



Ministry for the
Environment
Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
New Zealand Government

Regulatory performance monitoring framework report 2022/23

WASTE MINIMISATION ACT 2008



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Executive summary

This 2022/23 Regulatory performance monitoring framework (RPMF) report tracks implementation of the compliance functions of the Waste Minimisation Act 2008 (WMA) by the Ministry for the Environment | Manatū Mō Te Taiao (the Ministry). The purpose of the report 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 Aotearoa New Zealand. Its purpose is to encourage waste minimisation and a decrease in waste disposal to:

- a. protect the environment from harm
- b. provide environmental, social, economic and cultural benefits.

Our first RPMF report in the series was for the 2020/21 year, which was the year before the waste levy programme was expanded, as later detailed in this report. This gave us a year of data on the state of the levy before expansion. We planned to deliver three annual reports that would form a baseline data period to demonstrate how both the Ministry and the waste industry were adapting to and complying with the WMA.

We used the 2020/21 pre-levy expansion data to shift our monitoring programme towards a more intelligence-led, risk-based model in 2021/22. This ensured our available resources were first deployed to areas of greatest risk or concern.

This report presents the data from 2022/23, a discussion of this data, and the trends over the baseline period. It sets out what we have achieved and where there is room for improvement. This information will inform the compliance monitoring programme for the subsequent years.

Key findings for the 2022/23 period saw an increase in non-compliance. This was due to new facilities entering the levy system not fully understanding their obligations under the WMA. This was to be expected, as with the implementation of any new regulations, and we continue to engage with and educate the waste sector.

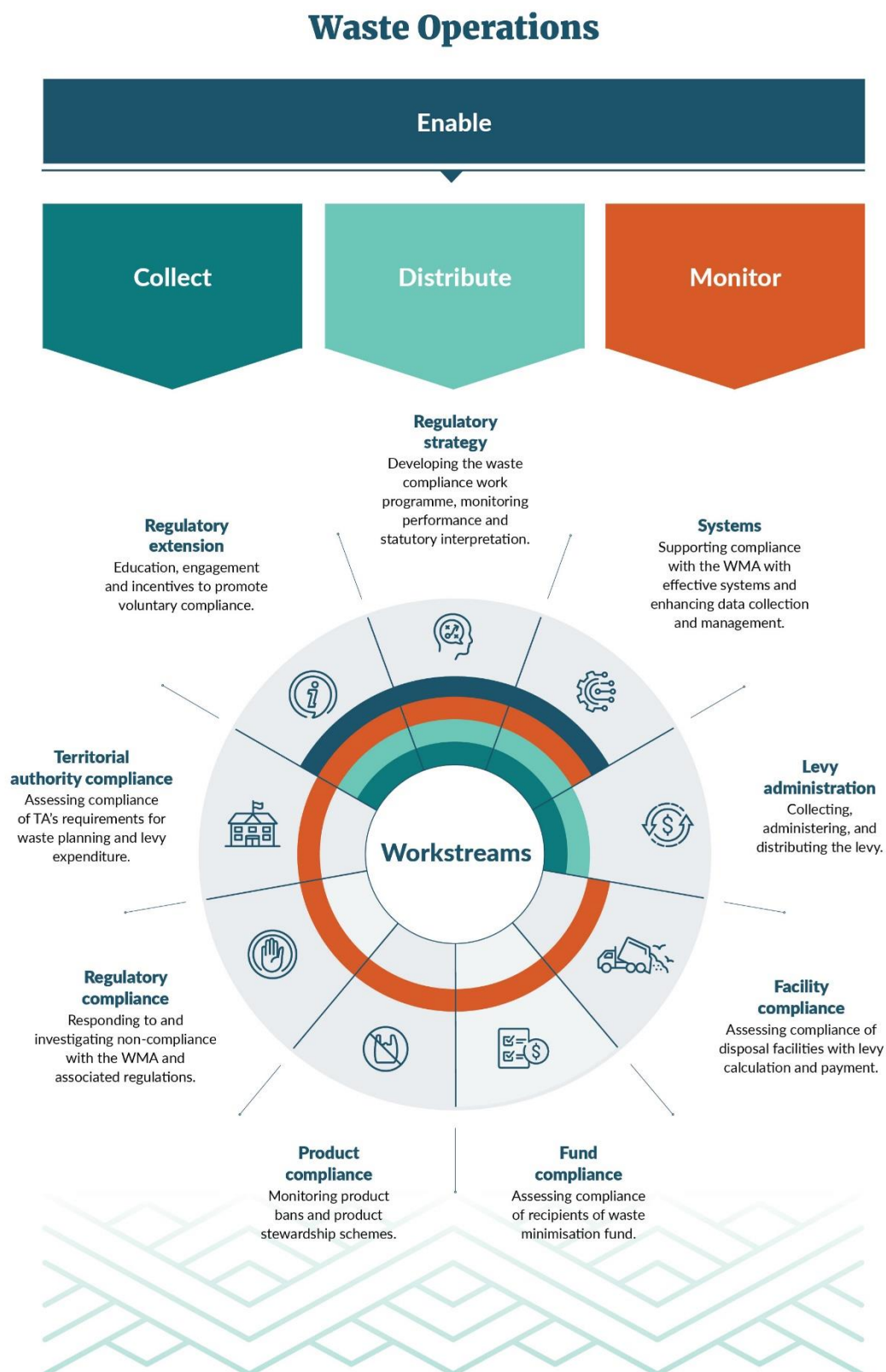
Highlights from the 2022/23 reporting year include:

- continuing to expand the waste levy to cover additional facility classes, and increasing the waste levy for all levy-liable disposal facilities, as well as reporting obligations for non-levied facilities
- starting the first tranche of the plastic phase-outs, after the 1 October 2022 ban on specified plastic types and products. More phase-outs are planned over the next few years for hard to recycle plastics
- developing a risk-based approach to compliance using available data and information about the sector. We increased our focus on collating and improving information needed for robust risk assessment
- collaborating with policy teams undertaking legislative reform on the WMA and Litter Act 1979.

Note that this report does not repeat introductory information, such as about roles and objectives, that was included in the reports from previous years. For this information, please refer to the [2020/21 RPMF Report](#) and [2021/22 RPMF Report](#) on our website.

Part 1: Our work programmes

Figure 1: The Waste Operations work programmes



Levy administration | Whakarite utu

Overview

From 1 July 2022, the waste levy programme expanded to include the charging of a levy for Class 2 facilities (construction and demolition fill), and for information to start being collected and reported to the Ministry by Class 3 and 4 facilities (managed or controlled fill) and transfer stations. The levy also increased for Class 1 facilities (municipal disposal). These changes are shown in [table 1](#).

The levy administration team continues to work with the sector not just in administering the levy but also to educate, engage and provide key updates as well as to respond to enquiries.

From 1 July 2023, Class 3 and 4 facilities will be required to start paying the levy, and Class 5 facilities (cleanfills) and industrial monofill facilities will be required to start collecting and reporting information to the Ministry.

Table 1: Key dates for the increase and expansion of the waste levy and reporting obligations

Facility class	Levy obligations ¹	Reporting obligations
Class 1 – Municipal disposal facilities	Levied from 1 July 2022 (\$30 per tonne)	Are already reporting monthly returns on waste
Class 2 – Construction and demolition disposal facilities	Levied from 1 July 2022 (\$20 per tonne)	Must start reporting on waste from 1 January 2022
Classes 3 and 4 – Managed or controlled fill disposal facilities	Levied from 1 July 2023 (\$10 per tonne)	Must start reporting on waste from 1 January 2023
Class 5 – Cleanfills	Levy does not apply	Must start reporting quarterly on waste from 1 January 2023
Industrial monofills	Levy does not apply	Must start reporting quarterly on waste from 1 January 2023
Transfer stations	Levy does not apply	Must start reporting quarterly on waste from 1 January 2022

New facilities

Table 2: Number of registered facilities

Class	2020/21	2021/22	2022/23
Class 1 – Municipal disposal facility	36	42	40
Class 2 – Construction and demolition disposal facility		9	11
Class 3 and 4 – Managed or controlled fill facility		29	108
Class 5 – Cleanfill facility		28	93
Industrial monofill		9	22

¹ A number of increases in the waste levy are scheduled for Classes 1 to 4 through until 1 July 2027.

Class	2020/21	2021/22	2022/23
Transfer stations		231	240
TOTAL	36	348	514

Overall, there were **166** new facilities registered with the Ministry since the last reporting period, which equates to a growth of **48 per cent**. During this period, the highest increase in registered levy-liable facilities were in Class 3 and 4 – Managed or Controlled fill facilities, as their obligations to start reporting began on 1 July 2022 and were not subject to the levy until 1 July 2023.

The highest increase in non-levy liable facilities were in Class 5 – Cleanfill sites, as their obligation to start reporting on from 1 January 2023. We saw a steady increase in the number of other non-liable facilities including industrial monofills and transfer stations.

What we do

Documentation received and processed

Facility operators can lodge various applications with the Ministry under the WMA (see [table 3](#) below). The 2022/23 reporting year has seen the number of applications double, with an increase in applications for a return extension² and levy waiver.³

Table 3: Applications received by the Ministry under the Waste Minimisation Act 2008

Application and process	Received approved 2009 to 2020	Received Approved 2020/21	Received Approved 2021/22	Received Approved 2022/23
Application to file an annual return <i>Reg 9</i>	105 104 (1 withdrawn)	6 6	4 4	2 1 (1 withdrawn)
Application to use an average tonnage methodology <i>Reg 15</i>	33 26 (7 declined)	3 3	1 0	2 0 (2 declined)
Application for a levy refund <i>Reg 33</i>	0	0	0	0
Application for a payment extension <i>Reg 30</i>	0	0	1 0	0
Application for a return extension <i>Reg 10</i>	0	0	4 0	9 0 (9 declined)

² Regulation 10 of the [Waste Minimisation \(Calculation and Payment of Waste Disposal Levy\) Regulations 2009](#) provides for the operator of a disposal facility to request in writing to the levy collector more time to provide the return.

³ Section 29 of the [Waste Minimisation Act 2008](#) provides that the Secretary may waive, in writing, the requirement for an operator to pay any amount of levy, if the Secretary is satisfied that exceptional circumstances justify the waiver.

Application and process	Received approved 2009 to 2020	Received Approved 2020/21	Received Approved 2021/22	Received Approved 2022/23
Application for a storage time extension <i>Reg 11</i>	56 9 <i>(42 declined, 5 withdrawn)</i>	0	1 0	0
Application for a waiver <i>Sec 29</i>	21 16 <i>(4 declined, 1 withdrawn)</i>	2 2	2 2	9 7 <i>(2 withdrawn)</i>
TOTAL (applications)	215	11 11	13 6 <i>(6 withdrawn, 1 processing)</i>	24 8

Section 34 of the WMA provides for the Ministry to estimate the amount of levy payable if the operator has not provided records or information, or that information is incomplete or incorrect. Between 2009 and 2020, we issued four estimations. During the 2022/23 period, a total of 15 estimations were made. We attribute this significant increase to new regulations affecting other types of facilities who had previously not been captured by the legislation, and operators not fully understanding their legal obligations.

Distribution of the levy

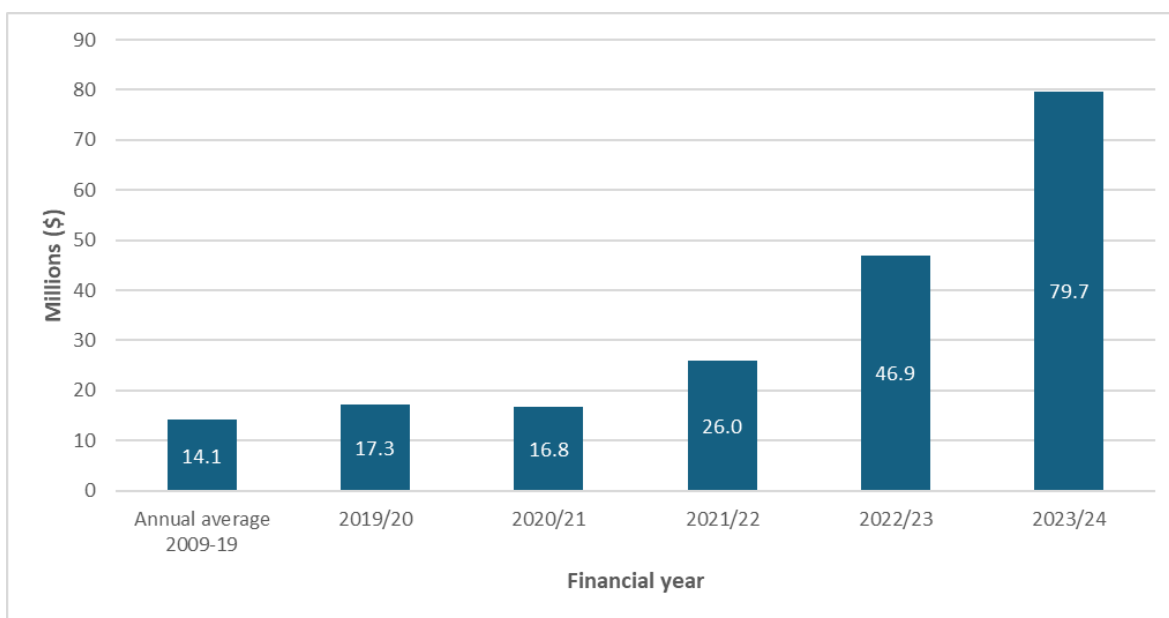
We have a statutory role in managing the proportional distribution of the levy to territorial authorities (TAs). How each share is calculated is prescribed in section 31 of the WMA. Each quarterly payment requires non-complying TAs to have their levy funds withheld. There is no discretion under the WMA;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

Table 4: Waste levy distributed to, or withheld from, territorial authorities

Quarter	Distributed (<i>withheld</i>) 2020/21	Distributed (<i>withheld</i>) 2021/22	Distributed (<i>withheld</i>) 2022/23
Q1 (July)	\$3,959,800 <i>(\$3,858)</i>	\$4,327,704 <i>(\$611)</i>	\$8,958,834 <i>(\$0)</i>
Q2 (October)	\$3,988,832 <i>(\$4,470)</i>	\$4,343,880 <i>(\$613)</i>	\$8,944,223 <i>(\$0)</i>
Q3 (January)	\$4,376,476 <i>(\$4,264)</i>	\$7,969,424 <i>(\$1,124)</i>	\$13,871,356 <i>(\$0)</i>
Q4 (April)	\$4,443,271 <i>(\$627)</i>	\$9,340,005 <i>(\$1,318)</i>	\$15,106,609 <i>(\$0)</i>
TOTAL	\$16,768,378 <i>(\$13,220)</i>	\$25,981,013 <i>(\$3,665)</i>	\$46,881,022 <i>(\$0)</i>

In the 2022/23 period, we distributed a total of **\$46,881,021.80** of waste levies to territorial authorities and we did not need to retain levies from any of the 67 TAs. Waste Operations worked closely with all councils, particularly those who had previously had the levy withheld, to support them to meet their obligations under section 30 of the WMA.

Figure 2: Levy money paid to territorial authorities



Comments

As the levy expands to encompass other classes, we anticipate an increase in the number of estimations required for levy liable returns. The estimation process may be enacted by the levy collector (under section 34 of the WMA) when a facility fails to meet the statutory deadline for filing a return.

Facility compliance | Tautukunga wāhi para

Overview

Our disposal facility audit programme ran a risk-based audit programme in 2022/23. All audits to 30 June 2023 were carried out by both internal and external auditors and included Class 1 and Class 2 facilities.

Each facility audited receives a compliance score against each of the following key audit areas:

- waste acceptance matches class
- levy returns
- invoice payment
- measurement method and tonnage observations
- stockpile timeframes
- levy calculations
- record keeping and retention.

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 support and guidance as they work to meet their obligations.

With the significant growth in levy-liable Class 3 and 4 facilities, we plan to develop new compliance products in 2023/24 to help these facilities understand and comply with the regulations.

The level of non-compliance corresponds to the degree of associated risk. A low-level non-compliance score against any of the key audit areas is typically minor and easily resolved, while high and medium non-compliance reflects concerning practices that are likely to need further 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.

What we found

About 57 per cent of all audit areas were scored compliant or had only minor areas for improvement.

Of the Class 1 facilities, 65 per cent of the audit areas were scored as compliant, slightly up from 64 per cent for the 2021/22 reporting year. There was a small decrease in the number of areas scored with medium and high non-compliance, 8 per cent down to 5 per cent. The number of areas with low level non-compliance also decreased slightly, from 17 per cent to 16 per cent in the 2022/23 reporting year.

The 2022/23 reporting year was the first time Class 2 facilities were audited. For this first initial audit, 41 per cent of audit areas were scored compliant with 25 per cent having low non-compliance and 9 per cent scored with medium or high non-compliance. See table 5 for more information.

The addition of the Class 2 facilities has resulted in an overall decline in compliance and a rise in low-risk non-compliance. This is to be expected as new participants learn their requirements under the expanded levy obligations.

Compliance rates

Rates of non-compliance against audit areas were highest amongst Class 2 facilities as their obligations had changed. On the other hand, Class 1 facilities have shown an overall increase in compliance year on year, which is evidence that as the waste industry adapts to the reporting system, compliance becomes the predominant standard.

Table 5: Compliance scores over the reporting years

Compliance grade	2020/21 Class 1 ⁴	2021/22 Class 1 ⁵	2022/23 Class 1	2022/23 Class 2
Compliant	57%	60%	63%	32%
Compliant – area for improvement	4%	4%	2%	9%
Non-compliant – low	13%	17%	16%	25%
Non-compliant – medium	13%	4%	5%	4%
Non-compliant – high	6%	4%	0%	5%
Not determined	3%	9%	6%	7%
Not applicable	3%	3%	7%	18%

Responding to non-compliance

Our auditors continue to identify some areas of predictable non-compliance. Many of these issues are addressed effectively through educating and engaging with the regulated parties so they better understand expectations as the monitoring programme evolves. Where our auditors identify non-compliance, they have two options: issue a request for corrective action or refer the facility to our regulatory compliance team for further assessment.

Corrective action requests are typically for minor matters that can be easily resolved with extra support and engagement. An example of a minor matter is where a disposal facility operator (DFO) is scored low level non-compliance against the ‘levy return’ audit area as they have failed to submit a return on time. They are then issued a corrective action to review and amend their processes where possible to ensure that waste returns are submitted on time in the future. Subsequent audits will review any previous corrective action requests, with some requests needing to be rectified through short-term actions. We maintain a register with timeframes for each request (see [table 6](#)).

Matters relating to audit areas scored medium to high non-compliance are referred directly to the regulatory compliance team for further assessment. The team has a range of enforcement tools to address non-compliance including education, recovery of unpaid levy or prosecution. Where these tools cannot resolve non-compliance, the case is referred for further investigation.

⁴ Only Class 1 facilities monitored in 2020/21.

⁵ Only Class 1 facilities monitored in 2021/22.

Table 6: Results of referrals and corrective actions on non-compliance matters

Non-compliance score	Regulatory outcome	2020/21	2021/22	2022/23
Low ⁶	Number of corrective action requests	28	58	24
	Number of corrective action requests resolved	25	45	17
	Number of unresolved corrective action requests escalated to regulatory compliance team	3	13	7
Medium and high ⁷	Number of medium and high non-compliance matters	9	6	3
	Number of medium and high non-compliance matters resolved	6	5	3
	Number of medium and high non-compliance matters unresolved (referred for investigation)	3	1	0

Comments

What we learn in the field is directly applied to our planning and risk assessment for future years. This knowledge is also useful for other parts of our 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 continues to expand. Our audit programme has been operating with considerable ambiguity and an Act and regulations that have limitations. We must be more proactive in our regulatory stewardship to support an effective compliance regime.
- An increasing levy has the potential to increase non-compliant behaviour, such as disposing waste to an unapproved facility or to non-levied sites. To meet this challenge, Waste Operations is extending our compliance function but are aware of the considerable demand this will have on our capacity.
- Diversion⁸ is limited amongst Class 2 to 5 facilities compared with Class 1 municipal waste facilities, which receive higher quantities of commercially viable, recyclable commodities. As more facilities come on board with the levy's expansion, the Ministry will need to support

⁶ All low non-compliance matters are managed by the auditor who issues the DFO with a corrective action request.

⁷ All medium and high non-compliance matters are managed by the regulatory compliance team. These figures exclude low non-compliance matters referred to regulatory compliance.

⁸ Diversion means not sending unwanted materials to disposal facilities. Instead, materials are repurposed through the process of reuse, recycling or recovery.

facilities with information on what waste can and cannot be diverted and how to calculate diversion factors.

Territorial authority compliance | Tautukunga mana wāhi

Overview

We conducted audits of 24 territorial authorities (TAs) throughout New Zealand in 2022/23. This compares with 48 in 2020/21 and 24 in 2021/22.

The scope of TA audits includes:

- a compliance assessment of levy expenditure practices against the obligations in the Act and compliance with the standards in the Ministry's written guidance
- a review of key documentation, such as the TA's waste assessment and Waste Minimisation and Minimisation Plan (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 we will use aggregated compliance data to inform our policy development.

What we found through auditing

The TA auditing programme has shown a relatively high level of compliance by local government with their WMA obligations.

Table 7: Outcome of territorial authority compliance audits

Areas of compliance assessed during TA audits	2020/21	2021/22	2022/23
Levy expenditure limited to matters to promote or achieve waste minimisation – section 32(1)(a)	89%	96%	94%
Levy expenditure in accordance with WMMP – section 32(1)(b)	78%	100%	94%
WMMP compliance with sections 43, 50 and 51	90%	95%	95%
Adherence to Ministry guidelines for levy spend (refer to Good practice levy spend guidelines for TAs)	92%	86%	79%

Levy expenditure compliance rates under s32(1)(b) (spending of levy in accordance with Ministry guidelines) has declined in the 2022/23 year. We have addressed areas of non-compliance through education and engagement with TAs in relation to WMMP review and good practice financial processes. No TA non-compliance has been referred for investigation as of 1 July 2023.

The remaining regulatory obligations in [table 8](#) showed similar compliance rates to 2021/22.

Levy spend reporting

We ask territorial authorities to submit an annual report to us through the Territorial Authority Waste Levy Expenditure System (TAWLES). Their annual report needs to outline how they have spent their share of levy funds for the previous financial year.

Currently, this reporting is voluntary. Therefore, the values in [table 8](#) underestimate the total levy spend, and it is likely the percentages for different spending areas are more varied. This will change in future when it becomes compulsory for TAs to report this information to us annually, with first reports due 30 September 2025.

Table 8: Territorial authority waste levy spend⁹

Spending area	2020/21	2021/22	2022/23
Services	50%	45%	93%
Education and communication	25%	33%	4%
Infrastructure	10%	8%	1%
Research and reporting	3%	4%	1%
Other initiatives	13%	10%	1%
Total spend	\$20,359,971	\$17,451,661	\$56,718,057

Responding to non-compliance

Areas where we have identified non-compliances include:

- one TA spent the waste levy money on disposal activities rather than on waste minimisation and was asked to refund the levy money within their levy fund
- two TAs had not conducted their WMMP review within the six-year timeframe required by section 50 of the WMA and were therefore marked ‘non-compliant’ in the audit report. As their reviews were completed by the time of the audit (although late), we considered this matter resolved and the two TAs received their levy payment.

We have provided education, corrective actions and monitoring where necessary for these instances of low-level non-compliance. Subsequent audits show improvement across all of these areas, indicating that additional education and support is an effective intervention.

This reporting period is the first full year using the Territorial Authority Waste Levy Expenditure System (TAWLES), and we expect that future years will show the shift to online-based reporting results in more consistent record keeping.

Comments

From 1 July 2024, new regulations will come into effect requiring TAs to report on how they have spent the waste levy money they received (with first reports due on 30 September 2025 for the preceding year). This will change the above dataset, making more information available and ensuring it is provided to us within a required timeframe.

⁹ As reported voluntarily in the TAWLES.

TAs mainly spent the levy money on services like kerbside recycling, education and communication. This reflects a typical spread of spending, based on historical data. The increased amount of the levy is also likely to change the profile and types of levy expenditure.

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 other funding going to projects initiated by the Minister for the Environment.

The WMA sets out the levy's distribution model. Assessing and validating this expenditure is critical to ensure the funding purpose aligns with its distribution and is used to minimise waste.

All audits of funded projects are either initiated proactively or in response to referrals from the Ministry team in charge of processing and managing funding applications. Otherwise, audit recipients are selected based on the auditors' risk assessments using all available and relevant information. Depending on available resourcing, we aim to audit at least 10 per cent of recipients approved for funding.

Waste operations can conduct two types of audits:

- A full audit – this engages with the WMF recipient to ensure the funds have been spent in accordance with the Deed of Funding.
- A 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 we identify significant issues, 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 funding deed and the WMA
- whether reported results are accurate and project deliverables have been met in accordance with the funding deed
- 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 our recommendations, and increased audit frequency
- investigating alleged breaches
- prosecuting and/or fining in accordance with section 65 of the WMA.

What we found

No referrals were made in the 2022/23 reporting year, while the number of proactive audits that were initiated, progressed and then finalised, remained relatively stable.

Historically, the rate of audit has been low due to the limited number of available audit staff. In future, the frequency and depth of audits is likely to increase to maintain public confidence in administration of the waste levy.

Table 9: Audit activity for Waste Minimisation Fund projects

Audit activity	2020/21 (pilot)	2021/22	2022/23
Number of referrals	3	5	0
Audits initiated due to referrals	1	5	0
Proactive audits initiated	3	2	3
Audits in progress (30 June)	1	3	2
Audits finalised	3	5	4

Comments

Establishing a new auditing function has been challenging. The new auditing function provides important transparency when it comes to maintaining public confidence in administration of the waste levy. The audit and WMF teams have collaborated on the development of the audit programme, while maintaining the independency of the audits themselves.

As the range of projects that can be funded through the waste levy increases, this will create greater complexity for the audit function.

Product compliance | Tautukunga hanganga

Overview

The first of a three-stage plastics product ban took place in October 2022. Stage 1 banned the sale or manufacture of single-use plastic items: drink stirrers, cotton buds, any product with pro-degradants, PVC food trays and specific polystyrene packaging.

Responding to non-compliance

Stage 1 ban compliance

The first ban, from 1 October 2022, mainly affected importers and manufacturers. As such, reports of non-compliance have been low. This is due to the ban working, as the banned products are no longer being brought into the country and therefore no longer available for purchase by the public.

Table 10: Number of non-compliance reports received

Banned plastic product type	Number of reports received 2022/23
Single-use plastic shopping bags	22
PVC food trays and containers	0
Polystyrene and expanded polystyrene takeaway food and beverage packaging (plastic type 6)	3
Plastics with pro-degradant additives	0
Drink stirrers	0
Cotton buds with plastic stems or synthetic buds	0
Total	25

What we found

We received 25 breach reports relating to the plastics ban and 34 enquiries from industry asking for support to meet compliance requirements. We took a pragmatic approach to assess each enquiry on a case-by-case basis. We asked a set of questions and assessed each response against the ban's requirements.

Comments

Many importers of food products with integrated cutlery were unaware that the ban included their products.

Requests for a time extension came from companies with excess stock. Where we granted extensions, we will closely monitor to ensure the banned stock are not continuing to be used or supplied after the extended deadline. Ensuring we made widely available posters and information sheets relating to the banned products, in several languages and with clear pictures and infographics.

The second stage of the ban came into force on 1 July 2023. It banned the sale or manufacture of single-use plastic cutlery, plates and bowls, produce bags and non-compostable produce labels.

Regulatory compliance | Tautukunga whakahaere

Overview

During 2022/23 we initiated no new investigations, however two investigations from the 2021/22 period were continued. These investigations included the under-reporting of net tonnages of waste due to incorrect recording, and reporting of waste received at disposal facilities. Under-reporting of waste can have serious implications for levy payments which help fund waste management and minimisation initiatives throughout Aotearoa.

What we found

Twenty-seven reports of non-compliance were referred to the regulatory compliance team for further assessment. These referrals covered a range of breaches against the WMA and associated regulations. Referrals can either come from internal Ministry teams or from members of the public through our online reporting tool: 'Alleged Breach Notification' (ABN).

Responding to non-compliance

The 2022/23 period highlighted common non-compliance behaviours by disposal facility operators. These included a lack of understanding with how to comply with certain key aspects of the WMA and associated regulations, specifically:

- Not submitting monthly returns on time. This has resulted in the Ministry issuing 15 compliance letters requesting waste returns that were not submitted by the due date.
- Incorrect use of conversion factors to convert the volume of waste or diverted material into weight (at facilities where there is no weighbridge available). This has resulted in an under-reporting of net waste and associated waste levy, which we have later recovered.
- Incorrectly recording and reporting material deemed to be diverted onsite. This has led to the Ministry publishing a new factsheet, [Managing diversion at levied disposal facilities](#), to provide guidance to the regulated community.

Table 11: Referrals and proactive investigations conducted

	Referrals 2021/22	Investigations 2021/22	Referrals 2022/23	Investigations 2022/23
Territorial authority	0	0	0	0
Disposal facility compliance	3	3	7	2
Fund compliance	0	0	0	0
Product compliance	0	0	0	0
Levy administration	4	0	7	0
Alleged Breach Notification tool	11	0	13	0
Total	18	3	27	2

Table 12: Enforcement tools used

Tool	2020/21	2021/22	2022/23
Education and/or advice letter	2	2	15
Prosecution	0	0	0
Recovery of unpaid levy	0	5	2 ¹⁰
Court order for commercial gain	0	0	0
Ministerial direction to retain levy money	0	0	0
Revocation of scheme accreditation	0	NA	NA

Table 13: Formal investigation processes undertaken

Process	2020/21	2021/22	2022/23
Request for information	10	4	3
Application for a production order	0	0	0
Interviews completed	0	0	0

Comments

The regulatory compliance team anticipates an increase in the volume of referrals of non-compliance for the 2023/24 period, following the scheduling of Class 3/4 – Managed or Controlled fill disposal facilities into the Ministry’s annual audit programme.

This reporting period revealed a lack of understanding of the WMA’s regulatory requirements, especially from new members of the regulated community (ie, Class 2 and Class 3/4 disposal facility operators).

Several instances arose in this reporting period where operators either did not consider the WMA applied to them (due to the lack of clarity and/or certainty in the regulations), or did not see themselves as traditional disposal facilities.

¹⁰ Invoices totalling \$130,449.90 (including GST) were issued in the 2022/23 period (July 2022 to June 2023).

Part 2: Performance assessment and monitoring

Overview

This RPF report captures our main outputs, including a benchmarking exercise using the Modern Regulator Improvement Tool (MRIT). The tool 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 understand whether regulatory programmes are achieving their objectives and making the best possible use of resources.

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

Modern Regulator Improvement Tool (MRIT) assessment

The MRIT is a qualitative assessment framework that helps regulators understand their progress, areas of strength and areas needing development. It sets out 12 key attributes for regulatory agencies to assess themselves against and to rate their level of maturity in conducting their roles ([figure 3](#)). Organisational maturity can range from ‘absent’ through to ‘leading’, and the MRIT assessment can be done repeatedly to track improvements and prioritise areas where more work or investment is needed. Further details are provided in the [appendix](#).

This is the third year Waste Operations has undertaken the assessment. As with last year, we will apply the learnings to define our strategic priorities and identify appropriate focus areas for the future. The 2022/23 assessment, together with the 2020/21 and 2021/22 assessments, is presented in [table A2](#).

In the 2022/23 reporting year, two of our attributes showed positive improvement in maturity level:

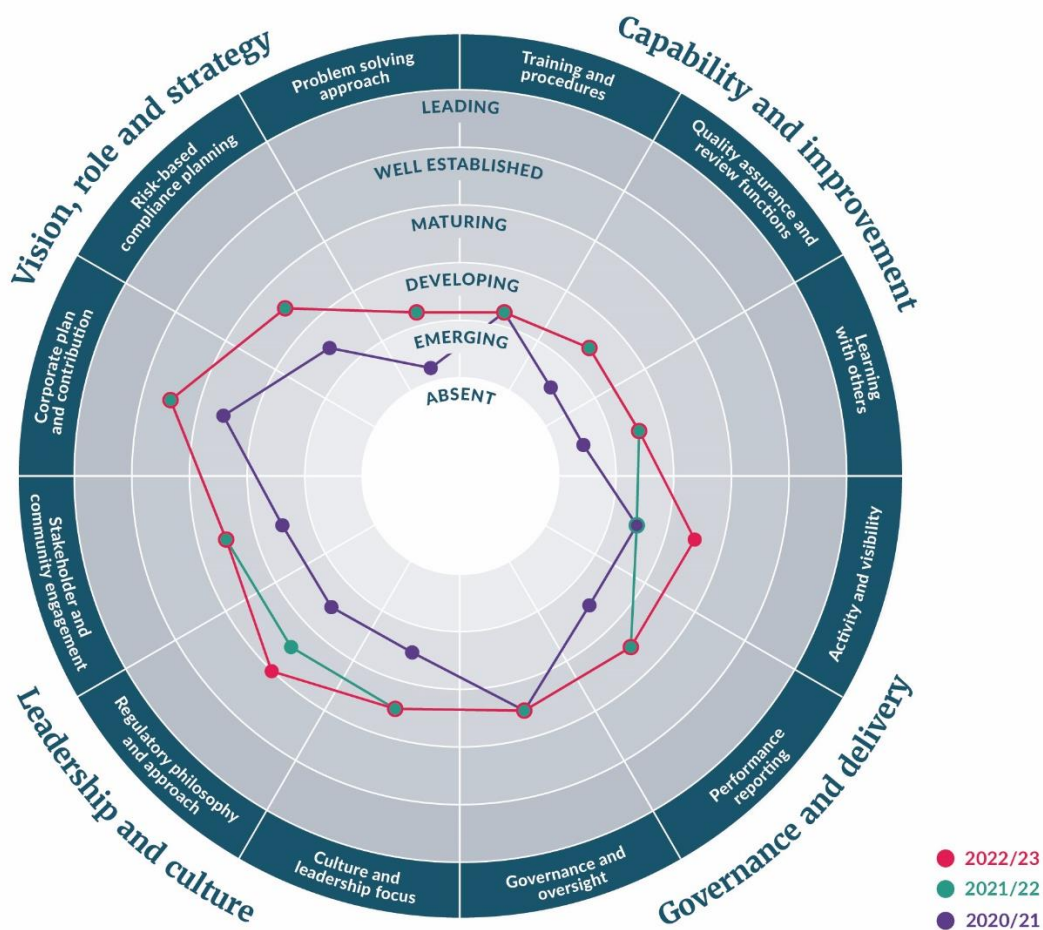
- governance and delivery: activity and visibility increased from the level of ‘developing’ to ‘maturing’
- leadership and culture: regulatory philosophy and approach increased from maturing to the midway point between ‘maturing and well-established’ levels.

Over the three-year baseline period, a number of attributes have shown positive movement into maturing or well-established.

The MRIT has identified a number of attributes that have remained static in the ‘developing’ level for two or more years and thus where we need to focus our improvement effort. These are:

- vision, role and strategy: problem-solving approach
- capability and improvement: training and procedures, quality assurance and review functions, and learning with others.

Figure 3: Waste Operations MRIT assessment results



Appendix: Modern Regulator Improvement Tool framework and explanations

The Modern Regulatory Improvement Tool (MRIT) framework consists of 12 attributes across 4 themes (see [table A2](#)). They are based on the AELERT Statement of Better Regulatory Practice. Each attribute represents a level the regulator may occupy which equates to a measurement of maturity.

Assessment against the attributes is based on six levels of organisational maturity. Each attribute has a specific description for each level, but a general description is provided in [table A1](#).

Table A1: 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).

Table A2: Description of MRIT attributes

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.
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).

Table A3: Waste operations MRIT scores

Theme	Attribute	2020/21	2021/22	2022/23
Vision, role and strategy	Corporate plan and contribution	Maturing	Well established	Well established
	Risk-based compliance planning	Developing	Maturing	Maturing
	Problem-solving approach	Emerging	Developing	Developing
Capability and improvement	Training and procedures	Developing	Developing	Developing
	Quality assurance and review functions	Emerging	Developing	Developing
	Learning with others	Emerging	Developing	Developing
Governance and delivery	Activity and visibility	Developing	Developing	Maturing
	Performance reporting	Developing	Maturing	Maturing
	Governance and oversight	Maturing	Maturing	Maturing
Leadership and culture	Stakeholder and community engagement	Developing	Maturing	Maturing
	Regulatory philosophy and approach	Developing	Maturing	Maturing
				Well established
	Culture and leadership	Developing	Maturing	Maturing