

# **Plan to monitor and enforce compliance**

Proposed Regional Plan for  
Northland

## Table of Contents

Overview .....	1
Regional Plan rules & unconsented activities .....	2
Groups.....	2
Group risk assessment.....	3
Criteria.....	3
Assessment.....	3
Group monitoring programs.....	4
Priority groups for proactive monitoring.....	4
How we will proactively monitor .....	4
Group enforcement programs .....	6
Priority groups for proactive enforcement .....	6
How we will proactively enforce .....	6

## Overview

The Northland Regional Council (the regional council) is responsible for overseeing the implementation of the Regional Plan for Northland (the Regional Plan). Regional council responsibilities include monitoring, reviewing and where appropriate enforcing the regional plan 'permitted activity' rules.

Some form of proactive monitoring needs to be undertaken by the regional council to understand the level to which the community is complying with the permitted activity rules. The regional council uses public complaints or reports of alleged breaches to monitor compliance and these are useful to identify incidents where enforcement of the rules may be appropriate. However, external reports do not necessarily provide an accurate reflection of the level of compliance, and the need for enforcement, amongst the wider community as they are biased and focused on readily observable incidents.

This document sets out the process how the regional council plans to proactively monitor and enforce<sup>1</sup> compliance with the 'permitted activity' rules – see **Figure 1**. It is a non-statutory document, adopted by the regional council which sits alongside the Regional Plan.

*Figure 1: Approach to proactively monitor & enforce permitted activity rules*



The process involves:

- **Group risk assessment** - used to assess what groups of unconsented activities the regional council will monitor. The assessment is undertaken by a range of regional council specialists against criteria including:
  - the practicability of monitoring and enforcement, and
  - the known/anticipated occurrence of non-compliance and its consequences.

---

<sup>1</sup> Enforce in this context refers to enforcing compliance with the rules - individuals must avoid, mitigate or remedy any non-compliance and the regional council may take action to enforce compliance with the rules by encouraging, directing or discouraging their behaviour (see 'Group enforcement programs' in this document)

- **Group monitoring programs** - used to understand the occurrence of non-compliance, and its consequences, within groups. A key principle is that the regional council may monitor a random representative sample of individuals as a cost-effective approach to understand the occurrence of non-compliance and its consequences.
- **Group enforcement programs** – used to reduce the occurrence of non-compliance, and its consequences, within groups if levels are considered unacceptable. A key principle is that the regional council will consider a variety of cost-effective approaches to change the behavior of individuals including non-regulatory and regulatory methods.

This document does not cover:

- Reviewing the effectiveness of permitted activity rules
- Implementation of regulatory methods, other than permitted activity rules, including:
  - Consented activities
  - Abatement Notice activities
  - Water Shortage Direction activities
- State of the environment monitoring

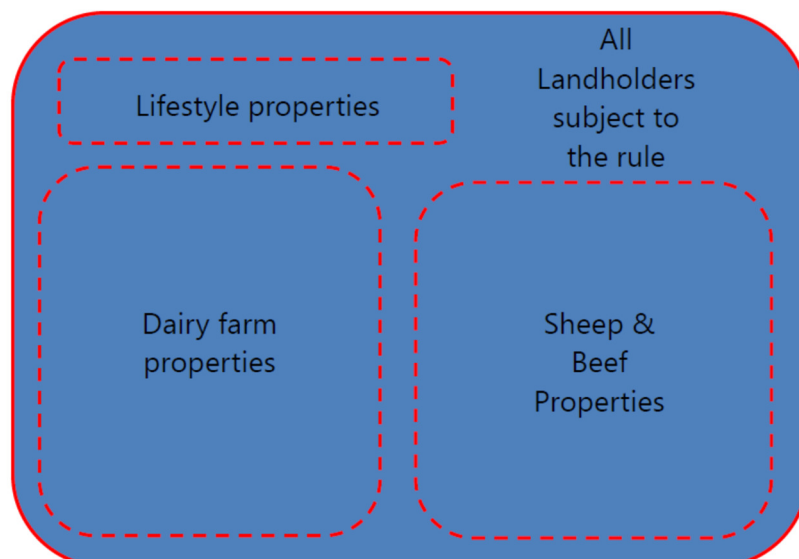
## Regional Plan rules & unconsented activities

Specific types of activities undertaken by individuals (such as the taking of water, discharges to water & air, land use, waterbody bed use) are regulated/restricted by Regional Plan rules to achieve a desired environmental state. 'Unconsented activities' are regulated/restricted activities that are undertaken without a resource consent. However, they must comply with a 'permitted activity' rule and conditions.

## Groups

The regional council's approach will be to proactively monitor & enforce compliance within groups. For every rule there will be a group (or sub-groups) of individuals undertaking unconsented activities who have a similar non-compliance risk (i.e. similar causes and/or effects of non-compliance) - for example see **Figure 2**.

*Figure 2: Example of groups of concern subject to a rule excluding livestock from waterbodies*



## Group risk assessment

This section outlines the criteria and process the regional council will use to assess what groups should be priorities for proactive monitoring. It is impracticable, prohibitively expensive and unnecessary for the regional council to proactively monitor all groups - particularly when the occurrence of non-compliance and its consequences in some groups is relatively low.

### Criteria

Relevant criteria considered when assessing what groups of unconsented activities to monitor include:

- Legal restraints on enforcing compliance – such as:
  - ambiguity of rules
  - rule or regulatory changes
- Practicable restraints on monitoring compliance – such as:
  - significant resources required to gather evidence
  - technological restrictions on gathering evidence
  - legal constraints on gathering evidence
- The anticipated, or known, occurrence of non-compliance and its consequences:
  - in a particular group
  - compared to groups subject to the same permitted activity rules
  - compared to groups subject to other permitted activity rules
- Any other indicators of a need to:
  - monitor compliance in a group
  - enforce compliance in a group

### Assessment

A group of specialist Council staff will assess the non-compliance risk of groups by undertaking the following:

1. *Compliance restraints analysis* – this is a review of the Regional Plan rules and conditions to identify any practicable restraints that may restrict compliance monitoring or enforcement
2. *Group risk analysis* – this is a brief analysis to identify groups/sub-groups of individuals who may undertake unconsented activities which are regulated/restricted by a Regional Plan rule. A group, or sub-group, that is considered to pose the most significant risk will be prioritised for further evaluation.
3. *Group risk evaluation* – this is a forced-ranking<sup>2</sup> risk evaluation of all the groups identified from the previous step. The evaluation will compare and prioritise the identified groups based on the anticipated, or known, level of risk (occurrence of non-compliance and its consequences).

Council staff will review group non-compliance risks every 3 years and this may result in the reprioritisation of groups and a refocusing of monitoring resources. Any monitoring results from group monitoring programs will be taken into consideration in this reassessment.

---

<sup>2</sup> A 'forced-ranking' risk assessment differs from a 'scored' risk assessment in that the assessment of risks occurs by direct comparison of risks without the creation and use of assessment scales – see [Survey of Risk Assessment Practices](#)

## Group monitoring programs

This section outlines what groups may be subject to proactive monitoring and how we will do this.

The purpose for proactive monitoring is to gather evidence on the occurrence of non-compliance within a group and its consequences. This information will assist the regional council to review permitted activity rules and to make decisions whether a proactive enforcement program, of some form, is appropriate.

### Priority groups for proactive monitoring

Groups that are assessed as having the highest non-compliance risk will be priorities for proactive monitoring. The number of groups that will be proactively monitored will depend on:

- Funding that is made available for this activity,
- Numbers of individuals within a group that will be monitored, and
- Costs to monitor an unconsented activity undertaken by an individual.

Proactive monitoring of groups identified by a risk assessment is a new regional council approach which requires additional funding. Funding will be sought from the general rate and coastal occupational charges to recognise that the information gathered benefits the regional council and is for the purpose of: reviewing the rules; and, whether Council enforcement programs are appropriate.

### How we will proactively monitor

The regional council cannot practically monitor every individual within a group all the time. Instead, the regional council may randomly monitor a statistically representative sample of individuals to identify compliance results for the group within an acceptable level of certainty – see **Figure 3** below. An acceptable level of certainty includes an acceptable:

- **Margin-of-error** - the range within which the “true results” in the population are likely to sit (usually expressed as +/- x%); and
- **Level-of-confidence** - the level of confidence that the true results will be within the margin-of-error range (usually 90%, 95%, or 99%).

*Figure 3: Example of a statistical sampling formula<sup>3</sup>*

$$\text{Sample Size} = \frac{\frac{z^2 \times p(1-p)}{e^2}}{1 + \left(\frac{z^2 \times p(1-p)}{e^2 N}\right)}$$

This approach is a practicable method to monitor a large group and/or intermittent unconsented activities as the number of potential samples (population size) has a proportionally small impact on the sample size required to obtain an acceptable level of certainty - see **Figure 4** & **Figure 5** below).

---

<sup>3</sup> Example of a [statistical formula](#): where: “z” is the confidence-level; “e” is the margin-of-error; “p” is the compliance variability; and “N” is the population size

Council staff will exercise discretion on what level of certainty is appropriate as increased amounts of monitoring provide diminishing increases in the level of certainty.

Figure 4: Effect of random monitoring events on certainty in a population of 1,000<sup>4</sup>

		Number of monitoring events (sample size)		
		Confidence-level		
		90%	95%	99%
Margin-of-Error	+/- 5%	213	278	400
	+/- 10%	64	88	143
	+/- 15%	30	41	69
	+/- 20%	17	24	40

Figure 5: Example of different sample sizes required in a population of 365,000

		Number of monitoring events (sample size)		
		Confidence-level		
		90%	95%	99%
Margin-of-Error	+/- 5%	269	384	665
	+/- 10%	68	97	167
	+/- 15%	30	43	74
	+/- 20%	17	25	42

Variability in the level of compliance can also impact on the level of certainty. The highest variability in results is assumed when planning the number of individuals that need to be monitored. However, a lower variability in the monitoring results will increase the level of certainty from that originally planned – see **Figure 6** below.

Figure 6: Example of the effect of compliance variability on the margin-of-error in a large population<sup>5</sup>

		Sample-size		
		43	97	384
Level of Compliance	90%	+/- 9%	+/- 6%	+/- 3%
	50%	+/- 15%	+/- 10%	+/- 5%
	10%	+/- 9%	+/- 6%	+/- 3%

Reporting of random statistical monitoring results will be expressed in accordance with the relevant statistical variables used. For example: “The Regional Council is 95% confident that there is **90%** +/- 9% livestock exclusion compliance on dairy farms on any given day.

<sup>4</sup> Example of a statistical [sample size calculator](#)

<sup>5</sup> Example of a statistical [margin-of-error calculator](#)

## Group enforcement programs

This section outlines what groups may be subject to proactive enforcement and how we will do this.

The purpose of proactive enforcement programs is to reduce the occurrence of non-compliance and its consequences within a group to an acceptable level. Ultimately, individuals are responsible for taking action to avoid, mitigate or remedy any non-compliance and the regional council may take action to enforce compliance with the rules by encouraging, directing or discouraging their behaviour.

### Priority groups for proactive enforcement

Groups where the occurrence of non-compliance and its consequences, is considered unacceptable will be a priority for enforcement programs. The regional council will need to exercise its discretion on what level is considered unacceptable for each group and will take into consideration:

- The occurrence of non-compliance and its consequences
- The benefits of enforcement program methods
- The costs of the various enforcement program methods
- Whether the Regional Plan rule is appropriate or should be reviewed.

Funding for proactive enforcement programs may come from group user charges. A group user charge is an option where the group is easily defined and there is monitoring evidence of an unacceptable level of non-compliance within the group. If group charges are considered appropriate the regional council will consult on these through the Long Term Plan or Annual Plan process

### How we will proactively enforce

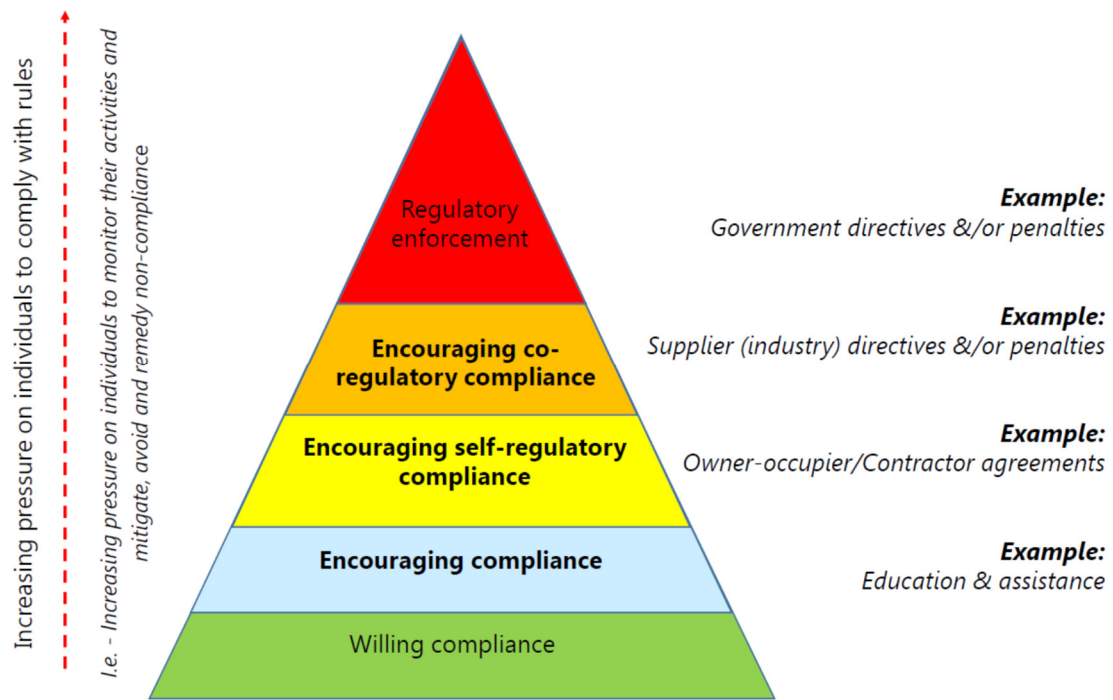
The regional council may use non-regulatory or regulatory methods within groups to reduce the occurrence of non-compliance, and its consequences – see **Figure 7** on the following page. The methods used will depend on the characteristics of the group and what will be cost-effective in changing the behaviour of individual's within that group.

Where appropriate the regional council will use non-regulatory methods to encourage behaviour. Encouragement may be targeted towards the individuals undertaking the unconsented activity as well as others who may be jointly-liable or vicariously-liable for their conduct – such as landholders or supervisors. Industry bodies are not liable for the conduct of individual members. However, the regional council will encourage industry bodies to improve compliance amongst their members and to control their members conduct if need be.

Where appropriate the regional council will also use regulatory enforcement methods to direct or discourage an individual's behaviour. *Directive instructions* or *punitive penalties* may be appropriate within groups where methods to encourage behaviour are likely to be ineffective. Blanket monitoring may be undertaken as part of an enforcement program for the purpose of identifying non-complying unconsented activities and to enable *directive instructions* or *punitive penalties* to be issued to the individuals responsible. However, decisions to issue *punitive penalties* or *directive instructions* to individuals are made on a case-by-case basis and are outside the scope of this document.



**Figure 7: Example of methods to enforce the rules**



The regional council will review the appropriateness of enforcement programs every 3 years and this may result in their continuation, cessation or amendment. Monitoring results, from group monitoring programs, will be used in reviews to establish the effectiveness of programs in changing the behaviour within groups.