	Manager Consents and Compliance Team Leader Resource Consents Manager Environmental Programmes Manager Planning or Enforcement Officer appointed under s38
<b>RMA118</b>	<b>Section 336</b> <b>Return of property seized under s323 and s328</b>	Manager Consents and Compliance Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA119</b>	<b>Section 343C</b> <b>Infringement Notice</b> Power to prepare and deliver infringement notice.	Manager Consents and Compliance Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA121</b>	<b>Section 355B</b> Enforcement powers against unlawful reclamations.	Manager Consents and Compliance

		Team Leader Resource Consents or Enforcement Officer appointed under s38
<b>RMA123</b>	<b>Section 369</b> Provisions deemed to be regional rules.	GM Environmental Management