

12 FEB 2020

20-D-00060

 s 9(2)  
(a)  
Forest and Bird  
@forestandbird.org.nz

Dear s 9(2)(a)

Thank you for your email of 16 January 2020 requesting the following under the Official Information Act 1982 (the Act):

- Any report prepared by MfE provided to RM Review Panel regarding compliance monitoring and enforcement, or oversight, and
- Any document (including internal paper, analysis or report) prepared by MfE that was prepared as a result of or in response to the Martin Jenkins report titled "Review of NZTA regulatory performance", and
- All internal & external correspondence & docs produced on or after 11-Nov-2019 relating to the article published in MSN/Newsroom 18-Nov-2019 titled 'RMA oversight unit not fit for purpose'.

Following your discussion with Mr Jos Fryer (Senior Policy Analyst) of 24 January 2020, and your agreement, the scope of the second bullet point of the request has been limited to a single draft paper and does not include other related documents, such as emails.

The paper released in relation to your second bullet point was prepared for the Ministry's Te Purengi (Executive Leadership) Team meeting of 8 November 2019. However, following the preparation of this version, further instructions about the scope and nature of the paper were given, and the paper is now being revised and will be presented to Te Purengi at a later date. The version provided to you here is the most recent version prepared prior to your request, and should be regarded as an incomplete draft.

Please also note that the two papers prepared for the RM Review Panel are not government policy and no decisions on these policy areas have yet been made. The RM Review Panel will make recommendations to the Minister for the Environment later in the year. We welcome Forest and Bird following the work of the panel and making submissions on these topics at the appropriate time.

The Ministry for the Environment has identified seven documents (including a thread of emails) in scope of your request, as listed in the attached document schedule. Some information within these documents has been withheld under section 9(2)(g)(iv) of the Act to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty. Some text from an email has also been redacted as it is considered to be outside the scope of the request.

You have the right to seek an investigation and review by the Office of the Ombudsman of my decision to withhold information relating to this request, in accordance with section 28(3) of the Act. The relevant details can be found on their website at: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Please note that due to the public interest in our work, the Ministry for the Environment publishes responses to requests for official information on our [OIA responses page](#) shortly after the response has been sent. If you have any queries about this, please feel free to contact our Executive Relations team: [ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz).

Yours sincerely



Jo Gascoigne  
Director, Natural and Built System

Released under the provision of  
the Official Information Act 1982

Document schedule

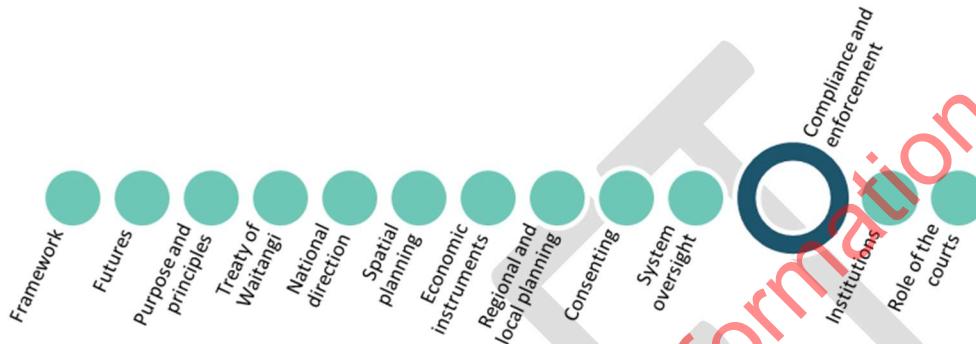
Document no.	Document date	Content	Decisions	OIA sections applied
1	31 October 2019	RM Review 2019: Compliance, Monitoring and Enforcement	Released in full	N/A
2	31 October 2019	RM Review 2019: Monitoring and System Oversight	Released in full	N/A
3	8 November 2019	Te Purengi Paper: Lessons and insights for MfE from the Review of NZTA Regulatory Performance	Released in part	s9 (g)(i) (free and frank)
4	15 Nov 2019	FW: RMA oversight unit media enquiry	Released in full	N/A
5	15 Nov 2019	RE: RMA oversight media enquiry	Released in full (thread of 12 emails)	N/A
6	19 Nov 2019	RE: RMA enforcement unit in media FYI	Released in part (some out of scope content redacted).	N/A
7	19 Nov 2019	RE: F&B	Released in full	N/A

Released under the Official Information Act 1982

# Compliance, monitoring and enforcement

*This paper discusses compliance and enforcement (CME) functions (and monitoring associated with these functions) under the Resource Management Act 1991 (RMA) to inform the comprehensive review of the resource management system. It identifies problems with these functions, presents options for reform, and points out the key judgements required to take forward policy.*

*Options for the reform presented in this paper are closely connected with other design choices discussed in the Institutions working paper.*



## Executive summary

1. Compliance, monitoring and enforcement (CME) is essential to the resource management system. The investments we make in law-making, plan-making and consenting can be undermined if the rules and conditions we impose through decision-making are not upheld.
2. This paper analyses the performance of CME functions in the existing resource management system, identifying key strengths and weaknesses, drawing upon available sources and commentary.
3. Problems with CME are broadly sorted into two categories:
  - institutional arrangements
  - deficiencies in the existing statutory provisions.
4. Our institutional arrangements have limited the capacity and capability of CME functions. The devolution of CME functions to a large number of small local government agencies creates a fragmented system, with operational and jurisdictional overlaps. The effectiveness of these agencies is affected by:
  - a lack of economy of scale to properly resource the CME function
  - biases and conflicts of interest (both actual and perceived)
  - competing functions which result in the de-prioritisation of CME.
5. Exacerbating this fragmentation is a long history of weak oversight and guidance from central government, including the Ministry for the Environment (MfE). While some progress has been made in addressing this shortcoming in recent years, much work remains to be done.

6. Attached appendices explore:
  - 1) the spectrum of options available to address the issues arising from institutional arrangements - existing model with additional support, regionalised or centralised
  - 2) a range of suggested changes available to address specific issues with the existing statutory provisions, including:
    - penalties and sentencing
    - information powers
    - cost recovery
    - limits on insurance against penalties
    - making breaches of consent conditions an offence
    - evocation of consents and enforceable undertakings
    - enforcement of consent notices and covenants
    - bringing environmental bylaws under the Resource Management Act 1991 (RMA)
    - civil forfeiture
    - judge alone trials
    - training and qualifications for CME staff
    - prosecution guidelines.
  - 3) the potential risks and benefits that may flow from the implementation of the centralised multi-disciplinary option.

## Introduction

7. CME is essential to the functionality of all regulatory regimes, and the environment is no exception. Investments in law-making, planning policy frameworks, and consenting processes can be undermined if not supported by robust detection and intervention practices. These practices need to be capable of identifying and solving the problems created by non-compliance.
8. This paper seeks to do the following:
  - define CME in an environmental context and explain the purpose and importance of CME in environmental regulation
  - examine the history of criticism and analysis of CME performance in environmental regulation in New Zealand
  - explain key roles and responsibilities with respect to CME in the existing system
  - summarise strengths and problems in the existing system
  - identify links to the overall reform framework
  - identify key judgements required for decisions about CME in a future system
  - illustrate the spectrum of options available with respect to institutional change for CME (see Appendix 1)
  - set out some specific suggested statutory changes in a concise appendix (see Appendix 2)
  - provide a *prima facie* risk-benefit analysis of the 'most change' option for institutional arrangements (see Appendix 3).

## Scope and definitions

9. This paper is about the tools, strategies, and institutional arrangements that we use to detect and address non-compliance with rules and regulations by regulated parties. It does not explicitly deal with the related functions of monitoring the performance of regulators, economic incentives or instruments, or monitoring the state of our environment. These issues are the focus of other papers.
10. In an environmental context, CME encompasses the strategies, tools and institutional arrangements we use to encourage or compel resource users to adhere to environmental rules and regulations.<sup>1</sup> This paper adopts the definitions of CME as set out in the *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*.<sup>2</sup>
  - **Compliance:** adherence to the RMA, including the rules established under regional and district plans and meeting resource consent conditions, regulations and national environmental standards.
  - **Monitoring:** activities carried out to assess compliance with the RMA. This can be proactive (eg, resource consent or permitted activity monitoring) or reactive (eg, investigation of suspected offences).
  - **Enforcement:** actions to respond to non-compliance with the RMA. Actions can be punitive (for the purpose of deterring or punishing the offender) and/or directive (eg, directing remediation of the damage or ensuring compliance with the RMA).
11. The terms 'environment' and 'environmental' are used in the same broad and inclusive way in which 'environment' is defined in the RMA. It includes: ecosystems (including people and communities); all natural and physical resources; amenity values; and social, economic, aesthetic and cultural conditions. It incorporates both the natural and built environment, including urban areas.
12. Although a substantial portion of the commentary in this paper focuses on coercive enforcement functions, it should be noted that non-coercive strategies, such as education and advocacy services, and pricing and economic instruments, also play an important role in driving compliant behaviour change.

### VADE model

13. This paper is informed by the VADE (Voluntary–Assisted–Directed–Enforced) model shown in Figure 1. The model illustrates the compliance approach adopted by many modern regulators.<sup>3</sup> The model divides regulated parties into four broad behavioural groups, and describes the CME strategies appropriate to respond to each behaviour type. The model is cited here to emphasise the importance of proper resourcing and prioritisation of CME work, and to demonstrate the value added by employing a range of strategies targeting different groups.

---

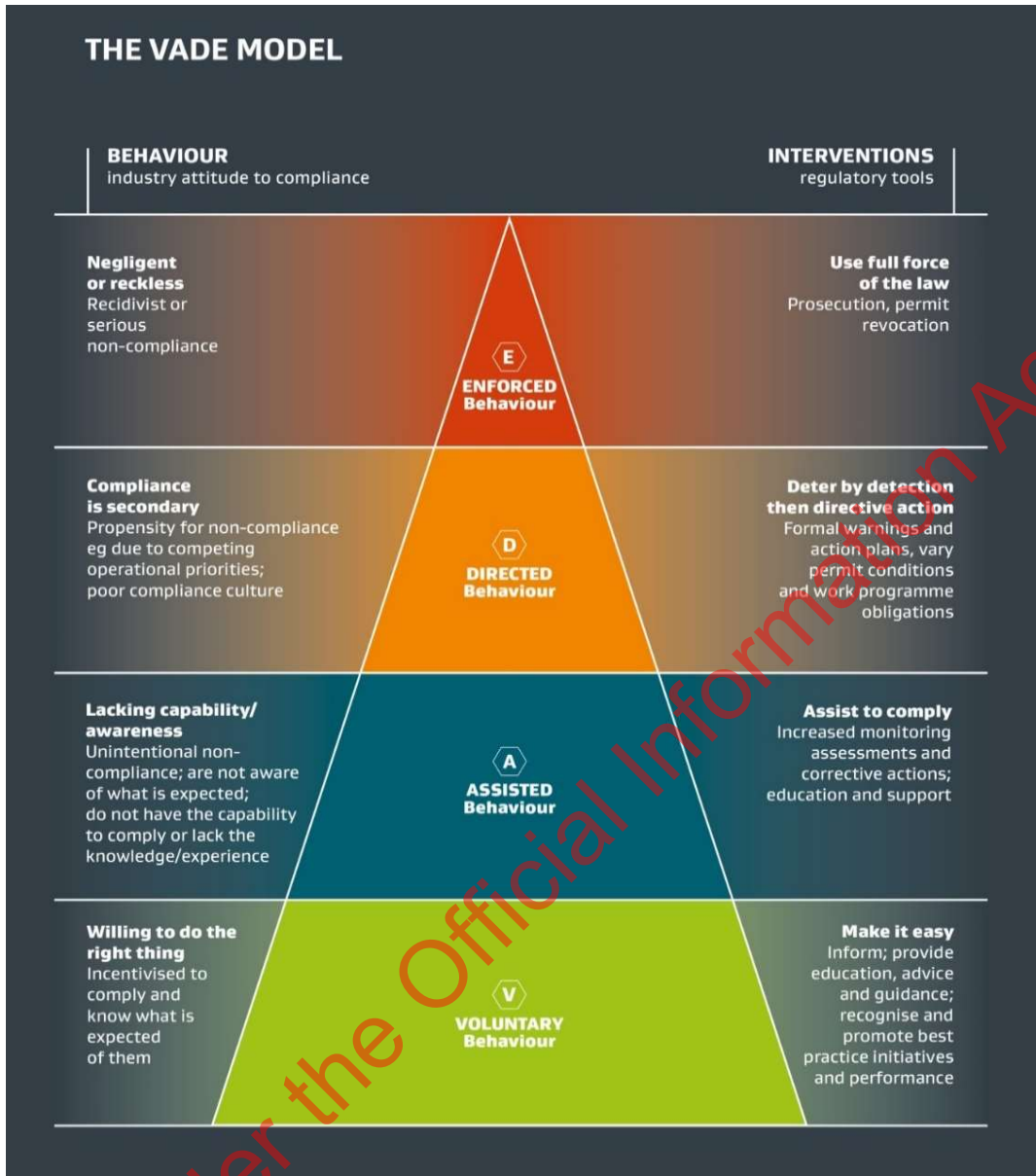
<sup>1</sup> Nolan, D (ed). 2015. *Environmental and Resource Management Law*. Wellington: LexisNexis NZ Ltd, p 1339.

<sup>2</sup> Ministry for the Environment, 2018. *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*. Wellington: Ministry for the Environment. p 11.

<sup>3</sup> The VADE model is widely used internationally. In New Zealand, it has been adopted by numerous regulators, including the Ministry for Business, Innovation and Employment; New Zealand Transport Agency; the Ministry for Primary Industries; Maritime NZ; the Department for Internal Affairs, and others including various local government agencies.

14. The group in green at the base of the pyramid represents parties who are willing to comply **voluntarily**. Regulators should seek to make it easy for these parties to comply. Rules and regulations should be accessible and easy to understand. Roles and responsibilities should similarly be clear and easily understood – both in terms of the responsibilities of the regulated parties and the responsibilities of the regulators, especially where multiple statutes or disciplines overlap. Regulators may wish to audit or inspect operations occasionally to check that compliant practice is being upheld, and to obtain models of compliant best practice. Best practice should be recognised, publicised and celebrated by regulators and industry groups.
15. The group in blue are parties who are willing to comply but may require **assistance** to do so. Regulators should seek to assist these parties by implementing targeted education and advocacy services, or by providing referrals to industry experts who may be able to render more comprehensive assistance that the regulator is not in a position to offer. Because this group will require more assistance from the regulator, audits or inspections need to be more regular in order to ensure that any issues are identified early and can be corrected.
16. The group in orange represents a group for whom compliance is not a priority. This group requires stronger intervention and must be **directed** to comply. Parties within this group may be non-compliant due to competing priorities or poor compliance culture. They may even opportunistically seek to evade regulations, if they believe that their non-complaint behaviours will not be detected. Regulators need to conduct vigilant oversight of these parties with frequent audits and inspections. Non-compliance should be treated seriously, with interventions involving formal warnings, directive coercive enforcement tools (such as abatement notices and/or enforcement orders), infringement fines, and occasionally (if the noncompliance is repeated, or of a serious nature) prosecution.
17. The group in red represents the smallest but most problematic group. This group may act in open defiance of rules and regulations or show a reckless or negligent disregard for them. Regulators must use their strongest coercive **enforcement** techniques in response to this group. Inspections and audits should be targeted and relentless. Non-compliance should be met with stern action such as prosecution, and/or, where available, revocation of the parties' right to operate.

Figure 1: The VADE behavioural compliance model



18. It should be noted that although most coercive regulatory interventions are only required for the directed or enforced groups, successful strategies for all four groups depend upon the ability of regulators to detect and respond to both noncompliance and best-practice compliance. Regulators must have sufficient capability and capacity to deal with serious noncompliance when it is detected.

**Environmental regulation vs self interest**

19. Environmental regulations limit the use of resources which could otherwise be consumed or abused for personal or commercial gain. Environmental law therefore competes against economic self-interest in order to promote the public interest. It seeks to promote beneficial environmental outcomes, and to prevent, limit, and manage environmental harm.
20. Like all regulated activities, environmental laws rely on a level of coercive power. While many regulated parties are prepared to comply voluntarily out of a sense of duty or community service, others may require the enlightened self-interest that arises from a credible threat of coercion, or the actual application of the coercive force of law, as shown in the VADE model.

21. Where enforcement of environmental regulations is variable or poor, a perverse incentive arises to exploit the environment for personal, commercial or financial gain. If offenders are not held to account for such exploitation, compliant operators are penalised for following regulatory requirements, while non-compliant operators are not restrained through detection and sanctions. Best-practice operators are thus undermined by exploiters, to the overall detriment of the market. This undermines the environmental outcomes envisaged by policy-makers and ferments ill-will among the regulated community.

## Background

22. Environmental CME practices in New Zealand under the RMA and related statutory frameworks have been subject to significant analysis over recent decades. This section examines and summarises the key works and data sources, including:
- *Prosecutions under the RMA*, a thesis study by environmental lawyer Karenza de Silva
  - a series of four studies on the use of prosecutions under the RMA, commissioned from de Silva by MfE
  - data from the National Monitoring System (NMS)
  - a 2016 report by MfE: Compliance, monitoring and enforcement by local authorities under the Resource Management Act 1991
  - *Toward Better Local Regulation*, a 2013 report by the Productivity Commission
  - three pieces of work authored by Dr Marie Doole (nee Brown):
    - *Ecological compensation: an evaluation of regulatory compliance in New Zealand*
    - *Compensating for Ecological Harm: the state of play in New Zealand*
    - *Last Line of Defence*.

### Analysis of prosecutions under the RMA

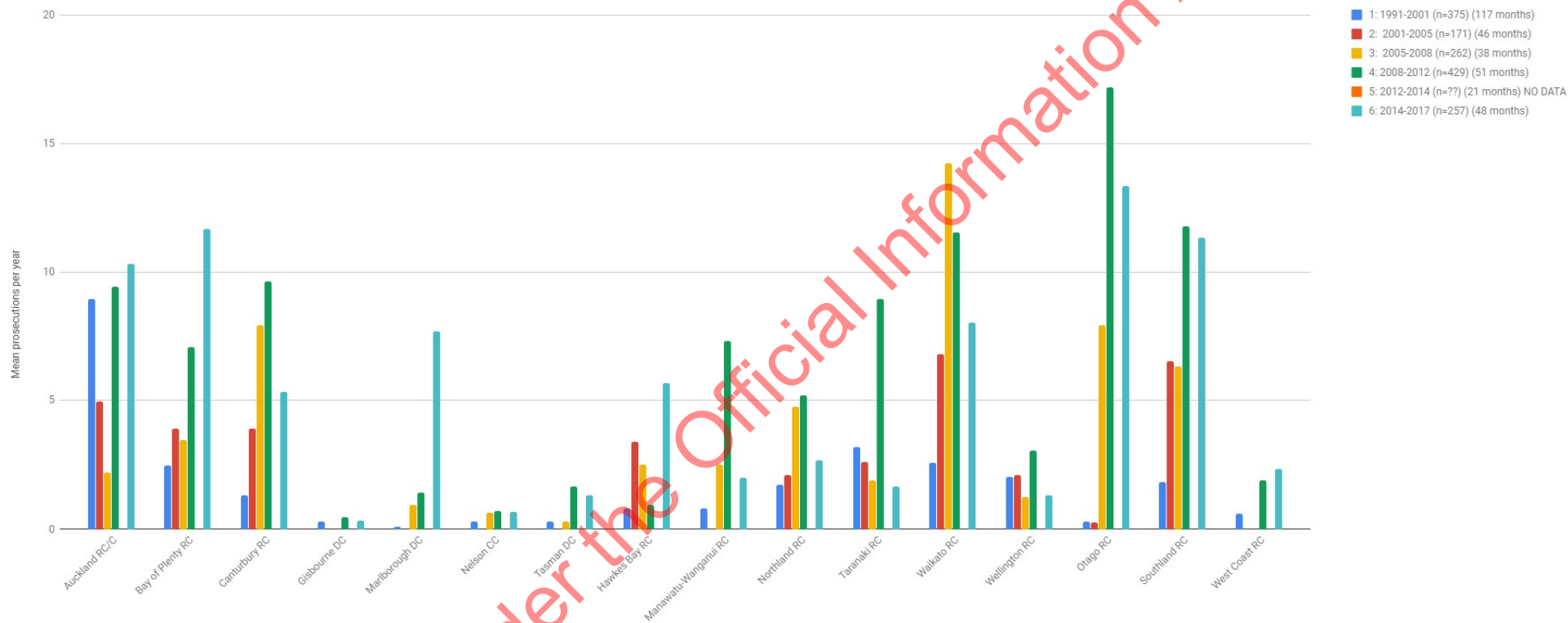
23. Karenza de Silva's 1999 thesis study *Prosecutions under the RMA* was the first to illuminate the substantial differences in enforcement approaches between the various local government authorities. The study involved the collation and analysis of the outcomes, sentences and appeals of RMA prosecutions between 1991 and 1999. Although the thesis focuses primarily on the use of prosecutions, de Silva also sought information about the use of other coercive enforcement mechanisms. De Silva's investigations into RMA prosecutions highlighted the informal and ad-hoc approach of many local authorities with respect to RMA compliance and enforcement at the time.
24. In chapter III of the thesis, the number of prosecutions taken under the RMA is compared against the number of prosecutions taken under the Health and Safety in Employment Act 1992 (HSEA). De Silva observed that the Department of Labour (DoL) had undertaken a deliberate and strategic 'initial burst' of prosecutions in the early years of administering the HSEA. The purpose of this 'burst' was to firmly deter non-compliance and thus compel rapid improvements in workplace safety.
25. During the periods examined in the thesis, the DoL took 1066 HSEA prosecutions over 57 months, whereas local government authorities took only 280 RMA prosecutions over 88 months. Furthermore, the DoL kept accurate and comprehensive records and statistics on their use of enforcement and compliance mechanisms, and was readily able to provide these. In contrast, many local authorities were unable to provide useful information about their RMA compliance and enforcement activities over the study period. De Silva states:

*“I wrote to every territorial authority in New Zealand and asked for information on the use of the enforcement mechanisms under the Act... Most of the authorities who responded, told me that they had not kept accurate statistics of their use of the enforcement mechanisms.... it appears that most territorial authorities are reluctant to use any formal enforcement mechanisms.”*

26. De Silva concluded that many councils were reluctant to prosecute (or indeed, use other formal enforcement tools) for a variety of reasons, and asserted that this reluctance needs to be overcome in the interests of giving proper effect to the purpose of the RMA. The key reasons proposed by de Silva for not pursuing prosecutions included the costs involved, the right of defendants to elect trial by jury, and the modest penalties imposed by the courts at sentencing. Although the average penalties imposed at sentencing have increased in recent years (and maximum fine limits have been increased), all of these reasons persist today to some extent. The thesis concludes by emphasising the disparate approaches to enforcement, admonishing the reluctance of local authorities to pursue prosecutions, and making various recommendations for amendments to the RMA and its administration.
27. MfE commissioned de Silva to produce further studies to continue the research commenced by her 1999 thesis. The studies continued tracking the number, success rates, sentences and appeals on prosecutions over four successive study periods. The studies also tracked the economic sectors which were being prosecuted, the types of offences which were being prosecuted for, and the authorities who were bringing the prosecutions.
28. The follow-up studies provide valuable insights into the enforcement of the RMA. Although the studies acknowledge that the data is not exhaustive, general trends can be clearly deduced.
  - The average number of prosecutions per year rose substantially over the four studies, from 39 in the first study period (1991-2001) to 101 in the fourth study period (2008-2012).
  - The average penalty (and the maximum penalty) imposed at sentencing also rose over the successive study periods.
  - The conviction rate was steadily high, ranging between 87 per cent and 93 per cent.
  - The rate of appeal on sentences and convictions was low across all four periods.
29. Across the four study periods spanning 21 years, a total of 1,237 prosecutions were examined. New Zealand has 78 local authorities, but 31 of those authorities had no prosecutions examined in the studies. A further 27 had only 1-5 prosecutions included in the studies. While it is possible that some of these councils had taken prosecutions which were overlooked or omitted by the studies, the trend is clear: the vast majority of RMA prosecution actions are taken by a small proportion of authorities. Similar disparities can be seen in the use of the other formal enforcement tools using NMS data (and the data gathered by the precursor to the NMS – the biennial surveys). When district and city councils are excluded and only regional and unitary councils are compared, the view is less imbalanced, however, disparity remains evident (see Figure 2).
30. In addition to these studies, MfE has gathered data about CME through the NMS reporting system and its precursor biennial surveys. NMS data can be collated to provide prosecution numbers for a fifth study period for comparison against the previous four studies. The figure on the following page shows the average number of RMA prosecutions taken by regional and unitary councils over the period 1991-2017, incorporating the NMS data for 2014/15 to 2017/18. The pattern of disparity remains largely the same.

**Figure 2: Average number of prosecutions per year taken by regional and unitary authorities over 5 study periods**

Average Number of prosecutions per year for regional councils across 5 study periods (de Silva & MfE, 2002, 2006, 2009, 2013, MfE NMS 2014-2017)



Released under the Official Information Act 1982

31. At face value, these findings seem contradictory. On one hand, it is clear that the overwhelming majority of RMA prosecutions are successful, and the average penalties imposed have risen steadily since the introduction of the RMA. On the other hand however, the studies also highlight the continuing disparity between enforcement approaches in some areas of local government: a very significant proportion of authorities still shy away from exercising their enforcement functions.
32. From these observations, it could be reasonably inferred that the reluctance of authorities to prosecute is not strongly correlated to the probability of those same authorities succeeding in prosecutions if they opted to pursue them. It therefore logically follows that there are other factors (aside from the risk of failure) which deter these councils from pursuing enforcement.

### **National Monitoring System (NMS) data and Ministry research**

33. Examination of prosecution numbers is a relatively simplistic and reductive lens through which to view overall CME efficacy, capacity and capability. A complementary (and potentially more useful) approach is to compare resourcing by examining full-time-equivalent employees (FTE) allocated to RMA CME functions. This comparison yields similar disparities. For example, the 2017/18 data from the NMS shows:<sup>4</sup>
  - of 78 local authorities, 37 have 1 or fewer FTE for RMA CME. Of these 37, 13 have 0 FTE for RMA CME (note that all of these are territorial authority councils)
  - of 516 FTE nationwide, 268 (52 per cent) are employed by only 6 councils (5 of the 6 are regional/unitary councils)
  - only 15 councils have 10 or more FTE for RMA CME (10 of the 15 are regional/unitary councils).
34. In 2016, MfE produced its first in-depth analysis of broader CME functions under the RMA.<sup>5</sup> The report was based on data held by MfE, and discussions with representatives of councils and other stakeholder groups. While the report made no recommendations, it observed a number of issues. These included:
  - significant variation in the way councils carry out their CME function (ranging from robust to non-existent)
  - limited resourcing for CME at some councils, or no resourcing at all
  - a lack of data about council CME practices
  - regional and unitary councils have collaborated to improve their CME practices through the Compliance and Enforcement Special Interest Group (CESIG), however, there is no similar forum for territorial local authorities
  - inappropriate political influences in CME processes and decision-making.

---

<sup>4</sup> Note that the Otago Regional Council (ORC) did not supply FTE data for CME services in the 2017/18 NMS survey. FTE numbers for ORC in relation to these figures are instead sourced from: Brown, M.A. 2018. *Independent Analysis of the 2017/2018 Compliance Monitoring and Enforcement Metrics for the Regional Sector*. Palmerston North: The Catalyst Group, p. 32.

<sup>5</sup> Ministry for the Environment. 2016. *Compliance, monitoring and enforcement by local authorities under the Resource Management Act 1991*. Wellington: Ministry for the Environment.

## New Zealand Productivity Commission research

35. Poor CME performance has also been recognised by independent reviews. In its 2013 report *Toward Better Local Regulation*, the Productivity Commission dedicates a chapter to the CME functions of local government. The report identified the following key issues:

- inadequate monitoring of RMA compliance by councils
- insufficient risk-based prioritisation of CME
- the need to pool experience and databases to build data and intelligence tools to guide targeted CME interventions
- insufficient penalties to deter non-compliance
- insufficient cost-recovery mechanisms
- the need to create functional separation between CME and consent processing.

## Research by Dr Marie Doole

36. Dr Doole, in collaboration with other authors, has produced a series of articles and publications offering strong insights into deficiencies in the current system.
37. When considering the CME functions of the RMA, it is imperative to consider the environmental outcomes which derive from noncompliance. Unfortunately, research in this area is scarce. While MfE makes limited enquiries into RMA compliance activity through the NMS, without more detailed context, this data yields no substantive information on the environmental outcomes which arise from noncompliance.
38. *Ecological compensation: an evaluation of regulatory compliance in New Zealand* investigated the use of ecological compensation as a means of mitigating adverse effects upon the environment. Specifically, the study examined the levels of compliance with 285 resource consent conditions, where a requirement to provide some form of ecological compensation had been imposed. The levels of compliance were then rated on a scale from 0 (no compliance) to 3 (satisfactory compliance).
39. The findings of the study showed that compliance with these conditions was poor, with only 65 per cent of those conditions achieving a '3' rating, while 15 per cent of the conditions received a '0' rating. One finding showed that even where the conditions of consent had required compliance monitoring, there was no strong correlation with compliance ratings. This suggests that even when noncompliance was evident, appropriate enforcement actions were either not used, or, were used but were not effective in securing compliance. It was also noted that there was evidence to show that reports and information submitted by consent holders often went without being acknowledged or acted upon by the relevant agency. The findings therefore imply a lack of regulatory oversight by some local authorities with respect to CME practices.
40. In the follow-up study, *Compensating for Ecological Harm: the state of play in New Zealand*, the authors observe that:

*"[p]ost-decision failures of compliance (and subsequent enforcement) undermine compensation, and society bears the burden of unfulfilled promises."*

41. In the concluding statements, the authors go on to state:

*“[i]ncreased emphasis on monitoring and compliance by agencies is... necessary such that instances of default can be identified and rectified as soon as possible.”*

42. When the decision-making processes of the RMA identify adverse effects upon the environment which will arise from a consented activity, there is a duty to ensure that those effects are appropriately avoided, remedied or mitigated. Imposing conditions of consent is a means of achieving this. If conditions are imposed but not complied with, it is reasonable to infer that the associated adverse effects are not adequately avoided, remedied or mitigated. Such noncompliance therefore obstructs the RMA from achieving its purpose.

43. In 2017 Dr Doole produced a report entitled *Last Line of Defence* for the Environmental Defence Society. *Last Line* is the most rigorous analysis of environmental CME functions undertaken in New Zealand to date.

44. The report identified numerous systemic problems:

- variable resourcing and commitment to CME by local authorities
- political interference, conflicts of interest and other biases
- poor organisational design and inadequate execution of CME functions
- a chronic over-reliance on volunteers, such as honorary rangers from the Fish & Game Council
- limited focus on CME from agencies such as the Ministry for Primary Industries, Land Information New Zealand and the Overseas Investment Office.

45. *Last Line* also identified inadequate stewardship of environmental regulatory compliance by MfE. According to the report, MfE:

- lacks the capacity and expertise to provide qualified CME oversight
- has historically provided inadequate guidance to environmental regulatory agencies on implementation of their CME duties
- has not built systems to provide the intelligence tools required to identify and solve environmental compliance problems
- produces reporting on CME performance by local authorities and other environmental regulators that lacks context and coherence.

46. CME and the systems that support it, including the role of MfE and other institutions, will be a significant focus of comprehensive reform efforts. This is reflected in the findings of the *Performance Improvement Framework – Report for the Ministry for the Environment 2018*, which states:

*“[f]rom a purpose and strategy standpoint a stronger, more aspirational MfE needs to be more influential with other government agencies and put greater backbone into enforcement to support this strategy.”<sup>6</sup>*

47. This paper draws heavily on the commentary and analysis of *Last Line*.

---

<sup>6</sup> State Services Commission. 2018. *Performance Improvement Framework: Report for the Ministry for the Environment*. URL: <https://ssc.govt.nz/assets/Legacy/resources/pif-mfe-july2018.pdf>

## Current capacity-building initiatives

### MfE’s role in CME

- 48. MfE has overall responsibility for overseeing the administration of the RMA, including CME services and the performance of agencies in the system.
- 49. As indicated by the criticisms in *Last Line*, MfE’s role and responsibilities with respect to CME are an important factor for consideration. MfE’s *Compliance Strategy*, approved by the Executive Leadership team in August 2017, sets out three different approaches through which MfE can provide CME leadership:

<u>Passive observer</u>	<u>System steward</u>	<u>Active controller</u>
MfE monitors performance to inform the continuous improvement of our policy and regulatory frameworks.	MfE is outcome-focused and works in partnership with frontline agencies to achieve shared objectives.	MfE dictates expectations and uses coercive tools to ensure compliance with its regulatory frameworks.

- 50. Consistent with the expectations set out by Treasury’s April 2017 *Government Expectation for Good Regulatory Practice*, the strategy adopts the objective of becoming a strong system steward, and sets out some basic five year goals for achieving this.
- 51. In considering any changes to institutional arrangements, consideration also needs to be given to how MfE’s approach fits with any new institutional structure and any changes that might need to be made to MfE’s objectives, responsibilities, and functions with respect to environmental CME.

### The role of CESIG: The Regional Strategic Compliance Framework, non-coercive strategies, peer reviews, and reporting metrics

- 52. CESIG is composed of regulatory compliance managers and team leaders from across regional and unitary councils, and representatives from MfE and the Environmental Protection Authority are also invited attendees. CESIG has developed a shared strategic risk-based compliance framework to guide councils in planning their specific compliance programmes and projects.<sup>7</sup> The framework is broadly based upon the regulatory theories of Ian Ayres and John Braithwaite in the early 1990s and the subsequent academic work in regulatory practice by Professor Malcolm Sparrow.<sup>8</sup> In essence, the goal of the framework is Sparrow’s maxim: “*Find important problems and fix them.*”<sup>9</sup>

<sup>7</sup> Compliance and Enforcement Special Interest Group, 2019. *Regional Sector Strategic Compliance Framework 2019-2024*.

<sup>8</sup> Ayes, I., and Braithwaite, J. 1992. *Responsive Regulation: Transcending the Deregulation Debate*. Oxford University Press. Available online at <http://johnbraithwaite.com/wp-content/uploads/2016/06/Responsive-Regulation-Transce.pdf>.

Sparrow, Malcolm K. 2000. *The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance*. Washington D.C.: The Brookings Institution.

Sparrow, Malcolm K. 2008. *The Character of Harms: Challenges in Operational Control*. Cambridge: Cambridge University Press.

<sup>9</sup> Sparrow 2008.

53. CESIG's framework has helped establish and drive a continuous improvement programme in CME for the regional sector. It has strengthened the risk-based and graduated approach to CME, and assisted councils to more effectively target their limited resources at the problems most in need of regulatory intervention. Next steps in supporting the framework will require the development of intelligence tools and investment in smart technologies to better inform targeted intervention strategies.
54. These strategies need not always be founded upon coercive interventions. Indeed, the CESIG model emphasises the importance of the balanced '4-E' model.<sup>10</sup>
- **Enable** – provide opportunities for regulated parties to be exposed to industry best practice and regulatory requirements. Link regulated parties with appropriate industry advisors. Promote examples of best practice.
  - **Engage** – consult with regulated parties, stakeholders and community on matters that may affect them. This will require maintaining relationships and communication until final outcomes have been reached. This will 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 (ie, with them!). Education should also be utilised 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.
  - **Enforce** – where appropriate, using the range of formal coercive enforcement tools.
55. These four strategies need to be deployed in concert in order to promote compliance and obtain desirable behaviour change among the regulated community. Pricing signals and other economic tools are also useful supplements that might be used in certain areas.<sup>11</sup> The 4-E model is broadly consistent with the VADE behavioural compliance model, in that it provides for a range of different types of interventions, based on the behaviour of the regulated party and their willingness to comply.
56. CESIG has also established valuable systems of peer review and reporting. The review system relies upon councils accepting semi-independent assessment of CME systems and resourcing by regulatory practitioners from other councils. This is an important step toward better, more independent auditing of environmental CME performance. In a future system, this auditing function might also include roles for other actors and agencies, including the Parliamentary Commissioner for the Environment and/or MfE. NGOs, academics, and the media also undertake valuable independent scrutiny.
57. In May 2019 CESIG released the *Independent Analysis of the 2017/2018 Compliance Monitoring and Enforcement Metrics for the Regional Sector*.<sup>12</sup> The report, authored by Dr Doole, explored the data provided by the CESIG member councils through a survey. The report highlights many areas in which a number of regional councils have lifted their performance in CME and identified further opportunities for improvement.

<sup>10</sup> Compliance and Enforcement Special Interest Group, 2019. *Regional Sector Strategic Compliance Framework 2019-2024*, p. 12-13.

<sup>11</sup> Sandel, M. 2012. *What Money Can't Buy: The Moral Limits of Markets*. London: Allen Lane Publishing.

<sup>12</sup> Brown, M.A. 2018. *Independent Analysis of the 2017/2018 Compliance Monitoring and Enforcement Metrics for the Regional Sector*. Palmerston North: The Catalyst Group.

58. Key findings of the report included those below.

- There is a high level of variation in practice due to the historic lack of direction and oversight. There is now *“ample opportunity for council to... standardise approaches to fundamental CME tasks.”*
- Resourcing of CME remains highly variable. While 436 FTE employees perform CME duties for the regional sector, more than half of these officers are employed in just three councils (Auckland, Waikato and Canterbury). The report observed that some of the regional councils have low resourcing for CME, *“... possibly too low to carry out the minimum requirements...”*
- Information management is variable, and in some councils, poor. Many councils were *“unable to provide some relatively basic information.”*
- Internal policy frameworks are incomplete. The strategic framework tool needs to be used to develop cogent council-specific compliance strategy and policy.

59. CESIG intends to continue the reporting programme this report has commenced, to provide strong metrics which better demonstrate CME performance by councils. MfE has also adapted a number of metrics and questions in the NMS survey to incorporate data innovations made by the CESIG metrics survey.

60. CESIG’s efforts have laid the groundwork for further improvements in environmental CME. In considering institutional arrangements for CME as part of the comprehensive reform process, consideration should be given to how we maintain and leverage the tools, processes, and leadership that CESIG has developed.

### **The role of the Environmental Protection Authority: a supplementary investigative resource**

61. The Environmental Protection Authority (EPA) is a Crown entity with responsibility for regulating New Zealand’s environment. The EPA has responsibility for:

- regulating activities in the exclusive economic zone
- administering the emissions trading scheme
- managing hazardous substances and new organisms
- administering nationally significant proposals under the RMA.

62. Budget 2018 allocated \$3.1 million over four years to fund a new RMA enforcement unit.<sup>13</sup> The purpose of the unit is to provide a supplementary investigative resource which can be deployed to support councils in investigating cases of non-compliance.

63. The unit is now established and is operating on an interim basis. The unit is available to assist councils with compliance cases where invited to do so by the responsible council.

---

<sup>13</sup>Hon David Parker, *Resource Management Act oversight unit to be established*, press release May 2018. URL: <https://www.beehive.govt.nz/release/resource-management-act-oversight-unit-be-established>. Note that the unit was initially described as a ‘compliance oversight unit’. However, subsequent minister’s decisions have refined the nature and purpose of the unit.

64. As part of changes proposed by the Resource Management Amendment Bill 2019, the EPA is proposed to be empowered to take a broader role.<sup>14</sup> The amendments would enable the EPA to take on cases at its discretion, to:
- investigate a case that no council is dealing with
  - assist a council with an investigation
  - intervene and take control of a case from a council.
65. The EPA has worked in collaboration with MfE and regional councils through CESIG to co-design the tools and processes the EPA will use when the unit is fully operational and empowered through the phase one amendments.
66. The EPA unit has the potential to add considerable value to the CME system by providing a highly skilled investigative human resource which can support councils if they are faced with difficult cases. These cases could include:
- complex investigations requiring additional expertise
  - cases involving actual or perceived biases or conflicts of interests, which might be better managed by an arm's-length agency
  - instances where a council's own investigative resources are depleted and require supplementation.

### **The role of the Government Regulatory Practice Initiative: upskilling compliance practitioners, a qualifications framework, and building feedback between operational knowledge and policy development**

67. The Government Regulatory Practice Initiative (G-REG) is a network of regulatory practitioners from across the public sector. It was established in 2015, building on the findings and recommendations of the 2014 Productivity Commission report *Regulatory institutions and practices*.<sup>15</sup> G-REG's vision is to make the people working in the regulatory sector better skilled, with strong networks between regulators, greater consistency in practice, and an enhanced sense of professionalism and community among regulatory practitioners.
68. One of G-REG's first actions was to begin developing qualifications targeted at regulatory professionals, including frontline inspectors and investigators, regulatory compliance managers and leaders, and regulatory policy professionals. The New Zealand Qualifications Authority certifies the curriculum and assessment system, and the Level 3, 4 and 5 qualifications are now available to learners. Level 6 qualifications are in the final stages of development and are anticipated to be piloted shortly.<sup>16</sup>
69. Some local government agencies have adopted the G-REG network and qualifications in order to provide new and better professional development options for their officers and managers. However, uptake of the qualifications has been uneven, and low among smaller councils, who

<sup>14</sup>Office for the Minister for the Environment, 2018. Cabinet Paper, *Proposed Resource Management Amendment Bill: Stage 1 of a resource management system review*. URL:

<https://www.mfe.govt.nz/sites/default/files/media/RMA/Cabinet%20Paper%20-%20Proposed%20Resource%20Management%20Amendment%20Bill.pdf>.

<sup>15</sup>New Zealand Productivity Commission, 2014. *Regulatory institutions and practices*. Wellington: The New Zealand Productivity Commission. URL: <https://www.productivity.govt.nz/assets/Documents/d1d7d3ce31/Final-report-Regulatory-institutions-and-practices-v2.pdf>.

<sup>16</sup><https://g-reg.govt.nz/qualifications/>.

would likely benefit the most from such development. Uptake has also been variable among regulatory policy makers.

70. Operational experience and knowledge is invaluable for testing how policy ideas and draft regulatory proposals work in practice. However, policy development is often seen as a separate and distinct discipline from regulatory operations. There are potential benefits from experienced operational professionals to bring their knowledge and experience in to policy development settings. There are a number of ways to achieve this, ranging from informal feedback sessions between regulatory operations officers and policy development and plan-making officers, through to more formal career progression models or a system of secondments to facilitate knowledge-sharing.
71. In designing institutional arrangements in a future system, consideration should be given to ensuring that existing feedback loops between operational and policy functions are maintained and strengthened, and, where such feedback loops do not yet exist, how they can be established and maintained. Furthermore, institutions who are part of our future RM system should consider participation in the G-REG network.

## Strengths of the current system

72. The history of poor performance and limited guidance and direction in CME may obscure strengths and examples of good performance in the existing system. It is important to acknowledge these strengths and consider how they can be sustained (even if in a different form) in a future system. The strengths are below.

- The RMA provides a **strong range of enforcement options**, including directive and punitive options, and **civil and criminal options**.
- CESIG has created a **leadership forum for CME**. This forum shares best practice, has developed a strong strategic framework, established reporting metrics, and provides semi-independent peer review services.
- Some councils have developed robust compliance practices and training materials.

For example, the *Basic Investigative Skills* course and associated guidebook developed by Waikato Regional Council is an excellent introduction to RMA and related investigative work, and is now available to a range of agencies in local and central government. In addition, a range of training opportunities are offered to compliance officers from across the country through the annual Environmental Compliance Conference.

- While there are still significant variations (and some poor practices) in **information management**, it is clear that in many local government agencies these practices have improved over the lifetime of the RMA.
- The **ability for any private person or entity to take enforcement action** (either civil action through an enforcement order application, or criminal action through prosecution).

Private criminal prosecutions are uncommon, as it is challenging for non-regulatory entities to obtain sufficient evidence to support their case without access to the powers of entry and search which are conferred upon warranted enforcement officers. Civil enforcement order applications are more frequent, and some prominent successful examples have had far-reaching impact (see, for example, the case study on Jakkett Island later in this paper).

## Problems with the current system

73. Problems with the CME system can be usefully thought of as falling into two categories.

### 1) Institutional arrangements

- Regulatory fragmentation, jurisdictional confusion, operational overlaps, and resulting monitoring and enforcement gaps
- Biases, competing functions and priorities, inadequate economy of scale
- Inadequate data, intelligence and support systems
- Uptake of qualifications, remuneration, and health and safety practices.

### 2) Legislative deficiencies

- Inadequate penalties
- Poor cost recovery mechanisms
- Poor provisions for dealing with commercial gain from offending
- Insurance against criminal penalties
- Poor linkages with core criminal legislation, eg, the Search and Surveillance Act
- Solicitor-General's Guidelines and linkage to the Criminal Procedure Act.

74. These problems are not unique to the RMA and are found to some extent across many of New Zealand's regulatory systems, especially in respect of the environment. The following sections elaborate on these specific problem areas.

## Problems with institutional arrangements

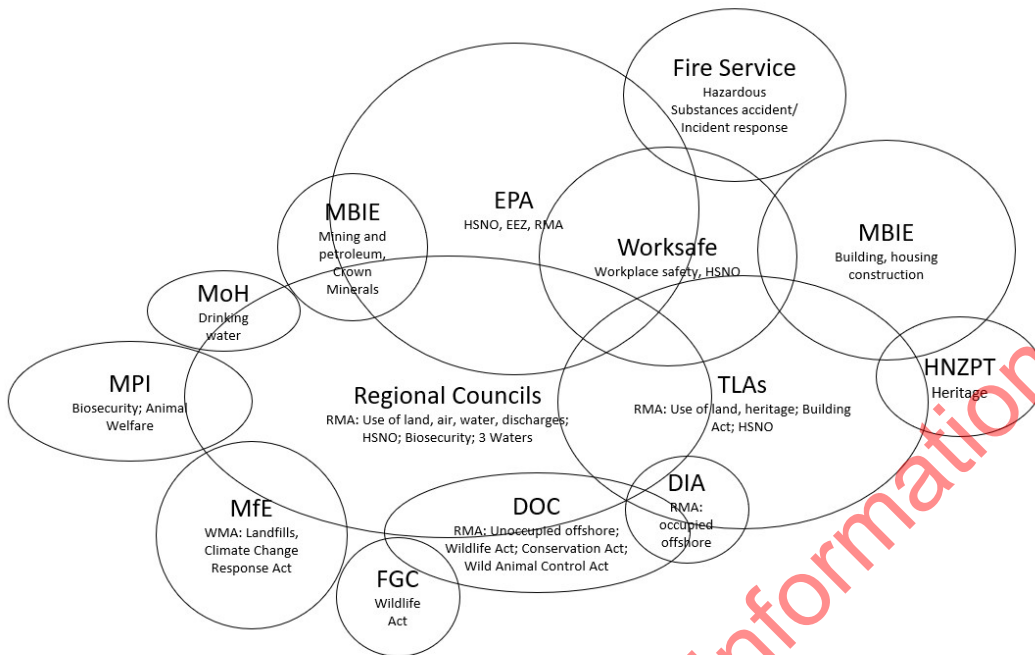
### Regulatory fragmentation, jurisdictional confusion, operational overlap, and resulting monitoring and enforcement gaps

75. Our environmental regulatory system is highly fragmented. Numerous agencies have CME responsibilities under a myriad of statutes. Regulators frequently have operational overlap. The statutes often have complementary purposes, but sit within the jurisdiction of different agencies. There are unclear relationships between RMA CME functions and CME functions for other, related regulatory regimes, such as those of the Hazardous Substances and New Organisms Act 1996, the Building Act 2004, and bylaws made under the Local Government Act 2002 (especially those bylaws which seek to address environmental issues, such as trade waste and stormwater bylaws).

76. The result of this fragmentation and overlap is significant confusion from regulated parties about which regulator they should be dealing with. On the one hand, multiple regulators may inspect, record and address the same sites or issues, creating duplication and inefficiency. On the other hand, it can mean significant confusion from regulators about which agency should own and lead regulatory responses. A regulator might believe or assume that another officer or agency will (or should) take lead responsibility, and there is potential for a delay in anyone taking action to monitor or address an issue. The Venn diagram below (Figure 3) attempts to demonstrate the complexity of some key CME responsibilities in the current system.

**Figure 3: diagram of key jurisdictional and operational overlaps for environmental CME**

This diagram is not intended to accurately reflect all overlaps, rather it is intended to generally illustrate the complexity and interactions of the system, and the roles of different agencies.



### Inadequate data and intelligence services

77. Data and intelligence services are essential for modern regulators to effectively identify the trends and clusters which reveal problems to be solved through regulatory interventions. Data across environmental CME is piecemeal, inconsistent, inadequate, and not shared effectively between regulators. This is a long term problem requiring a long term solution.
78. Investment in IT systems designed specifically for CME tasks and processes should be considered. Examples include:
  - software systems to manage and report upon consents, inspections, investigations and complaints
  - detected breaches and their resolution
  - record keeping and reporting systems; systems to track the payment (or non-payment) of infringement fines and refer unpaid fines to the Ministry of Justice for collection
  - adoption of smart technologies, including telemetered water takes, use of drone technology for inspections and investigation, latent and remote-sensing monitoring devices, and broader robotic systems for automated compliance reporting.<sup>17</sup>
79. Existing data on CME, such as that collected through the NMS, is of limited value in the analysis of CME strategy and effectiveness, or in planning proactive CME interventions. While it counts instances of formal action, it provides little-to-no qualitative information about those CME actions, and offers no insights into informal approaches or education and advocacy services.<sup>18</sup> Because of these limitations, the NMS is of little to no value as a tool for intelligence-driven CME

<sup>17</sup> Wynn Williams Lawyers. 2018. *Compliance, monitoring and enforcement by Regional Councils: a report for the Minister for the Environment*. Christchurch: Wynn Williams Lawyers, p. 11.

<sup>18</sup> Brown, M.A. 2017. *Last Line of Defence*. Auckland: Environmental Defence Society Incorporated, p. 35.

interventions. Ambiguity of questions, arbitrary metrics, and constantly shifting questions also diminish the value of the NMS as a reporting tool for CME performance and outputs.<sup>19</sup>

80. Because each council operates on standalone software and databases, little information about consents, compliance, offenders and offences is readily shared between councils. The ability of compliance investigators and inspectors to become aware of cases in other jurisdictions relies almost entirely on personal initiative and connections rather than through systematic or strategic means.<sup>20</sup>
81. The piecemeal and idiosyncratic nature of information and data management for CME means that councils have highly variable levels of transparency on CME. The *Independent Analysis of the 2017/2018 Compliance Monitoring and Enforcement Metrics for the Regional Sector* states:

*“Many councils were unable to provide some relatively basic information... further development is required to maintain reasonable levels of transparency.”<sup>21</sup>*

82. Taken together, these issues illustrate an opportunity for CME services. Investment in databases to share and analyse information about compliance cases, offences, and offenders could transform RMA CME services into an intelligence driven discipline, enhancing our ability to target our resources toward projects that will make the greatest difference for the environment and offer value-for-money services. Greater consistency in data and information management would allow enhanced performance reporting for our regulatory agencies. Greater access to smart tools and technologies could simplify compliance investigation and auditing processes, allowing faster collection of evidence and eliminating health and safety risks.

### Conscious and unconscious bias, conflicts of interest

83. Our environmental regulators are primarily local government agencies. Many of these agencies serve small communities and can easily be dominated by strong local personalities. This leads to the expression of biases which hamper the broader regulatory mission and create inconsistency.
84. In 2016, a survey was conducted to gain insights into how CME officers perceive their organisation’s attitude to CME. *“The majority of interviewees... were of the opinion that formal enforcement action was seen as undesirable by elected officials.”<sup>22</sup>* The prevalence of this perception increases the risk of biases affecting case management, even when elected official are not directly involved.
85. Discussing the study in Last Line, Dr Doole observes that *“political involvement in enforcement decision-making... is clearly an area of concern,”<sup>23</sup>* and goes on to conclude that:

*“...it is possible that political interference in technical enforcement decisions is simply unavoidable in an entity headed by politicians. If so, the real improvement will only be possible with some restructuring of current institutional arrangements.”<sup>24</sup>*

86. The risk arising from these biases is potentially compounded when it occurs in conjunction with the other roles of councils. For instance, when councils are exercising regulatory oversight of their own operational activities, these biases may escalate into actual conflicts of interest. The

---

<sup>19</sup> Brown 2017 p. 35.

<sup>20</sup> Brown 2017, p. 51.

<sup>21</sup> Brown 2018, p. iv.

<sup>22</sup> Brown 2017, p. 37.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid, p. 48.

following case study on Jakkett Island demonstrates the type of compliance failings that can occur when a Council is acting as both regulator and regulated.

### CASE STUDY: JACKETT ISLAND

In the early 1990s, the Tasman District Council proposed to construct a groyne (a coastal engineering feature designed to dissipate wave action and limit the movement of sands and sediment) near the mouth of the Motueka river, as a means of keeping the channel open to shipping. The application was eventually approved for a limited 15 year period by the Minister of Conservation in 1994. The Council gave effect to the consent in 1996, establishing a cylindrical groyne some 700 metres in length and approximately 1.5 metres in diameter.

Between 1997 and 2009, the sandspit which was supplemented by the groyne expanded significantly southward. This in turn affected tidal flows and sand deposition patterns in the bay, and caused substantial erosion on the seaward side of neighbouring Jakkett Island. Although the coastal permit authorising the groyne expired in 2009, the Council took no action to either remove the structure or to authorise its continued occupation of the coast through further consent.

The Van Dyke Family Trust, a landowner on Jakkett Island, argued with the support of an expert witness that the growth of the spit (and hence the erosion of Jakkett Island) was an adverse effect arising from the installation of the groyne. On this basis, the Van Dykes sought enforcement orders against the Tasman District Council to undertake further studies and research, remove the groyne, and take remedial actions on Jakkett island to arrest the erosion. The Council submitted that the growth of the spit was a natural coastal phenomena, within the scope of normal variability, and not an effect of the groyne.

The Court ultimately accepted the evidence of the Van Dyke's expert witness, and directed the Council to undertake interim works and reports. The finding of facts noted several substantial failures of the Council in implementing the consent and managing compliance, and these were reinforced in the subsequent costs decision against the Council. Specifically, the Council had failed to undertake specific monitoring and surveying work required by the conditions of the coastal permit, had not established the groyne in the proper location authorised by the coastal permit, and had failed to remove the groyne when the coastal permit expired. Judge Dwyer noted:

*"It seems inconceivable that the Council would tolerate such failures to comply with conditions from any other consent holder... the failure to comply with the conditions of consent forms part of the background of denial of responsibility adopted by the Council."*

The Van Dyke case highlights a failure to properly monitor and enforce compliance with the conditions of a resource consent. It illustrates the types of bias that can arise when regulators are also the regulated party, and must police themselves. It also serves as an example of the value of private civil litigation under the RMA.

The Court made a costs award against the Council of \$189,000, in addition to the works directed by the enforcement order.

## Other institutional issues

87. The following non-statutory issues can also be seen, at least to some extent, as matters arising from the pluralistic and devolved nature of our institutional arrangements, and the significant variations in the size and scale of our local government agencies.
88. **Slow adoption of qualifications and training** established to support CME by regulators, such as uptake of the suite of regulatory compliance qualifications developed by the Government Regulatory Skills Initiative, the Basic Investigative Skills course developed by Waikato Regional Council, and the various training opportunities shared through the annual Environmental Compliance Conference.
89. **Difficulty in recruitment and retention** of appropriately trained and qualified staff. Lower remuneration (especially in contrast to comparable policy planning, resource consent processing, or environmental health roles) appears to be a significant factor here. For example, at Auckland Council, Planners are paid at 'Band F', Intermediate Planners are paid at 'Band G', Senior Planners are paid at 'Band H', and Planning Team Leaders are paid at 'Band I'. In comparison, Compliance Officers and Compliance Specialists are paid at 'Band F', Senior Compliance Officers are paid at 'Band G', and Compliance Team Leaders are paid at 'Band H'. Most experienced compliance staff are therefore remunerated at a rate which sits a whole pay band below that of comparably experienced consent processing staff.<sup>25</sup>
90. **Stress and conflict.** Compliance officers frequently deal with variable levels of conflict, from low-level passive-aggressive derision and insults, through to higher level issues including open threats or acts of violence or harassment. Anecdotal evidence indicates many officers are reluctant to report or seek assistance for chronic conflict-related stress. This stress is likely to contribute to an elevated risk of mental illnesses such as: anxiety, depression, and anger issues, and associated physical health issues such as sleep deprivation, poor diet, and elevated blood pressure.<sup>26</sup> Better methods of recording and reporting job stress and psychological health and safety risks for compliance officers are required, so that appropriate support mechanisms and health and safety procedures can be developed.
91. **Serious health and safety risks.** Most regulatory compliance inspectors and investigators conduct a significant proportion of their field work as **lone workers**. Lone workers face a number of health and safety issues and are considered at higher risk of confrontation and acute injury. Employers have an obligation to eliminate lone worker risk wherever it is reasonable to do so, but most local government agencies lack the economy of scale required to protect inspectors and investigators from lone-worker situations.
92. Even where compliance officers are deployed in teams or pairs, the nature of their work means that they are often at escalated risk of aggressive or confrontational behaviour. While assaults are rare, serious cases have occurred. In June 2013, a compliance officer of the Northland Regional Council was seriously assaulted while travelling to give evidence in an enforcement case.<sup>27</sup> In July 2014, an officer of the New South Wales Environment Department was murdered while visiting a farm to serve a compliance notice.<sup>28</sup>

<sup>25</sup> See appendix 1 of the Auckland Council & Public Service Association Collective Employment Agreement.

<sup>26</sup> Society of Corporate Compliance and Ethics. 2012. *Stress, Compliance, and Ethics*. Minneapolis: Society of Corporate Compliance and Ethics.

<sup>27</sup> Northland Age, 11 June 2013. "Brutal Attack on NRC Worker." URL: [https://www.nzherald.co.nz/northland-age/news/article.cfm?c\\_id=1503402&objectid=11101714](https://www.nzherald.co.nz/northland-age/news/article.cfm?c_id=1503402&objectid=11101714).

<sup>28</sup> Sydney Morning Herald, 23 June 2016. "Farmer Ian Turnbull jailed for murdering environment officer Glen Turner." URL: <https://www.smh.com.au/national/nsw/farmer-ian-turnbull-jailed-for-murdering-environment-officer-glen-turner-20160623-gppzki.html>.

## Problems with legislative provisions

93. Over the lifetime of the RMA, a number of issues with the RMA's legislative provisions with respect to CME have been identified. The following paragraphs summarise these. A fuller list, with suggested changes, can be found in Appendix 2.
94. **Weak legislative tools**, especially in relation to cost recovery for the investigation of unauthorised activities, permitted activity monitoring, and execution of emergency works.<sup>29</sup> **Cost recovery** is a particularly critical issue, which raises a judgement question about where the cost of CME work should fall. Consent holders may be charged all reasonable and actual costs incurred by the regulator when inspecting or monitoring compliance with the consent. However, inspecting or monitoring permitted activities is not cost recoverable in most circumstances, even when non-compliance is detected.
95. **Low penalties** when cases are prosecuted.<sup>30</sup> Cases of RMA offending often involve **commercial gain**, and frequently the penalties imposed at sentencing are dwarfed by the commercial or financial advantage to the offender of evading or flouting relevant regulations. This creates a perverse incentive to ignore regulatory constraints, which is not overcome by a credible threat of prosecution.
96. **Inconsistent relationships** between CME operations and related functions of the RMA, such as plan-making and consent processing functions (usually expressed as unclear or unenforceable consent conditions or plan rules).<sup>31</sup>
97. CME under the RMA operates within the wider legislative framework. However, there are **weak links to other framework legislation**, such as the Criminal Procedure Act 2011 and the Search and Surveillance Act 2012. On the Criminal Procedure Act 2011, Dr Doole notes:

*"Councils are excluded from the definition of public prosecution in the Criminal Procedure Act. It means the Solicitor General's oversight applies only weakly, meaning an important check and balance on most public agencies is missing for councils. Further, the Public Prosecutions Reporting programme presently underway does not apply to councils, unless they choose to report it."*<sup>32</sup>

And on the Search and Surveillance Act, the Law commission states:

*"...the rules in the [Search and Surveillance] Act, which were designed largely with law enforcement powers in mind, do not always fit well with regulatory powers."*<sup>33</sup>

98. **Various other issues**. Specific examples and suggested solutions are listed in Appendix 2.

<sup>29</sup> Brown 2017, p. 41-45, 79.

<sup>30</sup> Wynn Williams Lawyers, 2018, p. 19.

<sup>31</sup> Brown 2017, p 38. Resource Management Law Association of New Zealand Inc, 2016. *Resource Management Law Association Roadshow: Conditions of consent*. RMLA. URL: [http://www.rmla.org.nz/wp-content/uploads/2016/09/010714\\_conditions\\_of\\_consent\\_legal\\_paper.pdf](http://www.rmla.org.nz/wp-content/uploads/2016/09/010714_conditions_of_consent_legal_paper.pdf).

<sup>32</sup> Brown 2017, p. 35.

<sup>33</sup> Law Commission, 2017. *Review of the Search and Surveillance Act 2012 – Questions and Answers*, Law Commission, Wellington: Ministry of Justice. [https://www.lawcom.govt.nz/sites/default/files/publicationAttachments/Search%20and%20Surveillance%20Review%20Q%20n%20A%20-%20FINAL\\_0.pdf](https://www.lawcom.govt.nz/sites/default/files/publicationAttachments/Search%20and%20Surveillance%20Review%20Q%20n%20A%20-%20FINAL_0.pdf).

## Framework for reform

### Broad framework: problems, objectives and outcomes

99. In devising future options for CME, the following problems, objectives, and outcomes from the policy framework paper are most relevant.

#### The RMA has delivered poor environmental outcomes overall.

100. One key reason for this is the inconsistent application of CME functions failing to detect and deter non-compliance. Fixing this would help to **promote protection and enhancement of ecosystems** and enable a system where our **rules and conditions protecting environmental bottom lines are properly monitored and enforced**.

#### Lack of clear objectives and insufficient national direction, and complex legislation.

101. Over the lifetime of the Act, MfE has produced little guidance or direction on CME. This has begun to turn around with the 2018 publication of the *Best practice guidelines for compliance, monitoring and enforcement under the Resource Management Act 1991*. In addition, there are numerous complex overlaps between activities regulated under the RMA and activities regulated under related statutes with different institutional arrangements for CME. There is much more work to be done to **set clear direction** to ensure that **roles and responsibilities are clear** and **strong national direction** (in the form of strong guidance) on CME is provided.

#### Lack of robust data, information on wider costs and benefits, monitoring and feedback loops.

102. In a CME context, this primarily relates to the absence of data and intelligence services to guide the identification of compliance problems and the deployment of CME interventions, and a lack of mechanisms for feedback from CME officers to be provided to consent processing and policy planners about the effectiveness of the rules and conditions they impose. Building data and intelligence tools to guide CME will ensure that CME functions are **more responsive to risk and evidence**, provide **timely responses to issues**, and are part of a **faster, more agile system**.

#### Lack of capacity and capability, overlapping roles, and conflicts of interest.

103. In a CME context, these problems are expressed through the large number of small councils who have insufficient economy of scale to manage their CME functions. Those small councils also manage small communities and can be dominated by big personalities, leading to expressions of biases, both conscious and unconscious, and inadequate management of actual and perceived conflicts of interest. The complex, fragmented, and devolved nature of CME arrangements under our myriad of environmental statutes mean that there are frequently operational overlaps and cross-jurisdictional investigations which are often poorly managed. Future arrangements need to ensure that the **system is effective and proportionate**, and that CME **decision-makers are accountable** and appropriately separated from risks arising from political biases. System reform gives us an opportunity to craft CME functions within **trusted institutions**. Building stronger capacity and capability would enable our compliance interventions to be deployed in a more strategic, intelligence-led manner, consistent with the VADE model.

## Judgements

104. The problems identified give rise to four fundamental judgement questions which must be considered when making choices about a future system.

- 1) What degree of institutional change is necessary?
- 2) Who should bear the cost of carrying out compliance functions?
- 3) To what extent must we strengthen the statutory tools and provisions for CME?
- 4) What investments are needed to ensure sufficient CME capability?

### What degree of institutional change is necessary?

105. In making choices about CME in a future system, the principle of subsidiarity must be considered.

106. The principle of subsidiarity holds that decisions should be made closest to, and in line with the values of, those most affected by them (the relevant community of interest) and those most capable of dealing with them.<sup>34</sup>

107. In applying the subsidiarity principle to consenting and compliance functions and duties, we must consider:

- 1) the nature of the decisions in question
- 2) the competence, capability, and capacity of local government agencies to carry out these functions.

108. Politicised decision-making fits poorly with technical regulatory decisions involving the application of rule frameworks in consenting and CME. While rule-making and plan-making functions are political, decisions about CME are not. Best practice in compliance functions requires clear separation from political influence. Decisions about CME are technical decisions, based on the regulations set by the political process, impartial assessment of the adverse effects which arise from activities, and the evidential and public interest tests of the Solicitor General's guidelines. As earlier noted, the Solicitor-General's guidelines also only weakly apply to local government.

109. As this paper has set out, there are considerable challenges to be overcome with respect to the capability and capacity of local government agencies to effectively carry out compliance functions. CME performance is highly variable with some regional and unitary councils performing well, and some performing quite poorly.

110. At a territorial authority level, the disparity is more evident. Very few territorial authority councils carry out CME duties well, and many provide only superficial CME services, or do not perform CME services at all. This suggests that the institutional arrangements, at least for CME, and perhaps for consenting too, need to be reconsidered.

### Who should bear the cost of compliance services?

111. In making choices about the strength of CME provisions in a future system, we should consider what is fair and proportionate with respect to the offences we seek to punish and deter, and who should bear the cost of carrying out CME tasks.

112. Cost recovery for CME in the existing system is fraught. Only tasks associated with compliance monitoring of consents are fully cost recoverable. This means that much CME work (including

<sup>34</sup> Severinsen, Greg, and Peart, Raewyn. *Reform of the Resource Management System: The Next Generation - Working Paper 3*. Auckland: Environmental Defence Society Incorporated. 2018. p. 91.

most permitted activity monitoring, and the investigation of unauthorised activities) relies on funding from rates. This is contrary to the 'polluter pays' principle. We need to consider how the costs of carrying out CME tasks should be met, and to what extent we must modify cost recovery provisions to facilitate a fair distribution of costs.

113. This issue represents an important judgement to be made about who bears the responsibility to meet the costs of CME work. The principle of 'polluter pays' implies that costs should fall on non-compliant parties who require inspection or investigation. There may also be an opposing view that as all of society benefits from CME services, costs should be borne more broadly by ratepayers or taxpayers.

### **To what extent should we strengthen the statutory tools and provisions for CME?**

114. Because the RMA (and the wider resource management system) regulates a very broad range of activities, we must also consider the breadth and nature of the offences which can occur against the RMA, the breadth and nature of the punishments available, and the commercial or financial gains that offenders realise as a result of their non-compliance.
115. For almost all offences, the RMA sets a maximum financial penalty of \$300,000 for individuals, and \$600,000 for corporate defendants and other entities with legal personhood, who are convicted of offences against the RMA. In comparison with similar environmental statutes in other commonwealth jurisdictions, these penalties are very light (see table in Appendix 2). In the United Kingdom, maximum penalties have been done away with altogether, with sentencing guidelines instead implementing means-based sentencing, where offenders receive fines based on their income and financial position. In Australia, criminal penalties are automatically adjusted for inflation in line with the consumer price index at three-yearly intervals. These models offer ideas for our consideration as we make choices about how we value the environment, and how sternly we wish environmental offenders to be dealt with.
116. It is a fundamental feature of our justice system that defendants charged with serious offences are entitled to have the charges heard and proven before a jury of their peers.
117. As most RMA offences have a maximum imprisonment period of two years, they are defined as Category 3 offences for the purposes of the Criminal Procedures Act 2011 (CPA). Category 3 is the second most serious category of criminal offending, and thus RMA defendants are entitled to elect trial by jury in almost all cases.
118. Jury trials for RMA offences are challenging, time consuming affairs. Some commentators have made the case that jury trials for RMA offending should be removed, by reducing the maximum imprisonment penalty (this would result in the reclassification of RMA offences as Category 2 offences for the purpose of the CPA).
119. The examples listed in Appendix 2 of this paper highlight some the judgement questions involved in determining what environmental justice will look like in an Aotearoa New Zealand context. How sternly should we punish environmental offences? To what extent should environmental offenders be entitled to trial before a jury? Should insurance against RMA prosecution fines be available? How should we deal with commercial gain from environmental offences?

### **What investments are needed to ensure sufficient CME capability?**

120. The world has changed significantly since the passage of the RMA in 1991. There is a vast array of new tools and software at our disposal which could significantly lift our ability to identify and intervene in environmental problems and non-compliance.

121. The limited size and scale of many of our local government agencies has meant that uptake of such tools has also been limited. Comprehensive reform of the system means, at least in part, bringing our regulatory practice into the 21<sup>st</sup> century by adopting smart technology and tools.
122. We must consider the value that could be added to the system through such tools, and make choices about what investments are required to harness the advantages offered by new technology.

Released under the Official Information Act 1982

DRAFT

## Appendix 1: Options for institutional change in CME

1. The following options illustrate a spectrum of possible institutional changes. Each has its own strengths and weaknesses and each represents a different level of devolution/centralisation. This appendix is not intended as a comprehensive analysis of each option, but rather as a broad indication of the spectrum of options available.

### **Option 1: Retain existing fully devolved model for CME, supplemented by additional guidance, oversight, auditing and assistance from central agencies**

2. This option represents a 'minimal change' option with respect to existing institutional arrangements.
3. Under this model, there would be little or no change in the institutional arrangements. CME services under the RMA would continue to be delivered by local government, following the existing split between regional and territorial authorities. Issues of jurisdictional confusion and operation overlap would need to be managed through inter-agency agreements, agreed processes, memoranda of understanding, and shared services agreements where appropriate.
4. Issues relating to national consistency, bias, and resourcing would be resolved slowly through guidance and support services, and would rely on (potentially variable) buy-in from local government partner agencies. Improvements in data and intelligence services would similarly depend upon collaboration and contribution from various agencies, including local government.
5. Local government CME services would be supplemented through the EPA as proposed under the Resource Management Amendment Bill 2019.
6. Achieving adequate change through this option is considered possible, however, it represents a slower and less reliable change than the other options outlined below. This option would not improve problems with poor economy of scale, especially with respect to lone workers and serious health and safety risks to inspectors and investigators.

### **Option 2: Regionalised model: all CME functions are delivered by regional councils, supplemented by additional guidance, oversight, auditing and assistance from central agencies**

7. This option represents a 'middle-ground' level of change.
8. Under this model, each regional council would take over CME responsibilities from their territorial counterparts, in much the same way as a unitary council or shared services model might work under the status quo system.
9. This option is considered more palatable from a change management perspective, but remains vulnerable to some of the existing problems of variable resourcing, political bias, and inconsistencies in policy, strategy, prioritisation, and decision-making. However, this level of vulnerability is considered substantially diminished from the existing vulnerability that arises from a fully-devolved model.
10. One means of overcoming this vulnerability might be a hybrid of option 2 and option 3 (below), where CME operations are conducted under the aegis of a collaborative partnership between the regional/unitary council and the EPA (or other standalone agency). This would enable more flexibility in resourcing, and greater consistency in strategy and approach, while also maintaining a level of local knowledge and collaboration with the rule makers and policy developers at the local government level.

### Option 3: Fully centralised model

11. This option represents 'transformational change' with respect to existing institutional arrangements.
12. Under this model, RMA CME services would be centralised, either under the EPA, or in a new stand-alone agency.
13. The centralisation of these functions would facilitate swift and enduring operational changes to improve decision-making consistency; overcome variabilities in training, remuneration, qualifications and resourcing; and remove conscious and unconscious political bias by shifting essential regulatory tasks to an arm's-length apolitical agency. A single regulator could utilise a greater economy of scale and would be better placed than a collection of small devolved agencies to implement new systems and processes, such as a single IT system with enhanced ability to gather and manage data, produce useful intelligence at scale, and deploy other smart technologies to improve performance.
14. This model would face significant challenges. Consideration would need to be given to how the transition would occur and how existing staff and services would be managed. Institutional knowledge might be lost, and larger agencies can be more vulnerable to operational inertia.
15. A fully centralised agency model could, in the future, also take on other roles, beyond the scope of the current RM review. A number of the overlapping operations and jurisdictions shown in Figure 3 (page 18) could be performed from a single agency. This sub-option represents a radical overhaul of the administration of regulatory compliance in New Zealand and would face significant challenges. However, it potentially offers a number of significant benefits for regulatory practice. These are explored more fully in a risk-benefit summary in Appendix 3.
16. It should be noted that some commentators caution against such centralisation,<sup>1</sup> citing the devolved nature of the administration of the RMA as one of the key strengths of the existing system, and noting that centralisation would limit the ability of CME services to properly align with the regional planning regime and priorities. Consideration would need to be given to managing this alignment.

---

<sup>1</sup> Wynn Williams Lawyers. 2018. *Compliance, monitoring and enforcement by Regional Councils: a report for the Minister for the Environment*. Christchurch: Wynn Williams Lawyers. P. 21.

## Appendix 2: Options for legislative changes relating to CME

- The following are suggested changes to our statutory provisions for CME. Unlike the options for institutional arrangements, each of these options is a binary standalone – something we either do, or don't do. Many of these suggestions have already been mooted either through the advocacy of NGOs or other commentators, or from within the regulatory community (for example, suggestions from CESIG).
- As with Appendix 1, this appendix is intended as a high-level overview of the suggested changes, as opposed to a rigorous analysis of each choice.

### Increased penalties and creative sentencing

- Maximum penalties under the RMA are low when measured against commonwealth comparators, as shown in the table below.

Nation	United Kingdom	Canada	Australia	New Zealand
Statute/Regulation	Environmental Permitting Regulations 2016	Environmental Enforcement Act 2003	Environment Protection and Biodiversity Conservation Act 1999	Resource Management Act 1991
Individual imprisonment	5 years	3 years	7 years	2 years
Individual fine	700% of offender's weekly income*	CAN\$5000 Min CAN\$1,000,000 Max	AU\$1,085,000*	NZ\$300,000
Corporate fine	£3,000,000*	CAN\$100,000 Min CAN\$6,000,000 Max	AU\$10,850,000*	NZ\$600,000
Comment	*Guideline only (no statutory maximum). Sentencing guidelines link fine values to offender income/financial means.	Minimum penalties applicable only for indictments.	*As at 1 July 2017: penalty unit value revised in line with CPI every 3 years.	Maximum penalties set in statute; law change required for uplift.

- There are a range of options available to address these low penalties. Penalties could be increased through simple amendments, or more innovative sentencing methods could be implemented such as those used in the United Kingdom (where there are no maximum penalties, only sentencing guidelines linking sentence to the offenders' income and/or financial means), or Australia (where penalties rise automatically every three years in line with changes in consumer price index). Alternatively, fine values could be made by regulations, which can be revised through order-in-council of the Governor General, rather than defined in statute.
- An uplift would bring RMA penalties into line with other commonwealth nations and provide for stronger deterrence and punishment mechanisms for environmental offending. Penalties under other environmental statutes should be considered for comparable uplifts.

6. In addition to uplifting maximum penalties, comprehensive reform offers an opportunity to implement creative sentencing options for environmental offences. The existing system provides for enforcement orders to be imposed as part of RMA sentencing in order to avoid, remedy or mitigate adverse effects associated with environmental offences. However, a vast range of environmental statutes, including the RMA, would benefit from having creative sentencing options. These could require offenders to contribute capital or labour toward projects which seek to clean up or restore environments affected by litter, dumping, or other environmental offences.
7. Creative sentencing is used to good effect in other commonwealth jurisdictions, and Auckland Mayor Phil Goff has been strongly advocating for creative sentencing options in relation to litter and dumping offences. Creative sentencing options could be used in circumstances where a specific enforcement order may not be an option due to the nature of the offending or the effect arising therefrom, or in situations where the offender may not be in a financial position to pay a fine. Some commentaries claim that creative sentences for environmental offences have stronger deterrent effects upon offenders than traditional monetary fines.<sup>1</sup> Creative sentencing options can be deployed in conjunction with, or as an alternative to, traditional sentencing and restorative justice options.

### Power to require information

8. At present, section 22 of the RMA provides for enforcement officers to require the name, address, and date of birth of any person in respect of whom they have reasonable grounds to believe has contravened the RMA. Enforcement officers also have the power to require those persons to divulge the details of any person acting as their *principal* (ie, the person(s) on behalf of whom they have carried out the offending activity; employer, client, project manager etc).
9. This power could be amended so that in addition to information about *principals*, information about *agents* (ie, employees, contractors, subcontractors etc) can also be required to be disclosed. This would enable regulators to identify the full range of parties involved in non-compliant events and make better judgements about which parties bear greatest responsibility for offences.

### Cost recovery

10. Section 36 of the RMA provides that resource consent authorities may charge consent holders for the reasonable and actual costs of carrying out compliance monitoring activities in relation to the consent.
11. However, there is no equivalent provision relating to compliance inspection or investigation relating to unauthorised activities. A mechanism for creating bylaws through which these costs can be recovered does exist (see *Environmental bylaws* below), however, councils disagree on whether such bylaws are lawful.<sup>2</sup>
12. Some councils use a targeted rates system to pay for permitted activity (PA) monitoring (for example, Waikato Regional Council uses a targeted rate to pay for dairy effluent monitoring).

---

<sup>1</sup> Alberta State Government, 2013. *Creative Sentencing in Alberta: 2013 Report*. Calgary, Alberta, Canada: Alberta Environment and Sustainable Resource Development Department and Alberta Crown Prosecution Service.

Hughes, E.L., and Reynolds, L.A., 2015. *Creative Sentencing and Environmental Protection*. Calgary, Alberta, Canada: Journal of Environmental Law and Practice.

Cliffe, J.D. QC, 2014. *Creative Sentencing in Environmental Prosecutions, the Canadian Experience: An Overview*. Halifax, Nova Scotia, Canada: The Canadian Institute of Resources Law (conference symposium paper).

<sup>2</sup> Brown, M.A. 2017. *Last Line of Defence*. Auckland: Environmental Defence Society Incorporated, p. 44.

13. Monitoring of permitted activities is sometimes provided for, for example, permitted activities under National Environmental Standards (see RMA section 43A(8)) can have provisions to allow cost-recovery.
14. The cost recovery provisions could be amended to enable the following:
  - all reasonable and actual costs of permitted activity monitoring to be recoverable from the regulated party, where the activity is governed by rules in national environmental standards or the rules of a regional plan
  - all reasonable and actual costs associated with the investigation of unauthorised activities to be recoverable from the regulated party (regardless of the rule governing the activity). (Note that for clarity, this cost recovery option would likely only be available where non-compliance had been demonstrated to a 'reasonable grounds to believe' evidential standard. This is the same evidential standard for the issuance of abatement notices under section 322 and for an application for a search warrant under section 334.)
15. However, further work is required to determine what PA rules (or types of rules) would be appropriate for cost recovery, at a district plan level. This is because district plan rules deal with a very broad spectrum of low-risk permitted activities. It may not be appropriate to allow for cost-recoverable compliance checks on basic district permitted activities, and such compliance checks may be unreasonable or onerous.<sup>3</sup>
16. Two district rule types we think may be appropriate for cost recovery are rules governing historic heritage items, and indigenous biodiversity and habitat.
17. These rules are suggested for cost recovery because they deal with broader environmental issues. Non-compliance with historic heritage rules can compromise protected historic buildings, structures, and archaeological features which contribute to our shared history and social and cultural well-being. Indigenous biodiversity and habitat is a particularly important aspect of ecosystem health, and non-compliance with biodiversity rules might have wide-reaching implications for the environment.
18. An area that needs further analysis is situations where there is shared liability between multiple parties, and how recoverable costs should be shared among them. The following preliminary options have been identified.
  - All costs sit with the principal regulated party. For example, if a landowner engages an earthmoving contractor to undertake stream-works in contravention of a rule in a regional plan, the landowner (as the principal) is liable for all reasonable and actual costs incurred by the regulator.
  - Costs are shared equally by all non-compliant parties. For example, the landowner and the earthmoving contractor each bear liability for 50 per cent of the total cost.
  - The regulator has discretion to apportion costs between the non-complaint parties based on who it considers bears greater responsibility for the non-compliance. For example, although the landowner is the principal, the regulator identifies that the earthmoving contractor was aware that the work was unlawful, and should therefore bear a greater proportion of the costs. Note that if this model were to be favoured, clear criteria and guidance for apportioning costs would need to be developed to ensure fairness and consistency in apportionment.

---

<sup>3</sup> For example, many district plans make it a permitted activity to use a house for residential purposes, but it would be inappropriate to conduct a compliance inspection to verify this use.

## Insurance against criminal penalties

19. There has recently been significant commentary on the issue of insurance against criminal penalties that can be imposed under the RMA. Judge Harland, an Environment Court judge sitting in the District Court, noted in *Bay of Plenty Regional Council v Whitiakau Holdings Ltd [2018]* that she was not persuaded that it is lawful for a defendant to be insured against a fine in an RMA prosecution. The relevance of such insurance to RMA sentencing has since been a subject of further judicial assessment before the District and High Courts.
20. The law could be amended to prohibit insurance against environmental prosecution fines and infringement fees in the same way that section 29 of the Health and Safety at Work Act 2015 does. Commentators have written in support of such an amendment.<sup>4</sup>
21. It should be noted that insurance should continue to be available to cover environmental remediation or restoration costs that might arise from offences, in order to minimise the risk that public agencies may have to cover the costs of dealing with pollution, contamination or other environmental harms that might arise from serious non-compliance.

## Breach of consent conditions

22. Conditions of consent are commonly imposed in resource consents. However, while contravention of a consent condition can give rise to the issuance of an abatement notice, contravention of a resource consent condition *in itself* is not an offence against the RMA and cannot form the basis of an infringement fine or a prosecution charge.
23. Where activities are consented to but in contravention of conditions, this is usually still able to be constructed as an offence, as an activity which is occurring in contravention of consent conditions is not occurring in a manner 'expressly allowed' by the consent. However, in practice, it can be difficult and confusing for the regulated and regulator to clearly identify the rules breached, especially in cases where the consent is older and the underlying plan has changed since the issue of the consent. This in turn can create a great deal of work for an officer to prove the ingredients of an offence. In contrast, demonstrating a contravention of the consent condition may be quite straightforward. The current situation therefore creates additional work, and could easily be simplified to allow greater clarity for consent holders and regulators.
24. A new offence of 'contravention of a condition of consent' could be created, allowing either prosecution or an infringement notice in relation to the offence, as with other existing RMA offences.

## New enforcement tools: revocation of consent and enforceable undertakings

25. Revocation of a regulated party's licence to operate is widely regarded as the ultimate penalty that a regulator can engage in order to punish an offender and prevent the commission of further offences or harm.<sup>5</sup> However, there is no provision under the existing regime to remove an operator's right to undertake an activity once it is approved through a consenting process. This is troublesome because the consent processing only considers the merits of the activity proposal and does not take adequate account of an operator's compliance history or attitude.<sup>6</sup> Sections 126 and 314 of the RMA provide limited circumstances where a resource consent can

---

<sup>4</sup> Devine, R; de Groot, S; Woodward, C. 2018. *Planning Quarterly Issue 211, December 2018: Findings from the Courts - Environmental indemnity insurance*. Auckland: New Zealand Planning Institute, p 32-26.

<sup>5</sup> Sparrow, Malcolm K. 2000. *The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance*. Washington D.C.: The Brookings Institution, p. 37-40.

<sup>6</sup> Brown, M.A. 2017. *Last Line of Defence*. Auckland: Environmental Defence Society Incorporated, p. 51, 79.

be revoked. The current provisions do not strongly relate to compliance performance on the part of the regulated party.

26. A new power to allow a CME agency to apply for a revocation order in response to serious or repeated non-compliance could be introduced. This power could relate exclusively to the common public realm resources currently managed through regional plan rules (discharges to air and water, industrial trade activities, soil conservation, etc), to reflect the relative greater biophysical importance of these resources to ecosystem health, or they could apply more broadly to all consents and activities.
27. In other regulatory regimes, 'enforceable undertakings' allow an agreement to be made between the regulator and the regulated party for reparations/or alternative actions following a breach (or potential breach). They are generally used as an alternative to prosecution, to support the objectives of the Act the offence relates to. This tool is similar to the diversion process<sup>7</sup> but can be used outside of the Courts with a wider range of benefits and lesser costs. The purpose of an enforceable undertaking would be to:
  - allow an alternative approach to legal action where it may not be in the best interests of the public to prosecute (for example, if the likelihood of conviction is not high but the costs of the prosecution action are)
  - achieve outcomes that may not be achievable through Court action (for example, promoting industry good practice; carrying out or funding state of the environment assessments, or environmental remediation projects.).
28. Provision for enforceable undertakings could be introduced for resource management offences, comparable to the existing provisions for health and safety, fair trading, and anti-money laundering legislation.
29. The existence and application of enforceable undertakings is well developed in the Health and Safety at Work Act 2015 and the Employment Relations Act 2000. However, they are not utilised in cases of serious or chronic non-compliance, nor where a prosecution is in the best interests of the public (for example, where there is a high chance of conviction and the costs of prosecution are outweighed by the benefits). Enforceable undertakings would involve a voluntary agreement, which would only create costs for non-compliant parties. They would allow greater flexibility for regulators and noncompliant regulated parties to address non-compliance, improve the incentive to comply, and allow a more cost effective regulatory response, as well as improving consistency with modern regulatory practice.
30. An offence, and a monetary penalty, associated with non-compliance with enforceable undertakings would need to be introduced if this option is selected. This would make them binding and improve the incentive to comply with them, as well as ensuring consistency with similar instruments in other regulatory regimes.

### **Consent notice and covenant enforcement**

31. Consent notices are described by the provisions of section 221 of the RMA. Consent notices are, in effect, consent conditions imposed in relation to consent for the subdivision of land. An application to cancel or alter a consent notice is a discretionary activity under the RMA. RMA section 221(4)(b) specifies that every consent notice is deemed to be a covenant running with the land to which it relates.
32. However, as a deemed covenant, only civil law remedies are available in the event that a consent notice is unlawfully contravened. Contravention of a consent notice is not an offence

---

<sup>7</sup> Settling in the early stages of a court case.

against the RMA, and breach of a consent notice cannot give rise to a directive enforcement action such as an abatement notice or application for an enforcement order. It is both unusual and absurd that an activity requiring a discretionary consent can be undertaken without authorisation and not be subject to any regulatory sanction.

33. Similarly, covenants governing a range of environmental effects can be imposed as conditions of consent. However, it is often the case that a breach of covenant is not a breach of the RMA and so only civil law remedies are available.
34. The provisions for abatement notices (refer section 322 of the RMA) could be easily amended to allow that contravention of a consent notice, or any covenant imposed under section 108 of the RMA may provide grounds for an abatement notice.

## Environmental bylaws

35. Environmental bylaws made by territorial authorities, especially those relating to trade waste discharges and stormwater discharges to networks, are provided for under the Local Government Act 2002 (LGA). The purpose of these bylaws is to allow discharges of sewage, stormwater, and trade wastes into sewer or stormwater networks, while maintaining compliance with relevant network discharge consents issued in relation to regional plan rules, and protecting council-owned stormwater and wastewater treatment plant assets.
36. As bylaws under the LGA, there are limited CME tools that can be brought to bear by local authorities in relation to any contraventions. The LGA provides for prosecutions with a maximum penalty of \$20,000, but no infringement scheme or directive enforcement options (such as abatement notices or enforcement orders) apply. The bylaws also duplicate a consenting/permitting system which closely mirrors that of the RMA.
37. These bylaws could be brought under the aegis of the RMA. A national environmental standard or regulations could be developed to replace the existing 'model bylaw'. This would enable national consistency in rules and consenting, and make the full range of CME options under the RMA available in relation to breaches.

## Criminal proceeds and commercial gain

38. Many offences against the RMA involve commercial or financial gain to the offender(s). It is commonplace that the financial gain to the offender far outweighs the penalties imposed upon offenders through the courts.
39. The Criminal Proceeds (Recovery) Act (CP(R)A) section 6 sets out that offending resulting in the acquisition or delivery of "property, proceeds, or benefits" exceeding \$30,000 constitutes **significant criminal activity** which may result in a civil forfeiture application. This threshold is commonly exceeded in RMA offences, but to date, the CP(R)A has only been used in one known case of RMA offending (*Commissioner of New Zealand Police v Jiang 2016*, CIV-2016-409-298). It is conceivable that the CP(R)A provisions could have much broader application to RMA offences in the future.
40. Under the CP(R)A, only the Commissioner of Police may make a civil forfeiture application. Various non-police agencies, including Inland Revenue, Customs, MBIE, etc, frequently approach the Commissioner to make a civil forfeiture application on their behalf.
41. A future option, outside the scope of the current review, is to amend the CP(R)A to allow that civil forfeiture applications may be made by the CEO of the relevant compliance agency (eg, councils or the EPA in the case of RMA offending), to unambiguously signal that the civil forfeiture processes described in the CP(R)A are intended to apply to environmental offences that meet the section 6 test.

42. A further option (within the scope of this review) that could be taken in conjunction with (or as an alternative to) the above would be to create new provisions for commercial gain offences such as that outlined in section 339B of the RMA.

### Judge alone trials

43. At present, any person faced with prosecution for offences under the RMA is entitled to elect a trial by a jury of their peers. Prosecutions under the RMA often involve the interpretation and application of technical rules and scientific data. The technical nature of rules and evidence involved in RMA offending makes it difficult for laypersons to capably engage with a case if they are called to be part of such a jury.
44. As RMA offences have a maximum imprisonment period of two years, they are defined as Category 3 offences for the purposes of the Criminal Procedures Act 2011 (CPA). As category 3 offences, defendants may elect whether to be tried before a jury or a judge alone. The Court has the power to order judge-alone trials in accordance with the provisions of sections 102 and 103 of the CPA 2011, if the relevant circumstances apply, and this has occurred in some cases where jury trial has been elected by the defendants.
45. Changes could be introduced to provide that all except the worst RMA/environmental prosecutions may be heard as judge-alone trials, due to the complex and technical nature of RMA rules, plans, consents and contraventions.<sup>8</sup> The simplest means of achieving this would require greater statutory distinction between environmental offences based upon their seriousness, with lesser offences carrying maximum terms of imprisonment less than two years, and maximum penalties of two years or more reserved only for serious offending. This would result in offences with maximum sentences of less than two years being category 2 offences for the purposes of the CPA, and thus ineligible for jury trials.

### Training and qualifications (non-statutory – agency policy change)

46. CME officers frequently bring a diverse range of skills to their work, often having been recruited from technical planning or scientific backgrounds, or from specialist investigation or enforcement backgrounds (eg, police, customs, or fisheries officers). This diversity is a strength of the inspectorate, especially when a range of these skills is collectively held by a team or unit. However, where teams are smaller and less diverse, greater consistency in the training and qualifications held by CME staff is highly desirable to ensure foundational skills are present.
47. It could be made mandatory, for example, through regulations, or by other means, for all CME staff to receive instruction in Basic Investigative Skills<sup>9</sup> (manual and associated course developed by Waikato Regional Council) and be required to obtain (at a minimum) the Level 3 National Certificate in Public Sector Compliance (Foundation), and subsequently obtain higher level National Certificate qualifications as their careers progress.

### Solicitor-General's Prosecution Guidelines

48. Local government agencies use the Solicitor-General's Prosecution Guidelines (SG Guidelines) to assist them in making enforcement decisions, but the guidelines apply only weakly to local government prosecutions. As noted earlier in this paper, local government prosecutions are not defined as public prosecutions for the purposes of the CPA.

<sup>8</sup> As recommended in De Silva, K. 1999. *Prosecutions under the Resource Management Act 1991*. Auckland: University of Auckland.

<sup>9</sup> Wynn Williams Lawyers. 2018. *Compliance, monitoring and enforcement by Regional Councils: a report for the Minister for the Environment*. Christchurch: Wynn Williams Lawyers, p. 6.

49. The SG Guidelines are designed to be applied in prosecution decisions about conventional criminal offending. The application of the SG's public interest test in the context of regulatory environmental offending has a number of distinct characteristics which are quite different from conventional 'offender-victim' crimes. Environmental regulators in the current system are often faced with the investigation of offences by other regulatory agencies, for example, a regional council investigating unlawful wastewater treatment discharges from a municipal plant owned by a district council. Determining how to conduct a public interest assessment in a case like this could be assisted by the development of supplementary SG guidelines tailored to dealing with regulatory offending, taking into account offences by crown entities and other public sector actors.
50. MfE and other regulators could collaborate with the Office of the Solicitor-General to develop new specific guidelines on conducting public interest tests in environmental and other specialist regulatory cases. This could have broad benefits for a range of regulators.

DRAFT  
Released under the Official Information Act 1982

## Appendix 3: Centralised multi-disciplinary model – a cursory risk-benefit summary

This institutional change option is broad and potentially sits outside the scope of the mandated review. Despite this, the option presents an interesting account of how operational and jurisdictional interactions with other systems and statutes might be improved. Change of the scale represented by this option would require much further analysis and discussion with the broad range of potentially affected agencies.

### Potential benefits

#### Overcome existing economy of scale issues

Many of our environmental regulatory agencies suffer from insufficient economy of scale. This impedes them from effectively accomplishing their regulatory missions. Providing a centralised agency with regional offices would allow this issue to be overcome.

#### Overcome existing jurisdictional confusion and diminish operational duplication/overlap

Many of our environmental statutes have overlapping and/or counterintuitive jurisdictions. These various roles create duplication and confusion among regulatory agencies and among regulated parties. This creates risk of regulatory failure.

#### Unit fragmented environmental CME system

Our environmental CME system is highly fragmented and inconsistent. Uniting the various regulatory tasks under one agency would allow clear strategic management of environmental CME tasks and allow better targeting of problem issues.

#### Align CME for Acts with confluent regulatory purposes

Many environmental statutes have similar, complementary, or confluent purposes, yet have disjunctive CME frameworks or operational models. Aligning these statutes under one regulator would allow enhanced strategic management.

#### Build multi-disciplinary capability & facilitate sharing of transferable skills

Many of these environmental statutes involve similar harm minimisation techniques and investigative methodologies. The skills required to undertake CME tasks under these statutes are very similar and easily transferred between practitioners.

#### Eliminate issues with local bias and political turbulence

Environmental regulators (especially local government agencies) are susceptible to turbulence in local politics. Short term changes in resourcing or prioritisation can significantly impede regulatory capability and capacity. Removing CME functions to a central arms-length multidisciplinary regulator would overcome this.

## Improved health and safety for regulatory inspectors and investigators

Many regulatory compliance practitioners are currently operating as lone workers. This creates significant health and safety risk for these workers and is contrary to obligations for 'Person Conducting a Business or Undertaking' under the Health and Safety at Work Act. Creating a single agency with greater economy of scale would enable a reduction in lone-worker situations and better protect the welfare of the regulatory workforce.

## Clear CME focus enables proper prioritisation and a diminished regulatory burden on local government and policy focused agencies

All of our environmental CME agencies currently have CME as a secondary or incidental function, as opposed to a primary one. For example, many agencies with environmental CME responsibilities have asset ownership/asset management, or permit processing as their primary functions. Having a regulatory agency with a clear CME focus would enable proper prioritisation and resourcing of CME, rather than having it competing with other organisational functions/priorities.

## Diminished risk of regulatory capture

Regulators which have a narrow regulatory focus tend to deal with a smaller number of specialised regulated parties. This can create a close working relationship which can lead to regulatory capture, where the regulated party has undue influence over the regulator. This risk is diminished where a regulator deals with a broad range of regulated parties over various industries.

## Enhanced data gathering and quality

Having a single agency with a single software database would enable simpler reporting, enhanced trend and cluster analysis, and improved intelligence services.

## Institutional separation of inspection and enforcement functions from consent processing functions

This functional separation is a key recommendation of the OECD and the Productivity Commission.

## Potential risks

### Operational inertia

Employees transferred from legacy agencies will have a tendency to 'do things the way they've always been done' – team silos within the agency might replace existing agency silos.

Larger, less specialised agencies tend to focus on their broad regulatory responsibilities and may overlook the more specialised functions they are tasked with.

### Impeded feedback loops

Feedback from frontline officers is an essential source of intelligence for policy and regulatory planners about the effectiveness of plan rules and consent conditions they impose. Having organisational separation of CME from these functions may impede the conveyance of this feedback.

### **Response timeframes linked to locational distribution**

In places where the current devolved system works well, one of the features that enable good performance is officers being based in close geographic proximity to the places for which they act as regulator. Creating a centralised multi-disciplinary agency for these functions may mean there is some rationalisation of office locations.

### **Short term change management costs might be significant**

This option presents a broad and far-reaching overhaul of regulatory compliance services. The costs of implementing such change might be significant, and could potentially be prohibitive.

**DRAFT**  
Released under the Official Information Act 1982

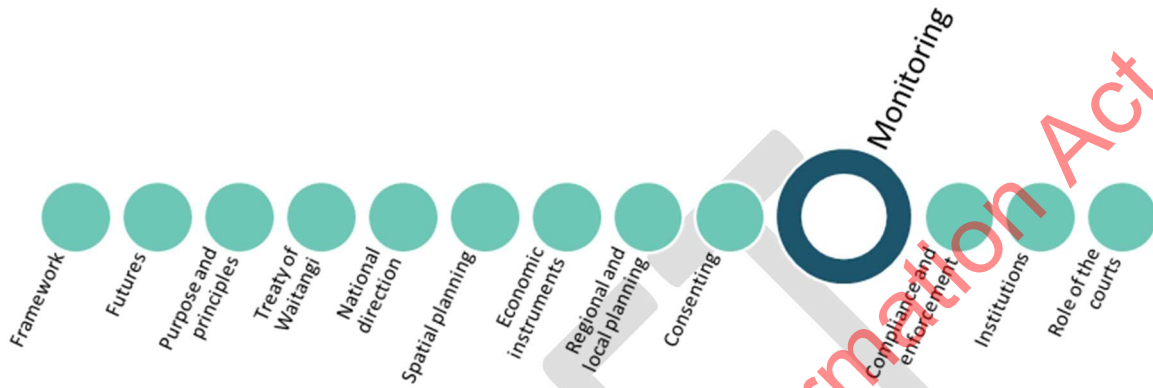
## References

- Alberta State Government, 2013. *Creative Sentencing in Alberta: 2013 Report*. Calgary, Alberta, Canada: Alberta Environment and Sustainable Resource Development Department and Alberta Crown Prosecution Service.
- Ayes, I., and Braithwaite, J. 1992. *Responsive Regulation: Transcending the Deregulation Debate*. Oxford University Press. Available online at <http://johnbraithwaite.com/wp-content/uploads/2016/06/Responsive-Regulation-Transce.pdf>
- Brown, M.A. 2017. *Last Line of Defence*. Auckland: Environmental Defence Society Incorporated.
- Brown, M.A. 2018. *Independent Analysis of the 2017/2018 Compliance Monitoring and Enforcement Metrics for the Regional Sector*. Palmerston North: The Catalyst Group.
- Brown, M. A., Stephens, R.T., Peart, R., Fedder, B. 2015. *Vanishing Nature: facing New Zealand's biodiversity crisis*. Auckland: Environmental Defence Society Incorporated.
- Cliffe, J.D. QC, 2014. *Creative Sentencing in Environmental Prosecutions, the Canadian Experience: An Overview*. Halifax, Nova Scotia, Canada: The Canadian Institute of Resources Law (conference symposium paper).
- Compliance and Enforcement Special Interest Group, 2019. *Regional Sector Strategic Compliance Framework 2019-2024*.
- De Silva, K. 1999. *Prosecutions under the Resource Management Act 1991*. Auckland: University of Auckland.
- De Silva, K & Ryan, S. 2010. *Two Sides of the Coin: Council's Prosecution Role and Strategies for the Defence*. Local Government Legal Forum 2010 (Conference paper).
- Devine, R; de Groot, S; Woodward, C. 2018. *Planning Quarterly Issue 211, December 2018: Findings from the Courts - Environmental indemnity insurance*. Auckland: New Zealand Planning Institute.
- Department of Internal Affairs. 2011. *Achieving Compliance: A Guide for Compliance Agencies in New Zealand*. Wellington: Department of Internal Affairs.
- Hughes, E.L., and Reynolds, L.A, 2015. *Creative Sentencing and Environmental Protection*. Calgary, Alberta, Canada: Journal of Environmental Law and Practice.
- Law Commission, 2017. *Review of the Search and Surveillance Act 2012 – Questions and Answers*, Law Commission, Wellington: Ministry of Justice  
[https://www.lawcom.govt.nz/sites/default/files/publicationAttachments/Search%20and%20Surveillance%20Review%20Q%20n%20A%20-%20FINAL\\_0.pdf](https://www.lawcom.govt.nz/sites/default/files/publicationAttachments/Search%20and%20Surveillance%20Review%20Q%20n%20A%20-%20FINAL_0.pdf), and  
[https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC-R141-Review-of-the-Search-and-Surveillance-Act-2012-final\\_0.pdf](https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC-R141-Review-of-the-Search-and-Surveillance-Act-2012-final_0.pdf)
- Ministry for the Environment, 2018. *Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2016. *Compliance, monitoring and enforcement by local authorities under the Resource Management Act 1991*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2002. *A Study into the Use of Prosecutions under the Resource Management Act 1991*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2006. *A Study into the Use of Prosecutions under the Resource Management Act 1991 1 July 2001 – 30 September 2005*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2009. *A Study into the Use of Prosecutions under the Resource Management Act 1991 1 May 2005 – 30 June 2008*. Wellington: Ministry for the Environment.

- Ministry for the Environment. 2013. *A Study into the Use of Prosecutions under the Resource Management Act 1991 1 July 2008 – 30 September 2012*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2016. *National Monitoring System for 2014/15*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2017. *National Monitoring System for 2015/16*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2018. *National Monitoring System for 2016/17*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2019. *National Monitoring System for 2017/18*. Wellington: Ministry for the Environment.
- Ministry for the Environment. 2014. *Biannual Surveys of Local Authorities 1996/97-2012/13*. Wellington: Ministry for the Environment.
- New Zealand Productivity Commission. 2013. *Toward Better Local Regulation*. Wellington: New Zealand Productivity Commission.
- New Zealand Productivity Commission, 2014. *Regulatory institutions and practices*. Wellington: The New Zealand Productivity Commission. Available online at <https://www.productivity.govt.nz/assets/Documents/d1d7d3ce31/Final-report-Regulatory-institutions-and-practices-v2.pdf>.
- Nolan, D (ed). 2015. *Environmental and Resource Management Law*. Wellington: LexisNexis NZ Ltd.
- Northland Age, 11 June 2013. *Brutal Attack on NRC Worker*. Retrieved from [https://www.nzherald.co.nz/northland-age/news/article.cfm?c\\_id=1503402&objectid=11101714](https://www.nzherald.co.nz/northland-age/news/article.cfm?c_id=1503402&objectid=11101714).
- Resource Management Law Association of New Zealand Inc, 2016. *Resource Management Law Association Roadshow: Conditions of consent*. RMLA, available at [http://www.rmla.org.nz/wp-content/uploads/2016/09/010714\\_conditions\\_of\\_consent\\_legal\\_paper.pdf](http://www.rmla.org.nz/wp-content/uploads/2016/09/010714_conditions_of_consent_legal_paper.pdf).
- Sandel, M. 2012. *What Money Can't Buy: The Moral Limits of Markets*. London: Allen Lane Publishing.
- Society of Corporate Compliance and Ethics. 2012. *Stress, Compliance, and Ethics*. Minneapolis: Society of Corporate Compliance and Ethics.
- Sparrow, Malcolm K. 2008. *The Character of Harms: Challenges in Operational Control*. Cambridge: Cambridge University Press.
- Sparrow, Malcolm K. 2000. *The Regulatory Craft: Controlling Risks, Solving Problems, and Managing Compliance*. Washington D.C.: The Brookings Institution.
- Sydney Morning Herald, 23 June 2016. *Farmer Ian Turnbull jailed for murdering environment officer Glen Turner*. Retrieved from <https://www.smh.com.au/national/nsw/farmer-ian-turnbull-jailed-for-murdering-environment-officer-glen-turner-20160623-gppzki.html>.
- Wynn Williams Lawyers. 2018. *Compliance, monitoring and enforcement by Regional Councils: a report for the Minister for the Environment*. Christchurch: Wynn Williams Lawyers.

## Monitoring and System Oversight

*This paper sets out how the resource management system is monitored and evaluated at a system level. It discusses current problems, options for reform, and judgments that will be required as part of the comprehensive review of the resource management system.*



### Executive summary

1. Many parties, including Government, regulators, businesses, iwi/Māori and the general public, need confidence and assurance that the country's resources are being effectively and sustainably managed under the Resource Management Act 1991 (RMA). To understand if this is being achieved a series of monitoring and oversight activities are needed to provide information on how the RMA is being implemented and how effective and efficient it is in practice.
2. This paper addresses monitoring and oversight across the resource management system. It includes monitoring of the environment itself, monitoring of the tools – principally the RMA – for managing the environment and human interaction and the extent to which those tools are used effectively. Analysis of operational compliance and enforcement is included in a separate paper.
3. Many stakeholders and commentators have identified the need for better monitoring and oversight of the resource management system. The problems identified include:
  - monitoring focuses on operational matters rather than system outcomes
  - monitoring of urban outcomes has been insufficient
  - lack of capability, data and systems to effectively monitor outcomes
  - lack of a culturally-appropriate measurement system for Māori and involvement of Māori in monitoring
  - inadequate linkage of environmental reporting data to RMA policy levers.
4. This paper sets out a number of options that address these problems. Options identified include:
  - greater monitoring and oversight by central government
  - greater operational role for the Ministry for the Environment (MfE) to better monitor the outcomes of the system

- extending the role of the Parliamentary Commissioner for the Environment (PCE) to include an audit function
  - providing levers in the environmental reporting framework so that policy responses are linked to environmental outcomes, and positive environmental outcomes are incentivised
  - developing a culturally-appropriate outcomes measurement system for Māori by Māori
  - updating the environment data domain plan<sup>1</sup> to - prioritise key data sets for investment; identify what new knowledge we need from the data; and identify the enduring research questions that could help understand the performance of our environmental systems
  - optimising the way we collect environmental data – eg, ensure sampling of data sets is representative; clarify the frequency of data collection; and make sure data is collected and analysed in an unbiased way
  - responding to the findings of the Environment Aotearoa 2019 report, particularly the priority environmental issues facing New Zealand and the critical knowledge and data gaps for each.
5. The important judgements identified are balancing:
- a stronger monitoring role for government versus greater independent oversight
  - a voluntary versus legislated response to environmental reporting
  - retaining existing monitoring arrangements with creating new systems
  - monitoring requirements with data availability and quality.

---

<sup>1</sup> Statistics New Zealand, Ministry for the Environment, Department of Conservation (2013). **Environment domain plan 2013**: Initiatives to address our environmental information needs. Available from [www.stats.govt.nz](http://www.stats.govt.nz).

## Introduction

### What do we mean by monitoring and oversight?

6. The term “monitoring” is used extensively in the context of the RMA with very different, and often quite specific, meanings. It appears 47 times across 26 different sections of the RMA to describe a number of related but distinct system tasks and responsibilities. It includes tasks ranging from permitted activity inspections to assessing water quality. Monitoring, in and of itself, serves no purpose unless there is some degree of assessment or interpretation of the information it provides, and the capacity to respond to it.
7. The UK Treasury defines monitoring as “the collection of data, both during and after implementation to improve current and future decision-making” and evaluation as “the systematic assessment of design, implementation, outputs and outcomes to establish direct and indirect impacts.”<sup>2</sup> These definitions work at the level of the Act, but do not include oversight of compliance with individual consents.
8. Looking at monitoring at a system level involves: oversight and review of what is happening across the system, looking at impact, and the effectiveness and efficiency of decisions, with a view to:
  - guiding policy development and activity planning
  - tracking progress against targets or aspirations at various levels
  - ensuring compliance with rules, standards and conditions.
9. Evaluation goes beyond ensuring compliance with rules and targets. It seeks to understand the difference policy interventions are making for the natural and built environments, taking into account differing drivers of environmental protection and providing for development.
10. This paper therefore addresses – system oversight, system monitoring (including state of the environment reporting), and evaluation of outcomes from the management of the system. It covers system monitoring of both biophysical and urban environments as they relate to resource management.
11. Monitoring involves a variety of functions with differing timeframes and purposes. Oversight of the system and assessment of performance outcomes tend to have much longer time horizons. Other forms of monitoring that are shorter-term include regulatory system oversight and RMA compliance monitoring. The table below sets out the different types of monitoring functions in the resource management system, across three categories – environmental monitoring, compliance monitoring, and outcome evaluation.

### Current provisions

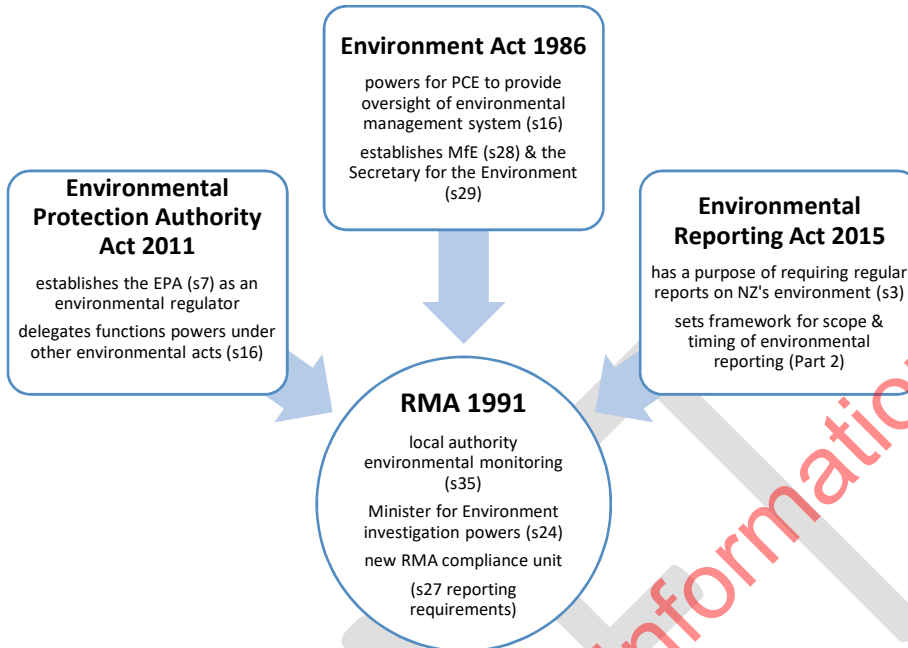
12. Legislative provision for monitoring and oversight extends beyond the RMA, with support and powers provided through the Environment Act 1986, the Environmental Reporting Act 2015 and the Environmental Protection Authority Act 2011. There are a number of other laws that have functions that affect monitoring and oversight of the resource management system to a lesser degree. Although not shown in the diagram below, additional legislation such as the Conservation Act 1987, Land Transport Management Act 2003 (LTMA) and Local Government

---

<sup>2</sup> HM Treasury (2018) The Green Book: Central Government Guidance on Appraisal and Evaluation.

Act 2002 (LGA), have regulatory provisions that influence outcomes within the resource management system.

**Figure 1: Primary legislation with resource management monitoring and oversight functions**

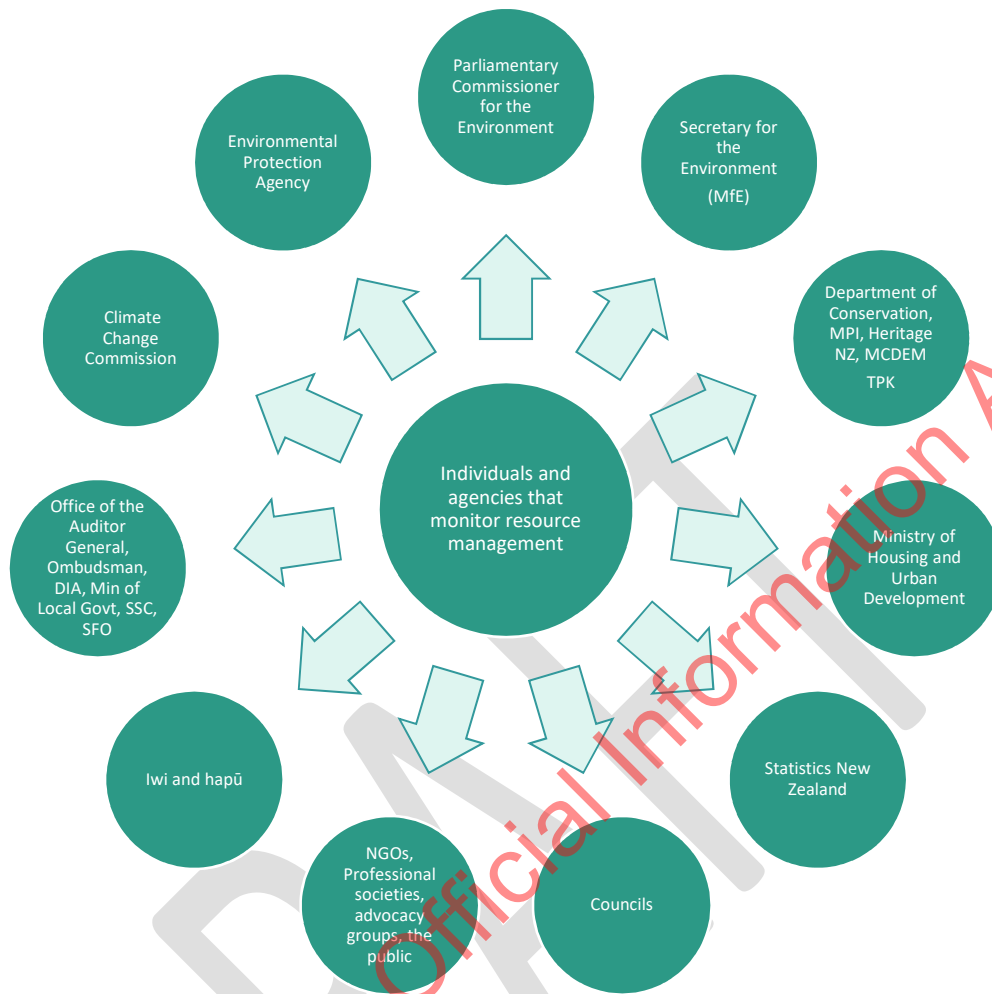


- There are a number of other laws that have functions that affect monitoring and oversight of the resource management system to a lesser degree. Although not shown in the diagram below, additional legislation such as the Conservation Act 1987, LTMA and LGA, have regulatory provisions that influence outcomes within the resource management system.

### Roles and responsibilities

- A range of agencies and individuals have roles that include components of monitoring of the resource management system. There is an opportunity here for an alignment in direction, method, and outcome. Key individuals and agencies with oversight and/or monitoring roles are shown in **Figure 2** below and then are outlined in more detail.

**Figure 2: Individuals and agencies that monitor the resource management system**



15. These agencies and organisations undertake a range of monitoring across. In some instances this is set out in statute or regulation, in other cases it is an input to other functions or a specific interest. Some monitoring is regular while other types may be event driven. The key types of monitoring included are:

- Monitoring natural and built outcomes
- Monitoring outcomes for and by Māori
- Local environmental monitoring
- Regulatory performance monitoring
- Compliance monitoring.

**Monitoring natural and built environmental outcomes**

16. Monitoring of environmental outcomes is provided for through the following arrangements:

- **State of the Environment reporting by the Government Statistician and the Secretary for the Environment** – as required by the Environmental Reporting Act 2015

- **Parliamentary Commissioner for the Environment governance and oversight reports** – assessed and reported to the State Services Commissioner through the PCE’s **Annual Report to Parliament** and **specific monitoring reports** on environmental issues
- **Councils** – have a role to report on the state of the environment under section 35 of the RMA
- **Stats NZ** – Indicators Aotearoa programme – a series of indicators to measure progress in New Zealand including sustainability and wellbeing outcomes
- **Ministry of Housing and Urban Development (HUD)’s monitoring of urban outcomes** – tracking outcomes across the housing and urban development system, including developing tools to share information across central and local government and the housing and urban development sector
- The **Climate Change Commission** will monitor and review progress towards emissions reduction and adaptation goals.

**Environment reporting**

17. The Environmental Reporting Act was passed in 2015 to make the responsibilities for environmental reporting explicit. It also sets out a framework for the scope and timing of environmental reporting. Synthesis reports on the state of the environment are provided every three years. The scope of the Environmental Reporting Act is narrow. The RMA does not provide any response linkages/levers be able to respond to environmental outcomes reported under the Environmental Reporting Act.
18. The purpose of this environmental reporting is to provide people who make decisions about the environment with accurate and reliable environmental information. With this information, they can make informed decisions about natural resource management and set environmental policy.
19. The Government Statistician and the Secretary for the Environment have responsibility for environmental reporting. The PCE can also comment on any aspect of environmental reporting to provide a further degree of independence.
20. Reporting is conducted across five domains (air, atmosphere and climate, fresh water, land and marine), with a set of topics to identify key issues within each domain and across domains.
21. Under section 19 of the Act, reporting topics are required to relate to:
  - the state of New Zealand’s environment
  - pressures on the state of the environment that may be causing, or have the potential to cause, changes to the state of the environment
  - impacts that the state of the environment and changes to the state of the environment may be having on the following matters:
    - ecological integrity
    - public health
    - the economy
    - te ao Māori
    - culture and recreation.<sup>3</sup>

---

<sup>3</sup> Cabinet paper – Final policy decisions for environmental reporting topics, April 2016, MfE website.

22. MfE has a range of projects and interactions underway to improve environmental reporting data,<sup>4</sup> including:

- **increasing the availability of data** – the Environmental Reporting Act 2015 is expected to increase the focus on environmental data. MfE is working with Stats NZ and regional councils to improve the availability of robust and representative data. MfE is not funded for data collection under the Environmental Reporting Act.
- **a data improvement workstream** – aimed at improving under-developed, insufficient and poor quality data sets and developing new indicators, models, data sources, methodologies, analyses, and presentation techniques
- **Environmental Monitoring and Reporting (EMaR)** – MfE is working with regional councils to standardise methods and the sharing of data to allow national scale interpretation of regional data
- **Land, Air, Water, Aotearoa (LAWA)** – a collaboration to provide land, water and air data sets between MfE, regional councils, the Cawthron Institute, and Open Lab (Massey University). This allows public access to national and up-to-date data sets from a single source, including real-time water quality and quantity data and air quality data
- **National Environmental Monitoring Standards (NEMS)** – standards are being developed to establish best practice for the ongoing measurement of the environment. The standards are being funded by regional councils, MfE, major power generators and MBIE
- **responding to the findings of the Environment Aotearoa 2019 report**, particularly the priority environmental issues facing New Zealand and the critical knowledge and data gaps for each. This will include prioritising data sets for development and investment. This could be done through an updated environmental data domain plan<sup>5</sup> that would identify the priority data sets and what the enduring research questions are to better monitor the environment to provide the scientific evidence base for policy response. An environmental domain plan could help inform what data is available and what is needed for establishing environmental limits and targets.

**Parliamentary Commissioner for the Environment**

23. The Office of the PCE was established to provide oversight of the effectiveness of environmental planning and management in New Zealand. It is independent of government and has a mission *“to maintain or improve the quality of the environment by providing robust independent advice that influences decisions”*.<sup>6</sup> The PCE was set up under the Environment Act 1986, as a result of reform of New Zealand’s environmental administration following the 1981 OECD report ‘Environmental Policies in New Zealand’. This report had recommended that there needed to be a strengthening of environmental advice to government and the establishment of an environmental body with separate audit and oversight functions.<sup>7</sup>

24. The PCE has strong powers to obtain information under the Environment Act, and can request information that is available from any organisation or person. If information is not provided, the Commissioner can summon people to be examined under oath; this power is accompanied by a

<sup>4</sup> <https://www.mfe.govt.nz/more/environmental-reporting/improving-environmental-reporting-data>

<sup>5</sup> Statistics New Zealand, Ministry for the Environment, Department of Conservation (2013). Environment domain plan 2013: Initiatives to address our environmental information needs. Available from [www.stats.govt.nz](http://www.stats.govt.nz).

<sup>6</sup> PCE website, 2019 - <https://www.pce.parliament.nz/about-us/functions-powers>.

<sup>7</sup> Ibid

duty of secrecy. The Commissioner can make recommendations but cannot require their implementation.<sup>8</sup>

25. In his 2018 Annual Report to Parliament, the PCE commented on the importance of monitoring water quality and noted that this will be a key factor in monitoring the overall system for some time:

*“New Zealand’s water quality wasn’t compromised overnight and cleaning it up will be a long and expensive process. We have to know that the policies and instruments we use to promote cleaner water are making a measurable difference. With that in mind I have launched an enquiry into whether Overseer, a model developed to manage farm nutrients, is a tool suitable to be used in a regulatory context. This opens the wider world of modelling, data and underpinning science. I have little doubt that I will remain engaged on water-related questions for some time to come”.*<sup>9</sup>

26. The PCE is currently undertaking a review of New Zealand’s environmental reporting system and a report will be released in the next few months. Issues covered in the RM Review will overlap with the content of the PCE report particularly relating to:

- strengthening environmental bottom lines, and further clarifying Part 2 of the RMA
- examining all RMA functions and processes (including monitoring)
- allocating roles in the system to central and local government, the Environment Court, and other institutions such as Independent Hearings Panels
- ensuring institutions have the right incentives (including clearly defined roles, responsibilities and accountability mechanisms).

27. The PCE report will provide a useful input to the RM Review. Recommendations from the PCE report may drive responses and changes in monitoring and reporting in the RMA system.

### **Councils**

28. Councils have a duty under section 35(2) of the RMA to monitor the state of the whole or any part of the environment of its region or district to enable the local authority to effectively carry out its functions under the RMA. Data from local authorities is an input to the State of the Environment Reporting process.

### **Statistics New Zealand**

29. Statistics New Zealand is developing the Indicators Aotearoa programme that will provide a suite of indicators to help measure progress in New Zealand, including a range of environmental indicators (mostly taken from MfE’s environmental reporting programme). These indicators will help assess how New Zealand is performing in relation to Treasury’s Living Standards Framework and the UN Sustainable Development Goals. The programme also links to the Treasury Living Standards Framework.

### **Ministry of Housing and Urban Development**

30. HUD’s roles include directly procuring and delivering programmes and place-based projects, as well as providing strategy and policy to respond to issues such as homelessness, and the

---

<sup>8</sup> NZ Legislation website – Environment Act 1986.

<sup>9</sup> PCE Annual Report to Parliament, 2018 - <https://www.pce.parliament.nz/media/196488/annual-report-for-the-year-ended-30-june-2018.pdf>

affordable housing crisis. A System Performance Group has been established within HUD. The purpose of the Group includes to:

- shape, maintain and build consensus on a long term view of the Housing and Urban Development system
- support the operation and transformation of the system through monitoring, maintaining critical relationships, governance fora, leading futures thinking, synthesising knowledge and generating insights and intelligence.

31. HUD are also developing a database to better understand impacts across urban environments at 'place level' and are establishing a dashboard to track progress across the Government Build Programme and wider housing programme. The housing system dashboard is intended to be a single platform for some of the key measures in the housing system.

**Other agencies that monitor the environment**

32. Other agencies including the Environmental Protection Authority (EPA) have environmental roles that contribute to national environmental oversight. The Department of Conservation, Ministry for Primary Industries, Heritage New Zealand and the Ministry of Civil Defence and Emergency Management also have agency mandates to protect specific aspects of New Zealand's environment.

**Monitoring environmental outcomes for and by Māori**

33. Kaitiakitanga is a te ao Māori approach to stewardship of the environment. It encompasses the purpose of the RMA, but is broader than these concepts.<sup>10</sup> It is holistic across land and sea and includes people within the concept of the environment. Kaitiakitanga means guardianship of natural and physical resources exercised by tangata whenua, founded in whakapapa, being the relationship between everybody and everything in the natural world.

*“Traditionally, kaitiaki had a guardian and stewardship role for natural resources. Whilst individuals may have had specific roles, these were all exercised in terms of a collective responsibility determined through whakapapa and tikanga. The allocation and distribution of the benefits from those resources were further kaitiaki responsibilities.”<sup>11</sup>*

34. MfE and Te Puni Kōkiri (TPK) have a number of tools to measure outcomes from the resource management system for Māori; however, less work has been undertaken to develop culturally-appropriate criteria to measure system performance from a Māori perspective and to provide for Māori to better participate in monitoring processes.

35. Mātauranga Māori provides a whole knowledge system that can be incorporated as part of monitoring under the RMA. While there are several initiatives looking at Mātauranga Māori that can be coordinated to provide knowledge in this space this is currently a gap in our monitoring systems.

<sup>10</sup> <http://www.environmentguide.org.nz/issues/marine/kaitiakitanga/what-is-kaitiakitanga/> - MfE website, 2018.

<sup>11</sup> Ibid

## EXISTING MONITORING FRAMEWORKS RELEVANT TO MĀORI

Some examples of Māori monitoring frameworks:

- **MfE's best practice guidelines for compliance, monitoring and enforcement under the RMA**<sup>12</sup> provide advice on how to best engage with iwi on RMA issues. Mechanisms used by councils include - memoranda of understanding, joint management arrangements, advisory boards to council, or informal arrangements that establish how councils and iwi will work together.
- Te Puni Kōkiri (TPK) provides guidance on how to effectively measure and report on state sector programmes to understand how agencies are contributing to results for Māori. **Effectiveness for Māori Measurement and Reporting Framework: A resource for State Sector Agencies** - <https://www.tpk.govt.nz/documents/download/96/tpk-efmreporting-statesector.pdf>. The process is based on a standard policy development cycle. The approach includes two overarching principles – engagement with Māori at each phase and state sector collaboration.
- TPK conducted the **Te Puni Kōkiri Kaitiaki Survey**<sup>13</sup> in 2012 with individuals and organisations that do environmental work and engage in RMA processes on behalf of iwi or hapū, or both. This was the first step in establishing baseline information about how iwi and hapū are involved in natural resource management, including Resource Management Act processes. It included information on how many people or agencies are involved in environmental/resource management work, how much time they spend on that work, how they are funded, capability and capacity issues, successful initiatives, and recommendations for improvement. The Kaitiaki Survey has just been carried out again and the results are being analysed.
- The **Environmental Protection Agency** have developed a protocol 'Incorporating Māori perspectives into decision making'<sup>14</sup> which provides advice on how Māori perspectives should be considered and how Māori should be engaged with in relation to environmental decision making – this provides valuable guidance that could be used in approaches to monitoring. The protocol identifies that *"there is no one Māori world view or perspective on resource management matters. Ngā Kaihautū Tikanga Taiao recognises that the Māori perspective varies and differs between different iwi, hapū, marae, and whānau. It is also acknowledged that Māori have a unique perspective on environmental issues that has developed over many generations, through observation and experience"*.
- **Iwi resource management plans** also provide a valuable resource for understanding Māori relationship with the environment. Some consider them to offer "perhaps the most significant Māori development in environmental planning in the last 20 years as articulations of tribal thought".<sup>15</sup>

### Local environmental monitoring

36. Local authorities are required to monitor the state of the whole or any part of the environment to the extent that is appropriate to enable the local authority to effectively carry out its

<sup>12</sup> Ministry for the Environment, Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act 1991, 2018.

<sup>13</sup> Te Puni Kōkiri, He Tiro Whānui e pā ana ki te Tiaki Taiao 2012 2012 Kaitiaki Survey Report.

<sup>14</sup> <https://www.epa.govt.nz/assets/Uploads/Documents/Te-Hautu/293bdc5edc/EPA-Maori-Perspectives.pdf>

<sup>15</sup> Productivity Commission Better Urban Planning Report 2017, p. 190.

functions under section 35(2)(a) of the RMA. Local authorities (councils) are also responsible for monitoring to ensure that activities meet requirements under the RMA, plan rules and resource consents. However, the RMA does not prescribe how councils should carry out this function and gives them discretion in terms of how to achieve compliance.

37. Councils are primarily accountable to their electorates. Oversight bodies (eg, the Department of Internal Affairs (DIA), Auditor General, Ombudsman) “hold local authorities to account, but... have little ability to intervene”.<sup>16</sup> Since 2017 the Office of the Auditor General has implemented a work programme<sup>17</sup> to provide greater oversight of how water is managed in New Zealand and has completed a range of reports investigating how central government policy has been implemented at regional and local levels.
38. Other local focused organisations and individuals also undertake actions to protect and enhance the local environment. Globally there has been increasing attention to environmental issues at the local level and a conceptual definition of local environmental stewardship has been developed as being:

*“actions taken by individuals, groups or networks of actors, with various motivations and levels of capacity, to protect, care for or responsibly use the environment in pursuit of environmental and/or social outcomes in diverse social-ecological contexts”.*<sup>18</sup>

39. Some councils, such as the Waikato Regional Council, monitor what public actions people are taking to protect the environment and how effective the actions are. In 2019, the Council found that 30 per cent of Waikato people had carried out environmental actions in the previous 12 months and that this had nearly doubled since the last measurement in 2016.<sup>19</sup> They use the following monitoring indicators:
- people’s involvement in public processes aimed at protecting the environment at the regional, territorial authority, urban and rural levels
  - people’s public actions ranging from attending meetings or public hearings, signing a petition or taking environmentally friendly action
  - people’s assessment of the effectiveness of their actions.<sup>20</sup>
40. Individuals can also participate in monitoring through citizen science where they collaboratively participate, through collection and analysis of data, in environmental science and protection.

### Regulatory stewardship

41. Under the State Sector Act 1988,<sup>21</sup> the Ministry for the Environment has regulatory stewardship responsibilities for the legislation it administers.
42. To do this it has a mixture of monitoring arrangements, reflecting the range of systems and instruments it administers. Internal monitoring systems include the National Monitoring System for the RMA, and the environmental reporting programme with Stats NZ. It also draws heavily

<sup>16</sup> EDS (2016) Evaluating the environmental outcomes of the RMA

<sup>17</sup> <https://oag.govt.nz/2017/water-management/docs/water-management.pdf>

<sup>18</sup> Environmental Stewardship: A Conceptual Review and Analytical Framework, Environmental Management, April 2018, Vol 61, Issue 4, p. 597-614.

<sup>19</sup> <https://www.waikatoregion.govt.nz/Environment/Environmental-information/Environmental-indicators/Community-and-economy/public-actions-report-card/>

<sup>20</sup> Ibid

<sup>21</sup> Section 32, as amended in 2013.

on councils and stakeholders, public consultation, and data collected under individual systems and by other agencies.

43. MfE's latest review of its regulatory systems highlighted the following key points:

#### Cross-domain impacts

44. One of the biggest challenges is growing awareness of cross-domain impacts (eg, through sediment, land uses affect fresh water and ultimately the marine environment). For action in one domain (eg, land) to support – or at least not hinder – outcomes in others, we need to anticipate the implications of change (including cumulative effects) and find solutions that benefit many domains at once.
45. Sustainable land use in particular is where climate, planning, urban and water issues come together. Local government has to integrate planning and consenting decisions, and land users have to make decisions that reflect the full set of drivers they face.

#### Science and data

46. Science and data are a key challenge for the Ministry and across the system. Collecting quality data but ensuring it is used well, consistently and for many applications is critical in making the most of limited resources and driving integrated responses (*collect once, use many*). Basic and applied science is vital for creating resilient, actionable policies.

#### Compliance

47. Poor compliance is a problem for many of the systems we administer. Issues include insufficient resources, training and guidance for agencies, and compliance, monitoring and enforcement (CME). We have committed to interventions to improve compliance, such as developing best practice guidelines under the RMA. We are also considering taking a whole-of-Ministry approach to providing greater leadership on CME, and improving compliance with all systems we administer.

#### Other issues

48. The systems face other challenges, including:
- rising public expectations about the quality and effectiveness of local planning, and of monitoring and enforcement
  - tensions over how resources are allocated, used and conserved, and conflicts between resource uses (particularly recreational, cultural and activities that extract resources or discharge into the environment)
  - valuing natural capital and resources in a way that considers impacts and dependencies, without discounting what cannot be quantified. It must also allow for timeframes that can span decades, due to cumulative effects
  - demand for national and local collaboration, and tensions between central and national direction on environmental issues and local decision-making
  - varying political and public appetite for change (eg, genetically modified organisms, waste management)
  - how to ensure New Zealanders feel the system encourages their participation and input
  - how to address iwi rights and interests in a post-settlement era
  - how to ensure New Zealand acts on decisions from international forums it is signatory to (eg, Montreal Protocol on Substances that Deplete the Ozone Layer) and appropriately responds to global trends and pressures (eg, climate change).

49. The roles of organisations that provide national environmental stewardship and environment advocacy roles are shown in Figure 3 below. MfE plays a number of different roles in the system:
- a passive role in administering environmental legislation, monitoring performance, and providing strategic oversight of the system
  - an active role working in partnership with system actors to achieve shared environmental outcomes, with some reactive intervention.

**Figure 3: Central government levers in the resource management system: Continuum of mandates**



Source: MfE's long-term vision for environmental stewardship - MfE draft, unpublished document, August 2018, updated with HUD information, October 2019

Empowering legislation and strategic documents	Key terms
<p>Environment Act 1986 (MfE), Conservation Act 1987 (DOC), Heritage Act (2014), Role and Purpose (MPI), Environmental Protection Act 2011 (EPA), Strategic intentions and Statement of Intent 2014/15-2018/19 (MCH), Statement of Intent 2015-19 (MBIE), Statement of Intent 2015-19 (DIA), National Civil Defence Emergency Management Plan Order 2015 (MCDEM).</p> <p>Note: The diagram above has not been updated to include HUD and Kāinga Ora.</p>	<p><b>STEWARDSHIP</b> – Active planning and management of medium- and long-term interests, along with associated advice (State Sector Act 1988)</p> <p><b>ADVOCACY</b> – Public support for or recommendation of a particular cause or policy (Oxford English Dictionary – not defined in legislation)</p>

**RMA compliance monitoring**  
*The Minister for the Environment*

50. Under the RMA, the Minister for the Environment can require monitoring and performance information. There is a provision for the Minister to require local authorities to provide information for the purposes of:

- monitoring the effect and implementation of the RMA, national policy statements, national planning standards and water conservation orders

- investigating the performance of local authorities and responding to any failures in performance.

51. Implementation of the RMA is monitored through the Ministry for the Environment's **National Monitoring System**, which captures information on implementation of the RMA, including plans resource consents and monitoring from councils. This is done under delegation from the **Minister for the Environment** under s27 of the RMA (monitoring of compliance with individual consents is dealt with in a separate paper).
52. Reviews of council decision-making processes have been undertaken where significant problems have occurred. In 2009, the Minister for the Environment ordered an investigation into the performance of the Far North District Council under section 24A of the RMA, as the council had only processed 37% of resource consents within statutory timeframes.<sup>22</sup> In 2015, the Ministry for the Environment and the Department of Internal Affairs undertook a review of future governance structures for Environment Canterbury (ECan). This followed a period where ECan had been put into statutory management to help lift the performance of the organisation around freshwater management and failure to meet statutory timeframes for processing resource consents.

### **National Monitoring System**

53. Until the establishment of the National Monitoring System (NMS) in 2013 there was no comprehensive national monitoring of RMA functions, tools and processes. The biennial survey of local authorities, which the NMS replaced, had a number of limitations that hampered its effectiveness such as lack of clarity, specificity, frequency, strategic purpose and national comparability.
54. The NMS was intended to set up a new integrated monitoring framework to provide a transparent and coordinated approach to capturing and sharing nationally consistent and comparable information on the workings of the RMA. Each year the Minister for the Environment requests that councils supply monitoring data to MfE, under section 27 of the RMA. Information is provided to MfE by councils in an excel spreadsheet template. Details about the NMS can be found on the Ministry's website: [www.mfe.govt.nz/rma/rma-monitoring](http://www.mfe.govt.nz/rma/rma-monitoring).
55. Key data sets collected through the NMS are shown in Appendix 1 Data sets in the National Monitoring System.
56. Experience shows that although the NMS has a wealth of data, there are limitations to what it can say, other than about the efficiency or otherwise of the system, and it has not been linked to outcomes data. It also has no mechanisms to follow up where there are cases of councils not meeting their statutory obligations. The Minister for the Environment has issued letters to councils to highlight areas of non-compliance. For example, in 2009 the Minister of the Environment required a review of consent processing performance at Far North District Council following a low rate of processing within statutory timeframes. However there is limited operational support available from MfE to help councils remedy problems before sanctions are imposed.
57. System monitoring has tended to focus on timing, costs and notification of consents, timing for preparation of district plans, and number and nature of appeals to the Environment Court.

<sup>22</sup> <https://www.mfe.govt.nz/rma/rma-monitoring/review-and-investigations-local-authorities/far-north-district-council-review>

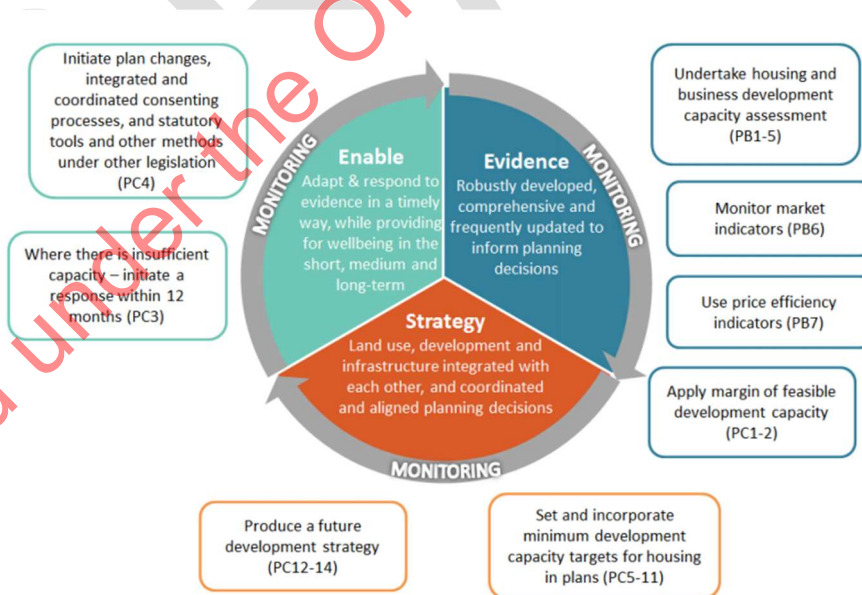
Overall compliance monitoring has focused on process rather than more strategic performance outcomes. As a result, cumulative effects have not been well managed.

**Monitoring outcomes of national policy**

58. Central government has a responsibility to monitor national direction and support local authorities to implement national direction effectively. National policy instruments (NES and NPS) include requirements for review. Some monitoring of national policy is collected through the NMS eg, for plantation forestry or contaminated land, but there is no central or strategic approach to monitoring the implementation or effectiveness of national policy.
59. What this means in practice is demonstrated by the proposed NPS on Urban Development, and current NPS on Urban Development Capacity (NPS-UDC), which both set measurable outcomes around housing and business capacity and the future provision for growth that larger cities need to achieve. From a central government point of view, compliance means providing the right tools and incentives to ensure the successful implementation of the NPS-UDC, particularly for councils. The NPS-UDC requires councils to ensure that there is sufficient development capacity and have an evidence base to inform planning decisions in urban environments. It specifies the following compliance requirements:<sup>23</sup>
- monitoring market and price efficiency indicators
  - producing a housing and business capacity assessment
  - setting targets and strategy for sufficient feasible development
  - initiating responses where insufficiency is identified.

60. The diagram below<sup>24</sup> identifies the role of monitoring for the NPS-UDC:

**Figure 4: How monitoring is used in high growth areas**



61. The Ministry of Housing and Urban Development)/MfE Urban Development Capacity Dashboard<sup>33</sup> provides online information for councils that relate to the NPS-UDC. The dashboard

<sup>23</sup> MfE Internal document – Compliance Strategy for the NPS on Urban Development Capacity, 2018, unpublished.

<sup>24</sup> Ibid

provides charts, maps, tables and underlying data on local markets for housing and business space. These indicators are monitored on a quarterly basis. Market and price efficiency indicators are provided on the dashboard.

### **Coastal management**

62. The **Minister of Conservation** is responsible for preparing and recommending the New Zealand Coastal Policy Statement (NZCPS) as part of the coastal management regime under the RMA.<sup>25</sup> The purpose of the NZCPS is to state policies to achieve the purpose of the RMA in relation to the coastal environment. It provides mandatory national direction under the RMA. As was expected, feeding the intent of the NZCPS 2010 through the relevant regional policy statements, plans, resource consent and other decision-making processes has taken time. Under Policy 28(1)(c) of the NZCPS the Minister of Conservation is also required to review the effectiveness of the NZCPS. The **Department of Conservation** (DOC)'s statutory advocacy role "has provided a valuable check and balance on decision makers"<sup>26</sup> particularly in relation to the coastal environment through the NZCPS.
63. DOC prepared a monitoring report on behalf of the Minister of Conservation in 2017 to assess the effect of the NZCPS on RMA decision-making. Key findings from this report included:
- the importance of strategic and integrated planning to underpin effective implementation, particularly for managing cumulative effects
  - a strategic and integrated approach to coastal planning is needed but not all councils are prioritising strategic planning (due to a lack of technical information, high costs, silo approaches, etc.)
  - some areas have a concentration of complex implementation issues eg, Marlborough and the Hauraki Gulf
  - implementation through policy statements and plans is well advanced in some regions and districts, and less advanced elsewhere
  - resourcing issues have been identified as a factor impeding timely processes by councils
  - the lack of consistent methodologies and guidance is problematic for implementation eg, for the identification of outstanding landscapes and coastal hazards
  - that there is a clear understanding that the directive policies in the NZCPS are aimed at protecting 'the best of the best', but views are strongly polarised on the implications of the King Salmon decision on these policies.
64. Report recommendations for monitoring and reporting included the need to develop a nationally consistent monitoring and reporting programme and the need to gather information that will assist in providing a national perspective on coastal resource management trends, emerging issues and outcomes.

### **Other monitoring agencies**

65. The EPA is a Crown entity and environmental regulator that contributes to the effective and transparent management of New Zealand's environment and natural and physical resources. It carries out compliance activities that range from raising public awareness through to

<sup>25</sup><https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/review-of-effect-of-nzcps-2010-on-rma-part-one.pdf>

<sup>26</sup> EDS (2016) Evaluating the environmental outcomes of the RMA.

prosecuting serious breaches of law. The EPA has responsibilities under six acts: the RMA, Hazardous Substances and New Organisms Act 1996, Ozone Layer Protection Act 1996, Climate Change Response Act 2002, Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, and Imports and Exports (Restrictions) Act 1988. It has a number of advisory groups (including a Māori Advisory Committee) and decision-making committees. The EPA reports to the Minister for the Environment and the Minister for Climate Change. The Ministry for the Environment monitors its activities.

- 66. Other monitoring and oversight agencies that perform roles in the resource management system include the Office of the Auditor General, professional societies, iwi, advocacy groups, science and research agencies, and academia.
- 67. The table below summarises the roles of agencies across the different types of monitoring.

Agency/organisation	Monitoring natural and built outcomes	Monitoring outcomes for and by Māori*	Local environmental monitoring	Regulatory performance monitoring	Compliance monitoring
Ministry for the Environment	🌸			🌸	🌸
Department of Conservation, MPI, Heritage New Zealand, MCDEM	🌸				
Ministry of Housing and Urban Development	🌸				
Statistics New Zealand	🌸				
Councils	🌸		🌸	🌸	🌸
NGOs, professional societies, advocacy groups, the public	🌸		🌸		🌸
Te Puni Kōkiri	🌸	🌸		🌸	🌸
Iwi and hapū		🌸	🌸		
Office of the Auditor General, Ombudsman, DIA, SSC, SFO				🌸	🌸
Climate Change Commission	🌸				🌸
Environmental Protection Agency	🌸				🌸
Parliamentary Commissioner for the Environment	🌸			🌸	

Note: some of these agencies may also have a responsibility to monitor outcomes for Māori

- 68. In addition to its domestic monitoring, New Zealand is party to a range of international agreements which may involve monitoring obligations, many of which have been transposed

into national legislation or regulation. The OECD also carries out periodic peer reviews of environmental performance, with the latest New Zealand review being published in 2017.

69. There have also been several reviews of aspects of the resource management system itself, including:

- 2008 House Prices Unit Review
- 2009 Royal Commission on Auckland Governance
- 2012 RMA Principles Technical Advisory Group
- 2012 Productivity Commission Housing Affordability Enquiry
- 2015 Productivity Commission report on Using Land for Housing
- 2016 EDS report on Evaluating the Environmental Outcomes of the RMA
- 2017 Productivity Commission Report on Better Urban Planning
- 2019 EDS reports on the Reform of the Resource Management System.

## Problems with the current system

### Summary of key problems

70. Problems identified with New Zealand monitoring arrangements for resource management are set out below.

#### Key problems with monitoring and oversight arrangements:

- monitoring focuses on operational matters rather than system outcomes
- monitoring of urban outcomes has been insufficient
- lack of involvement of Māori in monitoring systems
- lack of capability, data and systems to effectively monitor outcomes
- inadequate linkage of environmental reporting data to RMA policy levers.

### Monitoring focuses on operational matters rather than system outcomes

71. There is a common view that the resource management system lacks clear goals and measurable outcomes, which has hampered the ability to effectively measure, monitor and evaluate the system. Other than a high-level goal of promoting “sustainable management”, the RMA does not explicitly set objectives. Until recently there has been a lack of national direction to help guide councils around what outcomes they should be seeking through their district and regional planning documents.

72. This has led to limited monitoring of overall council performance in delivering “sustainable management,” and the monitoring that has been done has focused on time and cost of consent processes and not on system outcomes.

73. In terms of accountability, EDS note that the RMA was not designed to specify who is accountable for system outcomes and how they should be measured, as evidenced in the following quote:

*“A key determinant of success is whether there is accountability for the outcomes from legislation. Ensuring that there is consequences for not complying with the Act, or meeting its aspirations, is crucial for long term success. The RMA has a significant amount of accountability built in and around it for the effective exercise of procedures, but less for the achievement of outcomes”.*<sup>27</sup>

74. The Productivity Commission in their report on Better Urban Planning also note that “Central government has too little understanding of whether the RMA is achieving good environmental outcomes or how efficient the current system is in achieving these outcomes”.<sup>28</sup> They do note that the establishment of the Environmental Reporting Act in 2015 has been a step forward from the inconsistent reporting of the past two decades. However, better connection between environmental reporting outcomes and the resource management system needs to be made. There are opportunities for policy and practice levers in the system to be used to address environmental problems.
75. Most monitoring of the functioning of the system is carried out at the council level and the results of this monitoring are captured through the National Monitoring System. This system collects data from councils on an annual basis. Although use of the NMS data is increasing, there is a range of challenges with the system:
- the data collected from councils are highly detailed, and the cost of collection is very high
  - the current process is cumbersome and slow, both for councils and for MfE
  - the quality of some data is low
  - where councils fail to supply data, there are no sanctions, or incentives to comply
  - where data reveals issues with council implementation of the Act there is limited scope for follow up, support or sanctions, or to adjust the regulatory framework
  - there is sometimes limited resourcing to provide information
  - automation of the process is inhibited by different council systems and methods of recording and a lack of investment at the centre
  - data collected not well aligned with outcomes.

### **Monitoring of urban outcomes has been insufficient** ***Insufficient monitoring of urban environmental outcomes***

76. A fundamental problem is that there is inadequate recognition of the urban environment in the RMA itself. This has led to insufficient attention being given to monitoring urban environmental outcomes – both how the system delivers quality urban environments and how it provides for growth and change. This is a major gap in the monitoring system.

<sup>27</sup> EDS Evaluating the environmental outcomes of the RMA, June 2016, p16

<sup>28</sup> Productivity Commission, Better Urban Planning report, 2017.

77. There has been little monitoring of the positive role that cities can play and how planning can be used to drive national economic activity. Unlike other countries including Australia, UK and the USA, New Zealand is not using our urban planning system to the same extent to better:

- improve housing affordability
- drive productivity
- get value for money from infrastructure investment
- deliver a quality built environment for an improved quality of life
- achieve desired social, cultural, environmental and economic outcomes.<sup>29</sup>

### **Impact of price triggers on urban planning outcomes**

78. The Productivity Commission in their report on Using Land for Housing (2015) recommended that councils should regularly monitor and report on land price information to inform their planning decisions. They identify that the planning system uses a policy process to release land rather than having the ability to respond to increasing prices, commenting:

*“Overall, New Zealand’s housing market is only moderately responsive to changes in prices, meaning that an increase in demand for housing will lead to a proportionately larger increase in the price of existing housing than in the construction of new housing. Part of the reason for this is that the planning system releases land through a policy and political process. It is not responsive to price signals, which would provide information about the location and type of housing that people demand and about the adequacy of supply”.*<sup>30</sup>

79. Since the ‘Using land for housing’ inquiry (2015), the National Policy Statement on Urban Development Capacity has been implemented. This has gone some way toward improving monitoring of land and house price trends to inform urban planning and policy responses, including monitoring market and price efficiency indicators, producing a housing and business capacity assessment, and setting up the Ministry of Housing and Urban Development/MfE Urban Development Capacity Dashboard.

80. However, in their 2017 report on Better Urban Planning,<sup>31</sup> the Productivity Commission made a recommendation that in a future system “**central government should establish thresholds (specific to particular urban areas) for the price difference beyond developable and non-developable land ... [and] provide a process involving the relevant council to bring forward the release of additional greenfield land where relative land prices exceed the threshold set**”. Some concerns were raised by submitters that using prices to trigger a change in land use would bypass the usual process of plan formulation. The Commission identified that spatial planning might help provide for more responsive rezoning when land markets are out of balance.

### **Approaches to measuring urban outcomes**

81. A range of commentators on urban planning have proposed outcomes that planning should achieve, and possible indicators for measuring those outcomes. The examples below show different approaches to measuring urban outcomes that could be used to develop a set of measurable urban outcomes for the resource management system.

<sup>29</sup><https://www.mfe.govt.nz/publications/rma/building-competitive-cities-reform-urban-and-infrastructure-planning-system-6>

<sup>30</sup><https://www.productivity.govt.nz/assets/Documents/94f202e6c7/using-land-for-housing-final-report-summary.pdf>

<sup>31</sup> <https://www.productivity.govt.nz/assets/Documents/0a784a22e2/Final-report.pdf>

82. The Productivity Commission in their report on Better Urban Planning<sup>32</sup> identifies **five goals** or outcomes **that should underpin a future urban planning system**:

- flexibility and responsiveness - ability to change land uses as required
- provision of sufficient development capacity to meet demand
- mobility of residents and goods to and through the city
- ability to fit land-use activities within well-defined environmental limits
- recognition and active protection of Māori and Treaty interests in the built and natural environments.

83. Since the 'Using land for housing' inquiry (2015), the National Policy Statement on Urban Development Capacity has been implemented. This has gone some way toward improving monitoring of land and house price trends to inform urban planning and policy responses, including monitoring market and price efficiency indicators, producing a housing and business capacity assessment, and setting up the Ministry of Housing and Urban Development/MfE Urban Development Capacity Dashboard.

**OUTCOMES IN THE AUCKLAND SPATIAL PLAN**

The Auckland spatial plan (the Auckland Plan 2050) guides the future development of Auckland over the next 30 years. It sets out six outcomes with 33 measures<sup>33</sup> (see the diagram on page 295 of the report) to assess progress towards the outcomes. A Development Strategy also sets out how feasible development capacity targets will be met for housing. A range of baseline data sets will be used, some of which are still to be developed. An annual scorecard will provide commentary on observed trends and a three-yearly report will provide evidence for Auckland Council's Long-term Plan investments.

**Outcomes**  
What the plan aims to achieve

- Belonging and Participation
- Māori Identity and Wellbeing
- Homes and Places
- Transport and Access
- Environment and Cultural Heritage
- Opportunity and Prosperity

**Development Strategy**  
How Auckland will grow and change over the next 30 years, including sequencing of growth and development

**20 Directions**  
How to achieve the outcomes

**37 Focus areas**  
How this can be done

<sup>32</sup> Productivity Commission, Better Urban Planning, 2017, p20.

<sup>33</sup> <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/docsprintdocuments/auckland-plan-2050-print-document.pdf>

### Aligning planning and infrastructure outcomes

84. A specific example where better urban data is needed is the alignment of land use rules and infrastructure investment. Councils and developers have raised issues around infrastructure not being available to provide for future urban development. However, the reverse can also be true where the provision of infrastructure goes unexploited. The New Zealand Council for Infrastructure Development provided the example of the Proposed Auckland Unitary Plan where they believe development potential was not maximised in the areas served by the inner city rail network.<sup>34</sup>

#### ALIGNMENT OF GROWTH PLANNING AND INFRASTRUCTURE INVESTMENT

##### The need for certainty around infrastructure investment – Western Bay of Plenty

Western Bay of Plenty District Council have planned and developed Omokoroa as a new coastal town based on a proposed new four-lane highway connection with Tauranga. The Omokoroa Structure Plan<sup>35</sup> identifies that the Omokoroa Peninsula could provide homes for up to 12,000 people in the next 40 years (up from around 2900 in 2018). When growth planning was being undertaken for the new town (in the early 2000's) the New Zealand Transport Agency got planning consents for two projects: the Tauranga Northern Link (TNL – Tauranga to Te Puna new 4 lane highway) and Te Puna to Omokoroa 4 laning (including Omokoroa intersection). Projections indicated that the roading upgrades would be needed by 2015.<sup>36</sup> Using that information the Council committed to providing infrastructure, wastewater and stormwater, to provide for growth. However, government funding priorities have changed and the four-laning proposals are not currently being implemented. NZTA is undertaking some more limited roading upgrades in this area. This demonstrates the need to better align central and local government decision-making to provide greater certainty around infrastructure investment in growth areas.

### Lack of involvement of Māori in monitoring systems

85. Another major gap is the lack of systematic involvement of Māori in the development and implementation of monitoring systems.
86. New Zealand law recognises the partnership between iwi Māori and the Crown — a rich relationship that can yield significant rewards. The Crown's unique relationship with Māori as tangata whenua under the Treaty of Waitangi also creates an obligation to ensure that policy development recognises and draws on evidence (which may have different characteristics or meanings) from te ao Māori.
87. Some frameworks and indicators are starting to emerge to measure how environmental and urban outcomes affect Māori and their specific relationships with natural resources. Examples are provided below. However, we need to bring this developing knowledge together to form an environmental performance framework, which has a set of culturally appropriate indicators that measure outcomes in a way that is appropriate to Māori cultural perspectives, involve Māori in the process, and include mātauranga Māori (the Māori knowledge system).

<sup>34</sup> Productivity Commission, Better Urban Planning, 2017, p. 284.

<sup>35</sup> <https://www.westernbay.govt.nz/council/projects/omokoroa-structure-plan>

<sup>36</sup> <https://www.westernbay.govt.nz/repository/libraries/id:25p4fe6mo17q9stw0v5w/hierarchy/council/projects/documents/FAQs%20Sept%202018%20-%20Web%20Version.pdf>

88. Further work is needed to determine whether a set of national Māori environmental indicators could be developed, or whether a more specific set of indicators to measure outcomes for Māori from the resource management system are needed. Many cultural indicators for Māori are place-based, measuring relationships with specific locations - wāhi tapu (sites of special significance) such as burial grounds (urupā). Therefore, indicators may be most appropriate at the hapū rather than the iwi level. Existing frameworks would need to be reviewed to see how transferable cultural indicators are across districts and regions, and whether indicators could be amalgamated upwards to system level outcomes.

Released under the Official Information Act 1982

DRAFT

## MEASURABLE OUTCOMES FOR MĀORI

### Some examples of how cultural outcomes are measured for Māori

- The **Māori Environmental Monitoring Group**, an independent panel working with MfE, has developed a definition of a Māori environmental performance indicator (EPI):

*“A Māori EPI is a tohu created and configured by Māori to gauge, measure or indicate change in an environmental locality. A Māori EPI leads a Māori community towards and sustains a vision and a set of environmental goals defined by that community”.*<sup>37</sup>

- **Manaaki Whenua - Landcare Research** highlight that much of the cultural environmental monitoring in New Zealand has been through participatory research projects with iwi and hapū across New Zealand as part of the integrated catchment management programme (2000-2010)<sup>38</sup>. In a review of approaches to cultural monitoring in New Zealand, Landcare Research identified that:

*“Mātauranga Māori cultural monitoring and indicators can work alongside western science knowledge and tools to assess and measure progress and change in New Zealand’s environment and helps build meaningful long-term relationships between the Crown and iwi/hapū”.*<sup>39</sup>

- Manaaki Whenua have also recently developed Wai Ora, an online application that takes a kaupapa Māori approach to assessing the condition of fresh water in accordance with Māori values. This tool *“provides a way for iwi, hapū and kaitiaki groups to measure resource condition and impact related to human activities and land management practices, for example resource degradation, water quality and mauri”.*
- Some councils are beginning to work with Māori around environmental monitoring eg in the Waikouaiti Catchment *“matauranga Māori has assisted in monitoring notable sites and establishing a reporting framework with an active dialogue between scientists and tangata whenua, Kāti Huirapa ki Puketeraki”*
- The Environment Aotearoa 2019 report, demonstrates the dominance of western science in the current system and the need to use mātauranga Māori to better understand the cultural impacts including from reduced water flow and pollution.

*“Understanding the impact of this issue on kaitiakitanga and mātauranga Māori is currently dominated by western science-based techniques (Tipa, 2010). This inhibits data collection and analysis that could be more consistent and appropriate from a Māori cultural perspective. Cultural health indicators and mauri measures from mātauranga Māori for example could provide a better understanding of cultural impacts for decision-making”.*<sup>40</sup>

This report also provides examples of how Māori are using cultural indicators eg, “some iwi and hapū monitor fresh water using cultural indicators, like the time it takes to collect enough pipi for a family meal,” to record changes in the health of water bodies.<sup>41</sup>

Experiences from the adoption of **Vision Mātauranga** (a vision to unlock science and innovation potential of Māori knowledge<sup>42</sup>) in the MBIE National Science Challenges could help inform culturally appropriate measurement of system outcomes for Māori in the resource management system. Vision Mātauranga is being actively applied across the challenge research projects through underpinning governance and management structures as well as Māori research leadership of many projects.

<sup>37</sup> <https://www.mfe.govt.nz/publications/rma/developing-indicators-maori>

## Lack of capability, data and systems to effectively monitor outcomes

89. Monitoring the condition of ecosystems is complex and difficult, and we also have major knowledge gaps - particularly for our marine environment.<sup>43</sup> Further research and monitoring are needed to better understand the impact of climate change on our environment.<sup>44</sup>

90. An effective reporting system needs authoritative data, to consider the whole environment, allow long-term and cumulative consequences to be understood, reflect values that are important to society, and support the voice of Māori.<sup>45</sup> We still have gaps in the “coverage, consistency, accuracy, and representation of data”<sup>46</sup> that limit understanding and reporting on the environment.

91. We have knowledge gaps in how we use our land and could benefit from a national data set to describe land use, and an up-to-date description of land cover. We also have limited knowledge about the effects of human activities and an incomplete understanding of impacts on our wellbeing. Knowledge is needed on how land use activities affect erosion (evidenced in the quote below) and understanding all consequences of removing native vegetation.

*“While there are national models that estimate erosion risks and rates, there are very few sites where erosion is actually measured. Without data collected at a sufficiently fine scale and over time (such as long-term trials and field sites), there is limited understanding of what is happening, where, and to what extent”.*<sup>47</sup>

92. The Environment Aotearoa 2019 report<sup>48</sup> identified that much could be done to improve our understanding of how the environment works, including better understanding the environment as a whole, learning from the past to anticipate future change, and building capability to translate complex science. It also notes that we have not made the best use of the existing knowledge system and that our environmental reporting system needs improvement, evidenced in the following quote:

*“Taking opportunities to align our efforts across the knowledge and reporting system would enable New Zealand to be better equipped to understand the effect our actions are having on the environment, as well as deciding what our response to that understanding should be”.*<sup>49</sup>

### **Need for better capability and data systems to build the evidence base for policy response**

93. There is a lack of capability and capacity in councils to collect data for monitoring outcomes, although some councils have developed good capability. The Environment Aotearoa report highlights that we have limited resources and that we will need to sharpen our focus “to act where environmental impact is likely to be the greatest”.<sup>50</sup>

<sup>38</sup> [https://www.landcareresearch.co.nz/\\_data/assets/pdf\\_file/0010/77680/Review\\_Cultural\\_Monitoring.pdf](https://www.landcareresearch.co.nz/_data/assets/pdf_file/0010/77680/Review_Cultural_Monitoring.pdf)

<sup>39</sup> *ibid*

<sup>40</sup> Environment Aotearoa 2019 report, p. 82.

<sup>41</sup> Environment Aotearoa 2019 report, p. 61.

<sup>42</sup> <https://www.mbie.govt.nz/assets/9916d28d7b/vision-matauranga-booklet.pdf>

<sup>43</sup> Environment Aotearoa 2019 report.

<sup>44</sup> *Ibid*

<sup>45</sup> *Ibid*

<sup>46</sup> *Ibid*

<sup>47</sup> *Ibid*

<sup>48</sup> *Ibid*

<sup>49</sup> Environment Aotearoa 2019 Summary Report.

<sup>50</sup> *Ibid*

94. At the national level, MfE has a wide range of online environmental data sets to provide information to monitor outcomes<sup>51</sup>. Most councils and many other agencies are also using Geographic Information System (GIS) and other data management tools to monitor RMA outcomes and have developed different data layers in their GIS viewers.
95. Land Information New Zealand (LINZ) has recently undertaken a project prioritising and improving key data sets for resilience and a similar exercise could be conducted to complement the review, identifying and prioritising which data sets are key to understand the resource management system. Case studies could also be used to look at data that are collected and better understand causal links from data results. Through examining specific cases, we may identify a limited number of underlying causal factors that are contributing to major environmental problems.

***Need to better connect to science, research and technology***

96. There are significant benefits that could be gained from better connecting resource management policy to public good science and research. There is a wide range of environmental and urban research programmes underway that could help inform our understanding of New Zealand's environmental and built systems.
97. There are also opportunities to provide key questions to inform research agendas – to ask the right questions and get the research and scientific communities to help develop the science and tools to allow the system to be adaptive to future drivers of change. Many of the research programmes (eg, the National Science Challenge Resilience to Natures Challenges and the Quake CoRE research programme) also have specific Mātauranga Māori components.
98. The table below shows a range of science, research and technology initiatives that are underway that could help to inform better monitoring of RMA system outcomes and provide information on the state of our built and biophysical environments. However, fundamentally the science system is not currently designed to support the active collection of monitoring data. Many if not all of the investments mentioned in the following table are:
- a. Not suited towards applied or translational research and/or monitoring, with decision-making criteria stacked against 'routine' research
  - b. Research is science-driven and scoped – ie, MfE has little control and little influence over it, and
  - c. While the Forum of Chief Science Advisors can provide advice and influence, few have any direct research funding available to them nor are they engaged as a resource to 'do' research.
99. Active facilitation and resourcing would be needed to better connect MfE to these programmes to enhance monitoring of system outcomes, and/or, create a funding source that directly caters for longer-term monitoring and research needs.

---

<sup>51</sup> see <https://data.mfe.govt.nz/layers/category/environmental-reporting/>

## USING SCIENCE, RESEARCH AND TECHNOLOGY TO MONITOR RMA OUTCOMES

There are science, research and technology that could be directed to provide applied research to inform resource management system monitoring. The key initiatives are:

- Public good science/research agencies and other CRIs – (NIWA, GNS, MetService, Manaaki Whenua Landcare Research, BRANZ, EQC, MCDEM, NZTA, MBIE Endeavour Fund, Quake CoRE etc) – are all undertaking research relating to aspects of RMA implementation
- MBIE National Science Challenges – are undertaking a wide range of relevant research, including:
  - Resilience to Natures Challenges – enhancing resilience to natural hazards (GNS)
  - Building Better Homes Towns and Cities – developing better housing and urban environments (BRANZ)
  - Deep South – understanding role of Southern Ocean in determining NZ climate (NIWA)
  - Our Land and Water – improved primary production while improving land and water quality
  - Sustainable Seas – enhanced utilisation of marine resources within environmental constraints
  - New Zealand’s Biological Heritage – protecting and managing biodiversity; improving biosecurity; enhancing resilience to harmful organisms.
- **Academic research** across New Zealand universities relating to resource management and planning
- **Envirolink research** – this scheme funds CRIs, universities and private research institutions to provide regional councils with advice and research on environmental projects (\$1.6 million in research provided annually)
- **Network of Chief Science Advisors** – the Prime Minister’s Chief Science Advisor and a network of Chief Science Advisors operate across government, including a Chief Advisor within MfE – these advisors could be given challenging questions to address in relation to the RMA system
- **Data** – we need to prioritise what data sets we need to measure outcomes from the RMA system, analyse the quality of the data sets, then assess who else might already be collecting this data (eg, LINZ) and if it can be shared. New data sets may be required, and this will require funding and appropriate data infrastructure
- **Technology** - we need to consider how technology can assist with more efficient monitoring of RMA system outcomes – how can we automate monitoring, use drones, use GIS databases and viewers to report and share monitoring data etc.

### ***Need for better systems to monitor national policy outcomes***

100. MfE is currently releasing a range of new national guidance documents that will impact the resource management system and will require implementation across regional and district councils. Additional investment in monitoring is likely to be require to better understand if desired outcomes are being met.

### **Inadequate linkage of environmental reporting data to RMA policy levers**

101. The findings of Environment Aotearoa 2019 show that there have not been effective feedback loops in the monitoring system and that we have not acted in response to evidence of declining

outcomes. Part of the problem may be that environmental reporting data have been dealt with from a scientific perspective and have not been adequately linked to the range of policy and practice levers that the system could provide.

102. The Productivity Commission consider that a more flexible, adaptive approach is needed to address the cumulative effects of development to allow for change in the system. An adaptive management approach recognises that uncertainty should not prevent activities from occurring, and in keeping with the precautionary principle of the RMA, that activities need to be carefully managed, constantly assessed, and adjusted in light of potential environmental impacts'.<sup>52</sup> Wellington City Council highlighted that:

*"... adaptive management should not, and cannot, replace the current 'predict and control' approach entirely. Rather it should be a complementary tool. Adaptive management can be employed as a "ratchet" tool, used where an action to meet a standard is set, but where new information indicates a problem is worse or a standard is unlikely to be met. Adaptive management could then trigger a requirement to respond to the new information or problem. It should be used as a sinking lid tool to manage negative environmental outcomes".<sup>53</sup>*

## Policy framework

103. The objectives and guiding principles for this review assist in the consideration of how system-monitoring arrangements may need to change. The most relevant objectives and guiding principles are set out below.

<p><b>Guiding principles</b></p> <ul style="list-style-type: none"> <li>• <b>Stewardship and kaitiakitanga</b> - ensuring the biological diversity and life supporting capacity of ecosystems is secure for its own intrinsic value, as well as for current and future generations</li> <li>• <b>Treaty of Waitangi principles and the relationship between the Crown and Māori</b> are given due recognition with sufficient specificity.</li> </ul> <p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• <b>Sets clear direction</b> to guide decision making</li> <li>• <b>Is responsive</b> to risk and evidence and enables urban and rural areas to grow and change</li> <li>• Provides <b>greater recognition of Treaty</b> of Waitangi and te ao Māori throughout</li> <li>• Ensures decision makers are <b>accountable, and there are incentives</b> to achieve the system's purpose.</li> </ul>
--

### **Core elements of a new monitoring system**

104. The core elements that are required for more effective monitoring of resource management system outcomes, which include:

1. **Stronger oversight of system outcomes** – including oversight of environmental, urban, Māori, and positive outcomes, as well as future drivers of change AND

<sup>52</sup><https://www.mfe.govt.nz/sites/default/files/media/Marine/NZ%27s%20experiences%20with%20adaptive%20management.docx> - See Sir Peter Gluckman (Chief Science Advisor to the Prime Minister of New Zealand) 'The place of science in environmental law and policy' for a discussion of the adaptive management potential the precautionary principle offers.

<sup>53</sup> <https://www.productivity.govt.nz/assets/Submission-Documents/9033fd0f50/DR-068-Wellington-City-Council.pdf>, p. 15.

2. **Better monitoring of the overall RMA system, to:**

- measure system outcomes – environmental, urban, Māori, and positive outcomes
- assess how the system is performing in terms of environmental limits
- provide an accurate evidence base through a new national data unit
- build in national indicators and a reporting dashboard with ‘traffic lights’ to alert where environmental conditions are deteriorating and where action is needed AND where the environment is improving
- provide incentives and tools to incentivise positive environmental outcomes
- identify where we have gaps in data.

## Options for reform

105. The table below provides a summary of potential reform options that address each of the key problems identified for system monitoring. Most of these options involve changes at the central level to achieve greater monitoring and oversight of the system. The options are then discussed in more detail below the table.

**Summary table of key problems and potential reform options**

Key problems	Potential reform options
Monitoring focuses on operational matters rather than system outcomes	<ul style="list-style-type: none"> <li>• require a more active oversight role for MfE</li> <li>• build a better environmental reporting system</li> </ul>
Monitoring of urban outcomes has been insufficient	<ul style="list-style-type: none"> <li>• better recognise the urban environment within the RMA</li> <li>• use economic tools to achieve better urban outcomes</li> <li>• develop urban baseline measures</li> <li>• develop urban indicators and a centralised urban database</li> </ul>
Lack of a culturally-appropriate measurement system for Māori	<ul style="list-style-type: none"> <li>• use environmental monitoring criteria from iwi resource management plans</li> <li>• review existing Māori environmental performance frameworks and indicators</li> </ul>
Lack of capability, data and systems to effectively monitor outcomes	<ul style="list-style-type: none"> <li>• establish a national science and data unit</li> <li>• build capacity and capability around science and data</li> </ul>
Inadequate linkage of environmental reporting data to RMA policy levers	<ul style="list-style-type: none"> <li>• extend the environmental reporting role of the PCE</li> <li>• introduce mechanisms to provide feedback loops from monitoring</li> <li>• use regulatory incentives and tools to achieve better environmental outcomes</li> </ul>

Released under the Official Information Act 1982

## Options to better measure system outcomes

### ***Make better use of existing tools***

106. Under this option, central government would take a more active role in overseeing the system to ensure compliance with regulatory frameworks. This could include a more active operational role for the Ministry for the Environment to work alongside district and regional councils. A range of possible benefits of a more operational role would include:

- the ability to identify and remedy environmental deterioration before environmental limits are breached
- a feedback loop to better understand how plans are working in practice
- the identification of CME issues before annual monitoring statistics are received
- the ability to provide leadership on national direction matters and gain an understanding of how national direction is being applied at the local level, including in the plan development process
- the capability support on technical planning issues, especially for small councils
- the ability to assist councils to operate in a more consistent way so that information/data collected can be more representative at a national level
- an ability to develop better central-local government partnership relationships and local-local relationships between councils – to share information, capability and resources.

### ***Build a better environmental reporting system***

The Environment Aotearoa 2019 report sets out a range of actions to establish a better environmental reporting system and provide a basis for consideration in a new resource management system:

Figure 9: How to build a better environmental reporting system<sup>54</sup>

**Building a better environmental reporting system**

<b>Set direction and agree on some priorities</b>	<ul style="list-style-type: none"> <li>▶ Bring together agencies who undertake environmental reporting to establish a common view of what is required in an effective data system.</li> <li>▶ Set some priorities on what should be measured, when, and where.</li> <li>▶ Establish and agree on core indicators (measures that help explain how the environment works).</li> </ul>
<b>Design the system and underpin frameworks and infrastructure</b>	<ul style="list-style-type: none"> <li>▶ Design an environmental reporting architecture that uses agreed conceptual frameworks to link data that is collected and managed to meet agency or context-specific needs.</li> <li>▶ Specify authoritative populations and units of measurement as well as standard methodologies to allow data to be shared, integrated, and interrogated easily through the system.</li> <li>▶ Agree some simple but essential principles around open data, good metadata, and appropriate data stewardship.</li> </ul>
<b>Fill critical gaps and assure regular maintenance and updating of these assets</b>	<ul style="list-style-type: none"> <li>▶ Establish the data gaps that stand out (ie those required as core indicators or 'baseline data' fundamental to understanding patterns and trends in environmental quality (PCE, 2018).</li> <li>▶ Ensure adequate long-term funding for their maintenance and regular updating.</li> </ul>

107. Further to the changes needed to improve Environmental Reporting above, for a step change in monitoring for RMA outcomes there needs to be these changes, but more, and specifically more work to:

- connect the environmental reporting system to the environment management system
- consider adding Drivers and Response to the framework.

108. Designing a new environmental reporting system will require changes within MfE as well as across environmental agencies, iwi and councils. Environmental reporting data that is collected needs to be evaluated to inform resource management policy priorities and work programmes. Levers could be introduced in the system to address environmental problems. It will also require capability and capacity building where new monitoring systems are introduced.

109. The PCE will be releasing a review report into the effectiveness of New Zealand’s environmental reporting system in November 2019.

**Options to provide better monitoring of urban outcomes**

110. A range of different approaches can be taken to monitoring urban outcomes across different types of plans and strategies, and for cities systems as a whole. Different strategic lenses adopt different types of indicators and performance measurement.

**Better recognise the urban environment within the RMA**

111. A key issue for the review is considering whether and how urban development objectives are set in a new legislative framework. More explicit recognition of urban objectives and outcomes in a new resource management system would likely require a new approach to monitoring urban issues.

112. Both MfE and HUD hold responsibility for monitoring elements for the housing and urban development system. HUD has initiated work to identify and monitor urban development

<sup>54</sup> Environment Aotearoa 2019 report, p. 109.

outcomes and indicators, and will work closely with MfE over the next six months to clarify roles and responsibilities in monitoring measures relating to the built environment.

## MONITORING URBAN OUTCOMES USING INDICATORS

### The importance of using urban indicators to monitor key wellbeing outcomes for cities

Alain Bertaud<sup>55</sup> believes **urban indicators are needed to monitor change in mobility and housing affordability** and that action needs to be taken when indicators show deterioration in outcomes. For example when traffic congestion becomes a problem actions to respond could include planning new investments in infrastructure to increase commuting speed, increasing land supply, reviewing land use regulations, or shortening timeframes required to process planning applications.

He does not see the role of planning as providing top-down vision, apart from for designing infrastructure and services. He considers that the **key role of urban planners is to constantly monitor a city's welfare through quantitative indicators**. They then have the ability to detect through data deterioration in indicators and provide strategies to respond. **The role of planners is then technical and data driven.**

Too often, planners fail to monitor prices, rents and land use changes and anticipate a future crisis. There is little monitoring of data like numbers of building consents issued, the sizes, prices and rents of the residential units built each month, or the addition and demolition of commercial and industrial space. Bertaud highlights the **importance of entering and storing monitoring information in an accessible GIS system** to retain crucial information about future housing affordability, traffic and commuting patterns. He recommends city planning departments should **create, monitor and maintain extensive urban databases**, and publish quarterly a set of indicators that inform the public about the welfare of the city. The urban databases would focus on three core areas of information – spatial structural change, mobility, and affordability.

The role of planners in monitoring data would include **creating and monitoring the database, identifying 'blinking' indicators, and proposing strategies to respond to problems**. All of these monitoring activities would have information categorised for spatial structural changes, mobility, and affordability. Blinking indicators show where any urban metric requires action. Housing affordability indicators might include increasing the price/income ratio, decreasing stock and flow, decreasing housing consumption, or increasing prices and rents for the same consumption.

## Options to better incorporate te ao Māori in monitoring

### *Use environmental monitoring criteria from iwi resource management plans*

113. Iwi resource management plans provide a valuable source of environmental criteria for measuring how the environment is performing from a Māori values perspective. They are often used by iwi/hapū to identify how the sustainable management of natural resources can be achieved based on cultural and spiritual values. The TPK Kaitiaki Survey 2012 identified iwi resource management plans, cultural impact assessments and cultural values reports as highly rated tools for participation and measuring outcomes for Māori from the RMA system. Ten

<sup>55</sup> Alain Bertaud is a senior research scholar at the NYU Stern Urbanization Project. His main area of research is the impact of markets, transportation, and regulations on urban form.

groups gave examples of successful iwi management plans, cultural impact assessments and cultural monitoring (eg, cultural health indexes). One group commented:

*“We have a cultural monitoring regime (using kaupapa Māori and traditional indicators) established in our rohe. Our regional council pays for the work, and the project is complimented by an oral history project interviewing kaumātua about the way our natural resources use to be. This is a fantastic initiative”.*<sup>56</sup>

114. The Te Atiawa iwi resource management plan<sup>57</sup> demonstrates matters that are of strategic importance to Te Atiawa as the basis of natural resource management – these matters (kaupapa) are set out in the plan and are considered “the embodiment of all aspirations for the iwi”.<sup>58</sup> The kaupapa include: tino rangatiratanga, exercising the role as Kaitiaki, sustainable management of wāhi tapu, wāhi taonga, whenua, te wai Māori, and moana, and sustainable resource use opportunities for iwi, hapū and whanau. The plan also includes key indicators and monitoring tools to measure anticipated outcomes.

#### **Review existing Māori environmental performance frameworks and indicators**

115. Manaaki Whenua Landcare Research also provides a range of advice around Māori cultural monitoring<sup>59</sup> and a range of detailed case study approaches that have been used by different iwi around New Zealand which provide detailed monitoring indicators and ability to use GIS technology to assimilate cultural monitoring data. A number of other cultural monitoring frameworks have been mentioned in this paper (Kaitiaki Survey 2012; TPK and MfE guidance on cultural monitoring).

116. A review of current frameworks and criteria needs to be undertaken to develop a nationally-appropriate performance monitoring framework, with key indicators, for Māori to effectively participate in the resource management system. Māori performance frameworks need to be developed by Māori. The Kaitiaki Survey was run again in 2019, and the results are being analysed.

## **Options to build capability, data and a more effective monitoring system**

#### **Establish a national science and data unit**

117. Better science, data and evidence is needed to effectively monitor the system. We also need to address the problems identified with the current NMS. A centralised science and data unit within MfE (or other central public agency such as Stats NZ or LINZ) could provide a range of functions to help monitor both the natural and built environment, and future drivers of change.

118. A national science and data unit could:

- provide the evidence base for monitoring system outcomes (what outcomes we measure and what indicators we use)

<sup>56</sup> Ibid, p10

<sup>57</sup> <https://www.teatiawatrust.co.nz/assets/Uploads/Te-Atiawa-Iwi-Environmental-Management-Plan.pdf>

<sup>58</sup> Ibid

<sup>59</sup> <https://www.landcareresearch.co.nz/science/portfolios/enhancing-policy-effectiveness/vmo/monitoring-and-effectiveness/maori-cultural-monitoring>

- monitor and capture the positive impacts that policies and plans can have, and are having
- better connect science and research to use in national policy and council practice – including connection to the Crown research institutes, the National Science Challenges, and related government work programmes
- provide better and more coordinated access to data from councils, government and other agencies
- support government’s engagement with councils on strategic planning
- better understand built and natural environmental impacts
- enable the use of technology and GIS to help monitor and identify trends in the system
- share and correlate open data sets to help monitor the resource management system
- build capacity and capability around science and data at all levels
- expand the NMS to provide for a wider scope around what is monitored.

### ***Build capability and capacity around science and data***

119. Effective monitoring will require capacity and capability building around the use of science and data to monitor system outcomes. A lot of the environmental data for resource management system is highly technical and requires scientific expertise for interpretation. Similarly, measuring urban outcomes requires understanding of economics and market issues which necessitates economics expertise beyond that provided by general planning qualifications. The ability to manage data and use new technology to get the most out of monitoring data sets often requires data and GIS expertise – again experience beyond the realm of most planners and policy makers.

120. Effective use of monitoring will also need to go beyond pure environmental measures and draw on social science to assess the degree of behaviour change that is needed to achieve both environmental and urban outcomes. At present links to social science are relatively limited, although frameworks such as the Treasury’s Living Standard Framework clearly show the link between environmental, economic and social outcomes.

121. An added dimension is that current monitoring frameworks do not link across people and the environment. We have monitoring that focuses on understanding the environment (reporting, limits and boundaries); and then monitoring that focuses on understanding people and their needs (Living Standards Framework, Indicators Aotearoa). However, we have an almost complete absence of monitoring initiatives that are capable of linking across the two – environment and people – effectively.

## **Options to link environmental reporting with a policy response**

### ***Extend the environmental reporting role of the PCE***

122. Currently the PCE has a role in providing independent advice to Parliament on environmental issues. The PCE’s advice has been influential in informing public debate and raising the profile of environmental issues. The current **role of the Parliamentary Commissioner for the Environment** could be extended to include an audit role for environmental outcomes akin to

the role of the Canadian Commissioner of the Environment and Sustainable Development (see the case study below). This would raise questions about the relationship with the Office of the Auditor General, which has also been looking at issues within the environmental system.

123. The review could also consider whether the PCE should take on a wider oversight role to include urban outcomes and oversight of how the system is adapting to future drivers of change, in addition to oversight of environmental outcomes. Taking on a wider oversight role would require an extension of capability for the PCE's office to deal with urban and futures issues.
124. The PCE would monitor progress in improving the quality of both the natural and built environments and report on the outcomes of the resource management system to the Executive and Parliament. Dr Kenneth Palmer in his report to the Productivity Commission in 2017<sup>60</sup> also notes that a back-up audit role with greater funding could be given to the PCE, as a "systems guardian", to be more effective in checking on performance of MfE on the one hand, and local authorities on the other. This would help to *"ensure that the expectations of the resource management legislation, in whatever form it may take, are attained"*.
125. EDS also see a future potential extension of role of the PCE as a reviewer of national environmental plans and local council plans, and suggest renaming the office of the PCE to the Futures Commission.<sup>61</sup>

---

<sup>60</sup> Project: Legal issues in the New Zealand planning system 2017 Report by Dr Kenneth Palmer.

<sup>61</sup> Feedback from EDS meeting with stakeholders (find out date X August).

## INDEPENDENT AUDIT OF ENVIRONMENTAL OUTCOMES – THE CANADIAN MODEL

### Audit role of the Canadian Commissioner of the Environment and Sustainable Development

The Canadian Commissioner of the Environment and Sustainable Development conducts performance audits, is responsible for monitoring the sustainable development strategies of federal departments, for overseeing the environmental petitions process, and auditing the government's management of environmental and sustainable development through reports to Parliament.<sup>62</sup> The Commissioner is similar in status to the Parliamentary Commissioner for the Environment (PCE) in New Zealand.

There is a distinction between the Canadian and New Zealand Commissioner roles: in Canada, the Commissioner's role is **one of ongoing auditing**, rather than the topic-specific reporting of New Zealand's PCE. The Canadian Commissioner of the Environment and Sustainable Development is appointed by the Auditor General. Both Commissioners provide annual monitoring reports to Parliament.

The Canadian Commissioner is appointed by the Auditor General of Canada for a term of seven years and *'provides parliamentarians with objective, independent analysis and recommendations on the federal government's efforts to protect the environment and foster sustainable development'*.

When the Canadian Commissioner role was being developed there was debate around whether the Commissioner should take on a policy advocate role for the environment, ie, actively advance the principles of sustainable development, or be limited to auditing existing environmental programmes. Information from the Canadian Parliamentary review identified that 'leadership in formulating departmental sustainable development plans, as well as the management systems for monitoring progress in achieving the plans, had to be the responsibility of government departments'.<sup>63</sup>

### **Introduce mechanisms to provide feedback loops from monitoring**

126. The current system has shown that improvements in how we respond to the outcomes from monitoring are needed. New options need to be investigated for how we can better respond to results from our monitoring systems, including:

- reorienting State of the Environment reporting to monitor whether or not we are meeting environmental limits set in Part 2 of the RMA
- setting clearer targets in national direction documents
- providing follow-up mechanisms when monitoring shows system failures.

### **Use regulatory incentives and tools to achieve better environmental outcomes**

127. A wider range of tools could be used to incentivise action in response to declining environmental outcomes –both carrots (eg, funding incentives) and sticks (penalties or enforcement action). A range of incentives could be developed at the national level, for local application, such as environmental bonuses, mitigation bonuses and restorative bonuses.

<sup>62</sup> <http://www.fdsd.org/ideas/the-commissioner-of-the-environment-and-sustainable-development-canada/>

<sup>63</sup> <http://www.revparl.ca/english/issue.asp?param=200&art=1408> Canadian Parliamentary Review – The role of parliamentary officers: A case study of two officers, David Pond.

## Key judgments required to progress policy

### Determining the degree of independent oversight

128. Balancing independent review with close ties to policy and thus to the levers for change based on the findings is not easy. There are inevitably trade-offs to be made in this area which will need to be considered further when looking at institutional design. As more weight is given to te ao Māori, there is equally an issue of oversight in that domain.
129. In the past MfE has adopted a more limited role in terms of monitoring and oversight of the resource management system. It has, more recently, taken a more active involvement through the provision of greater national direction, engagement with stakeholders, and the development of the National Monitoring System. However, monitoring has tended to focus on process rather than system outcomes.
130. Options for greater monitoring of system outcomes could include a stronger role for MfE where the organisation has a greater operational role working with councils, so that plans and policies are effectively implemented and that outcomes are more effectively monitored. The role of MfE could be given greater weight where it is made responsible for system outcomes or can hold other agencies (eg councils) to account for outcomes. A greater operational role would require new organisational design, capability and capacity building, and additional funding for MfE.
131. Judgement is needed around whether a stronger system oversight role for MfE would be more effective than giving an independent oversight body greater oversight powers for resource management outcomes (eg the PCE, OAG, EPA or new entity). This would include investigating whether the role of the PCE could be extended in scope (to include a greater focus on urban issues and future drivers of change) and in function (to include an audit role rather than just making recommendations). If the PCE were to take on new roles this would obviously require an expansion of capability and capacity for the PCE's office. The role of the EPA should also be investigated around whether greater environmental oversight powers could improve environmental monitoring outcomes.

### Linking regulatory levers to environmental limits

132. At present, we do not have good connections from environmental monitoring into policy processes. Judgement will be needed around how we best link the outputs of our environmental reporting to levers and policy tools in the resource management system. If we legislate to require feedback loops in the system to respond to environmental problems do we constrain the discretion of government and create an unnecessary burden for monitoring agencies. The Review Panel will need to decide if we can design an effective monitoring framework that provides for voluntary policy responses where environmental problems are identified or whether legislative control is needed.

### Balancing retaining existing monitoring arrangements with creating new systems

133. A range of monitoring arrangements are currently in place and judgements will be needed around what is working well in the current system and should be kept, and what new design features and components are needed to provide a better functioning system. There will be transitional impacts and costs associated with transitioning to new monitoring arrangements and how we prioritise what we measure. The new system will also need to look at how we can better monitor aspects of the system that have received less attention, such as urban outcomes and environmental limits, and what indicators we use to measure those outcomes.

### Balancing monitoring requirements with data availability

134. In designing a new framework for system monitoring judgements will be needed around the extent and nature of monitoring (including new indicators) and what priority data sets might be available to support the monitoring. Trade-offs may need to be made in terms of the extent of monitoring that might be desirable and the reality of data availability, as well as the time and cost associated with collecting the data for performance monitoring. Options put forward include – possible establishment of a *monitoring* domain plan (to help understand what key data sets we need for the resource management system and what the enduring research questions are) and the establishment of a central data unit to generate knowledge from the data we collect and support effective monitoring of the system.

DRAFT  
Released under the Official Information Act 1982

## Appendix 1 Data sets in the National Monitoring System

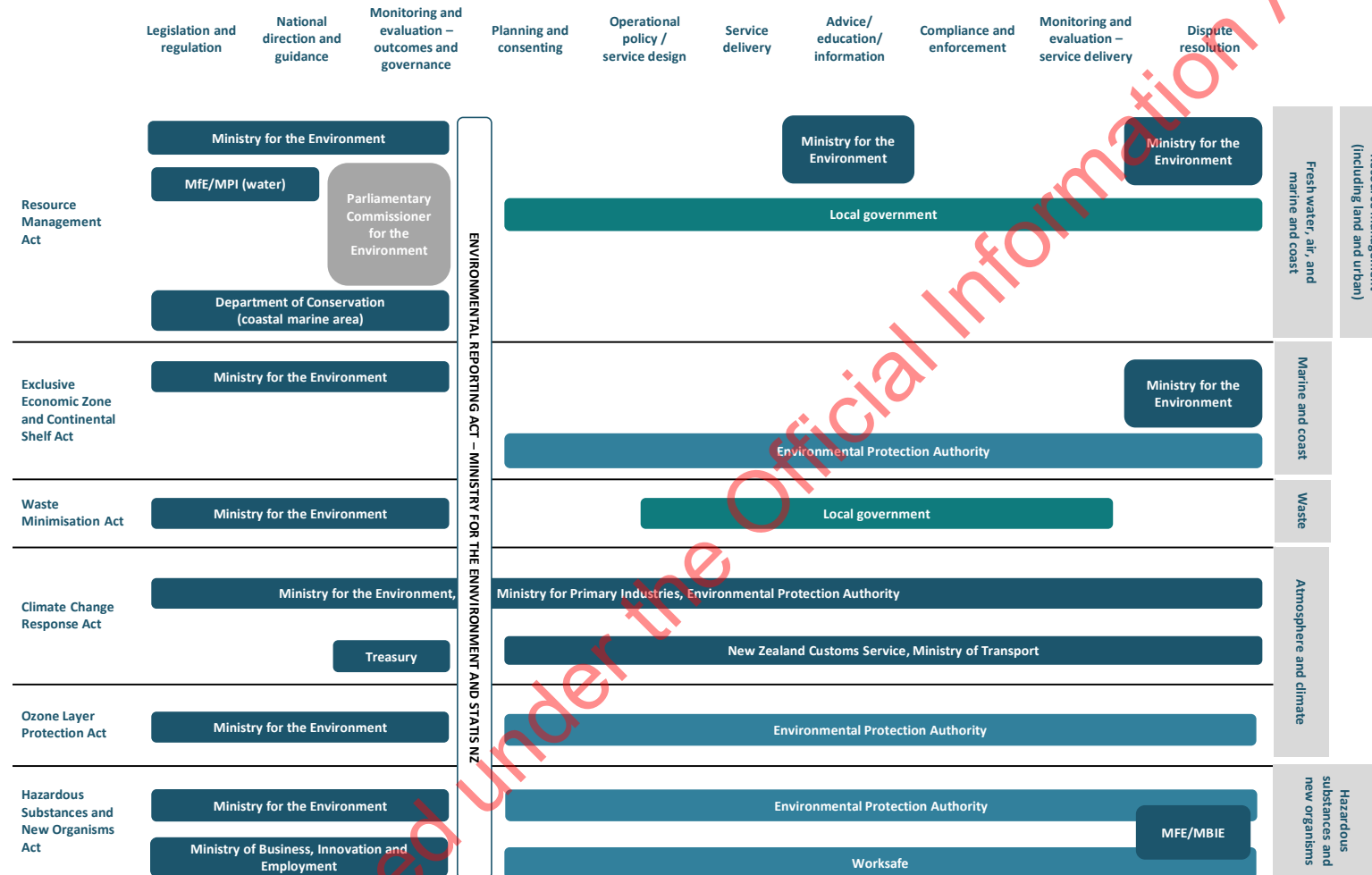
### Available data sets

PLAN-MAKING	RESOURCE CONSENTS	COMPLAINTS, MONITORING, COMPLIANCE AND ENFORCEMENT	COUNCIL RESOURCING AND IWI/HAPŪ MANAGEMENT PLANS
Policy statement and plan reviews	Resource consents processed	Resource consent monitoring	Resourcing for plan-making processes, processing resource consents, monitoring, compliance and enforcement
Plan-making processes	Resource consents processed within statutory timeframes	Complaints about breaches and alleged breaches of the RMA	lwi/ hapū management plans
Timeframes and costs associated with plan-making processes	Requests for further information under section 92 (1)	Enforcement actions	
	Extensions of resource consent application processing time		
	Charges for resource consents		
	Resource consent applications subject to discounts, objections and/or appeals		

Released under the Official Information Act 1982

## Appendix 2 Ministry for the Environment regulatory systems map

(Ministry for the Environment. 2018. *Our Regulatory Stewardship Strategy 2018*)



Released Under the Official Information Act 1982

## References:

Cabinet paper – Final policy decisions for environmental reporting topics, April 2016, MfE website.

Cayford, Joel, *The Changing Role of Planning in New Zealand's Urban Development*, Policy Advisor, NZPI, Presentation to the NZPI Conference, 22 March 2018.

Connor, R. and Dovers, S. (2004) "Sustainable management of natural and physical resources: The New Zealand Resource Management Act 1991", in *Institutional Change for Sustainable Development*, Cheltenham.

Department of Conservation, (2017, June) Review of the effect of the NZCPS 2010 on RMA decision-making Prepared for the Minister of Conservation by the Department of Conservation - Overview and key findings: <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/review-of-effect-of-nzcps-2010-on-rma-part-one.pdf>

EDS. 2016. *Evaluating the environmental outcomes of the RMA*.

EDS - *Reform of the Resource Management System – The Next Generation – Synthesis Report*.

*Environmental Stewardship: A Conceptual Review and Analytical Framework*, Environmental Management, April 2018, Vol 61, Issue 4, p. 597-614.

HM Treasury. 2018. *The Green Book: Central Government Guidance on Appraisal and Evaluation*.

Memon, Ali. 1993. *Keeping New Zealand Green*.

### Ministry for the Environment documents:

- Cabinet paper – Final policy decisions for environmental reporting topics, April 2016, MfE website
- MfE Statement of Intent 2017-2021
- MfE, Best Practice Guidelines for Compliance, Monitoring and Enforcement under the RMA 1991, 2018
- <https://www.mfe.govt.nz/sites/default/files/media/About/soi-annual-report-2017.pdf>
- <https://www.mfe.govt.nz/publications/rma/developing-indicators-maori>
- <https://www.mfe.govt.nz/publications/climate-change/new-zealands-fifth-national-communication-under-united-nations-framework-4>
- <http://www.environmentguide.org.nz/issues/marine/kaitiakitanga/what-is-kaitiakitanga/>
- <https://www.mfe.govt.nz/about-us/our-ministers/responsibilities-minister-environment>
- <https://www.mfe.govt.nz/sites/default/files/media/About/generation-from-now-outcomes.pdf> A generation from now: our long-term goals, MfE 2015
- <https://www.mfe.govt.nz/publications/rma/building-competitive-cities-reform-urban-and-infrastructure-planning-system-12>
- <https://www.mfe.govt.nz/Environment-Aotearoa-2019-Summary> – Environment Aotearoa 2019 Summary Report
- <https://www.mfe.govt.nz/rma/rma-monitoring/review-and-investigations-local-authorities/far-north-district-council-review>
- <https://www.mfe.govt.nz/sites/default/files/media/RMA/best-practice-guidelines-cme-final.pdf>
- <https://www.mfe.govt.nz/sites/default/files/media/Marine/NZ%27s%20experiences%20with%20adaptive%20management.docx>
- MfE Compliance Strategy 2017
- MfE Compliance Strategy for the NPS on Urban Development Capacity, 2018, unpublished
- Environment Aotearoa 2019 Report, Ministry for the Environment, 2019

New Zealand Council for Infrastructure Development. 2015. *Integrated Governance Planning and Delivery - A proposal for local government and planning law reform in New Zealand*.

New Zealand Legislation website – Environment Act 1986.

NZPI submission to the Productivity Commission Inquiry into Better Urban Planning.

New Zealand Productivity Commission. 2019. *Local Government Funding and Financing*. Wellington: Productivity Commission.

New Zealand Productivity Commission. 2018. *Low-emissions Economy*. Wellington: Productivity Commission.

New Zealand Productivity Commission. 2017. *Better Urban Planning*. Wellington: Productivity Commission.

New Zealand Productivity Commission. 2013. *Towards Better Local Regulation*. Wellington: Productivity Commission.

New Zealand Treasury. 2013. *Regulatory system report 2013: Guidance for departments*  
<https://www.ssc.govt.nz/sites/all/files/pif-mfe-july2018.pdf>

OECD. 2017. *Environmental Performance Reviews: New Zealand*.

PCE website, 2019.

PCE Annual Report to Parliament. 2018 - <https://www.pce.parliament.nz/media/196488/annual-report-for-the-year-ended-30-june-2018.pdf>

State Services Commission. 2018. *Performance Improvement Framework – Report for the Ministry for the Environment*.

Tax Working Group, Future of Tax: Final Report, 2019.

Te Puni Kōkiri, He Tiro Whānui e pā ana ki te Tiaki Taiao, Kaitiaki Survey Report, 2012.

Upton, Simon, 'Resource Management Bill: Third Reading' New Zealand Parliamentary Debate, 4 July 1991.

Website links:

- <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/docsprintdocuments/auckland-plan-2050-print-document.pdf>
- <https://www.beehive.govt.nz/release/resource-management-act-oversight-unit-be-established> - Beehive website, 17 May 2018
- <https://ecan.govt.nz/your-region/your-environment/air-quality/home-heating/healthier-homes-canterbury-information-for-ratepayers/>
- <http://www.eds.org.nz/assets/Publications/Evaluating%20the%20Environmental%20Outcomes%20of%20the%20RMA%20Report%20Final.pdf> p6 Evaluating the environmental outcomes of the RMA A Report by the Environmental Defence Society, June 2016
- <https://www.epa.govt.nz/assets/Uploads/Documents/Te-Hautu/293bdc5edc/EPA-Maori-Perspectives.pdf>
- <http://www.fdsd.org/ideas/the-commissioner-of-the-environment-and-sustainable-development-canada/>
- [https://www.landcareresearch.co.nz/\\_data/assets/pdf\\_file/0010/77680/Review\\_Cultural\\_Monitoring.pdf](https://www.landcareresearch.co.nz/_data/assets/pdf_file/0010/77680/Review_Cultural_Monitoring.pdf)
- <https://www.landcareresearch.co.nz/science/portfolios/enhancing-policy-effectiveness/vmo/monitoring-and-effectiveness/maori-cultural-monitoring> – Manaaki Whenua Landcare Research – Māori Cultural Monitoring Fact Sheet
- [http://www.legislation.govt.nz/act/public/2015/0087/latest/DLM6425301.html?search=ta\\_act\\_E\\_ac%40ainf%40anifan%40bn%40rn\\_25\\_a&p=2](http://www.legislation.govt.nz/act/public/2015/0087/latest/DLM6425301.html?search=ta_act_E_ac%40ainf%40anifan%40bn%40rn_25_a&p=2)
- <https://oag.govt.nz/2017/water-management/docs/water-management.pdf>
- <https://www.mbie.govt.nz/assets/9916d28d7b/vision-matauranga-booklet.pdf>
- <https://qeii.nationaltrust.org.nz/wp-content/uploads/2019/02/Opportunities-for-QEII-final.pdf>
- <https://www.rnz.co.nz/news/national/343368/doc-nobbled-by-previous-govt-environmental-lawyer>

- <https://sciblogs.co.nz/waiology/2014/06/16/citizen-scientists-help-map-christchurch-flooding/>
- <http://www.ssc.govt.nz/sites/all/files/housing-and-urban-development-institutional-arrangements.pdf>
- <https://www.teatiawatrust.co.nz/assets/Uploads/Te-Atiawa-Iwi-Environmental-Management-Plan.pdf>
- <https://treasury.govt.nz/publications/tp/living-standards-framework-introducing-dashboard-html>
- <https://treasury.govt.nz/sites/default/files/2014-07/tgls-beraud-slides.pdf> Treasury lecture, Alain Bertaud, 2014
- <http://urbandesignforum.org.nz/Home/ArtMID/422/ArticleID/219/CategoryID/18/CategoryName/General/Move-made-to-put-urban-design-on-Government%E2%80%99s-agenda>

Released under the Official Information Act 1982



Meeting date	8 November 2019
Sponsoring ELT member	Amanda Moran, Sam Buckle
Summary	This paper seeks ELT's decision to: <ul style="list-style-type: none"><li>Note the contents of this paper</li></ul>
Why does TE Pūrengi need to consider this?	<ul style="list-style-type: none"><li>The Reviews of the NZTA's regulatory performance and Ministry of Transport's monitoring function give a stark reminder to all government agencies on the importance of administering effective regulation that is fit-for-purpose.</li><li>This paper opens up an important discussion to help with prioritising actions to ensure that MfE is well-positioned to deliver on its regulatory responsibilities. This topic is part of a wider, ongoing conversation on regulatory stewardship and implementation in the environmental management system.</li></ul>
Action wanted	Te Pūrengi are asked to: <ol style="list-style-type: none"><li>Discuss this paper</li></ol>
Prepared by	Gordon Tan, Jos Fryer, Stephen Walter

### What is the issue?

- This paper provides Te Pūrengi members with a summary of the lessons learned from the Reviews of the NZ Transport Agency's (NZTA) regulatory performance and the Ministry of Transport's monitoring of the NZTA.
- The transport regulatory challenges are then compared to the challenges faced by MfE and the other players in the environmental management system.
- Finally, this paper suggests some practical opportunities that MfE can pursue in the near-future to support better regulatory practices.

## **Why regulatory failure and its impacts matter to MfE and what we can learn from the NZTA and Ministry of Transport**

4. Across the environmental management system, we have witnessed a number of risks materialising from poor regulatory activities including PFAS, Sustainable Solvents, Havelock North and Concours. These issues have had real impacts to the environment, New Zealanders, the economy, the Crown's reputation and such impacts are not unlike the ones recently seen in the land transport system.
5. While the NZTA and Ministry of Transport have different roles and responsibilities compared to MfE and other players in the environmental management system, there are strong parallels to and lessons to be learned when it comes to dealing with and preventing regulatory failures. It is hoped that this summary of the reviews of the NZTA and Ministry of Transport provides a strong signal to all government agencies and Ministers to consider taking action in ensuring our regulatory systems are fit-for-purpose in managing the most critical risks.

### **The NZTA and Ministry of Transport Reviews**

6. In November 2018, the Minister of Transport asked the Ministry of Transport to conduct a review of the NZTA's regulatory performance. A separate review was also commissioned to look at the Ministry's monitoring of the NZTA. MartinJenkins was engaged to provide input and independent analysis as part of these reviews.
7. These reviews were prompted by:
  - concerns raised around NZTA's regulatory performance
  - an internal review of NZTA's backlog of compliance cases
  - lessons learned from an instance of regulatory failure where a person lost their life in an accident with a frayed seatbelt, after their vehicle inspected by a non-compliant Warrant of Fitness provider (which NZTA knew about but didn't take appropriate enforcement action).
8. The organisational changes to NZTA were significant soon after the announcement of the reviews: the Chief Executive at the time and numerous Board members resigned in the following weeks and staff morale sharply dropped. Media and public interest was high throughout the review period and the Ministry's refreshed monitoring approach uncovered other issues at NZTA, like the mismanagement of its tech-focused Connected Journeys Solutions Unit.
9. The review reports were publicly released in early October 2019, and distributed to Public Sector leaders by NZTA Chief Executive Peter Mersi. The following sections provides a summary of key findings from these reports.

### **Review of the Ministry of Transport's monitoring function**

10. From 2005 to 2015, the Ministry's monitoring function of the NZTA was a light-touch desktop approach, with an operational focus rather than providing advice of a strategic, big picture nature or value-added insights. The NZTA senior leadership and Board had limited information and visibility on the agency's regulatory performance, and the Ministry had even less information.
11. This regulatory performance "blind spot" would also mean the Ministry would not know to appoint Board members with regulatory expertise thus contributing to the blind spot at NZTA's governance level.
12. Between 2015 and 2017, the Ministry worked to improve its monitoring by introducing an assessment framework, in-line with State sector changes and guidance introduced in the past few years for Crown entity monitoring. Despite some improvements to how it assessed performance,

the Ministry's relationships with the NZTA suffered and overall did not help it pick up the regulatory issues that the NZTA was experiencing over the years.

13. From 2017 onwards, the Ministry refreshed its assessment framework and improved its working relationships with NZTA staff, thus becoming fit-for-purpose and uncovering issues prior to the reviews. Its appointments process now also considers the importance of balancing governance and regulatory experience on the Board.
14. Despite the recent monitoring improvements, the Ministry and the NZTA Board's regulatory performance blind spot over the years meant that NZTA's lax regulatory approach was not made transparent soon enough and therefore, could not be corrected until a significant risk had materialised.

### **Review of the NZTA's regulatory performance**

15. The NZTA's regulatory failure was not brought about by any one particular factor, but rather a number of contributing factors over a long period of time. These include the following:
  - **Preoccupations with other NZTA functions and potential for conflict of interest**
    - The NZTA holds three key roles as a Crown Entity, that of Investor, Infrastructure Deliverer and Regulator. NZTA's preoccupation with its first two roles since its inception in 2008 came at the expense of de-prioritising its role as a regulator.
  - **Influence of a strong customer service focus**
    - Being an effective regulator was adversely affected in favour of a strong customer service approach, with a desire to please all parties and treating certain stakeholders as customers rather than as regulated parties
  - **Weak regulatory experience, capability and culture among senior leaders from inception to the present day**
    - This contributed to the regulatory blind spot among NZTA senior management and the Board, despite lower-level staff having regulatory experience
  - **Challenges with regulatory accountability and decision-making**
    - The accountability mechanisms for regulatory functions, which sat primarily with the Board were not properly prioritised or delegated to the right people and did not enable the escalation of risks and issues from the appropriate staff on the ground
  - **Challenges with audits and risk-management approaches**
    - Without prioritising and making a point of continually managing risks and reporting on its regulatory performance, the Office of the Auditor General's audits which focus on an agency's performance reporting as presented would not be able to pick up any instances of regulatory failure
  - **Lack of regulatory strategy, effective leadership and culture**
    - Until more recently, there has been no real strategy for NZTA in delivering its regulatory functions and at present, it still remains high-level and has yet to be operationalised.
  - **Structure, regulatory capability and supporting resources**
    - The NZTA has and continues to face challenges with organisational structure, lifting overall capability and investing in the appropriate tools and resources needed to carry out its regulatory duties to a sufficient standard.
16. Overall, all these issues contributed to NZTA's internal blind spot on its regulatory performance, which went all the way up through the organisation and persisted for a number of years. Any regulatory issues would therefore become "unknown unknowns" at the NZTA, except to the regulatory staff on the ground.

17. We note that the NZTA has since taken steps over the past year to begin rectifying these issues. These steps include the establishment of a Regulatory Group with a General Manager, Regulatory reporting to the Chief Executive to developing systems and processes to address issues of strategy, staff support and proper accountability mechanisms.
18. We also note that such a strong focus on compliance, monitoring and enforcement activities by the NZTA at present should not be done as a short-term knee-jerk reaction. Effective and efficient regulation requires sustained investment and recognition as an important pillar of an agency's business. It remains to be seen whether NZTA will be able to continue this journey of improvement in the long-term.

### **Regulatory comparisons with MfE and the key agencies in the environmental management system**

19. Many of the issues outlined in the previous section can apply to MfE and the players in the environmental management system.
  - **Roles and responsibilities are devolved, cluttered and complex – compliance, monitoring and enforcement deprioritised at MfE and environmental regulators**
    - Compared to regulatory roles and responsibilities of the NZTA, the regulatory landscape in the Environmental Management System is arguably more devolved and cluttered with numerous regulatory agencies and players, each with their own range of competing demands to balance
    - MfE's role is primarily to be the lead policy advisor to the Government, with some direct compliance and enforcement responsibilities under the Waste Minimisation Act. MfE needs to carefully define, balance and execute its role as policy advisor, system steward and regulator in a way that is fit-for-purpose in managing environmental risks.
  - **Collaboration and partnering with others in the system can be balanced with an effective monitoring compliance approach**
    - Similarly, the Ministry has a role in ensuring the many players in the system are effectively and efficiently administering their regulatory duties via compliance monitoring. Such activities include monitoring the EPA and monitoring the performance of councils and other statutory bodies
    - The level of rigour applied and investment to each of these activities varies and it's unclear on whether MfE has a clear overall view of how the system is performing on the ground. Adopting a firm and effective compliance monitoring approach to the players in the system may be de-prioritised in favour of MfE's partnering approach, although being both a friendly critic and a helpful partner are not mutually exclusive and the approaches could be balanced.
  - **The current organisational culture at MfE could be improved to better support a CME-savvy culture**
    - The current state of MfE's organisational culture, from its structure, strategy, prioritisation of projects and primary role as policy advisor has meant that compliance, monitoring and enforcement (CME) as a core pillar of business is not supported in a way that's fit-for-purpose in managing the risks. This flows through to staff competencies in CME, operational functions running on stretched resources and further distancing of our regulatory partners in the system.

- **We have existing strategic tools to guide our CME approach for the future, but further investment in people and tools is needed**
  - MfE has developed assessment frameworks and strategies related to defining and understanding CME activities, including our Regulatory Stewardship Assessment Framework and the MfE Compliance Strategy. However, giving effect to these requires ongoing investment in people and tools.
- **MfE’s Crown entity monitoring function can and should be a value-add to policy development in the future**
  - Our monitoring of the EPA and eventually the Climate Change Commission can be positioned in a way that better supports the effective implementation of regulations. Feeding back critical insights from the monitoring function can be a significant value-add into the full policy development cycle, especially when assessing for implementation and evaluating the outcomes of regulations.

### **Opportunities to improve and support a CME-savvy culture for the future**

s 9(2)(g)(i)

[Redacted text block]

### **Opportunities to improve MfE’s Crown Entity Monitoring**

21. With the anticipated establishment of the Climate Change Commission, there is an opportunity to scale up and bolster the monitoring function in strategic ways. Initial thinking and planning has already been conducted with the Climate Change directorate on how best to combine the EPA and CCC monitoring function together and think of a refreshed monitoring model that incorporates the best of what has been done in the past, with new perspectives of how monitoring can provide robust strategic insights on regulatory performance. Such insights can provide significant benefits when fed back into MfE policy advice and development.

#### **Next steps**

22. We have already taken some steps to enhance the coordination of CME-related functions across MfE, for example by reconvening the MfE Compliance Working Group. We propose this group be given the initial task of scoping out a holistic and more comprehensive response to this report. This scoping should identify both short-term ‘easy wins’ as well as longer term organisational and systemic improvements; ideally to inform our business planning process for 2020/21.
23. We are also aware of a significant push in terms of implementation, and note the importance of tying these two streams of work together.

## Jos Fryer

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer  
**Cc:** Jo Gascoigne; Ministerials; Arrun Soma  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <Hayden.Johnston@parliament.govt.nz>; Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

## Jos Fryer

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Friday, 15 November 2019 3:34 PM  
**To:** Jos Fryer; Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

Thanks heaps Jos and team! 😊

All good, have a great weekend!

Cheers

Rereata

---

**From:** Jos Fryer [mailto:Jos.Fryer@mfe.govt.nz]  
**Sent:** Friday, 15 November 2019 3:32 PM  
**To:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>; Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Rereata

Minor suggested changes highlighted below. Happy to take a call if you want to discuss anything?

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Enforcement Unit). The unit was always intended to have a direct enforcement role, so there has been no change of focus..*

*The unit, located with the EPA, only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

Thanks  
Jos

**Jos Fryer – Senior Analyst, Natural and Built Systems**  
Ministry for the Environment – Manatū Mō Te Taiao  
Phone: 022 010 3633 Email: [jos.fryer@mfe.govt.nz](mailto:jos.fryer@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, Thorndon, Wellington 6011

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 3:25 PM  
**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

Thanks Jo

Does anyone have any feedback on the below?

Feel free to phone me if it's faster.

Cheers

Rereata

---

**From:** Jo Gascoigne [<mailto:Jo.Gascoigne@mfe.govt.nz>]

**Sent:** Friday, 15 November 2019 11:26 AM

**To:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>

**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>

**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa – he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>

**Sent:** Friday, 15 November 2019 11:05 AM

**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>

**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>

**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

# newsroom.

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](#)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

---

---

Released under the Official Information Act 1982

**Jos Fryer**

---

**From:** Jo Gascoigne  
**Sent:** Friday, 15 November 2019 3:26 PM  
**To:** Jos Fryer; Stephen Walter; Fiona Newlove  
**Subject:** RE: RMA oversight unit media enquiry

Looks good – but don't think we need the additional material

Please send to Rereata

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 2:49 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Thank you, I think that is the simplest solution, and I've also made some other changes for clarity/continuity. I have also suggested an additional couple of sentences to give broader context as well. Are you comfortable with this?

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Enforcement Unit). The unit was always intended to have a direct enforcement role, so there has been no change of focus..*

*The unit, located with the EPA, only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions. This unit will be a valuable addition to wider central government initiatives to strengthen Compliance, Monitoring and Enforcement of the RMA. Last year we released Best Practice Guidelines to support Councils in their CME duties. The Ministry for the Environment (MfE) has overall responsibility for stewardship of the Resource Management Act, including compliance functions, and is working in partnership with local government to help drive continuous sector improvement. Examples include the [independent annual metrics reporting](#) which commenced last year, and the development of a Strategic Compliance Framework for the Regional Sector, both of which have been developed and adopted by our regional and unitary councils with support from MfE.*

---

**From:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>  
**Sent:** Friday, 15 November 2019 12:59 PM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Subject:** Re: RMA oversight unit media enquiry

Need to look at how it was framed when first announced. Appreciate we need to be accurate about the name of the unit but also need to ensure the message of the PR is clear I.e, that CG is active in supporting more enforcement

Jo Gascoigne  
0275317202

---

**From:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Sent:** Friday, November 15, 2019 12:46:01 PM  
**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome your guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks  
Jos

---

**From:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament) <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**  
**Director, Natural & Built System**  
Ministry for the Environment – Manatū Mō Te Taiao



**Making Aotearoa New Zealand  
the most liveable place in the world**  
Aotearoa - he whenua mana kura mō te tangata

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

**Jos Fryer**

---

**From:** Jo Gascoigne  
**Sent:** Friday, 15 November 2019 3:26 PM  
**To:** Rereata Hardman-Miller (Parliament); Jos Fryer; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

About to push send

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



*Making Aotearoa New Zealand  
the most liveable place in the world*  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 3:25 PM  
**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

Thanks Jo

Does anyone have any feedback on the below?

Feel free to phone me if it's faster.

Cheers

Rereata

---

**From:** Jo Gascoigne [<mailto:Jo.Gascoigne@mfe.govt.nz>]  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao



**Making Aotearoa New Zealand  
the most liveable place in the world**  
Aotearoa - he whenua mana kura mō te tangata

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

## Jos Fryer

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Friday, 15 November 2019 3:25 PM  
**To:** Jo Gascoigne; Jos Fryer; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

Thanks Jo

Does anyone have any feedback on the below?

Feel free to phone me if it's faster.

Cheers

Rereata

---

**From:** Jo Gascoigne [mailto:Jo.Gascoigne@mfe.govt.nz]  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>; Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

### Jo Gascoigne

#### Director, Natural & Built System

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa – he wāhanga mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](#)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

Released under the Official Information Act 1982

**Jos Fryer**

---

**From:** Jo Gascoigne  
**Sent:** Friday, 15 November 2019 1:54 PM  
**To:** Jos Fryer; Stephen Walter; Fiona Newlove  
**Subject:** RE: RMA oversight unit media enquiry

Ok – how about just changing what’s in the brackets to ‘(Enforcement Unit) and using that title as the short hand rather than ‘Oversight Unit’

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand  
the most liveable place in the world**  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 1:13 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** Re: RMA oversight unit media enquiry

Thanks Jo.

The original framing when the budget announcement was framed as "RMA Compliance Oversight Unit".

However, at that point the Minister had not yet determined where the unit would be located (MfE or EPA), or what the precise functions/tasks of the unit would be.

My understanding of the ministers subsequent decisions are:

- 1) the unit will be based at the EPA
- 2) the unit will exclusively providing an investigate/enforcement role, either assisting Councils, or leading cases in its own right.
- 3) Broader functions associated with oversight of CME, and of the Act generally, is MfE's role as the regulatory steward, and is part and parcel of our baseline function.

This is how I (and the EPA) have been framing our respective roles when speaking with CESIG and other stakeholders.

Thanks  
Jos

Get [Outlook for Android](#)

**From:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>

**Sent:** Friday, November 15, 2019 12:58:31 PM

**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>

**Subject:** Re: RMA oversight unit media enquiry

Need to look at how it was framed when first announced. Appreciate we need to be accurate about the name of the unit but also need to ensure the message of the PR is clear I.e, that CG is active in supporting more enforcement

Jo Gascoigne  
0275317202

---

**From:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>

**Sent:** Friday, November 15, 2019 12:46:01 PM

**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>

**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome you guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks

Jos

---

**From:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>

**Sent:** Friday, 15 November 2019 11:26 AM

**To:** Rereata Hardman-Miller (Parliament) <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>

**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>

**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**  
**Director, Natural & Built System**  
Ministry for the Environment – Manatū Mō Te Taiao



**Making Aotearoa New Zealand  
the most liveable place in the world**  
Aotearoa - he whenua mana kura mō te tangata

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://www.instagram.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

## Jos Fryer

---

**From:** Jo Gascoigne  
**Sent:** Friday, 15 November 2019 12:59 PM  
**To:** Jos Fryer; Stephen Walter; Fiona Newlove  
**Subject:** Re: RMA oversight unit media enquiry

Need to look at how it was framed when first announced. Appreciate we need to be accurate about the name of the unit but also need to ensure the message of the PR is clear I.e, that CG is active in supporting more enforcement

Jo Gascoigne  
0275317202

---

**From:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Sent:** Friday, November 15, 2019 12:46:01 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome you guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks  
Jos

---

**From:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament) <Rereata.Hardman-Miller@parliament.govt.nz>; Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand  
the most liveable place in the world**  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

**Jos Fryer**

---

**From:** Jo Gascoigne  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament); Jos Fryer; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Cc:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

Released under the Official Information Act 1982

## Jos Fryer

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Tuesday, 19 November 2019 10:37 AM  
**To:** Jos Fryer; Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

Hi all

In case you haven't seen it – story now published on Newsroom

<https://www.newsroom.co.nz/2019/11/19/911083/rma-oversight-unit-not-fit-for-purpose#>

Cheers

Rereata

---

**From:** Jos Fryer [mailto:Jos.Fryer@mfe.govt.nz]  
**Sent:** Friday, 15 November 2019 3:32 PM  
**To:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>; Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Rereata

Minor suggested changes highlighted below. Happy to take a call if you want to discuss anything?

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Enforcement Unit). The unit was always intended to have a direct enforcement role, so there has been no change of focus..*

*The unit, located with the EPA, only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

Thanks

Jos

**Jos Fryer – Senior Analyst, Natural and Built Systems**  
Ministry for the Environment – Manatū Mō Te Taiao  
Phone: 022 010 3633 Email: [jos.fryer@mfe.govt.nz](mailto:jos.fryer@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, Thorndon, Wellington 6011

---

**From:** Rereata Hardman-Miller <Rereata.Hardman-Miller@parliament.govt.nz>  
**Sent:** Friday, 15 November 2019 3:25 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>

Cc: Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
Subject: RE: RMA oversight unit media enquiry

Thanks Jo

Does anyone have any feedback on the below?

Feel free to phone me if it's faster.

Cheers

Rereata

---

**From:** Jo Gascoigne [<mailto:Jo.Gascoigne@mfe.govt.nz>]  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world

Aotearoa - he whenā māna kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

# newsroom.

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](#)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

Released under the Official Information Act 1982

## Jos Fryer

---

**From:** Jos Fryer  
**Sent:** Friday, 15 November 2019 2:49 PM  
**To:** Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Subject:** RE: RMA oversight unit media enquiry

Thank you, I think that is the simplest solution, and I've also made some other changes for clarity/continuity. I have also suggested an additional couple of sentences to give broader context as well. Are you comfortable with this?

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Enforcement Unit). The unit was always intended to have a direct enforcement role, so there has been no change of focus..*

*The unit, located with the EPA, only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions. This unit will be a valuable addition to wider central government initiatives to strengthen Compliance, Monitoring and Enforcement of the RMA. Last year we released Best Practice Guidelines to support Councils in their CME duties. The Ministry for the Environment (MfE) has overall responsibility for stewardship of the Resource Management Act, including compliance functions, and is working in partnership with local government to help drive continuous sector improvement. Examples include the [independent annual metrics reporting](#) which commenced last year, and the development of a Strategic Compliance Framework for the Regional Sector, both of which have been developed and adopted by our regional and unitary councils with support from MfE.*

---

**From:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 12:59 PM  
**To:** Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** Re: RMA oversight unit media enquiry

Need to look at how it was framed when first announced. Appreciate we need to be accurate about the name of the unit but also need to ensure the message of the PR is clear I.e, that CG is active in supporting more enforcement

Jo Gascoigne  
0275317202

---

**From:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Sent:** Friday, November 15, 2019 12:46:01 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome your guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks  
Jos

---

**From:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament) <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**  
**Director, Natural & Built System**  
Ministry for the Environment – Manatū Mō Te Taiao  
Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, PO Box 10362, Wellington 6143



---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.

The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.

I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](#)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

Released under the Official Information Act 1982

**Jos Fryer**

---

**From:** Jos Fryer  
**Sent:** Friday, 15 November 2019 1:13 PM  
**To:** Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Subject:** Re: RMA oversight unit media enquiry

Thanks Jo.

The original framing when the budget announcement was framed as "RMA Compliance Oversight Unit".

However, at that point the Minister had not yet determined where the unit would be located (MfE or EPA), or what the precise functions/tasks of the unit would be.

My understanding of the ministers subsequent decisions are:

- 1) the unit will be based at the EPA
- 2) the unit will exclusively providing an investigate/enforcement role, either assisting Councils, or leading cases in its own right.
- 3) Broader functions associated with oversight of CME, and of the Act generally, is MfE's role as the regulatory steward, and is part and parcel of our baseline function.

This is how I (and the EPA) have been framing our respective roles when speaking with CESIG and other stakeholders.

Thanks  
Jos

Get [Outlook for Android](#)

---

**From:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>  
**Sent:** Friday, November 15, 2019 12:58:31 PM  
**To:** Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** Re: RMA oversight unit media enquiry

Need to look at how it was framed when first announced. Appreciate we need to be accurate about the name of the unit but also need to ensure the message of the PR is clear I.e, that CG is active in supporting more enforcement

Jo Gascoigne  
0275317202

---

**From:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Sent:** Friday, November 15, 2019 12:46:01 PM  
**To:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome your guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks  
Jos

---

**From:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament) <Rereata.Hardman-Miller@parliament.govt.nz>; Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**  
**Director, Natural & Built System**  
Ministry for the Environment – Manatū Mō Te Taiao  
Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
Reporter

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](#)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

Released under the Official Information Act 1982

## Jos Fryer

---

**From:** Jos Fryer  
**Sent:** Friday, 15 November 2019 12:46 PM  
**To:** Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Subject:** RE: RMA oversight unit media enquiry

Hi Team

I do think we have something of a branding problem here, and I'd welcome your guidance on how we communicate the correct message.

We have not been using the term 'oversight' to describe the unit for many months; we've been calling it the EPA Enforcement Unit (and so has the EPA). While the unit's operational role in holding polluters to account will certainly aid oversight by giving us important insights into CME practice and case management strategies, 'Oversight' implies a broader role, eg: auditing or conducting QA assessments of council performance. It is my understanding that these types of tasks are beyond the scope of the EPA's role.

I wonder if we might best assist the minister by framing the unit as being a key part of a broader oversight and regulatory stewardship role that emphasises a multi-prong strategy, incorporating this unit's supplementary investigative role, the development and promotion of our Best Practice Guidelines, and partnering with local government (especially through CESIG) to develop performance metrics, assist peer review auditing, and promote the strategic compliance framework.

Your guidance appreciated; I've just landed in Auckland and am about to bus to the APO to work out the rest of the day.

Thanks  
Jos

---

**From:** Jo Gascoigne <Jo.Gascoigne@mfe.govt.nz>  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller (Parliament) <Rereata.Hardman-Miller@parliament.govt.nz>; Jos Fryer <Jos.Fryer@mfe.govt.nz>; Stephen Walter <Stephen.Walter@mfe.govt.nz>; Fiona Newlove <Fiona.Newlove@mfe.govt.nz>  
**Cc:** Ministerials <ministerials@mfe.govt.nz>; Arrun Soma <Arrun.Soma@mfe.govt.nz>  
**Subject:** RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**  
**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



Ministry for the  
**Environment**  
Manatū Mō Te Taiao



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa - he whenua mana kura mō te tangata

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://www.instagram.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

## Jos Fryer

---

**From:** Jos Fryer  
**Sent:** Friday, 15 November 2019 3:32 PM  
**To:** Rereata Hardman-Miller; Jo Gascoigne; Stephen Walter; Fiona Newlove  
**Cc:** Ministerials; Arrun Soma  
**Subject:** RE: RMA oversight unit media enquiry

Hi Rereata

Minor suggested changes highlighted below. Happy to take a call if you want to discuss anything?

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Enforcement Unit). The unit was always intended to have a direct enforcement role, so there has been no change of focus..*

*The unit, located with the EPA, only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

Thanks  
Jos

**Jos Fryer – Senior Analyst, Natural and Built Systems**  
Ministry for the Environment – Manatū Mō Te Taiao  
Phone: 022 010 3633 Email: [jos.fryer@mfe.govt.nz](mailto:jos.fryer@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, Thorndon, Wellington 6011

---

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 3:25 PM  
**To:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>  
**Cc:** Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** RE: RMA oversight unit media enquiry

Thanks Jo

Does anyone have any feedback on the below?

Feel free to phone me if it's faster.

Cheers

Rereata

---

**From:** Jo Gascoigne [<mailto:Jo.Gascoigne@mfe.govt.nz>]  
**Sent:** Friday, 15 November 2019 11:26 AM  
**To:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>; Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>; Stephen Walter <[Stephen.Walter@mfe.govt.nz](mailto:Stephen.Walter@mfe.govt.nz)>; Fiona Newlove <[Fiona.Newlove@mfe.govt.nz](mailto:Fiona.Newlove@mfe.govt.nz)>

Cc: Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
Subject: RE: RMA oversight unit media enquiry

In case Jos isn't here – Stephen and Fiona may be able to help

**Jo Gascoigne**

**Director, Natural & Built System**

Ministry for the Environment – Manatū Mō Te Taiao

Mob: 027 531 7202 Email: [jo.gascoigne@mfe.govt.nz](mailto:jo.gascoigne@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

23 Kate Sheppard Place, PO Box 10362, Wellington 6143



**Making Aotearoa New Zealand**  
the most liveable place in the world  
Aotearoa - he whenua mana kura mō te tangata

**From:** Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>  
**Sent:** Friday, 15 November 2019 11:05 AM  
**To:** Jos Fryer <[Jos.Fryer@mfe.govt.nz](mailto:Jos.Fryer@mfe.govt.nz)>  
**Cc:** Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Ministerials <[ministerials@mfe.govt.nz](mailto:ministerials@mfe.govt.nz)>; Arrun Soma <[Arrun.Soma@mfe.govt.nz](mailto:Arrun.Soma@mfe.govt.nz)>  
**Subject:** FW: RMA oversight unit media enquiry

Hi Jos

As discussed please see the media enquiry below.

Can you please review this response, including whether it is correct that there hasn't been a change in scope. I note the [original press release](#) didn't mention an enforcement role for the EPA... but I'm not sure if it was meant to be implied.

*Through Budget 2018, the Government committed \$3.07 million to the Resource Management Act Enforcement oversight unit (Oversight Unit). There has been no change of focus for the unit as it was always intended to have an enforcement role.*

*The unit only has limited functionality at present, but broader enforcement powers are proposed to be enabled through the Resource Management Amendment Bill currently being considered by Select Committee.*

*I am confident these changes will support the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions.*

If you could get back to me as soon as possible once you're in Auckland that would be great so the response can be approved by the Minister this afternoon

Cheers

Rereata

---

**From:** Vernon Small  
**Sent:** Friday, 15 November 2019 9:38 AM  
**To:** Hayden Johnston <[Hayden.Johnston@parliament.govt.nz](mailto:Hayden.Johnston@parliament.govt.nz)>; Rereata Hardman-Miller <[Rereata.Hardman-Miller@parliament.govt.nz](mailto:Rereata.Hardman-Miller@parliament.govt.nz)>

[Miller@parliament.govt.nz](mailto:Miller@parliament.govt.nz)>

**Subject:** FW: RMA oversight unit

Sent with BlackBerry Work  
([www.blackberry.com](http://www.blackberry.com))

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Friday, 15 Nov 2019, 9:33 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** FW: RMA oversight unit

Hi Vernon

We'll publish the story Monday now, but if you could get something back to me by COB today that would keep me on the good side of the subeditor.

Regards  
Farah

---

**From:** Farah Hancock <[farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz)>  
**Date:** Thursday, 14 November 2019 at 10:42 AM  
**To:** Vernon Small <[Vernon.Small@parliament.govt.nz](mailto:Vernon.Small@parliament.govt.nz)>  
**Subject:** RMA oversight unit

Hi Vernon

Would I please be able to get comment from David Parker on the following by close of business today.

I've seen that the RMA oversight unit is now proposed to be an 'enforcement' unit based at the EPA which assists councils from time-to-time.

- Given the unit's change of focus is he confident the unit will be able to "improve the consistency, effectiveness and transparency of council enforcement of RMA rules and decisions" as announced?

Regards  
Farah Hancock  
*Reporter*

**newsroom.**

<http://newsroom.co.nz>

e: [farah.hancock@newsroom.co.nz](mailto:farah.hancock@newsroom.co.nz) p: +64 21 136 0132 | [@newsroomnz](https://twitter.com/newsroomnz)

Newsroom NZ Ltd First floor 48 George St, Kingsland, Auckland 1024

Caution: The information contained in this email is CONFIDENTIAL. If the reader of this message is not the intended recipient, you are hereby notified that any use, dissemination, distribution or reproduction is strictly prohibited. If you received this message in error, please notify Newsroom immediately. Thank you.

**Support Newsroom's independent public interest journalism by donating regularly [here at Press Patron](#) and/or [subscribing to Newsroom Pro](#) for as little as \$29/month.**

---

---

Released under the Official Information Act 1982

## Jos Fryer

---

**From:** Jos Fryer  
**Sent:** Tuesday, 19 November 2019 9:43 AM  
**To:** Simon King  
**Subject:** RE: RMA enforcement in media:fyi

Thanks dude,

Yeah I assisted Rereata with this media enquiry on Friday so I'm not too surprised by the angle.

content out-of-scope of request

Thanks  
Jos

---

**From:** Simon King <Simon.King@mfe.govt.nz>  
**Sent:** Tuesday, 19 November 2019 8:01 AM  
**To:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Subject:** FW: RMA enforcement in media:fyi

FYI below although I am sure you would have already seen it.

content out-of-scope of request

Thanks  
Simon

**Simon King**  
**Director – Natural and Built System**  
Ministry for the Environment – Manatu Mo Te Taiao  
Mobile: 022 047 5541 Email: [Simon.King@mfe.govt.nz](mailto:Simon.King@mfe.govt.nz) Website: [www.mfe.govt.nz](http://www.mfe.govt.nz)  
23 Kate Sheppard Place, Thorndon, Wellington 6143

---

**From:** Amanda Moran <[amanda.moran@mfe.govt.nz](mailto:amanda.moran@mfe.govt.nz)>  
**Sent:** Tuesday, 19 November 2019 7:51 AM  
**To:** Justin Strang <[Justin.Strang@mfe.govt.nz](mailto:Justin.Strang@mfe.govt.nz)>; Vicky Robertson <[Vicky.Robertson@mfe.govt.nz](mailto:Vicky.Robertson@mfe.govt.nz)>  
**Cc:** Glenn Wigley <[glenn.wigley@mfe.govt.nz](mailto:glenn.wigley@mfe.govt.nz)>; Jo Gascoigne <[Jo.Gascoigne@mfe.govt.nz](mailto:Jo.Gascoigne@mfe.govt.nz)>; Natasha Lewis <[Natasha.Lewis@mfe.govt.nz](mailto:Natasha.Lewis@mfe.govt.nz)>; Cheryl Barnes <[Cheryl.Barnes@mfe.govt.nz](mailto:Cheryl.Barnes@mfe.govt.nz)>; Lesley Baddon <[Lesley.Baddon@mfe.govt.nz](mailto:Lesley.Baddon@mfe.govt.nz)>; Simon King <[Simon.King@mfe.govt.nz](mailto:Simon.King@mfe.govt.nz)>; Katherine Wilson <[Katherine.Wilson@mfe.govt.nz](mailto:Katherine.Wilson@mfe.govt.nz)>; Becky Prebble <[Becky.Prebble@mfe.govt.nz](mailto:Becky.Prebble@mfe.govt.nz)>; Kevin Guerin <[Kevin.Guerin@mfe.govt.nz](mailto:Kevin.Guerin@mfe.govt.nz)>  
**Subject:** Re: RMA enforcement in media:fyi

Thanks Justin.

This connects to our conversation with Minister Parker last week and will be covered in a Weekly Report item going over Thursday/Friday re an update on What EPA are doing on the Enforcement Unit.

It also links to our system performance conversations last Wednesday which is also playing out with the RMS Panel. The Minister asked for a budget bid on ER yesterday which is also connected so we should think about that.

Glenn can you find out from Rereata when the Minister got these questions.

Amanda

Get [Outlook for iOS](#)

---

**From:** Justin Strang <[Justin.Strang@mfe.govt.nz](mailto:Justin.Strang@mfe.govt.nz)>

**Sent:** Tuesday, November 19, 2019 7:20:44 AM

**To:** Vicky Robertson <[Vicky.Robertson@mfe.govt.nz](mailto:Vicky.Robertson@mfe.govt.nz)>; Amanda Moran <[amanda.moran@mfe.govt.nz](mailto:amanda.moran@mfe.govt.nz)>

**Subject:** RMA enforcement in media:fyi

<https://www.newsroom.co.nz/2019/11/19/911083/rma-oversight-unit-not-fit-for-purpose>

Get [Outlook for Android](#)

Released under the Official Information Act 1982

## Jos Fryer

---

**From:** Jos Fryer  
**Sent:** Tuesday, 19 November 2019 11:13 AM  
**To:** 'Peter Kerr'  
**Subject:** RE: F&B

Yeah we've seen it

---

**From:** Peter Kerr <Peter.Kerr@epa.govt.nz>  
**Sent:** Tuesday, 19 November 2019 11:12 AM  
**To:** Jos Fryer <Jos.Fryer@mfe.govt.nz>  
**Subject:** F&B

<http://www.msn.com/en-nz/news/national/rma-oversight-unit-not-fit-for-purpose/ar-BBWWY0U?ocid=ientp>

### Peter KERR

Team Leader  
RMA Enforcement Unit  
Land and Oceans Compliance

+6427 239 9705



Follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#).

This email message and any attachment(s) are intended for the addressee(s) only.  
If you receive this message in error, please notify the sender and delete the message and any attachment(s).