



Te Kāwanatanga o Aotearoa
New Zealand Government



Ministry for the
Environment
Manatū Mō Te Taiao

Regulatory performance monitoring framework report 2021/22

WASTE MINIMISATION ACT 2008



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Abbreviations

AELERT	Australasian Environmental Law Enforcement and Regulators Network
CME	Compliance monitoring and enforcement
EPA	Environmental Protection Authority
MRIT	Modern Regulator Improvement Tool
OWLS	Online Waste Levy System
RMA	Resource Management Act 1991
TAs	Territorial authorities
TAWLES	Territorial Authority Waste Levy Expenditure System
WMA	Waste Minimisation Act 2008
WMF	Waste Minimisation Fund
WMMP	Waste Management and Minimisation Plan

Foreword 2022

I am pleased to present the second annual performance monitoring report from the Waste Operations team at the Ministry for the Environment Manatū Mō Te Taiao.

This report describes the team's activities in delivering against the Waste Minimisation Act 2008 (WMA) during the 2021/22 financial year.

Effective compliance monitoring and enforcement is a key part of our transition to a circular economy. Over the past year, we have upscaled and streamlined our regulatory functions by recruiting new staff, developing new procedures, and designing and introducing several new systems and tools to support their work.

The report shares insights from the Waste Levy Expansion and the significant programme of outreach and engagement that accompanies it. We thank our regulated communities for their efforts at achieving compliance in an evolving and complex regulatory environment.

The report details compliance activities across disposal facilities, territorial authorities, funding recipients, and product bans including plastic bags. Demonstrating compliance with obligations is important for operators and we hope this report provides some useful insights for the sectors we regulate.

Waste Operations continues to improve its operational programmes, developing new information technology solutions, and providing crucial insights to our policy development teams. It has placed special emphasis this year on engaging with regulatory peers and taken advice and critique of their activities and driven improvements in response.

As a Ministry, our capacity and capability to be an effective and credible regulator is a significant part of transforming the waste and resource recovery sector.



Sam Buckle

Deputy Secretary | Tumuaki Tuarua
Waste and Resource Efficiency, Water and Land Use Policy
Ministry for the Environment Manatū Mō Te Taiao

Executive summary

The 2022 compliance report tracks implementation of the compliance functions of the Waste Minimisation Act (WMA) by the Ministry for the Environment Manatū Mō Te Taiao. The purpose is to increase the transparency of our function and to drive continuous improvement of processes and outcomes.

The WMA is the primary legal instrument to address waste and resource recovery in New Zealand. The purpose of the Act is to *encourage waste minimisation and a decrease in waste disposal in order to (a) protect the environment from harm; and (b) provide environmental, social, economic, and cultural benefits.*

We are the primary regulator under the WMA, holding both system stewardship and direct regulatory responsibilities. In this role, we undertake a wide range of activities, with multiple regulated communities.

During the 2021/22 reporting period (1 July 2021 to 30 June 2022) we conducted 51 formal audits spanning 3 distinct auditing programmes, responded to more than 1,000 enquiries, and launched 3 new investigations across disposal facilities and territorial authorities. There was a significant increase in enquiries, with our team responding to hundreds of calls and emails including via the new alleged breach notification system. Most enquiries were from operators wanting to understand more about how the waste levy expansion affected them.

The sector has generally welcomed the Ministry's refreshed approach to compliance, and we continued building effective relationships with operators, councils and the wider public.

Significant outcomes this reporting year include:

- Expansion of the waste levy to more facilities, increasing the rates for facilities already paying the levy and expanding the suite of regulatory obligations we must monitor and enforce.
- Upgrade of the Online Waste Levy System (OWLS) to better support the administration of the waste levy.
- The recently launched Alleged Breach Notification System makes it easier for the public to let us know about behaviour of concern in our sector, and establishing a regulatory compliance and investigations team provides ready resource and expertise to respond to these concerns.
- The release of the Territorial Authority Waste Levy Expenditure System (TAWLES) provides a user-friendly online portal for councils, moving us away from the previous manual process.

In 2020/21, we lacked historical compliance data and focused on establishing quality baseline information. This year, we shifted to a more intelligence-led, risk-based model, ensuring our available resources are first deployed to areas of greatest risk or concern. We put in considerable effort to improve our guidance material, build improved channels for public engagement, and support new members to the regime via the waste levy expansion. These efforts are ongoing.

Part 1: Overview

Introduction

Waste is a systemic environmental issue in Aotearoa New Zealand. Law and policy like the WMA control waste production behaviours, determine where waste can be disposed of, and outline the responsibilities of people and organisations involved. Significant elements of a shift towards a more circular economy include ensuring waste is responsibly managed, the levy is paid appropriately, and distributed money is spent in accordance with the WMA.

The Ministry is responsible for the central government compliance monitoring and enforcement (CME) of the WMA. Our compliance workstreams interact with many regulated parties, and it is important the public is confident that we are effective and efficient in our role.

We have a large range of compliance programmes, a small staff and growing regulatory requirements, making risk management and prioritisation a core part of our work. Working with new regulated communities presents challenges. These range from a lack of familiarity with our regime or adjacent regimes (eg, resource management), to operators having limited experience with mandatory reporting. This is due to weak control environments arising from a lack of systems, particularly for very small operations.

The Waste Disposal Levy (the waste levy) is New Zealand's only hypothecated¹ environmental funding instrument which supports waste minimisation. Hypothecation is a strategy to build public trust and acceptance of the new tax measures being introduced for environmental protection purposes and not for general taxation. Ensuring robust administration of such funds is important to maintaining that public trust and acceptance.

Our functions put us on the frontline of implementing the WMA, giving us unique insights for policy development and evaluation. We must be aware of the challenges our regulated communities face in achieving compliance, and provide feedback to projects such as the review of the WMA and the Litter Act 1979.

Over the coming years, the compliance function supporting the WMA is set to grow in both size and scale across multiple work programmes. New requirements were introduced in the 2021/22 reporting year:

- an increase in the waste levy from \$20 to \$30 per tonne for Class 1 landfills on 1 July 2022 with further increases over the next two years
- the requirement for registration of all facilities subject to our regime on 1 July 2022, with reporting and levy obligations progressively initiating over time, and levy obligations for Class 2 facilities initiating on the same date
- introduction of regulations for the first tranche of phasing out plastic products via the Waste Minimisation (Plastic and Related Products) Regulations 2022 (in force October 2022)

¹ Hypothecated means that the income from the levy is spent exclusively on the administration of the system and efforts to minimise waste.

- groundwork to enable the initiation of New Zealand’s first regulated product stewardship scheme in the coming financial year (2022/2023).

Last year’s inaugural report provided a baseline suite of compliance data before the above changes were introduced. This second report helps set out the changing regulatory context for waste and the role the Ministry plays in that transformation.

Who are we accountable to?

Under the Environment Act 1986, the Ministry is Parliament’s main advisory agency on environmental matters. Our core purpose statement is:

‘He taiao tōnui mō ngā reanga katoa – a flourishing environment for every generation’.

As a central government regulator, we are also accountable to other agencies and processes designed to give New Zealanders confidence that we are properly discharging our responsibilities. These include:

- Audit New Zealand and the Office of the Auditor-General, the two business units of the Controller and Auditor-General
- an Officer of Parliament
- Official Information Act 1982
- Public Service Act 2020.

We are also accountable to the New Zealand public.

Our role is funded from the waste levy and Vote Environment appropriation. Accountability attached to those funds involves regular reporting to the Treasury. We also produce formal and informal reporting including:

- an annual report
- briefings to the Minister for the Environment
- engagement with the waste sector, our regulated communities and the wider public.

You can find out more about our work programme on our website and in our [Statement of Intent 2020–25](#). Broader information on our achievements can be found in our [Annual Report 2021/22](#).

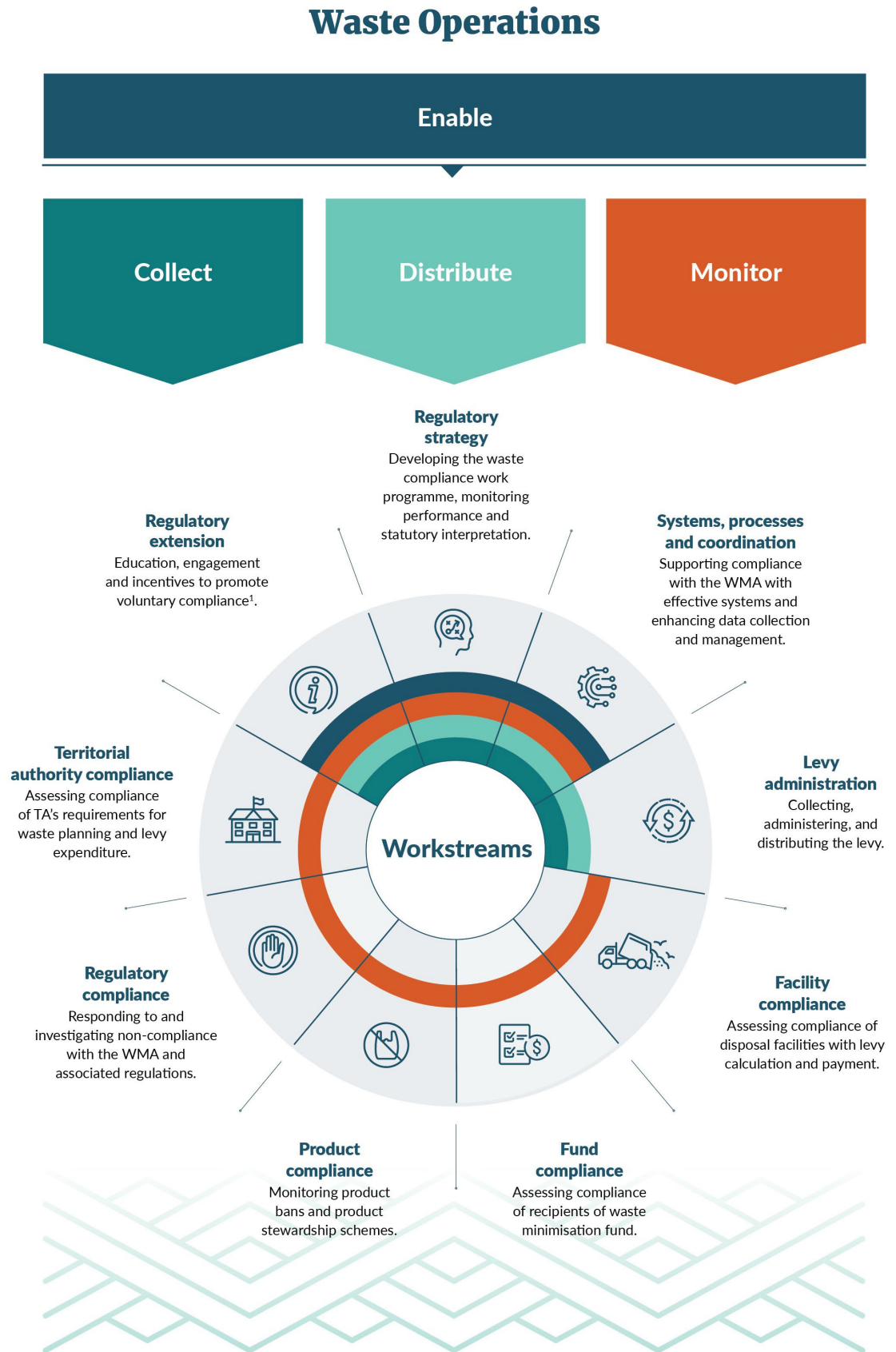
Our regulatory role

Key objectives

The key objectives of the Waste Operations function are:

1. maximising compliance with the Waste Minimisation Act 2008 (WMA)
2. administering a best practice regulatory programme to achieve the purpose of the WMA.

Figure 1: The Waste Operations eight workstreams



Waste Minimisation Act 2008 regulatory role

The WMA came into effect in September 2008, and includes the following regulations:

- Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009
- Waste Minimisation (Microbeads) Regulations 2017
- Waste Minimisation (Plastic Shopping Bags) Regulations 2018
- Waste Minimisation (Information Requirements) Regulations 2021
- Waste Minimisation (Plastics and Related Products) Regulations 2022.

Collectively, the WMA and regulations require us to:

- calculate and collect the waste disposal levy from disposal facility operators (DFOs)
- distribute levy money to territorial authorities (TAs) for waste minimisation initiatives
- distribute levy money for waste minimisation projects
- monitor whether and how TAs are spending levy money distributed to them
- monitor whether TAs review their waste management and minimisation plans (WMMP) and perform waste assessments
- conduct audits of DFOs, TAs, organisations paid levy money, the levy collector, and scheme managers or participants in product stewardship schemes
- investigate and carry out enforcement action in relation to breaches of the WMA and related regulations, such as for the waste levy and the plastic bag ban.

Responsibilities for administering these procedural and regulatory requirements fall to several teams in the Waste and Resource Efficiency Directorate. This report focuses on the activities of the Waste Operations team in its CME role.

Part 2: Our work programmes

We arrange our work programmes into eight workstreams. The next sections of the report demonstrate performance against relevant metrics for each workstream.

- [Workstream 1: Levy administration | Whakarite utu](#)
- [Workstream 2: Facility compliance | Tautukunga wāhi para](#)
- [Workstream 3: Territorial authority compliance | Tautukunga mana wāhi](#)
- [Workstream 4: Fund compliance \(auditing the Waste Minimisation Fund\) | Tautukunga tahua](#)
- [Workstream 5: Product compliance \(including product stewardship\) | Tautukunga hanganga](#)
- [Workstream 6: Regulatory compliance Tautukunga whakahaere](#)
- [Workstream 7: Regulatory strategy | Rautaki whakahaere](#)
- [Workstream 8: Systems, processes and coordination | Ngā pūnaha, ngā tukanga me te reretahi](#)

In 2022, we began establishing a new team to focus on regulatory extension (outreach and engagement) to ensure we maximise voluntary compliance across regulated communities.

Collect Distribute Monitor Enable

Workstream 1: Levy administration | Whakarite utu



Overview

Waste Operations is the primary team responsible for administering the waste levy. This includes collection of the levy, and distribution and monitoring of its expenditure.

Collecting the levy and data

There has been significant change and growth in this regime this year due to expansion of the waste levy. Figure 1 illustrates this expansion. The levy administration role has changed in scale from managing a small and established regulated community for more than a decade to new registrations occurring weekly.

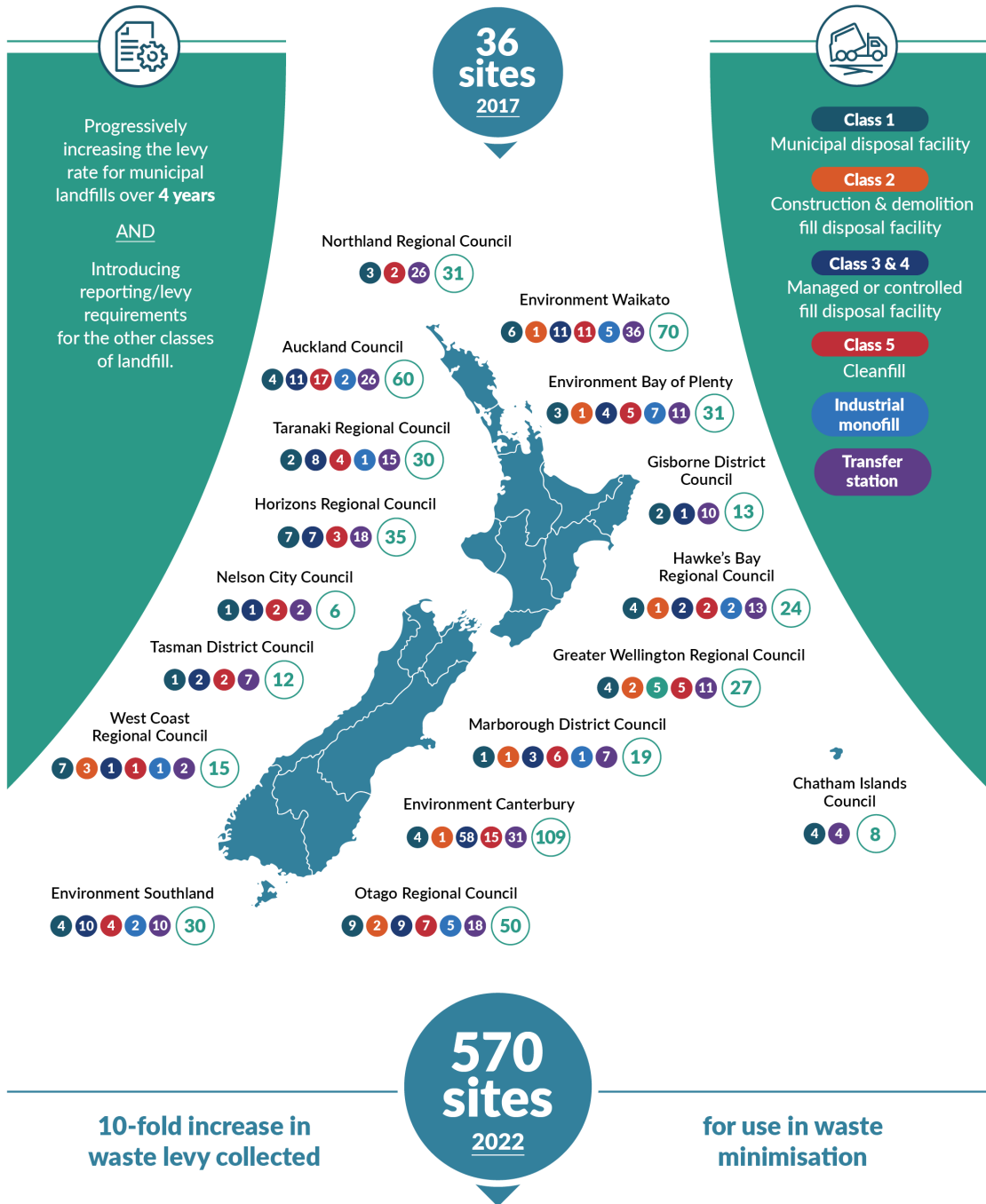
The introduction of the Waste Minimisation (Information Requirements) Regulations 2021 and the amendment of the Waste Minimisation (Calculation and Payment of Levy) Regulations 2009 put three types of facilities under our regime (see Figure 2):

- **levied facilities** – those subject to both information reporting obligations and the payment of levy (eg, Class 1 and 2 facilities for the reporting year)
- **facilities in transition** – those required to register and/or report but not yet subject to the levy payment requirements (Class 3 and 4 facilities)
- **non-levied facilities** – those subject to information requirements that are not scheduled to become subject to the levy at this time (Class 5 cleanfills, industrial monofills and transfer stations)

Figure 2: Expansion of the waste levy from 2017 to 2022 and the number of classes per region

Expansion of the waste disposal levy

WHY Expanding the levy to cover additional landfill classes is aimed at helping people and businesses recognise the real cost of waste and motivate them to reuse and recycle materials rather than just taking them to the tip.



All three categories require slightly different management approaches, and these must be agile over time as the requirements of the regime progressively unfold.

Table 1: Comparison of total facility numbers as at 30 June 2021 to 30 June 2022

2020	2021/22 (as at 30 June 2022)
36 Class 1 facilities (approximately)	Class 1 – 42 Class 2 – 9 Class 3 and 4 – 29 Class 5 – 28 Industrial monofills – 9 Transfer stations – 231 Total: 348 (total of 570 at time of report release)

Managing enquiries

The Waste Levy Expansion has introduced many facilities to the regime, with the new members of our regulated communities requiring significant support to understand their obligations. We have run a broad outreach programme to support this, creating a considerable increase in administrative enquiries for levy administration staff.

Managing information obligations – non-levied facility compliance

Facilities that are only obligated to register and report waste data are managed via the same system as levied facilities (OWLS) for efficiency purposes.

Facilities that are not scheduled to have levy obligations in the current regulations include cleanfills (Class 5 facilities), transfer stations and industrial monofills. These facilities must report quarterly (or annually if permission is sought to do so).

Focus issue: compliance of cleanfills with the WMA

Cleanfill facilities are identified as a key compliance risk for the waste levy regime. Many cleanfills operate under permitted activity rules or consents which permit a wider range of materials to be deposited than our regulations do.

The Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 define a cleanfill as ‘a facility that accepts only virgin excavated, natural material (VENM) (such as clay, soil, or rock) for disposal’. Many district and regional plan definitions are broader but do not limit the effect of our regulations. Any cleanfill accepting material other than VENM must register for the relevant class despite what they might be called.

Given cleanfills are not subject to the levy at this time, we are aware there may be strong incentives for cleanfills to accept inappropriate material and seek to avoid levy obligations in doing so.

Identification of the risk in the sector has mobilised a special focus project by the team’s auditing and enforcement officers. They are carefully tracking cleanfill activities around the country to ensure they are behaving lawfully and are not a source of leakage in the regime. This is an example of targeted regulatory activity to address key concerns in the system and ensure efficient use of compliance resources.

Managing facilities in transition

The Waste Levy Expansion is based on a differentiated levy and a progressive implementation of obligations that vary across the sector. This approach has demanded much of our regulatory communications capacity, particularly given the scale of change, and many new entrants to the sector unfamiliar with either waste reporting, levy payment or with the Ministry itself.

It has taken considerable time to explain different and evolving obligations. Many facilities have or are progressing through three separate stages — registration, reporting and levy payment obligations. Understanding new obligations and experiencing frequent adjustments to expectations can be challenging for regulators and regulated communities. We have appreciated the new members who have reached out to seek clarity and have endeavoured to provide timely advice.

There has been a lag between registration and reporting during each tranche of the Waste Levy Expansion. Each stage has introduced new obligations and some members of the regulated community have been slow to meet their new requirements.

These tranches include:

- introduction of the revised and new regulations that saw the definition of a Class 1 facility change to capture any facility accepting green waste, waste from commercial and industrial sources and industrial waste for final disposal (6 new sites)
- the increase in the levy obligation for Class 1 facilities annually on 1 July of each year until July 2024
- the registration and reporting obligation for Class 2 facilities in January 2022, with levy obligations now initiating as at July 2022
- the registration obligation for Class 3 and 4 facilities on 1 July 2022, with progressive reporting and levy obligations coming into effect over the coming financial year.

We will continue to work constructively with the new regulated communities, with a clear expectation of compliance and a willingness to take enforcement action where parties do not demonstrate a desire to comply. It is unfair on compliant members to have their business models undercut by non-compliant parties. We are committed to intelligence-led, risk-based compliance to address leakage in the regime.

Collecting the levy – levied facility compliance

Several new Class 1 facilities registered in the 2021/22 year and the levy itself increased from \$10 per tonne to \$20 in July 2021. A further increase begins at the end of the reporting year, on 1 July 2022.

Documentation received and processed

Various permissions can be applied for under the WMA where certain circumstances apply, including waivers. In all cases, the number of applications is generally low. It is important that such applications are treated fairly and consistently, and decisions recorded for traceability.

Table 1 shows the documentation the levy collector manages under the Act, and the data on approval rate and timeliness. The volume and complexity of applications is likely to increase over the coming years, making it more important to refine processes. Some processes have

never been used, for example debt recovery (recovery of funds owing more than 120 days after the invoice was due). No known debt is currently in arrears.

Table 2: Levy administration application and other process description and data for 2020/21 and 2021/22

Application and process	Received 2009 30 June 2020	Received 2020/21	Approved 2020/21	Received 2021/22	Approved 2021/22
Application to file an annual return Reg 9	105 (104 approved, 1 withdrawn)	6	6	4	4
Application to use an average tonnage methodology Reg 15	33 (26 approved, 7 declined)	3	3	1	0
Application for a levy refund Reg 33	0	0	0	0	0
Application for a payment extension Reg 30	0	0	0	1	0
Application for a return extension Reg 10	0	0	0	4	0
Application for a storage time extension Reg 11	56 (9 approved, 42 declined, 5 withdrawn)	0	0	1	0
Application for a waiver Section 29	21 (16 approved, 4 declined, 1 withdrawn)	2	2	2	2
TOTAL (applications)	215	11	11	13	6 (6 withdrawn, 1 processing)
Issuing a return estimation Section 34 Regs 25–26	4	0	n/a	n/a	0
Reimbursement of levy where applicable Reg 27 (7)	0	0	n/a	0	0
Revocation of permission for use of average tonnage methodology Reg 15(7)	0	0	n/a	0	0
Initiating debt recovery process for unpaid levy	0	0	n/a	0	0

Note: n/a = not applicable.

Distributing the levy

The waste levy allocation to territorial authorities is increasing

The increase in the waste levy on both a per tonne basis and its expansion across a much larger range of facilities means there is more money to allocate to territorial authorities.

We have a significant statutory role in managing the proportional distribution of the levy to territorial authorities (TAs). How each share is calculated is prescribed in section 31 of the WMA. Each quarterly payment requires non-complying TAs to have their levy funds withheld. There is no discretion under the WMA where TAs do not meet their core obligations; the Ministry must withhold funds.

Table 3: Levy distribution and withholding data 2020/21 and 2021/22

Levy distributed and withheld	Number 2020/21	Number 2021/22
Validated TA allocations distributed within quarterly timeframe	261 (100%)	264 (100%)
Non-validated TA allocations withheld	7 (for two TAs across four levy payments)	4 (for one TA across four levy payments)

Nearly \$17 million (\$16,781,597.74) was available for distribution to TAs in 2020/21.

This increased substantially to **\$25,981,013.34** in 2021/22, and this sum is expected to climb further. While this provides for much greater opportunities for TAs to manage and contribute to waste minimisation initiatives in their area, it also heightens the importance of the oversight role.

Retention of levy payments

Currently, we can withhold quarterly levy payments from a TA under two provisions under the WMA:

- section 33(1)(a)(ii), where quarterly payments **must** be retained if a TA has not reviewed its WMMP (Waste Management and Minimisation Plan) within the six-year statutory timeframe
- section 33(1)(b), where the Secretary **may** direct the Minister for the Environment to retain levy funds if a TA has not spent levy funds in accordance with section 32 (on matters to promote or achieve waste minimisation and in accordance with their WMMP).

During 2021/22, only section 33(1)(a)(ii) was used, with the following levy payments retained (table 4). We have no discretion in retaining levy under this provision; it is mandated under the Act.

Table 4: Levy funds withheld 2020/21 and 2021/22

	2020/21		2021/22	
	# TA payments retained	Amount withheld	# councils' payments retained	Amount withheld
Q1 (Jul)	2	\$3858.48	1	\$610.61
Q2 (Oct)	2	\$4469.77	1	\$612.80
Q3 (Jan)	2	\$4264.49	1	\$1124.26
Q4 (Apr)	1	\$626.91	1	\$1317.80
TOTAL	7 (total 268)	\$13,219.65	4 (total 268)	\$3665.47

We withheld \$13,219.50 (less than 0.1 per cent) over the four quarterly payments, meaning **\$16,768,378.24** was distributed to TAs in 2020/21 (see table 5).

In 2021/22, we retained fewer payments as TAs worked to ensure they were compliant, with \$25,981,013.34 distributed in 2021/22 with \$3665.47 withheld.

Table 5: Net levy distributed to TAs 2020/21 and 2021/22

Quarter	Distributed (withheld) 2020/21	Distributed (withheld) 2021/22
Q1 (Jul)	\$3,959,799.75 (3858.48)	\$4,327,704.48 (610.61)
Q2 (Oct)	\$3,988,831.55 (4469.77)	\$4,343,879.82 (612.80)
Q3 (Jan)	\$4,376,475.53 (4264.49)	\$7,969,423.77 (1124.26)
Q4 (April)	\$4,443,271.26 (626.91)	\$9,340,005.27 (1317.80)
TOTAL	\$16,768,378.09 (13,219.65)	\$25,981,013.34 (3665.47)

Comments

As of 30 June 2022, 348 facilities were registered in OWLS. This is a significant increase (300+) in our regulated community for the purposes of levy administration. At the time of publication (December 2022), 570 facilities were registered. New members of the regulated community actively engaged with the Ministry to better understand their reporting obligations and requirements. The number of facilities is expected to continue increasing and begin waste reporting. The increase in registered facilities presents a challenge as we must upscale to meet the increasing level of enquiries, incoming data and money.

Workstream 2: Facility compliance | Tautukunga wāhi para



Overview

Our disposal facility audit programme ran an intelligence-led, risk-based audit programme of both onsite and remote audits in 2021/22. All audits to 30 June 2022 were carried out by the internal audit team. Class 1 landfills were the only facilities audited in 2021/22, but Class 2 facilities are included in the 2022/2023 programme.

The scope of the audits includes seven main themes relating to keeping records, methods of calculation, and other general landfill management aspects. We collate and manage all data. Audit results form the basis of our risk-based planning for subsequent audit years. Facilities undergoing their first audit can expect a structured assessment of their compliance with regulatory requirements, in addition to helpful support and guidance as they work to meet their obligations.

The team conducted 22 of 30 scheduled audits (see table 6). Audits were constrained by the ripple effect of Covid-19 across our Ministry and the sector at large (staff absence, travel disruption, and health and safety limitations).

Table 6: Total audit figures for 2020/21 and 2021/22

	Audited	Scheduled to audit	Facilities registered	Facilities closed
2021/22	22	30	15 ²	0 ³

² Includes seven newly registered Class 1 landfills and eight Class 2 landfills.

³ Levin and Waiouru Landfills are no longer taking waste but are still currently registered within OWLS.

What we found

More than 72.5 per cent of all audit findings were compliant or had only minor areas for improvement. Non-compliance is tiered by degree of associated risk.

Low-level compliance is typically minor and easily resolved, while high and medium non-compliance reflects concerning practice likely to be referred for investigation. Nuance in presenting degrees of non-compliance gives both the Ministry and stakeholders more information about the nature and extent of issues in the sector and helps us focus on the matters constituting greatest risk.

Medium and high levels of non-compliance made up 8 per cent of total non-compliance, indicating a range of opportunities to improve practice which should be a priority for those facilities over the coming year.

These findings indicate an improvement from the previous audit year (down from 14 per cent). It is notable that the medium and high findings were attributed to four individual landfills, with all remaining landfills obtaining compliant or low non-compliance results (see table 7).

Table 7: Comparison of audit results between 2020/21 and 2021/22 audit years

Compliance finding	2020/21 audit year ⁴	2021/22 audit year
Compliant	64.2%	67.7%
Compliant – area for improvement	7.0%	4.8%
Non-compliant low	14.8%	19.5%
Non-compliant medium	9.6%	4.0%
Non-compliant high	4.4%	4.0%

Responding to non-compliance

Our auditors continue to identify some areas of predictable non-compliance. Many such issues are effectively addressed through education and engagement, as the regulated parties came to better understand expectations as the regime evolves. Where non-compliance is identified, we have two main courses of action available: our auditors will issue requests for corrective action for minor breaches and refer more serious matters to the regulatory compliance team.

Corrective action requests typically relate to minor matters which can be easily resolved with additional support and engagement. Subsequent audits will see previous corrective action requests revisited, and some may require more short-term actions to rectify. A register is maintained with timeframes for each request (see table 8).

⁴ Audit questions were adjusted from the 2021/2022 audit year to rationalise the audit process. Audit results were aligned to the revised audit questions so that trend data was available for analysis.

Table 8: Ongoing referrals and corrective actions arising from audits 2020/21 and 2021/22

Audit outcomes	2020/21			2021/22		
	Number issued	Matters resolved ⁵	Matters referred back ⁶	Number issued	Matters resolved	Matters referred back
Correction action requests	28	25	3 ⁷	58	45	13
Referrals to regulatory compliance (escalation)	9	6	3	6	5	1

Where a referral is made to our regulatory compliance team, that referral is assessed and prioritised. Resolution includes gathering additional information or launching an investigation. Depending on circumstances, the regulatory compliance team may recommend the matter be addressed at a later audit or may refer the matter back to audit staff for resolution as a corrective action.

In 2021/22 year, six matters were referred for investigation; five were resolved and one was referred back to audit staff for resolution through a corrective action.

Comments

What we learn in the field is directly applied to our planning and risk assessment for future years but this knowledge is also useful for other parts of our division and organisation. The key insights from our auditing programme this year are set out below and identify opportunities to improve policy settings.

- The regime for managing disposal facilities is changing considerably as the levy expansion rolls out. Our audit programme has been operating within considerable ambiguity and with an Act and regulations that have limitations. We must be more proactive in our regulatory stewardship to support an effective compliance regime.
- A significant number of new parties joining the regulated community in the coming years will put an emphasis on strong education and orientation processes, particularly in regard to using the OWLS. The establishment of the Regulatory Extension team in 2020/2023 is a welcome innovation.
- The WMA operates adjacent to a wide range of other legislation, in particular the RMA (and its imminent replacement, the Natural and Built Environment Act). The Waste Operations team considers there is extensive opportunity to establish a more effective interface between these two regimes via respective reform.
- An increasing levy generates considerable incentive for undesirable behaviour, and this will be aggravated by a failure to maintain a level playing field in the sector. The Waste Operations team is scaling up to meet this challenge but is aware of the considerable demand this process will have on our capacity.

⁵ Resolved by compliance staff.

⁶ Referred back to audit staff for resolution by the assignment of a corrective action request.

⁷ Three outstanding corrective action requests are attributed to a single landfill where there has been a delay to its subsequent audit.

Stockpiling at facilities

Stockpiling in waste and resource recovery is a key strategic issue for us and will be a strong focus in 2022/23. While there are important practical reasons to stockpile waste, it can be a source of long-term nuisance and contamination.

Stockpiling is when waste materials are kept onsite at a disposal facility in a separate area from the fill area itself. It will usually consist of one type of waste or diverted material disposed of at the site, such as glass bottles, concrete, green waste or cleanfill.

There are several reasons for stockpiling:

- accrual until it becomes economical to transport the waste to another site to be processed for recycling or reuse
- for processing at an onsite Materials Recovery Facility, ensuring that a continuous stream of material can be fed to plant and machinery, maximising efficiency
- for later use on the disposal facility site itself, such as stockpiling crushed concrete to be used onsite for roading.

Disposal facility operators must weigh all waste disposed of at their site to measure gross tonnage received. This figure is included in their monthly or annual return to the Ministry to calculate the levy payable. Any materials intended to be stockpiled must also be measured to form part of gross tonnage.

Diverted tonnage means the tonnage of waste that is reused, recycled or taken from the site within six months of it being disposed of. Material that is left for longer must have the express permission of the Secretary for the Environment, or the levy must be paid (it is considered waste that has been finally disposed of after this date). Permission for an extension of time to store can be applied for through the OWLS. Stockpiled material that does not have permission to be retained on site is likely to be subject to an invoice for the relevant amount of the levy.

The audit team in Waste Operations is considering a range of options to address stockpiling, particularly where it enables parties to avoid or complicate their recording or levy payment obligations.

Workstream 3: Territorial authority compliance | Tautukunga mana wāhi



Overview

We completed the audit of all territorial authorities (TAs) in New Zealand, a project we began in 2020/21.

We conducted 48 audits in 2020/21 and 24 in 2021/22. The 2021/22 figure combined the remainder of councils having a first-time audit under the new programme with several subject to a second-year audit.

TAs that were audited a second time were typically revisited to ensure recommendations from the previous year had been implemented. No matters were escalated to the regulatory compliance team in 2021/22 year.

The scope of the audits includes:

- a compliance assessment of levy expenditure practices for the most recent reported financial year against the obligations in the Act and conformance with the Ministry's written guidance
- a review of key documentation, such as the TAs waste assessment and WMMP, any applicable bylaw, and/or solid waste policy and reporting.

Audit results will continue to form the basis of our risk-based planning for future audit years and aggregated compliance data is used in the context of policy development.

What we found through auditing

The TA auditing programme has shown a relatively high level of compliance by local government with the obligations set out under the WMA (table 9).

Table 9: Audit results of territorial authority audit programme of levy spending

Audit results	Relevant section of the WMA	2020/21 compliance (%) (48 councils)	2021/22 compliance (%) (24 councils)
Levy expenditure on matters to promote or achieve waste minimisation	Section 32(1)(a)	88.89	95.65
Levy expenditure in accordance with WMMP	Section 32(1)(b)	77.78	100
WMMP compliance	Sections 43, 50 & 51	89.50	94.79
Adherence to Ministry guidelines for levy spend	Good practice levy spend guidelines for TAs	92.09	85.72

All regulatory obligations showed an improvement in compliance rates for 2021/22, including full compliance of all audited councils with Section 32(1)(b) which requires expenditure to be in accordance with the TAs' approved WMMP. These results are pleasing and demonstrate that the sector has generally taken up additional guidance and responded well to previous audit results.

Levy spend reporting

TAs are asked to submit an annual report to us to outline how they have spent their share of levy funds for the previous financial year.

Currently, this reporting is voluntary, and most TAs provide this information, with a return rate of 66 out of 67 for 2021/22. This is an improvement on 2019/20 when three councils did not provide a report. The data presented below is for 2020/21. (Rangitikei District Council did not submit a report for this year).

Table 10: Areas where TAs share of the levy fund is spent (including amount and proportion)

Spending area	Proportion of total spend 2019/20	Amount spent (proportion of total spend) 2020/21
Services	49.99%	\$7,881,646.21 (45%)
Education and communication	24.57%	\$5,706,722.44 (33%)
Infrastructure	9.66%	\$1,430,248.48 (8%)
Research and reporting	3.19%	\$773,814.89 (4%)
Other initiatives	12.6%	\$1,659,229.03 (10%)
Total spend	\$20,359,970.63	\$17,451,661.05

We expect new regulations to come into effect in 2022/23 which will require reporting by TAs on their activities. This will change the above dataset, make more information available and ensure that information is provided to the regulator within a required timeframe.

The type of spend by TAs was heavily weighted towards services such as kerbside recycling, followed by education and communication. This reflects a typical spread of spending, based on historical data. The increased quantum of the levy is also likely to change the profile and types of levy expenditure.

The development of the Territorial Authority Waste Levy Expenditure System (TAWLES)

We have managed a voluntary process of levy spend reporting since 2009 where councils are asked to report their expenditure in the form of an Excel spreadsheet. This manual process has been cumbersome and difficult for both the Ministry and councils to administer.

In April 2022, we launched a cloud-based online system called TAWLES, enabling councils to report their levy expenditure and other data more easily and with much less data cleaning required.

TAWLES is a simpler, standardised and more efficient solution with reduced operational risk and increased resilience. Councils will benefit from a better user experience with features such as pre-populating data for existing projects spanning the reporting period, making levy spend reporting submissions much easier.

The move to a cloud-based solution aligns with the Government's Information and Communication Technology strategy to improve service delivery and achieve substantial savings.

Comments

Areas where non-compliances have been identified include:

- withholding of four levy payments this year where WMMPs were not reviewed within the six-year statutory timeframe
- levy spend not always entirely traceable back to the WMMP, predominantly due to spend priorities changing over the six-year WMMP period
- inability to clearly account for historical levy funds, including lack of ring-fencing within TA financial management systems. We often identified discrepancies between the Ministry's records of unspent levy funds and the TA's records and these required reconciliation.

We have provided education, corrective actions and monitoring where necessary for these instances of low-level non-compliance. Subsequent audits undertaken to date show improvements across all these areas, indicating that additional education and support is an effective intervention. System improvements such as the introduction of the TAWLES are likely to support more consistent record keeping.

Workstream 4: Fund compliance | Tautukunga tahua



Overview

Distribution of the waste levy is a key statutory role for the Ministry. TAs receive 50 per cent of the levy, and once our administration costs are covered, the remainder is distributed to waste minimisation initiatives. Most of the funds are distributed through the Te Pūtea Whakamauru Para Waste Minimisation Fund (WMF) with others going to projects initiated by the Minister for the Environment.

The distribution model for the levy is set out in the WMA and assessing and validating its expenditure is critical to ensure the funding purpose aligns with its distribution and is used to minimise waste.

The Waste Operations team, with assistance from the WMF team, designed and introduced a pilot internal auditing capability in 2020/21 which included the hiring of an experienced financial auditor. The pilot was launched in March 2021, proving successful, and the internal audit function became a permanent fixture within the Waste Operations team as of April 2022.

Waste Operations is not involved in processing funding applications, the exercise of due diligence or in making decisions on who is funded. We provide an arm's length auditing function that is likely to expand over a range of Ministry funding programmes over the coming year. The auditing programme focuses on ensuring WMF recipients comply with the terms and schedules on their Deed of Funding.

All audits are initiated proactively or in response to referrals from the team in charge of funding application processing and management. Audit recipients are otherwise selected based on risk assessments performed by the auditor using all available and relevant information. Dependent on available resourcing, we aim to undertake audits of at least 10 per cent of recipients approved for funding and entered into our internal database.

Waste Operations conducts two types of audits:

- **full audit** – this engages with the WMF recipient to ensure the funds have been spent in accordance with the Deed of Funding
- **third party payment audit** – this involves directly contacting the supplier who provided the services to the WMF recipient on the project. This is to ensure that where we have paid the WMF recipient, they have then paid the supplier. If significant issues are identified, this will warrant a full audit of the recipient.

A WMF audit could include assessing:

- whether the funding expenditure is appropriate and in accordance with the Deed of Funding and the WMA
- whether reported results are accurate and project deliverables are met in accordance with the Deed of Funding
- the effectiveness of the project processes to minimise the risk of misreporting and fraud.

If audit findings demonstrate cause for concern, Waste Operations will work with the fund recipient to address the matter fairly in accordance with our compliance strategy. Possible courses of action include:

- providing education to promote voluntary compliance
- requiring potential retainment or repayment of funds
- monitoring, including follow-up on the recommendations, and increased audit frequency
- investigating alleged breaches
- prosecuting/fining in accordance with Section 65.

The auditing function became business as usual in April 2022, and in the coming years it will likely expand over more of the funding programmes we administer.

What we found

We completed five audits in 2021/22 and three were still in progress at the time of this report. Historically, the rate of audit has been low. The frequency and depth of audit is likely to increase over the coming years to maintain public confidence in the funding mechanism.

Table 11: Audit activity for internal audit function of WMF projects 2020–2022

Audit activity	Number 2020/21	Number 2021/22
Number of referrals	3	5
Audits initiated because of referrals	1	5
Proactive audits initiated	3	2
Audits in progress at 30 June	1	3
Audits finalised	3	5

We received five referrals in 2021/22 versus three in 2020/21. The auditor used available information for risk analysis and a decision was made on whether to progress referrals to an audit.

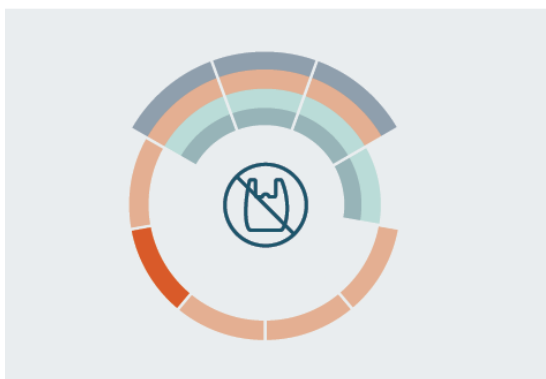
The auditor has spent considerable time establishing new guidance and procedures to support the auditing function. The auditor has also provided significant support to the WMF team in

the development of more robust procedures to protect the Ministry and the public interest in the management of funds.

Comments

Establishment of a new auditing function is challenging, particularly in a new area of the Ministry's work that has different focus areas to that of our Regulatory team. However, the new auditing function provides important transparency when it comes to maintaining public confidence in administration of the waste levy. The two teams have collaborated on the development of the audit programme, while maintaining the independency of the audits themselves.

Workstream 5: Product compliance | Tautukunga hanganga



Overview

Product compliance refers to the compliance monitoring and enforcement role our team plays in supporting product bans and, in the future, regulated product stewardship. These two growing areas of policy have two goals. The first is to seek to control product markets to increase circular resource use and place responsibilities for managing end-of-life products further up the supply chain. The second is for this responsibility to rest with producers, importers and retailers, rather than on communities, councils, neighbourhoods and nature.

Over the past four years, the Ministry has made policy interventions to control the markets for certain products by banning their sale. ‘Sale’ includes giving away a product, so such bans are significant changes for a wide range of parties.

Products already affected by regulations include plastic bags, with further bans and phase outs starting in October 2022, and microbeads (the latter administered by the Environmental Protection Authority at the time of writing).

Regulations to control mercury pursuant to the Minamata Convention are in train.

We are working to establish a robust regulatory basis to ensure the intended legislative outcomes are met in practice.

Further phase outs are on the horizon.

Plastic phase outs are here

Three phases of product bans have started, with the first phase initiated in late 2022. On 1 October 2022, the following products were banned from sale or manufacture (except for a small number of exempted uses):

- (a) *plastic drink stirrers that are single-use:*
- (b) *plastic or synthetic cotton buds that are single-use, unless they are used, or intended for use,—*
- (i) *as a medical device (as defined by section 3A of the Medicines Act 1981) that is not sold by retail; or*
- (ii) *in a veterinary clinic for diagnosis or sampling; or*
- (iii) *in a commercial food laboratory for food sampling; or*
- (iv) *in a laboratory for scientific investigation (even if they are first used for field sampling); or*
- (v) *as part of any kit or other material to test for any medical or scientific matter, including infection or immunity in an individual or animal, and to produce a result without analysis at a laboratory:*
- (c) *any product that contains plastic with pro-degradants:*
- (d) *PVC food trays or containers:*
- (e) *specified polystyrene packaging for food or drink.*

The second tranche will begin in 2023 and the third in 2025. Managing incremental regulatory change is a significant challenge for the compliance function, as each new restriction introduces a new regulated community or communities into our regime and requires a bespoke approach. New regulated communities also represent new opportunities for engagement.

Regulated product stewardship

Regulated product stewardship schemes are governed by regulations under section 22 and section 23 of the WMA. Regulated product stewardship is not yet in place under the WMA because of the considerable groundwork needed to support these programmes. This includes developing systems and procedures to ensure we can support regulated communities to comply at the right time.

Schemes are being developed for six priority products:

- plastic packaging
- tyres
- electrical and electronic products (e-waste)
- agrichemicals and their containers
- refrigerants
- farm plastics.

The scheme for tyres is likely to launch in 2023.

Workstream 6: Regulatory compliance | Tautukunga whakahaere



Overview

The Waste Operations team is responsible for responding to, and investigating, alleged non-compliance under the WMA. Our compliance response and investigation programme has been underway since late 2020, following the appointment of a dedicated part-time investigator. They receive escalated matters internally and complaints from external parties about activities that may breach the WMA. Most work this year focused on supporting the Waste Levy Expansion. Our newly formed regulatory compliance team of four investigators conducted a wide range of compliance assessments in direct response to allegations or incidents.

As our function grows, we must scale up our operations. Given the scale of referrals we must respond to, we have changed our approach by creating an initial assessment step to ensure our response is proportionate to the risk and harm.

All referrals are triaged to check if there is sufficient information provided to progress it to compliance response. A referral will be rejected if there is insufficient information such as location details not provided, limited detail of alleged breach, or where the non-compliance relates to legislation administered by another agency.

Table 12: Referrals and proactive investigations against workstream

	Referrals 2020/21	Investigations 2020/21	Referrals 2021/22	Investigations initiated 2021/22	In progress	Concluded (2020/21 to 2021/22)
Territorial authority	2	1	0	0	0	0
Facility compliance	9	4	7	3	2	5
Fund compliance	0	0	0	0	0	0
Product compliance	0	0	0	0	0	0

	Referrals 2020/21	Investigations 2020/21	Referrals 2021/22	Investigations initiated 2021/22	In progress	Concluded (2020/21 to 2021/22)
Total	11	5	7	3	2	5

During 2021/22, we considered seven investigations and initiated three. Two remained in progress at 30 June 2022 and were concluded, including four from 2020/21. Other matters have been addressed by lower-level actions (such as corrective action requests) during audits and compliance assessments. With the team having limited resources, the risk for each case is reviewed to determine the priority for addressing it.

Table 13: Formal investigation processes used in 2020/21 and 2021/22

Process	Historic use	2020/21	2021/22
Request for information	0	10	4
Application for a production order	0	0	0
Interviews conducted	0	0	0

A range of possible enforcement tools are available under the current WMA. Table 14 sets out the tools used by the Regulatory Compliance team this past year.

Table 14: Use of enforcement tools in 2020/21 and 2021/22

Tool	Historic use	2020/21	2021/22
Education/advice letter	Unknown	2	2
Prosecution	0	0	0
Recovery of unpaid levy	0	0	5
Court order for commercial gain	0	0	0
Ministerial direction to retain levy money	0	0	0
Revocation of scheme accreditation	0	0	N/A

We had five instances of levy recovery connected with:

- incorrect recordkeeping leading to a long-running miscalculation of levy payable
- incorrect diversion practices, where materials that are liable to pay the levy were presented as having been diverted.

Invoices totalling **\$242,343.10** were issued in 2021/22.

Supporting the waste levy expansion

The Waste Levy Expansion has significantly increased the number of parties subject to levy and reporting obligations. We developed an outreach programme that consolidated all known information on facilities that are likely subject to our regulations. We then contacted parties and provided advice on the purposes of the WMA, their legislative requirements, how to comply, and the potential consequences of not complying.

Many of the new parties to our regime are familiar with their TAs' requirements including bylaws but do not have prior knowledge of the WMA and its regulations. Communication of requirements especially where there is significant variation in definitions around the country has

been challenging. Regulated parties have often struggled to understand when their facility meets different definitions of the same term and has different obligations as a result.

The Regulatory Compliance team, along with the Waste Levy Expansion team, combined to use their technical capabilities and expertise to stand-up the regulatory extension function in the lead up to all facilities being required to be registered, reporting and paying the levy.

Table 15: Number of referred facilities (resolved/unresolved)

Reason for escalation	Total referrals	Total resolved	Currently open/unresolved
Suspected Class 1 facility	5	5	0
Suspected Class 2 Facility	23	23	0
Suspected Transfer Station	22	19	3
Suspected Class 3-5	271	251	20
	321	298	23

Complex matters were referred to the Regulatory Compliance team who worked to ensure the new members of the regulated community understood their obligations. The Regulatory Compliance and Waste Levy Expansion teams sought to promote voluntary compliance through education and engagement in line with our WMA Compliance Monitoring and Enforcement Strategy.

Comments

The Regulatory Compliance team had a busy year because of the rapid expansion to our scope of regulatory control. Many new regulated parties were unfamiliar with our regime and the Ministry more generally. Some of the challenges the team have encountered include:

- Many in the new regulated communities were not aware of the new obligations applied to them and needed support to understand what they need to do and by when.
- Ensuring we take a fair, reasonable, and proportionate response given the newness of the levy expansion and limited lead-in time to educate the waste sector about requirements.
- Developing a risk-based approach to compliance with limited information on the sector. We increased our focus on collating and improving information needed for robust risk assessment.
- Limited physical presence in the regions constrains the effectiveness of the compliance regime, as many facilities may not be reporting their class accurately.

Alleged Breach Notification Tool

We launched an online tool in February 2022 which enables the public to report concerns about possible breaches of the WMA and its associated regulations in relation to disposal facilities.

We want to encourage compliance by creating a detection tool which is easy to use and enables reports to be filed quickly.

We also want to ensure that operators and facilities are reporting the waste they accept and paying the waste levy. Proper reporting encourages reuse and recycling where possible and helps to recognise the real costs of waste.

Where sufficient information is provided, we apply a risk-based assessment to the reports to determine how to respond appropriately. We prioritise situations with potential serious harm and/or patterns of similar incidents that may suggest ongoing or broader issues.

We have a range of tools we can use to address reports of concerns including:

- monitoring and auditing programmes
- education and information campaigns
- incident management
- investigations and enforcement.

Research shows that the chance of being caught can be as effective as a deterrent as enforcement action.

Workstream 7: Regulatory strategy | Rautaki whakahaere



Overview

This workstream pulls together the threads of our operational, field-based audit programmes, and our investigations and support systems, and ensures they are connected to policy development and evaluation. Our strategic projects focus on lifting our performance and ensuring our systems and processes are always up to scratch.

This workstream also ensures information and knowledge from our work is shared in a timely and comprehensive way (through feedback loops) with the Ministry's policy and legal areas. This ensures robust stewardship of law and policy (for example, intelligence on waste disposal trends through the OWLS data) and that compliance insights are shared with the legislation review project.

The team has five main areas of work:

1. **Enhancing regulatory practice** – lifting awareness of compliance and quality of work across the team, the division and the wider Ministry. The team administers our internal Regulatory Practice Group and works alongside other divisions to increase awareness of the importance of good regulatory practice in all that we do.
2. **Measuring success** – developing and maintaining clear performance frameworks to ensure compliance is being conducted in accordance with best practice. We report to the Treasury via this report and via internal reporting frameworks about the exercise of our function, including identifying and managing risk.
3. **Analysing and review** – conducting compliance-specific research and analysis of Ministry responsibilities under the WMA and related regulations. This year the team identified a range of issues in the sector which we have brought to the attention of policy teams in addition to developing immediate operational responses.

4. **Providing policy input** – providing thought leadership from a compliance perspective on new and emerging policy issues and supporting colleagues in their work programmes. This includes feedback to policy teams on the effectiveness of existing policies and challenges faced in implementation. This has resulted in the considerable deployment of resources as the Ministry’s policy teams undertake wide-ranging reform of key legislation (RMA, WMA) in addition to developing additional regulations in the near future.
5. **Building connections** – establishing and maintaining relationships and connections with other teams across the division and the Ministry, stakeholders, our regulated communities, and other regulators and compliance experts. The Waste Operations team established a regular operational meeting with our co-regulators in the EPA, in addition to attending other relevant forums for environmental regulators.

Key activities include seeking and interpreting legal advice to calibrate the way in which we undertake our role, developing enhanced guidance and documentation to underpin our activities, and navigating the challenges of a rapidly expanding function with a small team.

Workstream 8: Systems, processes and coordination | Ngā pūnaha, ngā tukanga me te reretahi



Overview

This workstream represents the core infrastructure and processes that keep our team members safe, well-trained, and able to focus on their role. It ensures the smooth running of our compliance team as a whole. It is responsible for:

- managing logistics for our travelling auditors
- training of staff and contractors
- managing health and safety requirements, such as personal protective equipment
- internet access, IT equipment and any other specialised requirements
- developing systems and frameworks to support our operational and strategic work areas.

Resourcing for the compliance function

This past year saw the team grow in size and diversity of expertise again, helping us to meet the many challenges we have faced. In, 2020/21, the Waste Operations team doubled from 6 to 11 staff. As at 30 June 2022, the team comprised 14 full-time equivalent staff. We expect the team will expand still further in 2022/23, and this will lead to structural changes in how we operate.

Our staff are located in five cities and towns from Auckland to Christchurch. The flexible approach to staff location is particularly useful for our role which is centrally administered but caters to highly dispersed regulated communities.

Table 16: Staffing levels (full-time equivalent) in Waste Operations compliance team

Role	Full-time equivalent 2020/21	Full-time equivalent 2021/22
Compliance monitoring	6	8
Regulatory compliance	1	4
Strategic	2	1
Support	2	1
Total	11	14

Our team members have attended several training courses this year. Most staff have completed the G-REG Level 3 and Level 4 certificates,⁸ advanced driver training, training in investigation and tactical communication, first aid, and de-escalation techniques courses through a private training provider.

Other initiatives included internationally recognised, auditor training through SAI Global and training for drone operation. The Ministry has also adopted a suite of new applications to support our work, and the team has been trained in their use to enable effective deployment.

⁸ The G-REG certificates relate to an online learning management programme administered by the Government Regulatory Practice Initiative that enables compliance professionals and those in related fields to study towards the New Zealand Certificate in Regulatory Compliance (Core Knowledge).

Part 3: Performance assessment and monitoring

Measuring the Ministry as a regulator

Measuring the performance of regulators is challenging because:

- the intended outcomes of the relevant regime are usually delivered by the regulated parties rather than the regulator
- other objectives, including political ones, may crowd out or take priority over being a responsible regulator
- many relevant aspects lie outside the control of regulators, so influence can be difficult to determine
- outcomes of compliance programmes may not be evident for many years.

This report captures our main outputs, including a benchmarking exercise using the Modern Regulator Improvement Tool (MRIT), which was developed by the Australasian Environmental Law Enforcement and Regulators network (AELERT), an internationally recognised professional network for environmental regulators.

MRIT helps the Ministry, other government departments, our regulated communities and stakeholders to understand whether regulatory programmes are achieving their objectives and whether we are making the best possible use of our resources.

A good performance monitoring framework has three main elements:

- setting clear goals that are measurable and relevant for the compliance programmes we administer
- establishing an efficient and effective framework to gather information to track the implementation of those objectives
- providing insights into how the information will be used.

The value of good data increases exponentially over time, and this framework is designed to work through changes in legislation, institutional arrangements and personnel.

The Waste Operations team aims to be a best practice regulator and uses several frameworks to benchmark and assess our performance. We also invited an external panel of experts to review our function in 2021/22 (The G-Reg Peer Review Panel).

We also repeated our MRIT assessment to identify progress made over the year.

Benchmarking helps us continually monitor and review our effectiveness, preserving effective approaches and changing what is not working.

MRIT assessment

The MRIT sets out 12 key attributes for agencies to assess themselves against, rating the level of maturity with which the organisation conducts its role (figure 3). Organisational maturity can range from 'absent' through to 'leading' and the MRIT can be done repeatedly to track improvements and prioritise areas where further work or investment is needed. Further details are provided in appendix 1.

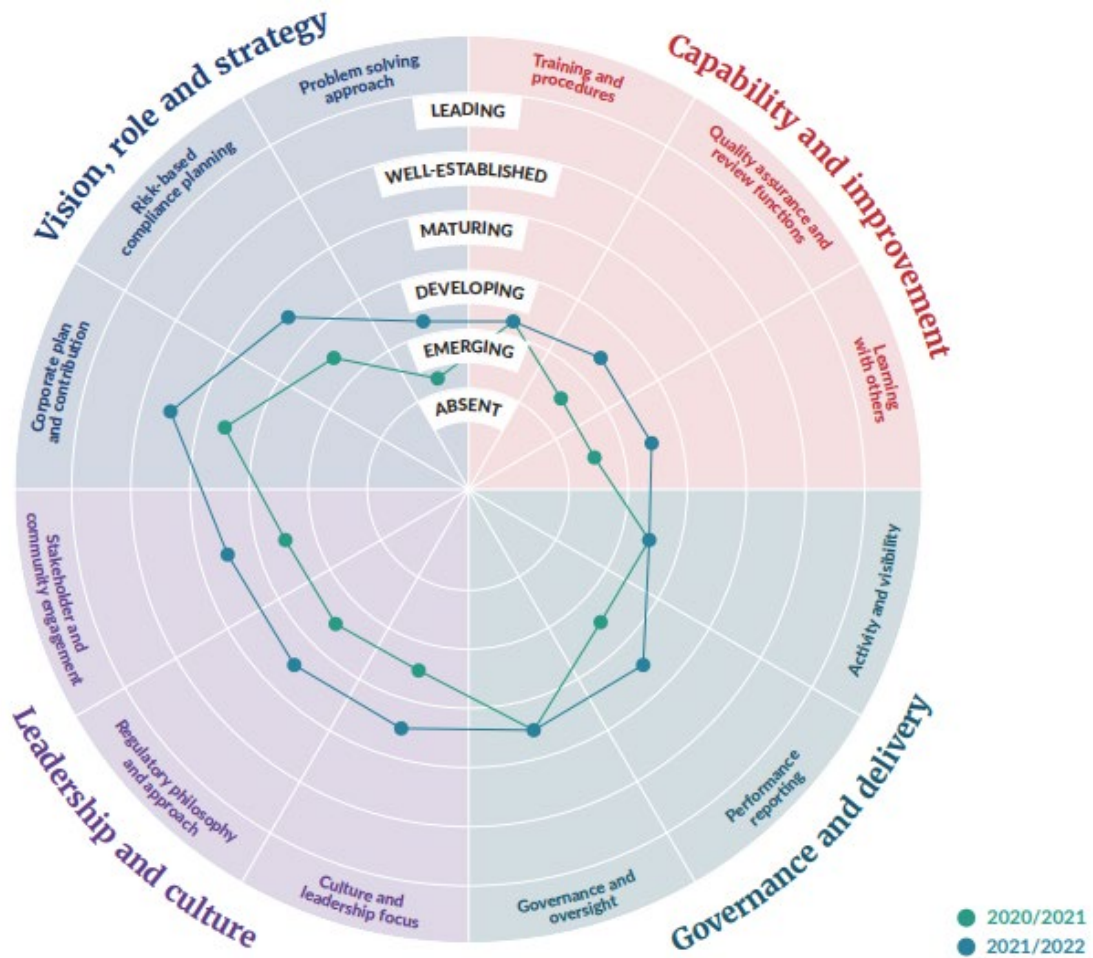
The MRIT is a qualitative assessment framework that helps regulators understand their progress, areas of strengths and areas for development. This is the second year the Waste Operations team has undertaken the assessment. As with last year, we will apply the learnings to defining our strategic priorities and identifying appropriate focus areas. The 2020/21 and the 2021/22 assessments are presented in figure 3 to show areas of improvement.

In 2020/21, we scored the lowest in three 'emerging' areas – 'quality assurance and review', 'problem solving approach' and 'learning with others'. These areas became explicit focus areas for the strategic staff that support our operational functions.

In 2021/22, we improved across 9 of the 12 themes in the assessment framework and maintained our maturity level in respect of the latter 3. We showed clear improvement in the three lowest scoring areas in 2020/21. There was no regression in any other areas this year, and three did not change.

Five areas were assessed as 'developing'. Three of these improved from last year's assessment of emerging. Two remained the same and did not show improvement, becoming key areas of focus for the coming year: 'training and procedures' and enhancements in 'activity and visibility'. Appendix 2 details the results over the two years, their meaning, and our effort to improve results in each area.

Figure 3: Waste Operations MRIT assessment results comparing 2020/21 and 2021/22



Project spotlight: G-Reg Peer Review Panel

We invited an expert panel established through G-Reg to review our compliance function in December 2021. G-Reg is the Government Regulatory Practice Initiative. The purpose of the peer learning panel process is *'to create two-way learning —the regulator gets ideas on how to improve practice, and the peers also have the opportunity to gain insights'*.

Given the nascent function in Waste Operations, we consider it invaluable to draw on the experience of others, including more established regulators. The panel convened included members from the Civil Aviation Authority, Department of Internal Affairs and Maritime New Zealand.

The methodology of a peer learning process is a joint meeting of the panel and the regulator alongside reviews of physical documents and processes. The panel highlighted several opportunities for improvement in Waste Operations and identified areas of strength that formed a strong foundation for our growing function.

Key opportunities for improvement include:

- diversifying models of engagement with regulated communities
- leveraging the opportunities of being a regulatory function in a policy context
- ensuring flexibility in addressing day-to-day challenges within the broad strategic context that has been established
- sharpening the 'why' of the compliance monitoring and enforcement functions to enhance the authorising environment, internally and externally
- strong engagement with co-regulators to support improved recognition of the importance of the regulator within its own agency.

The peer learning panel process has been implemented across a range of agencies, including Te Waka Kotahi New Zealand Transport Agency, the Real Estate Association of New Zealand and the Department of Conservation, to support the development of effective regulatory functions.

Appendix 1

Modern Regulator Improvement Tool framework

The framework consists of 12 attributes across 4 themes (see table A2.1). They are based on the AELERT Statement of Better Regulatory Practice. Each attribute represents a level that the regulator may occupy which equates to measurements of maturity.

Table A2.1: Modern Regulatory Improvement Tool framework

Theme	Attribute	Description
Vision, role and strategy	Corporate plan and contribution	A corporate plan that articulates the organisation's goals, objectives and future work activities. 'Contribution' describes the regulator's ability to link its goals, objectives and activities with the Government's agenda.
	Risk-based compliance planning	Mechanisms to allocate regulatory effort and response, based on an assessment of the regulator's risk appetite, characteristics of the regulated community and so on. This may include annual planning mechanisms, assessment frameworks or other systems to apportion and track effort.
	Problem-solving approach	A way of resolving specific or complex problems by rearranging effort, skills and resources around the problem itself, rather than through traditional functional structures. It is often associated with agile project management styles and concepts of double loop learning.
Capability and improvement	Training and procedures	How the regulator ensures it has the requisite combination of skills and competencies to achieve its regulatory role and organisational priorities (training). The procedures and policies used to reinforce expected behaviours and to support staff to achieve the organisation's objectives (procedures).
	Quality assurance and review functions	Initiatives that support operational consistency, fair and unbiased decision-making, and continuous improvement. These include internal and external mechanisms such as structured assessments and reviews, and multiple avenues within and outside the regulator for duty holders to review decisions or lodge complaints.
	Learning with others	The regulator's role in learning from, and sharing information and experiences with, other regulators as part of the broader regulatory profession.
Governance and delivery	Activity and visibility	How active the regulator is in administering its legislation and regulatory scheme, including whether it is proactive or mostly reactive, and whether it uses all measures available to it (activity). How much the regulated and wider community are aware of the regulator's role, function and achievements.
	Performance reporting	The collection and use of information to determine whether the regulator is effective in its regulatory mission and to inform organisational decisions, and to inform the public and stakeholders about the regulator's effectiveness.
	Governance and oversight	The systems and institutions for ensuring that the regulator is well-managed, accountable, ethical and transparent.

Theme	Attribute	Description
Leadership and culture	Stakeholder and community engagement	The regulator's ability to bring stakeholder and community voices into decisions that affect or interest them. This can involve different levels of engagement. The types of engagement can include inform, consult, involve, collaborate and empower.
	Regulatory philosophy and approach	The regulator's ability to clearly articulate and apply the theory that acts as a guiding principle for the way it regulates; how it will approach its role as a regulator and use its powers to regulate; and the factors that the regulator takes into consideration when responding to any identified non-compliance or harm.
	Culture and leadership	The regulator's expectations, experiences, philosophy and values that hold it together (culture) and its ability to establish a clear vision, share that vision with others, and coordinate and balance the conflicting interests of all members and stakeholders (leadership).

Assessment against the attributes is based on six levels of organisational maturity. Each attribute has a specific description associated with each of the levels, but the general descriptions are given in table A2.2.

Table A2.2: Levels of organisational maturity

Level	Description
Leading	It is not expected that many agencies will reach this level of maturity without a conscious investment of resources in the attribute. A leading agency will be recognised as such across the AELERT network, and quite likely overseas. It will have a strong theoretical understanding of the attribute, as well as a best-practice approach that achieves consistently strong results in matters related to the attribute.
Well-established	The attribute is now embedded in the agency and will likely continue at this level despite organisational changes. The agency will be recognised by its peers as being at a high level of development in this attribute, and the agency will achieve strong results as a consequence of its level of maturity.
Maturing	An agency's confidence or proficiency is growing, and it may be recognised within its regulatory community or jurisdiction as performing well in the attribute. The attribute may not be fully embedded in the agency though. A change of leadership or change in the external environment could impact on the attribute.
Developing	The agency will have recognised the importance of the attribute and progressed down the path of embedding it into the systems, processes or culture of the agency. Agencies at the 'developing' level will have a growing degree of confidence with the attribute, but its presence may not be at a consistently high level across the whole agency.
Emerging	The attribute is present but is at an early stage of its development. The agency may have recognised the importance of the attribute and begun developing its capability, or it may not have formally developed it, but parts of the agency may be displaying the attribute in an ad hoc or unstructured way.
Absent	The attribute is not present in the agency or is present only in a rudimentary form. No judgement is associated with an agency identifying itself as 'absent' for a particular attribute, because many legitimate reasons exist as to why an attribute might not be present. For example, this might apply to a newly formed agency that has yet to develop some of the attributes or to a more established agency that has not branched out into a particular area (such as compliance planning).

Appendix 2

MRIT detailed explanations

Theme	Topic	2020/21	2021/22	Discussion
Vision role and strategy	<p>Corporate plan and contribution</p> <p>A corporate plan that articulates the organisation’s goals, objectives, and future work activities. ‘Contribution’ describes the regulator’s ability to link its goals, objectives, and activities with the Government’s agenda.</p>	Maturing	Well-established	The Ministry is the primary advisor to government on environmental matters. Considerable improvements have been made in the Waste and Resource Efficiency business area, and the Ministry more widely, to enhance linkages between strategic goals and operational reporting and organisation. Clear internal planning provides a strong foundation and clear mandate for the compliance function.
	<p>Risk-based compliance planning</p> <p>Mechanisms to allocate regulatory effort and response, based on an assessment of the regulator’s risk appetite, characteristics of the regulated community, etc. This may include annual planning mechanisms, assessment frameworks or other systems to apportion and track effort.</p>	Developing	Maturing	A lack of data has to date constrained the Waste Operations team from adopting a genuine risk-based approach to compliance planning. Risk-based approaches require information on the scale and nature of risks present in a regulated community. Our focus for 2020–2022 has been on a baseline programme of auditing all parties in our regulated communities to better understand where risks and issues lie. This now enables us to design subsequent auditing programmes with a robust and empirical risk basis. All workstreams have annual audit programmes informed by triage methodologies and are tracked in detail using resources such as Power BI.
	<p>Problem-solving approach</p> <p>A way of resolving specific or complex problems by rearranging effort, skills and resources around the problem itself, rather than through traditional functional structures. It is often associated with agile project management styles and concepts of double-loop learning.</p>	Emerging	Developing	Waste Operations in the 2021/22 year demonstrated a willingness and ability to turn towards challenges in the sector when the need for greater regulatory input in the Waste Levy Expansion programme became clear. A range of legislative challenges created barriers to an effective function, and the team has mobilised, and continues to mobilise, to think laterally about how to progress their activities in the face of ambiguity.

Theme	Topic	2020/21	2021/22	Discussion
Capability and improvement	Training and procedures How the regulator ensures it has the requisite combination of skills and competencies to achieve its regulatory role and organisational priorities (training). The procedures and policies used to reinforce expected behaviours and to support staff to achieve the organisation's objectives (procedures).	Developing	Developing	<p>Waste Operations continues to resource training and development of its staff and ensure they are well equipped to undertake their day-to-day role. However, the previous year saw appointments of new staff with significant existing experience and qualifications which lessened the need for basic training.</p> <p>All staff continue to complete G-Reg modules and our auditors are completing SAI Global training. Internationally recognised training is subject to constant review to ensure it is robust and appropriately supports our team to excel in the compliance role.</p>
	Quality assurance and review functions Initiatives that support operational consistency, fair and unbiased decision-making, and continuous improvement. These include internal and external mechanisms such as structured assessments and reviews, and multiple avenues within and outside the regulator for duty holders to review decisions or lodge complaints.	Emerging	Developing	<p>Waste Operations is a committed team scaling up a nascent function. It is important we move in the right direction and are conscious of our limitations and opportunities to improve. In the 2021/22 year, the team invited two external reviews, one by the Ministry's Intelligence function and the second by an external panel of experts under G-Regs Peer Learning Panel programme (see case study). These structured assessments provided valuable confirmation of our strengths and identified a range of opportunities to improve.</p> <p>We remain open and responsive to concerns raised by our regulated communities and seek to resolve issues quickly.</p>
	Learning with others The regulator's role in learning from, and sharing information and experiences with, other regulators as part of the broader regulatory profession.	Emerging	Developing	<p>The Ministry's regulatory role under the WMA was low profile and that is changing. We are building relationships with co-regulators. We have established a regular operational networking meeting with the EPA and have ongoing dialogue with regional and local councils, particularly in the context of the Waste Levy Expansion. We attend the WasteMINZ Disposal to Land Sector Group and regularly present to other forums.</p>

Theme	Topic	2020/21	2021/22	Discussion
Governance and delivery	Activity and visibility How active the regulator is in administering its legislation and/or regulatory scheme, including whether it is proactive or mostly reactive, and whether it uses all measures available to it (activity). How much the regulated and wider community are aware of the regulator's role, function and achievements.	Developing	Developing	Our team remains committed to maintaining a suite of proactive auditing programmes and ensuring we can respond quickly to reactive matters as they arise. The Waste Levy Expansion and growing suite of product bans are generating significant interest in the sector, and we are seeing a greater flow of complaints and concerns about negative behaviours. The launch of the Alleged Breach Notification System has helped increase the Ministry's profile and invited many parties to get in touch about waste matters that concern them.
	Performance reporting The collection and use of information to determine whether the regulator is effective in its regulatory mission, and to inform organisational decisions, as well as the public and stakeholders about the regulator's effectiveness.	Developing	Maturing	We released our inaugural monitoring report for the 2020/21 year in December 2021. This resulted in a new level of transparency for our function. Future opportunities include making compliance data available over shorter intervals.
	Governance and oversight The systems and institutions for ensuring that the regulator is well-managed, accountable, ethical and transparent.	Maturing	Maturing	This year was one of great change. We have maintained our focus on effective and principled governance.

Theme	Topic	2020/21	2021/22	Discussion
Leadership and culture	Stakeholder and community engagement The regulator’s ability to bring stakeholder and community voices into decisions that affect or interest them. This can involve different levels of engagement. The types of engagement can include inform, consult, involve, collaborate and empower.	Developing	Maturing	The Waste Operations team is the frontline team for the WMA and encounters all regulated communities daily. We are developing a strong understanding of our sectors and can share that knowledge and insight with our colleagues responsible for developing policy.
	Regulatory philosophy and approach The regulator’s ability to clearly articulate and apply the theory that acts as a guiding principle for the way it regulates; how it will approach its role as a regulator and use its powers to regulate; and the factors the regulator takes into consideration when responding to any identified non-compliance or harm.	Developing	Maturing	Our team carries out its role, guided by the WMA Compliance Strategy and supporting documents such as our Prosecutions Policy and Enforcement Decision-Making Policy. These documents ensure we make consistent decisions and maintain equity in our regulated communities.
	Culture and leadership focus The regulator’s expectations, experiences, philosophy and values that hold it together (culture); and its ability to establish a clear vision and share that vision with others; and coordinate and balance the conflicting interests of all members and stakeholders (leadership).	Developing	Maturing	Our team has a strong focus on a culture of integrity and ensuring we discharge our role appropriately from within a hybrid agency. We actively contribute to the policy process, sharing our knowledge and experience readily with colleagues and other agencies connected with the waste and resource recovery sector.