

# **ADMINISTRATION OF COMPLIANCE WITH RESOURCE CONSENTS**

## **Background Report: Tasman District Council**

*Office of the*  
**PARLIAMENTARY COMMISSIONER FOR THE ENVIRONMENT**  
**Te Kaitiaki Taiao aTe Whare Pāremata**

**PO Box 10-241, Wellington**

**October 1996**

*This report is one of three council case studies undertaken as part of an investigation into local authorities' administration of compliance with resource consents. Conclusions from the three case studies are synthesised in a main report available through Bennetts Government Bookshops. A brief summary of findings is available from this Office on request.*

### **Investigation Team**

Bruce Taylor	Dip Public Health, Dip Air Pollution Control, Dip Acoustics
Camilla Cox	BA, MRRP
Doug Gibbs	BSc, MAgrSc, Dip Devlt Studies
Gill James	LLB

### **Reviewers**

Bill Bayfield	Operations Manager, Taranaki Regional Council
Tom Fookes	Associate Professor, Department of Planning, University of Auckland
Jenny Boshier	Office of the Parliamentary Commissioner for the Environment

### **Editor**

Redmer Yska

### **Acknowledgments**

The Parliamentary Commissioner for the Environment and her investigation team would particularly like to thank the staff of the Tasman District Council for their time and for sharing their expertise. We would also like to thank the many individuals who generously assisted in the research for this investigation and the council staff and peer reviewers who assisted in reviewing early drafts of this report.

*This document may be copied provided the source is acknowledged.*

# **TABLE OF CONTENTS**

---

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
<b>2</b>	<b>BACKGROUND TO TASMAN DISTRICT COUNCIL</b>	<b>3</b>
2.1	Policy framework	3
2.2	Administration	4
2.3	Information Management - background	10
<b>3</b>	<b>COMPLIANCE MONITORING ISSUES</b>	<b>13</b>
3.1	Policy - monitoring strategy	13
3.2	Structure	13
3.3	Information Management - issues	15
3.4	Other issues	16
<b>4</b>	<b>FINDINGS</b>	<b>19</b>
4.1	Policy/Plans	19
4.2	Structure and resources	19
4.3	Consent conditions	19
4.4	Monitoring systems	19
4.5	Monitoring programmes	20
4.6	Information management	20
4.7	Good practice	21
<b>5</b>	<b>RECOMMENDATIONS</b>	<b>23</b>
	<b>REFERENCES</b>	<b>25</b>
	<b>APPENDIX 1: CRITERIA FOR EVALUATING COUNCILS' COMPLIANCE MONITORING SYSTEMS</b>	<b>27</b>



# 1 INTRODUCTION

---

This investigation has been conducted under section 16(1)(b) of the Environment Act 1986 in which the Commissioner has authority to examine the effectiveness of environmental planning and management carried out by public authorities, and advise them on any remedial action the Commissioner considers desirable.

The purpose of this review is to investigate and report on the administration of compliance with resource consents by a territorial authority, a unitary authority (ie a council with combined regional and district functions) and a regional council. It examines the effectiveness of systems, strategies, structures and resources of councils in relation to their obligations under section 35 of the Resource Management Act 1991 (RMA), particularly subsection (2)(d) - monitoring the exercise of resource consents effective in the region or district. The objective is to ascertain how councils ensure that consent holders comply with the conditions of their consents, and to draw attention to areas of good practice.

The range of consents considered in the review were those issued by councils under the RMA, namely land use consents and subdivision consents of territorial authorities, and land use consents, coastal permits, water permits and discharge permits of regional councils. Compliance monitoring is the process of checking resource consents to determine whether they are being implemented according to the conditions on the consent.

This case study examines the compliance monitoring approach taken by the Tasman District Council. It is an audit of the council's compliance monitoring systems and is intended to provide information and guidance so that the council can enhance good performance and improve its compliance monitoring where necessary. The study identifies the issues that the council's compliance monitoring system gives rise to and evaluates it against the criteria listed in appendix 1.



## 2 BACKGROUND TO TASMAN DISTRICT COUNCIL

---

This section describes the nature of the Tasman District and outlines the policy and structural frameworks that govern the council's present approach to compliance monitoring.

The Tasman District Council (TDC) is a unitary authority comprising in area the former Tasman district. In establishing the Tasman district in 1992, the upper Buller Catchment was transferred from the former West Coast region, and the remainder of the district was constituted from part of the former Nelson-Marlborough region. The district has a population of around 40,000 people. There are approximately 16,000 rateable properties in the district which gives the council a relatively small rating base. The budget for the TDC in 1995-96 was \$31,670,846. Of this, \$157,750 (just under 0.5 percent) is budgeted for consent monitoring. This is an increase from the \$111,650 spent in 1994-95, although there is no significant change in the proportion of the overall budget dedicated to monitoring consents over this period.

Almost two thirds of the land area in the district is managed by the Department of Conservation, including three national parks. Forestry, horticulture and tourism are the major income earners in the area. These activities impact on the types of resource consents granted and, therefore, on the monitoring demands on the council. In addition the area has experienced increasing population, with resulting demand for residential development and urban infrastructure.

Tasman District Council does not have a strategic approach to compliance monitoring governed by specific resource consent compliance monitoring policy or strategy. However, the council has produced some broad policy under which more specific compliance monitoring policy could be developed.

### 2.1 Policy framework

The proposed Regional Policy Statement (RPS) for the Tasman District contains some general policy direction in relation to the monitoring of consents. This includes a commitment to 'develop and carry out an integrated strategy for investigating and monitoring the state of the environment in the Tasman District, incorporating compliance monitoring, impact monitoring, baseline monitoring and plan performance monitoring (Policy 13.8), and an undertaking that 'the Council will ensure that necessary action is taken in achieving: (i) compliance with the Act, resource management plans and resource consents ...' (Policy 13.9). The methods for achieving this include providing resources to 'follow up on the results of compliance

monitoring', developing a complaints database, prosecuting offenders where appropriate and public education.

In addition to the RPS, the 1995-96 Annual Plan contains a goal to implement monitoring programmes and monitor compliance with permit conditions, although these programmes are not explained or specified. The plan also states that where compliance is not achieved, the council will ensure 'adequate explanations' are given.

The council has a State of the Environment Monitoring Strategy which mentions compliance monitoring. This strategy states that it 'is desirable that a more rigorous monitoring system be put in place for consents, and that policy for funding this monitoring be clearly stated' (p2). It also identifies areas in which monitoring programmes are to be developed.

TDC has policy in parts of its transitional District Plan which gives guidance about the types of environmental issues to be considered in resource consents. The listed matters remind staff of the issues affecting a particular resource consent application and prompt them to attach conditions accordingly. Although there are general guidelines for consent conditions in the transitional District Plan, the policy in place relating to compliance monitoring is very general and suggests a desirable direction for the council as opposed to specific guidance.

In addition to the transitional District Plan, the TDC has some regional instruments which are specific about monitoring, including the requirement for water take permit holders to have water meters. The recently notified proposed Tasman Resource Management Plan deals with plan monitoring, provides guidelines for conditions on resource consents, and provides some specific matters for consideration in relation to coastal permits.

At a more detailed level, the council has an 'enforcement protocol'. This outlines the general principles governing the enforcement of consents and procedures to be followed by staff when gathering evidence.

## **2.2 Administration**

This section describes the types and numbers of resource consents administered by the council. It also outlines the management structure and compliance monitoring information recording and reporting systems.

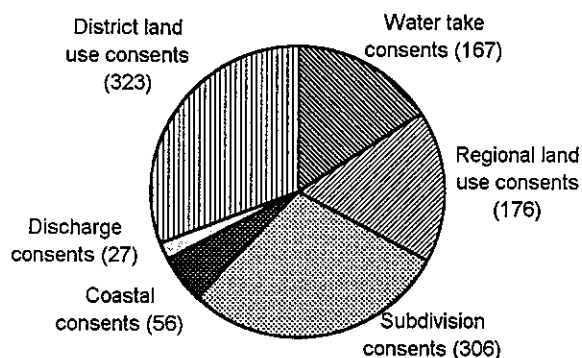
### **2.2.1 Consents**

As a unitary authority, TDC is responsible for both regional council and territorial authority functions. As a result of these combined responsibilities it administers, under the RMA, consents for land use, both regional and district, subdivision, water, discharges and coastal



activities. In total, the TDC processed 1055 resource management consents in 1994-95. The distribution of these consents is shown in figure 1.

**Figure 1 Types of Resource Consents - 1994-95.**



Since TDC became a unitary authority in 1992, a total of 3610 resource consents under the RMA have been granted by the council (up to March 1996).

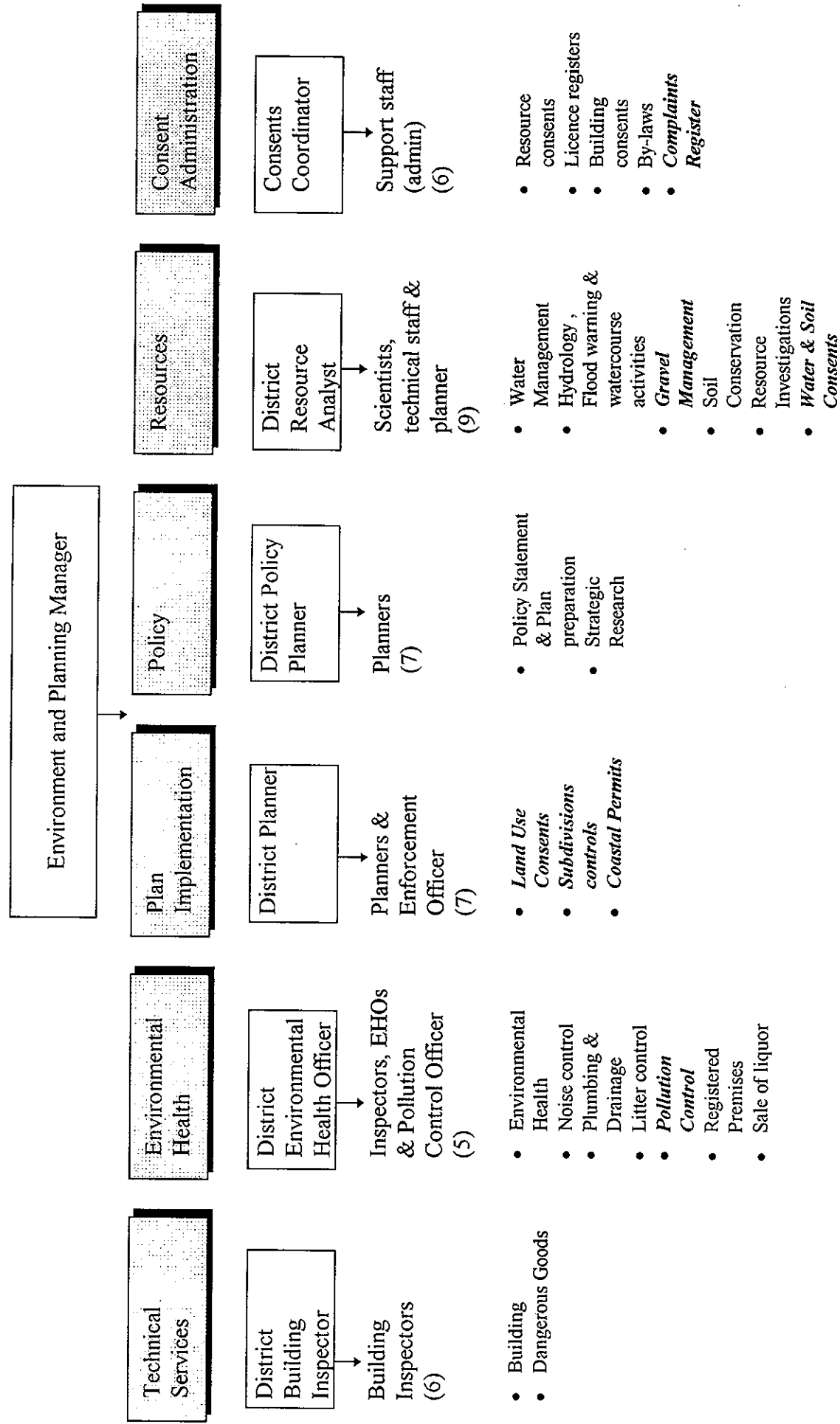
Consent compliance monitoring at the council comes under the direction of the Environment and Planning Manager who oversees six departments (see figure 2). Of these, Environmental Health, Plan Implementation and Resources all have staff involved in compliance monitoring. Decisions to take enforcement action under the RMA are made by the Environment and Planning Manager under delegated authority of the council.

### **2.2.2 Management Structure**

No overall strategy governs compliance monitoring at the council. Monitoring of consent conditions is achieved through a combination of ad hoc, planned and reactive monitoring. This comprises technical monitoring by staff, an enforcement officer, self monitoring by consent holders, incidental monitoring, monitoring by other agencies and response to complaints. The approaches to compliance monitoring have been developed in response to pressures and demands, and monitoring varies according to the type of consent being monitored, reflecting the wide range of consents administered by the council and the different approaches to monitoring in the Environment and Planning Section.

Figure 2

TASMAN DISTRICT COUNCIL - RESOURCE MANAGEMENT STRUCTURE



*Functions in italics are those under which RMA compliance monitoring is undertaken at Tasman District Council*

*Technical monitoring by staff (Environmental Health & Resources sections)*

Discharge consents, coastal permits, regional land use consents, water permits, and bore and dam permits are all monitored by the same staff members who process the consents, ensuring that monitoring is done by the person with the technical ability and background to understand the issue at hand. However, the amount of monitoring, and the way in which it is undertaken varies between consent types due to the different demands of each consent, the approach adopted by the staff member involved in compliance monitoring, and the absence of a council wide compliance monitoring strategy.

- **Discharge permits** comprise a small portion of the total number of consents (see figure 1). About 40 of the larger consents (mainly for discharges to water) are monitored according to a deliberate programme developed at the time the consent was granted. Other discharge consents are monitored only when time permits or when there is a complaint. Generally the greater the potential impact of the consent the greater the priority given to monitoring it for compliance. The information collected is recorded on a visit sheet developed by the officer and entered into the computer which allows the officer to be alerted when the consent is due for another visit.
- **Coastal permits** are monitored in an ad hoc manner due to resource constraints. Structures are generally visited during construction and on completion, but most information on compliance with consents in the coastal marine area is obtained through the vigilance of community groups and coastal users.
- **Regional land use consents** cover mainly gravel extraction, forestry activity and some aspects of mining. The compliance monitoring approach to these consents varies. However, all are monitored regularly during on-site inspections which occur more often when a problem is identified.
- **Water permits** are monitored mainly through council approved water meters installed by the consent holder, the weekly readings from which must be supplied to the council on a monthly basis. An additional source of compliance information for water takes is complaints and information supplied by the public and other water users. In fully allocated zones, permits are reviewed two years after granting to confirm they are fully exercised and should not lapse.
- **Bore permits** are not monitored *per se* since the council often supplies the technical expertise for the drilling and thus ensures the bore is drilled in accordance with the consent. Monitoring is unlikely to take place where bores are drilled without consent.
- **Dam consents** are monitored through the use of 'completion certificates' which must be submitted to the council when construction is finished. For dams over three metres high, a registered engineer must oversee the work and sign a completion

certificate stating that the work has been done to the required standard. This does not always happen. Staff are often unable to follow up on completion certificates that are not returned due to limited resources and difficulty identifying those consents.

*Designated monitoring and enforcement officer (Plan Implementation Section)*

The enforcement officer monitors district land use consents. Duties include responding to complaints, checking ten existing, randomly chosen, land use consents for compliance each month, and following through with any enforcement action deemed necessary. The random checking allows the officer to update council records and note where consents have lapsed having not been implemented. Inspection visits are recorded on visit sheets specifically developed by the officer.

*Self-monitoring by consent holders*

Within the region, many major water takes and discharges have a self monitoring component. Consents requiring self monitoring generally specify requirements, including frequency and type of monitoring. In most cases, the conditions being monitored are technical and many require samples to be collected and analysed. Analysis is usually done by the Cawthron Institute, since unlike many other regional councils, TDC does not have its own laboratory. Occasionally additional samples are taken by the council to check the results obtained by the consent holder.

Completion certificates are another form of self monitoring. Subdivision consents require the holder to supply a completion certificate, signed by a registered surveyor or engineer attesting the quality of the work, before the title will be released for the property. This provides an incentive for the consent holder to comply with the conditions on the consent which does not apply to other consent types. Major land disturbance consents also require a completion certificate, although compliance and the provision of these certificates often has to be actively pursued by staff.

*Incidental monitoring by council staff*

Incidental monitoring is that which occurs during the course of other activities. In Tasman District, around 30 percent of activities with resource consents also have a building consent. Although building inspectors are not required to assess compliance with resource consent conditions, they are generally aware of the consents and are a useful source of information on non-compliance. Non-compliance is also often detected by the environmental health officers who cover licensed premises and food outlets for which resource consents are often required. Other agencies, including Transit NZ, provide information on roadside stalls and signs.

### *Delegation of compliance monitoring*

Monitoring of dairy shed wastes in the Tasman District is carried out under contract by the Ministry of Agriculture (MAF). As few dairy sheds require discharge permits, this type of monitoring helps to ensure compliance with permitted activity rules. Since MAF already visits the dairy sheds each year, it is more efficient for the council to have Ministry personnel inspect the sheds on its behalf. Similarly, the Department of Conservation inspects campsites in the district on behalf of the council.

### *Multiple consent activities*

The council receives many applications which require more than one consent for an activity. In such situations, the council appoints a 'principal author' who takes responsibility for preparing the council report and coordinating the different technical staff involved. In theory, this principal author also coordinates subsequent monitoring; in most cases, the different consents are monitored separately.

### *Complaints response*

Recently the council initiated a new system for complaints response and recording. This makes use of the computer system and is based around a complaints form, copies of which are held by all staff in the Environment and Planning Section. Around ten percent of complaints refer to activities covered by resource consents of one type or another. Where this is the case, the officer who processed the resource consent is usually the one to handle the complaint. The details of the results of any investigation resulting from the complaint are placed on the consent file. There is no specific mechanism through which this information is tied into other compliance monitoring activities, but it is available to staff through the filing system.

### *Effects of establishing non-compliance*

Where non-compliance is discovered the council generally tries to work with the consent holder to remedy the problem. An enforcement protocol details the options available to staff for enforcing compliance and notes the factors to be considered when determining whether a prosecution should be taken. The council has so far prosecuted only three times, once for non-compliance with a resource consent, once for carrying out an activity without a resource consent when one was required, and once for taking gravel illegally.

### *Cost recovery*

Cost recovery is an issue about which the council has expressed concern. For the plan implementation aspect of the council's functions, into which compliance monitoring falls, only about one quarter of the total is expected to be recovered through 'fees and recoveries'. About 30 percent of the cost of compliance monitoring is recovered. For visits relating to the monitoring of discharges, the consent holder is charged. Staff time and any costs associated with sampling and testing are borne by the consent holder. For most consents there is also a standard supervision, administration and monitoring fee payable each year which covers compliance and other monitoring. Water permits, coastal permits, dam and discharge permits all have a standard fee irrespective of the amount of monitoring carried out. Additional 'actual' costs may also be charged for monitoring discharges.

### *Setting consent conditions*

Conditions are imposed according to the type of consent and its potential effects. Although many of the conditions are standard for each type of consent, others are developed in response to the unique character of each application and/or in response to the concerns or demands of affected parties. Where conditions are part of a set of standard consent conditions, they are generally taken from one of the templates of conditions developed by the council and designed to ensure consistency between consents.

## **2.3 Information Management - background**

This section examines the way in which compliance monitoring information is managed. This is an important aspect of compliance monitoring since the value of the monitoring process is determined to a large degree by the use made of the information resulting from it.

The council's information recording systems and filing are varied. Generally information relating to consents is kept on the consent file which is tied back to the property record system. Compliance monitoring information is not always kept on the consent files, however. Some is recorded on files kept by staff, noted in the officer's diary, or not recorded at all. Some is now stored on the computer database. The council has a UNIX system and runs the NAPIER software for its consents management. It is used by some staff to record information on compliance monitoring visits and has a 'call-up' mechanism to generate a list of consents to be monitored in a given week or on a given day. At present, only one or two staff members have the skills to use the machines for printing reports as the software is relatively new and the system still being developed. However, there is general support for the system once it is fully operative, particularly for its 'call-up' function.

Information gathered in the process of monitoring consents is reported and used in a variety of ways. Some is presented to the council's Environment and Planning Committee. For example, discharge consent monitoring is reported every three months in a summary document which identifies the consents for which non-compliance is a problem and those for which compliance has been achieved. The enforcement officer reports on the land use consent monitoring to the same committee at most of their six weekly meetings, drawing attention to issues of concern and updating the committee members on compliance progress generally. Councillors have indicated that they would also like reports on the complaints received, which is not presently done.

Compliance monitoring information is also used for renewal of consents and sometimes to review conditions on consents. Most consents contain a review clause which allows conditions to be reviewed and modified if necessary.

Enforcement action can also be triggered and supported by compliance monitoring information, although there is no formal set of criteria against which enforcement decisions are made. The files of consents presenting a problem are more comprehensive and complete since, once an issue becomes a problem, the information gathered becomes much more important in terms of possible future action.





### 3 COMPLIANCE MONITORING ISSUES

---

This section highlights the issues that affect compliance monitoring in the Tasman District. It focuses on the pressures and constraints faced by the council, and how the council is responding to its monitoring duties. It also identifies opportunities for improving the administration of compliance with resource consents.

Broad policy relating to compliance monitoring is contained in the TDC's proposed Regional Policy Statement, the State of the Environment Monitoring Strategy, the proposed Tasman Resource Management Plan and the Annual Plan, which provides a general statement of intention. As noted above, there is at present no formal policy, strategy or stated priorities to guide compliance monitoring, although an enforcement protocol states the underlying principles for enforcement and provides some direction for staff. The council has acknowledged the need for a more strategic approach and is working towards developing a compliance monitoring strategy.

#### 3.1 Policy - monitoring strategy

The compliance monitoring policy is intended to coordinate the different monitoring sections and activities of the council, ensuring consistency while allowing for flexibility in the varying functions and demands associated with the range of consents administered.

The present lack of a monitoring strategy means that compliance monitoring is being done in an unstructured and inconsistent manner. Some staff members have developed their own systems and approaches to compliance monitoring, including a range of visit sheets, file note systems and recording systems. This means that the information collected is varied, stored in different places, is often not complete and, therefore, is not as useful as it could be.

Council structure is such that district land use consents are monitored by separate monitoring personnel, while regional resource consents are monitored for compliance by the same staff members who process the consents.

#### 3.2 Structure

There are both positive and negative implications of this arrangement. In a positive sense, it means that staff with the relevant background information and skills undertake compliance monitoring. This is particularly useful for consents for which technical expertise is needed to understand the conditions fully. In addition, staff have indicated that they enjoy the range of activities associated with broader responsibilities and appreciate having ongoing involvement with the

consents. This aspect also benefits consent holders who have continuity of service and gain familiarity with one staff member with whom they can deal. In addition, it is not necessarily inappropriate for the different consent types to be treated differently either in the structure or the procedures used since there are different needs and characteristics for each. It is important, however, that consents of a type are treated consistently and that the requirements of the council for information and compliance are met.

The negative side of the present structure is that compliance monitoring for regional resource consent tends to be left out when staff are under pressure in processing consents. In addition, there is presently no one with an overview of, or specific responsibility for compliance monitoring. Combined with a lack of strategy and policy this means that there is little coordination of compliance monitoring and no real integration of it with other monitoring activity.

There are two possible structural solutions to this problem. The first is to create a compliance monitoring section of the council within which there would be designated staff for whom monitoring is their sole activity. While more compliance monitoring could be done, issues to be addressed include who would do the technical monitoring required for some consents. The second possible approach would be to nominate or appoint a 'compliance monitoring manager' who would coordinate monitoring activity, decide on a compliance monitoring strategy and negotiate with staff the time they will put into compliance monitoring. The approach would improve accountability for compliance monitoring and still give staff a range of activities as well as draw on their technical skills for monitoring certain consents.

In reviewing the structure and systems for compliance monitoring the council will have the chance to enhance existing practices and opportunities. Integration of compliance monitoring for multiple consent activities, delegation of monitoring both internally and externally, capture of information gathered through incidental monitoring, streamlining of the processing of consents by applicants with a good compliance record, and integration of complaints information with compliance monitoring should all be considered in any review. Management of consent compliance with consents granted by the council to itself is another significant issue that warrants attention in any review process.

Regardless of the approach chosen, adequate resources will need to be allocated to ensure that objectives can be met. The issue of funding for compliance monitoring, both in relation to council allocation of funds and cost recovery, will need to be addressed once policies and objectives for the activity have been developed.

Information on the monitoring of consents, including compliance checks, inspection sheets, reports, abatement notices and information on follow-up activity needs to be coordinated and consistent. In addition, the system of information management should be reviewed regularly to ensure that it meets the council's needs. The way in which information is gathered, stored and analysed is critical to the usefulness of compliance monitoring generally.

### **3.3 Information Management -issues**

The present process of information collection is, as noted above, varied. This means that the information collected is also varied. At present, no policy or system ensures that the compliance information gathered is complete or consistent between consents and staff or over time.

#### **3.3.1 Present system of information management**

Once collected, information is kept on paper files, sometimes in informal files on the desks of the staff involved, sometimes in staff diaries and, for some consents, on computer. The information recorded in these locations is often inconsistent, incomplete and hard to access and with the range of information collection and recording systems used the council is vulnerable to information loss should staff leave the organisation. Where there are problems with compliance or enforcement action had been taken, the information recorded is generally more complete. In addition, where monitoring forms documenting monitoring visits and detailed explanatory file notes are included, the information is greatly enhanced.

Information on consent compliance is used for a variety of purposes, including review or renewal of consents, reporting to council and enforcement action. However, there is no policy to guide these uses.

Many of the uses of compliance information can be seen as part of a feedback system which tells the council how well its intentions and goals are being achieved.

Although there are presently several different systems for collecting and recording compliance information at TDC, none is complete. The information management system is inconsistent and fragmented, making information retrieval and use difficult.

#### **3.3.2 How the system could be improved**

Once council has decided how to use the information, ie the performance indicators for compliance monitoring, it can turn its attention to the management of that information. Storage of information could be improved by tidying existing files, removing duplications and ensuring the basic information, such as a copy of the consent, is on the file. Staff could be encouraged to place information on file if it is shown to be ordered and readily retrieved. A simple way of making filed information more accessible is to use different coloured

paper for each type of document, such as the resource consent, correspondence, compliance visit sheets, and file notes.

As noted above, the council has a computer system. This has potential, particularly as a way of reminding staff when to monitor consents and for reporting on the number and frequency of compliance monitoring checks. However, this system cannot replace the hard file system and the latter should not be neglected in the development of computer aided information management. When deciding how the computers will be used, consideration should be given to the development of a protocol for recording information to avoid duplication and gaps, within and between systems.

An information management system must reflect both the needs of the council and the type of consent being monitored. Different consent types have different monitoring and information requirements, and this should be acknowledged and consent monitoring undertaken accordingly. Any information management system should, however, regardless of the type of consents being monitored, enable the council to meet its goals of compliance monitoring, allow it to determine how well the system is functioning and enable the information to be integrated where necessary with other information sources, such as State of the Environment monitoring. To achieve this, information management needs to be consistent, coordinated and easy to use.

### **3.4 Other issues**

#### **3.4.1 Complaints**

According to TDC, some members of the public do not believe they should have to lay complaints as the council should be ensuring compliance and dealing with adverse effects. However, given the limitations of council resources, reporting by the public is a valuable source of information about non-compliance and environmental issues generally. This information should be recorded so that it can be tied into other compliance monitoring activities undertaken by the council.

#### **3.4.2 Conditions**

The conditions on consents are critical to the ability of a council to monitor compliance and need to be unambiguous, meaningful, measurable, appropriate and enforceable. Not all consent conditions at the TDC were clear enough to be interpreted or monitored readily. This can make it difficult for the consent holder to comply and the consent monitoring officer to check for compliance. Furthermore, many conditions included provisos such as 'to the satisfaction of the council officer', which, while providing flexibility, removes certainty and makes monitoring of the condition difficult.

Reports on compliance monitoring are presented to council's Environment and Planning Committee. These are presented for discharge consents, district land use consents and subdivisions. Although subdivision reports are purely statistical, the discharge and district land use reports draw attention to non-complying and complying consents, and report on any ongoing monitoring of consents for which problems were noted in previous reports. These are a useful way of presenting information, although they do not generally deal in detail with the consents conditions. Council has indicated that reports on complaints, which are not prepared at present, would also be useful.

### **3.4.3 Reporting mechanisms**



## 4 FINDINGS

---

In this section the council's administration of compliance monitoring with resource consents is considered against the criteria outlined in appendix 1.

While the rationale for compliance monitoring is explained in the council's proposed RPS (1995, p.173), the council has no coordinated system or strategy for compliance monitoring and the policy written is too vague to provide adequate guidance for compliance monitoring activity. The council has developed an enforcement protocol for the guidance of staff, but no systems or procedures are in place to monitor compliance in a consistent and effective manner. Furthermore, while the council has recognised the need for a monitoring strategy, the priorities to be given to compliance monitoring, and what the council wants to achieve through this process, appear not to have been considered.

### 4.1 Policy/Plans

Despite the absence of guiding policy, a notable amount of compliance monitoring is being undertaken for some consent types. However, this is limited by the structure of the organisation which means that staff are responsible for compliance monitoring as well as complaints and resource processing. If staff are pressed for time, less compliance monitoring is done.

### 4.2 Structure and resources

Due to the council's small size and the culture of the organisation, there are effective internal communication links between those parts of the council which prepare plan provisions and those which monitor compliance and carry out enforcement. These links are not formal, but appear to work well.

While based on a number of templates to ensure conditions are consistent and generally appropriate to the scale and intensity of the activities, consent conditions are frequently unclear, not measurable, and sometimes not even achievable. Such conditions may make it difficult for consent holders and council staff to determine whether or not compliance has been achieved.

### 4.3 Consent conditions

No overall system or procedures are in place to monitor compliance with consents. The council has acknowledged this shortcoming and has stated its intention to develop such mechanisms in the Annual Plan.

### 4.4 Monitoring systems





## **5 RECOMMENDATIONS**

---

It is recommended:

### **Policy**

- 5.1 That council produces specific policy aimed at creating priorities and objectives for compliance monitoring, and that this leads to a strategy which fosters the achievement of the objectives. These policy and strategy documents should give guidance to staff on compliance monitoring priorities, how compliance monitoring is to be done, what information is needed and how this is to be recorded and used.
- 5.2 That compliance monitoring information is used to 'feed-back' into the development and review of policy, including general monitoring strategies and policies, monitoring programmes and consent conditions.

### **Structure**

- 5.3 That council investigates options for improving coordination of and accountability for compliance monitoring of resource consents. This includes the option of having one person with an overriding coordination role who 'purchases' compliance monitoring activity from staff in various sections of the council.

### **Information management**

- 5.4 That an information strategy be developed to achieve better coordination of and access to information on resource consents. This should include a protocol for information recording on compliance monitoring which avoids unnecessary duplication.
- 5.5 That compliance monitoring guidelines be developed for staff to promote a consistent approach to monitoring, investigating, reporting and enforcing consent conditions.
- 5.6 That a standardised visit sheet is used for all compliance monitoring visits to ensure appropriate information is collected for all consents within and between consent types.

- 5.7 That the Council consider developing a file note system whereby file notes are recorded on a standard form to allow easy identification, and to encourage use of dated and signed file notes as a mechanism for recording verbal communications relating to consents.
- 5.8 That a colour coding or other identification system be developed which enables key documents to be located easily in the paper files.
- 5.9 That filing be tidied up to eliminate unnecessary duplication and undated, unsigned documents.
- 5.10 That condition templates be reviewed to ensure they are achievable, clear, measurable and enforceable and that conditions are checked before they are issued to ensure they meet these criteria.
- 5.11 That options for the future use of computers for the management of compliance monitoring information be considered only after the information requirements and goals for compliance monitoring administration have been decided.
- 5.12 That reporting be continued, and consultation with the council be used to ensure that the information desired by the council corresponds with that reported by the staff.
- 5.13 That the council consider ways by which information from incidental monitoring can be formalised and linked into other compliance monitoring activity.

#### **Other**

- 5.14 That the council acts promptly in using enforcement mechanisms when non-compliance is ongoing and problematic.
  - 5.15 That a good compliance record be rewarded by fewer visits and therefore lower charges, and this be publicised so consent holders have an incentive to comply.
  - 5.16 That complaints be recognised as a legitimate source of compliance information and that the public be encouraged to report problems and non-compliance by being informed of the results of the council's investigation of complaints.
-

## REFERENCES

---

Tasman District Council. *Proposed Regional Policy Statement 1994*

Tasman District Council. *Annual Plan 1995-96*

Tasman District Council. *Environment and Planning Department Appointment Register*

Tasman District Council. *Delegation Register 1996*

Tasman District Council. *Transitional District Plan*

Tasman District Council. *Strategy for Monitoring the State of the Environment in Tasman District 1995*

Tasman District Council. *Annual Report 1995*



# APPENDIX 1

## CRITERIA FOR EVALUATING COUNCILS' COMPLIANCE MONITORING SYSTEMS

---

### *Policies / plans*

- Policies, objectives and priorities are stated to guide compliance monitoring systems and procedures.
- A monitoring strategy and priorities are set out in the council's Annual Plan or other publicly available strategic document.

### *Structure and Resources*

- The council has established a management structure and adequate resources to enable it to carry out compliance monitoring duties effectively and efficiently.
- Effective internal communication links are in place between those parts of the council which prepare plan provisions (eg standards, terms and other rules), those which set consent conditions, and those which monitor compliance and/or carry out enforcement.

### *Consent conditions*

- Consent conditions are achievable, measurable, clearly stated, enforceable, and appropriate to the scale and intensity of the activities and their effects.
- Consent conditions are consistent with the council's resource management policies and objectives in the regional/district plan, and with the purpose and principles of the RMA.

### *Monitoring Systems*

- Systems and procedures are in place to monitor compliance with plans and consents in a consistent and effective manner, and to enable the council to comply with its duties under s 35 of the RMA.
- Clear advice is given to both existing consent holders and applicants for consents on general and specific monitoring requirements related to their consents.

- A system exists for recording and following up complaints about non-compliance with consent conditions, and reporting on the outcome of any investigation.
- The council has systems in place that enable identification of activities which require a resource consent, but are operating without one.
- Consents with a good track record are processed and renewed more efficiently.

### ***Monitoring Programmes***

- Systematic programmes for monitoring resource consents have been developed by the council.
- Individual monitoring programmes are negotiated between the council and consent holders, with provision for public input where necessary, and the distribution of costs and responsibilities between the consent holder and the council are clearly defined and legally defensible (with reference to s 36(4) and s 108(3) and (4)).

### ***Information Management***

- Council is clear about the purpose for collecting compliance monitoring information and the use to which the information will be put.
- Information is stored in an accessible and consistent manner.
- Information is readily retrievable.
- Consent monitoring information is analysed and used:
  - a) to gather information on the environmental effects of an activity covered by a resource consent;
  - b) as a basis for reviewing conditions, and renewing resource consents;
  - c) as a basis for reviewing compliance monitoring policies, programmes and procedures;
  - d) for enforcement purposes.
- Information from compliance monitoring is publicly available, and is able to be linked with information generated by or for other monitoring requirements (eg s 35(2)(a) and 35(2)(b)).