

### OVERVIEW | *Whakarāpopototaka*

This Enforcement Strategy and Prosecution Policy (ESPP) aims to provide an informative reference document for the public and Council staff, when Council is considering undertaking enforcement action in the Queenstown Lakes District.

### CONTENTS | *Rāraki take*

1	Introduction.....	2
1.1	What does Queenstown Lakes District Council (QLDC) do?.....	2
1.2	What is the purpose of the Enforcement Strategy and Prosecution Policy (ESPP)?.....	3
1.3	The ESPP in the context of QLDC’s regulatory functions.....	3
2	Self-compliance through to enforcement.....	3
2.1	What are QLDC’s goals and desired outcomes?.....	3
2.2	How does the strategy work?.....	3
2.3	What enforcement options are available?.....	7
3	Prosecution Policy.....	7
3.1	Introduction.....	7
3.2	Solicitor General’s Prosecution guidelines.....	7
3.3	Queenstown Lakes District Council’s prosecution decision making framework.....	7
3.4	Disclosure and requests under the Local Government Official Information and Meetings Act 1987.....	8
3.5	Conduct of prosecution.....	8
3.6	Policy owner.....	9
3.7	Other relevant policies and documents.....	10
4	Appendices.....	11
	Appendix 1 – Enforcement Options	
4.1	Alcohol Licencing and Monitoring.....	12
4.2	Animal Control.....	15
4.3	Building.....	18
4.4	Environmental Health.....	20
4.5	Litter.....	24
4.6	Local Government Assets.....	26
4.7	Parking.....	28
4.8	Reserves.....	30

4.9	Resource Management Act- General.....	32
4.10	Resource Management Act- Noise.....	34
4.11	Waterways .....	36

## 1 INTRODUCTION | *Whakatakika*

We aspire to be a community that holds true to the values that collectively define what is unique about Queenstown Lakes District – our home. Our mission, values and culture, and vision are copied below;



### 1.1 WHAT DOES QUEENSTOWN LAKES DISTRICT COUNCIL (QLDC) DO?

Queenstown Lakes District Council is responsible for the administration and regulation of a wide range of functions across the District. The primary purpose of these functions is to protect the public, the environment and groups, such as residents. QLDC is responsible for promoting, monitoring and enforcing various legislation. These include, but are not limited to, the following:

- Local Government Act 2002
- Resource Management Act 1991
- Building Act 2004
- Sale and Supply of Alcohol Act 2012
- Food Act 2014
- Health Act 1956
- Litter Act 1979
- Dog Control Act 1996
- Reserves Act 1977
- Maritime Transport Act 1994
- Land Transport Act 1998
- Bylaws, Council plans and regulations

The Council endeavours to work with various stakeholders, statutory organisations, voluntary groups, individuals and non-governmental organisations to achieve high levels of compliance with the various regulatory requirements.

This Enforcement Strategy and Prosecution Policy (ESPP) sets out the general principles that guide QLDC in relation to its regulatory functions.

## 1.2 WHAT IS THE PURPOSE OF THE ENFORCEMENT STRATEGY AND PROSECUTION POLICY (ESPP)?

This Enforcement Strategy and Prosecution Policy (ESPP) aims to provide an informative reference document for the public and Council staff when Council is considering undertaking enforcement action in the Queenstown Lakes District.

This document promotes self-compliance as well as outlining Council's approach to undertaking enforcement action. When compliance is not achieved, that action encompasses education through to enforcement by legal means.

The enforcement options outlined in this document are considered alongside other important principles such as interagency collaboration, fairness and proportionate enforcement, to ensure that Council has a consistent and fair approach to enforcement.

The enforcement option of prosecution undertaken by the Council, or on its behalf (i.e. by the New Zealand Police), is to be conducted consistently with the prosecution policy, the Council's enforcement strategy, and the Solicitor General's prosecution guidelines.

This strategy and policy should be viewed alongside other relevant Council documents.

*Please note that this a general guidance document. The enforcement options outlined in this document are non-exhaustive and other considerations may be taken into account.*

## 1.3 THE ESPP IN THE CONTEXT OF QLDC'S REGULATORY FUNCTIONS

Prosecutions and enforcement actions are part of the regulatory context in which QLDC operates. QLDC's decisions in the prosecution and enforcement realm will be informed by levels of compliance generally in the region, as well as the goals, duties and responsibilities of QLDC.

## 2 SELF-COMPLIANCE THROUGH TO ENFORCEMENT | *Tūtohu whaiaro ki te whakauruhi*

### 2.1 WHAT ARE QLDC'S GOALS AND DESIRED OUTCOMES?

#### **Goal**

The Council's principal enforcement goal is:

*To increase the level of voluntary compliance with the law through effective and appropriate education or enforcement activity.*

## Outcomes

The outcomes that the Council endeavour to achieve are:

- A) *Our community complies with national and local legislation because they are well- understood and easy to comply with; and*
- B) *Our community is confident that Council will enforce laws in a timely, effective, and fair manner.*

## 2.2 HOW DOES THE STRATEGY WORK?

### Promoting Self-Compliance

Council has a focus on monitoring and preventing non-compliance to avoid undertaking any enforcement action. A high level of self-compliance reduces the cost and time to Council and rate payers of enforcing the law and allows for a District that reflects the community's expectations.

To foster a high level of self-compliance, we focus on ensuring:

- Concise and well-drafted bylaws that are easy to comply with;
- Where practicable, regularly communicating and providing education to the public on their statutory obligations (and the consequences for non-compliance). This may include publicising any regulations and any significant changes to the law, giving warnings of increased enforcement action and educating in the first instance where appropriate (recognising that ignorance of the law is no excuse for any offence committed);
- Targeting priority areas of compliance with specific campaigns or media articles;
- Providing access to the various legislation Council enforces on the QLDC website;
- Providing clear signage to ensure that the public is aware of any applicable restrictions;
- Where remedial action is required, explaining the reason why the action is necessary and when it must be carried out;
- QLDC exercises its discretion for enforcement action – including for minor or inadvertent offending, with the option to deal with such offending by way of warning and/or explanation before penalties are imposed.

Where self-compliance is not achieved in our District, Council may need to consider enforcement action through the general approach of education through to enforcement.

The model below outlines Council's general approach to enforcement:



Figure 1: The process of QLDC's Enforcement Strategy.

## Principles applied in approach to enforcement

### ***Proportionate Enforcement***

QLDC has finite budget and staff resources to meet all of its regulatory enforcement functions. The Council needs to determine the most effective and cost-efficient method of enforcement for each regulatory activity. In determining how best to enforce various legislation, Council officers will consider various factors, including (but not limited to):

- The seriousness of the offending, including the anticipated penalty;
- Nature and scale of harm caused by the offending;
- Whether there has been previous infringing/offending;
- Whether this offending is continued or repeated;
- Whether the offence is prevalent in the community;
- The cost of various enforcement options;
- Any mitigating factors of the offender;
- Whether offending was premeditated; and
- Steps taken by offender to remediate or mitigate harm.

Each case raised with QLDC is unique and the individual circumstances need to be considered on each occasion to achieve a fair and reasonable outcome.

### ***Responsive and effective***

Actively respond in an effective and timely manner in accordance with legislative and organisational obligations.

### ***Fairness***

In enforcing laws the QLDC should strive to conduct itself in a manner that is – and that the public perceive to be – fair and reasonable. This promotes public respect for the laws being enforced and increases levels of voluntary compliance. This can be achieved through:

- Consistency in enforcement;
- Ongoing education, and engagement with the public;
- Transparency in relation to the enforcement policies and priorities;
- Good use of judgement and discretion in determining the method of enforcement and (where applicable) suitable penalties; and
- Training to ensure that staff conduct themselves in a courteous, and professional manner consistent with the regulations/legislation that they are enforcing.

### ***Interagency collaboration***

QLDC will, when appropriate, work collaboratively with other agencies to achieve compliance. Some aspects of enforcement may involve agencies such as the New Zealand Police, external contractors and the Otago Regional Council. While the majority of enforcement action undertaken by QLDC will not require the use of other agencies, they may be engaged where collaboration is needed. Some examples of collaboration include:

- Collaborating with Police where there are safety risks to Council staff (e.g. aggressive behaviour) or where Police powers are required (e.g. seizure of property and alcohol monitoring).
- Collaborating with external contractors for matters such as after-hours noise, towing and maritime activities.
- Collaborating with Otago Regional Council for matters found by QLDC that are outside of the territorial authority's jurisdiction.

### 2.3 WHAT ENFORCEMENT OPTIONS ARE AVAILABLE?

There are a wide range of enforcement tools that are available which differ depending on the legislation in breach. Please refer to Appendix 1 on pages 12-37 for further details.

## 3 PROSECUTION POLICY | *Kaupapa Here Whakawā*

### 3.1 INTRODUCTION

Prosecutions are a serious response to non-compliance. Prosecutions should be used in a deliberate and considered manner to deter and denounce offending and hold the offender accountable for harm to the victim, environment and community caused by the offending.

Public confidence in the Council's administration of its enforcement duties relies on decisions to prosecute (or not to prosecute) being made in a transparent, consistent and fair manner.

Any prosecution undertaken by the Council or on its behalf (i.e. by the New Zealand Police) should be conducted consistently with this prosecution policy, the Council's enforcement strategy and the Solicitor General's prosecution guidelines.

### 3.2 SOLICITOR GENERAL'S PROSECUTION GUIDELINES

The Crown Law office has issued the Solicitor General's Prosecution Guidelines (SGPG) to assist regulatory agency prosecutors in exercising their discretion to prosecute criminal cases. The Council will be guided by that document in making decisions about conducting prosecutions.

The SGPG sets out a test for prosecutions. Prosecutions ought to be initiated or continued only if the prosecution test is met. There are two limbs to that test:

- The evidential test – whether the evidence that can be given in Court is sufficient to provide a reasonable prospect of conviction;
- The public interest test – whether prosecution is required in the public interest. Each aspect of the test must be separately considered and satisfied before a decision to prosecute can be taken. The evidential test must be met before the public interest test is considered.

### 3.3 QUEENSTOWN LAKES DISTRICT COUNCIL'S PROSECUTION DECISION MAKING FRAMEWORK

*Review by Prosecutor*

An investigation file will be referred to either a prosecuting solicitor or the New Zealand Police.

### *Decision to prosecute*

If a prosecutor is satisfied that both the evidential and public interest tests are met, a decision of “recommend prosecution” can be made, together with a list of the appropriate charges. This recommendation will be recorded in writing.

The prosecutor will refer this recommendation together with the investigation file to the Council officer in charge (i.e. the officer with delegated authority to file a charging document with the Court). That officer will exercise their discretion whether or not to commence a prosecution in conjunction with QLDC’s chief executive.

### *Decision not to prosecute*

If a prosecutor determines that there is insufficient evidence a “no prosecution” recommendation can be made. This recommendation will be recorded in writing.

If there is sufficient evidence to provide a reasonable prospect of conviction, the next consideration is whether a prosecution is in the public interest. Again, if not, a recommendation not to prosecute may be made. This will be recorded in writing.

A decision of “no prosecution” does not preclude a re-consideration of a case if new or additional information becomes available, or a review of the original decision is appropriate. In either case, the Council officer in charge will make a decision whether to accept the recommendation not to prosecute.

### *Charges*

If the officer has exercised their discretion to commence a prosecution, that officer will (with the assistance of the prosecutor) prepare and file a charging document.

The prosecutor will arrange for service of the charging document, together with a letter to the defendant. If any special procedure (such as obtaining the consent of the Solicitor General to lay charges) is required the prosecutor will make the necessary arrangements.

## **3.4 DISCLOSURE AND REQUESTS UNDER THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987**

Disclosure in criminal prosecutions is governed by the Criminal Disclosure Act 2008. Disclosure and withholding of information is to be determined in accordance with the requirements of that Act. The conduct of a Council prosecution also occurs in the context of the Local Government Official Information and Meetings Act 1987. The principle of availability applies except where that Act otherwise expressly requires, or there is good reason for withholding it.

## **3.5 CONDUCT OF PROSECUTION**

In the conduct of the prosecution, prosecutors are expected to consult closely with and take into account the views of the Council officer in charge of the prosecution but matters as to the conduct of the prosecution are matters for the prosecutor to decide.

Once charges have been filed and before the trial, the prosecutor should review the charges to determine whether to proceed on those charges or to amend to conform with the evidence, add other charges, or withdraw charges because they are no longer necessary in the public interest or not supported by the evidence.

The overarching duty of a prosecutor is to act in a manner that is fundamentally fair. The prosecutor must ensure the right to a fair trial is protected, and that victims and witnesses are treated with care and respect.

#### *Victims*

When conducting a prosecution, the role of the prosecutor is to act in the public interest, not in the capacity as an advocate for victims. However, a prosecutor must protect the victim's interests. The Victims of Crime – Guidance for Prosecutors sets out guidance to prosecutors on their obligations under the Victims Rights Act 2002 for dealing with the victims of crime including keeping the victim informed and taking into account the victim's views on significant decisions in the proceeding.

The prosecutor must make all reasonable efforts to make sure that information about relevant matters are ascertained from the victim. This includes injury or harm suffered through the offence, loss or damage to property, and any other effects.

The authorised enforcement officer is responsible for advising victims of the outcome of sentencing and fully explaining the reasons for the sentencing decision.

#### *Other Agencies*

It is common that behaviour which amounts to offending within the Council's sphere of regulation may result in investigation by other agencies. For example, the incident may constitute a breach of both the District Plan and the Regional Plan. Both the Council and the Regional Council may investigate the incident.

Where possible, the Council will work collaboratively with other agencies to achieve the objectives of the investigation in an expedient and cost efficient manner. It may be possible for agencies to share the costs of analyses, undertake joint witness interviews, or share the information held on investigation files with each other. Care is necessary to ensure that any collaboration does not compromise the integrity or the efficient conduct of the Council's investigation.

Council may, if it is considered practicable, obtain the views of other agencies prior to making its decision as to whether the public interest test for a prosecution is met. The Council may in its discretion consider those views when deciding if the public interest test for a prosecution is met, or in relation to the timing of any charges to be brought. For example, if another investigating agency is to lay more serious charges or duplicate charges, the public interest in the Council laying identical charges may be lower.

### **3.6 POLICY OWNER**

The Enforcement Strategy and Prosecution Policy are the responsibility of the Finance, Legal and Regulatory General Manager.

Please refer to QLDC's Register of Delegations and Terms of Reference found on [www.qldc.govt.nz](http://www.qldc.govt.nz) for information on Council's delegations to be applied in conjunction with this document.

### 3.7 OTHER RELEVANT POLICIES AND DOCUMENTS

#### *Policies, Guidelines, Practice Notes*

Media protocol for prosecutors, Crown Law Office, 1 July 2013  
Solicitor General's Prosecution Guidelines, Crown Law Office, 1 July 2013  
Victims of Crime – Guidance for Prosecutors, Crown Law Office, 1 December 2014  
Bail Practice Note (Bail Act 2000), 7 February 2002, Chief District Court Judge

#### *Legislation*

Victims Rights' Act 2002  
Bail Act 2000  
Criminal Procedure Act 2011

## 4 APPENDICES | *Kā Āpiti*

*Please note that this is a general guidance document. The enforcement options outlined within Appendix 1 are non-exhaustive and other considerations may be taken into account.*

*These appendices are intended as guidelines and since the date of adopting the policy there may be changes to the relevant legislation which affect these guidelines and how they are applied by QLDC. The latest versions of the legislation listed in this policy are available at [www.legislation.govt.nz](http://www.legislation.govt.nz).*

## 4 APPENDIX 1 – ENFORCEMENT OPTIONS | *Āpiti haka 1 - Kōwhirika Whakauruhi*

### 4.1 ALCOHOL LICENSING AND MONITORING

#### Legislation

- *Sale and Supply of Alcohol Act (SSAA) 2012*
- *Sale and Supply of Alcohol (Fees) Regulations 2013*
- *Alcohol Restrictions in Public Places Bylaw 2018*

#### Common breaches of this legislation

- Unpaid annual fees (s 287 of SSAA, regulation 16)
- Breach of Alcohol Restrictions in Public Places Bylaw 2018

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	The breach will be filed and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable for that breach.	Non-compliance with the formal warning may be considered if and when escalating enforcement action.	A formal warning may be appropriate any time there is a breach of the legislation (depending on the circumstances).
<b>Infringement Notice</b>	An infringement is a monetary fine imposed on an Individual/s and or companies.	<p>Receipt of infringement.</p> <p>Non-payment of the infringement Notice will result in the recipient being referred to court.</p> <p>An infringement notice will be filed and it will be taken into consideration in the future, if further noncompliance is identified.</p>	An infringement notice may be issued if there is a breach of the bylaw.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Suspension of licence (unpaid annual fees)</b>	If the annual fee prescribed in the regulations is not paid within 30 days of the day it is due is not paid then a licence is automatically suspended.	The licence holder is not able to sell or supply alcohol until the outstanding licence fees, and penalties payable, are paid in full.	Suspension is automatic by operation of law where the annual fees are overdue to be paid.
<b>Prosecution (Suspension or cancellation of licence for offences)</b>	The licensing agency can suspend or cancel a licence for certain offences (s 281).	<p>The licence holder is not able to sell or supply alcohol or has the licence cancelled.</p> <p>A suspension forms part of the history of non-compliance and may be considered if there are future incidents of non-compliance.</p>	Where there are offences relating to irresponsible promotion of alcohol, sales to minors, unauthorised sale or supply, sale or supply to intoxicated persons, or allowing people to become intoxicated.
<b>Prosecution (Suspension; Licence or Manager's Certificate)</b>	<p>A suspension application is processed through the Alcohol Regulatory and Licensing Authority (ARLA) to establish guilt or innocence. If appropriate, the authority will impose a period of suspension where the premises will be required to either close or not sell alcohol.</p> <p>Suspension of a manager's certificate (s 285) or a licence (s 280) are brought under the SSAA.</p>	<p>The licence holder will be suspended, and (depending on the offence) a finding or "negative holding" (s 288). A holding is put in place against a licence for a period of 18 months.</p> <p>A suspension forms part of the history of non-compliance and may be considered if there are future incidents of non-compliance.</p> <p>A negative holding also increases the premises risk rating score by 10 points for each holding (up to a maximum of 3). This increases the fees the licensee must pay for any renewal application or annual fees due within the 18 months for the life of the holding.</p>	<p>For managers – where the manager has failed to conduct a licensed premises in a proper manner, or the conduct of the manager is such to show that they are not a suitable person to hold a certificate.</p> <p>For licence holders – that the licensed premises has been conducted in breach of the Act or its licence, or otherwise in an improper manner, or the conduct of the licensee is such to show that they are not a suitable person to hold the licence, or that the premises are being used in a disorderly manner so as to be obnoxious to the neighboring residents or public.</p>

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<p><b>Prosecution (Cancellation; Licence or Manager’s Certificate – Holdings)</b></p>	<p>An application for cancellation is made (which will also include the outcome of a further negative holding) where two existing negative holdings, within three years, have been received during a three year period.</p> <p>If appropriate, the authority will cancel a manager’s certificate or licence.</p> <p>S 289 (licence) &amp; s 290 (manager’s certificate) cancellation if 3 holdings received in three years (manager and premises). A case may also be serious enough that the three negative holdings are not required and a cancellation can be applied for.</p>	<p>If the Authority find that there is sufficient evidence, they will cancel a manager’s certificate or a premises licence.</p> <p>A licence cannot be applied for again for 5 years.</p> <p>A manager’s certificate can be applied for after 5 years.</p> <p>The person who has had their manager’s certificate cancelled cannot be appointed a temporary or acting manager for 5 years.</p> <p>The authority however may choose to grant the manager or licensee a further chance if there are 3 negative holdings and not cancel the certificate or licence, but impose a significant suspension period with a final warning that further breaches would indeed result in cancellation.</p>	<p>If the manager or licensee already has two negative holdings and have subsequently further breached the legislation or licence, by lodging a further application with the Authority, a cancellation application can be made if the outcome would be a third negative holding.</p>

## 4.2 ANIMAL CONTROL

### Legislation

- *Dog Control Act 1996*
- *Dog Control Bylaw 2020*
- *Local Government Act 2002*

### Common breaches of this legislation

- Dogs attacking persons or animals (s 57)
- Dogs rushing at persons, animals, or vehicles (s 57A)
- Dogs causing serious injury (s 58)
- Offence of failing to keep dog under control (s 53)

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	A file note will be recorded on the file of the dog and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable for that breach.	A file note will be recorded on the file of the dog and considered if any further offending occurs.  Non-compliance with the formal warning will be considered if and when escalating enforcement action.	A formal warning may be appropriate any time there is a breach of the legislation (depending on the circumstances).
<b>Penalty (at renewal time)</b>	A penalty is issued when payment of registration is not received by the due date.	A formal file note will be recorded on the file of the dog.  50% of the registration fee is added to the cost of registration.  Positive history will be removed from the animal for 2 years, which is a financial implication.	A penalty may be appropriate if the registration fees are not paid within the appropriate timeframes.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Infringement</b>	An infringement is a monetary fine imposed on an individual/s and or companies.	An infringement notice will be filed and it will be taken into consideration in the future, if further non-compliance is identified.  A formal file note will be recorded on the file of the dog.	An infringement may be appropriate any time there is a breach of the Dog Control Act (depending on the circumstances).
<b>Menacing Classification (s 33A)</b>	The dog is classified as menacing.  “Menacing” includes where a dog may pose a threat to any person, stock, poultry, domestic animal or wildlife because of its reported behaviour, or characteristics typically associated with the dog’s breed or type.	A formal file note will be recorded on the file of the dog.  Positive history will be removed from the animal for 2 years, which is a financial implication  Effects of menacing dog classification can be found in s 33E.	A classification may be appropriate any time there is a breach of the Dog Control Act (depending on the circumstances).
<b>Dangerous Classification (s 31)</b>	The dog is classified as dangerous.  “Dangerous” includes where a dog has attacked a person or animal, or rushes at persons, animals or vehicles in a certain manner.	A formal file note will be recorded on the file of the dog.  Positive history will be removed from the animal for 2 years, which is a financial implication.  Effects of dangerous dog classification can be found in s 32.	A classification may be appropriate any time there is a breach of the Dog Control Act (depending on the circumstances).
<b>Entry onto premises (for barking dogs – s 55)</b>	A dog control officer or dog ranger who receives a complaint about a barking dog and has reasonable grounds to suspect a nuisance may enter at any reasonable time on the land or premises (other than a house) on which the dog is kept to inspect the conditions in which the dog is kept.	Can be issued an infringement notice.	If a dog control officer or dog ranger has received a complaint and has reasonable grounds for believing the dog is creating a nuisance by loud barking or howling.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Abatement notice (for barking dogs – s 55)</b>	An abatement notice is issued to the owner requiring the remediation of barking within 7 days or as prescribed within the notice.	Gives 7 days to remediate the issue.  Infringements may be issued for breach of abatement notice.	An abatement notice might be appropriate where the dog control officer or dog ranger has reasonable grounds for believing the dog is creating a nuisance by loud barking or howling.
<b>Impounding/removal of dog (s 69)</b>	The dog is impounded/removed.	The dog is impounded/removed.  Fees associated with this enforcement option will be charged to the owner.	Non-compliance with barking dog notice with further complaint (s 56).  Removal of the dog is sought when an offence has taken place and if applicable, other enforcement options have been exhausted and/or considered.
<b>Disposal of dog (ss 64, 69, 71A)</b>	After written notice, or order of the Court, the dog is sold, destroyed, or otherwise disposed.	Within 7 days of the receipt of that notice, the dog may be sold, destroyed, or otherwise disposed of in such a manner as the territorial authority determines.  The sale, destruction, or other disposal of a dog under this section shall not relieve the former owner of the dog of the liability for the payment of any fees payable under this Act.	Disposal of the dog is appropriate when an abatement notice has been issued under the Dog Control Act and the nuisance has not been remedied.  Disposal of the dog is sought when an offence has taken place and there are no factors to minimise the future risk.
<b>Prosecution</b>	A prosecution is sought when an offence has taken place, serious injury has occurred and there are no factors to minimise the future risk.	If convicted, court must order the destruction of the dog unless there are exceptional circumstances.  A monetary fine is imposed by the court which varies depending on severity of instance.	A prosecution may be appropriate any time there is a breach of the Dog Control Act.

## 4.3 BUILDING

### Legislation

- *Building Act 2004*

### Common breaches of this legislation

- Unlawful building works undertaken where building consent is required (s 40)
- Non-compliance with Notices to Fix (NTF)

Action	Description	Potential Impacts on the Liable Party	When This Action Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered if and when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation (depending on the circumstances).
<b>Infringement</b>	An infringement is a monetary fine imposed on an individual/s and or companies. An infringement is issued when an offence under the relevant legislation has occurred.	Receipt of infringement and paying the infringement.  An infringement notice will be filed and it will be taken into consideration in the future, if further non-compliance is identified.	An infringement may be appropriate any time there is a breach of the Building Act (depending on the circumstances).
<b>Notice to Fix (NTF)</b>	A notice to fix is a formal written directive issued under the Building Act instructing an individual or company to remediate a breach of the Building Act or regulations under the Act. The form, content, and scope of a notice to fix is prescribed in statute.	A breach of a notice to fix is an offence under the Building Act.  The offender may then be liable to a fine of up to \$200,000 and a further fine of up to \$20,000 for each day or part of a day that the notice is not complied with.	A notice to fix may be appropriate any time there is a breach of the Building Act or regulations under the Act (depending on the circumstances).

Action	Description	Potential Impacts on the Liable Party	When This Action Might Be Appropriate
<b>Insanitary Building Notice</b>	An insanitary building notice is a formal written directive instructing an individual or company to remedy an insanitary building and/or restrict access to the building.	<p>A breach of an insanitary building notice is an offence under the Building Act.</p> <p>The offender may then be liable to a fine of up to \$200,000 and a further fine of up to \$20,000 for each day or part of a day that the notice is not complied with.</p>	An insanitary building notice may be appropriate any time that a building has been deemed insanitary under s 123 of the Building Act.
<b>Dangerous Building Notice</b>	A dangerous building notice is a formal written directive instructing an individual or company to remedy a dangerous building and/or restrict access to the building.	<p>A breach of a dangerous building notice is an offence under the Building Act.</p> <p>The offender may then be liable to a fine of up to \$200,000 and a further fine of up to \$20,000 for each day or part of a day that the notice is not complied with.</p>	A dangerous building notice may be appropriate any time that a building has been deemed dangerous under s 121 of the Building Act.
<b>Prosecution</b>	<p>A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions.</p> <p>All criminal evidential rules and standards must be met in a Building Act prosecution.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	A prosecution may be considered appropriate when the offence indicates that the matter is sufficiently serious to warrant the intervention of criminal law and the evidentiary and public interest tests are met.

## 4.4 ENVIRONMENTAL HEALTH

### Legislation

- *Food Act 2014*
- *Health Registration of Premises Regulations 1966*
- *Health Act 1956*
- *Healthy (Drinking Water) Amendment Act 2007*
- *Drinking Water Standards for NZ 2008*
- *Health Act (Hairdresser Regulations) 1980*
- *Waste Minimisation Act 2008*
- *Food Regulations 2015*
- *Camping-Grounds Regulations 1985*
- *Health (Burial) Regulations 1946*

### Common breaches of this legislation

#### Food Act 2014 and Food Regulations 2015

- Concerns regarding Food Safety and Suitability
- The premise failing to have the required registration in place

#### Health Act 1956

- Nuisance
- Insanitary Buildings

#### Food Act 2014

Action	Description	Potential Impacts	When This Might Action Be Appropriate?
<b>Education</b>	Food Safety Officers provide food safety coaching.	Registered on Titiro MPI online enforcement recording system and remains on registration records detailing education provided.	Assessed using VADE model (Voluntary, Assisted, Directed, Enforced)– this would be appropriate if no previous issues, it is considered low risk, it is not in public interest and operator is willing and able to comply.
<b>Warning Letter</b>	Formal letter – issued when improvement notice is not appropriate or warranted in the first instance.	Registered on Titiro MPI online enforcement recording system and remains on registration records detailing action taken. Failure to comply with the warning letter will result in escalated legal action being taken.	Assessed using VADE model – this would be appropriate if no previous issues and low risk/medium risk and when an improvement notice is not warranted.

Action	Description	Potential Impacts	When This Might Action Be Appropriate?
<b>Improvement Notice</b>	Under s 302, a Food Safety officer can issue an improvement notice where the officer reasonably believes that the person is failing or has failed to comply with one or more applicable requirements of the Act. This is a first level enforcement tool.	Registered on Titiro MPI online enforcement recording system and remains on registration records detailing action taken. Failure to comply with the Improvement Notice will result in further more serious legal action being taken.	Assessed using VADE model. Often used to ensure operator addresses food safety or suitability issues. May be served with a Notice of Direction.
<b>Infringement Notices</b>	Infringements issued for offences identified in the Food Regulations 2015.	Infringement fine and registered on Titiro MPI online enforcement recording system and remains on registration records detailing action taken.	Used for failure to register a food business. Importing without being a registered importer. Failing to display a label with prescribed information.
<b>Notice of Direction</b>	Formal notice to direct the operator – for instance power to interrupt operations, powers to seize condemn and require disposal and power to restrict use or close place.	Registered on Titiro MPI online enforcement recording system and remains on registration records detailing action taken. Failure to comply with the Notice of Direction will result in further more serious legal action being taken.	Assessed using VADE model. The Direction order is used to direct an operator to ensure the safety and suitability of food. May be served with an improvement notice. There are also powers under the Food Act to take, purchase and sample, to seize, condemn and require disposal.
<b>Powers to restrict use or close a place</b>	Serve notice to restrict or close a premise.	Registered on Titiro MPI online enforcement recording system and remains on registration records detailing action taken. Failure to comply with the notice will result in escalated legal action being undertaken.	If immediate food safety issues, or as result of not complying with other enforcement.
<b>Prosecution</b>	A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions.	A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation. A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.	A prosecution may be considered appropriate when the offence indicates that the matter is sufficiently serious to warrant the intervention of criminal law and the evidential and public interest tests are met.

**Health Act 1956**

<b>Action</b>	<b>Description</b>	<b>Potential Impacts</b>	<b>When this might action be taken</b>
<b>Warning letter</b>	Formal letter notifying of actions required to address the nuisance.	Non-compliance with the formal warning will be considered if and when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Nuisance – Abatement Notice</b>	Formal notice issued to address the nuisance.	Infringements may be issued for breach of abatement notice.	When the premises has been advised about the nuisance and been given opportunity to abate.
<b>Nuisance – Powers to abate without Notice</b>	Council takes action to abate the nuisance.	Infringements may be issued for breach of abatement notice.	Used for very serious health issues.
<b>Compliance Order</b>	Apply to the District Court to stop or prohibit an action.	<p>Would be an offence under the Act if the premise did not comply.</p> <p>Infringements and related costs may be issued to the premise.</p>	When an operator is not complying with any of the above actions.
<b>Prosecution</b>	A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions.	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of criminal law.

**Health (Registration of Premises) Regulations 1966**

(Registration of Offensive Trades, Hairdressers, Camping Grounds and Health (Burial) Regulations)

<b>Action</b>	<b>Description</b>	<b>Potential Impacts</b>	<b>When may this action be taken</b>
<b>Warning Letter</b>	Formal letter notifying of actions required to address the non-compliance.	Non-compliance with the formal warning will be considered when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Serving of Notice</b>	Notice to take remedial action – served when any premises does not comply with any enactment or with any condition of registration.	First notice to advise that the registration of the premises will be revoked unless the notice is complied with. Second notice requiring information on why the registration should not be revoked.	Served when the premises registered does not comply with the registration requirements.
<b>Revoking of the registration</b>	The registration is revoked.	The premise will be restricted from operating.  Infringements may be issued.	Non-compliance with the notice above.  Premises has no registration in place.

## 4.5 LITTER

### Legislation

- *Litter Act 1979*

### Common breaches of this legislation

- Depositing of litter in a public place (s 15)
- Dumping of commercial material in public rubbish bins

Action	Description	Potential Effects on the Liable Party	When This Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.  When insufficient details regarding the incident have been provided to Council.
<b>Formal Warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.  When insufficient details regarding the incident have been provided to Council.  Dependent on things such as the history of littering, volume of the litter, details received regarding incident.
<b>Litter Infringement Notice</b>	An infringement is a monetary fine imposed on an individual/s and or companies. An infringement is issued when an offence under the relevant legislation	Receipt of infringement and paying the infringement.  An infringement notice will be filed and it will be taken into consideration in the future, if further	An infringement may be appropriate any time there is a breach of the Litter Act.

<b>Action</b>	<b>Description</b>	<b>Potential Effects on the Liable Party</b>	<b>When This Might Be Appropriate</b>
	<p>has occurred.</p> <p>Infringement amount is determined by different factors including the volume of litter dumped.</p>	<p>non-compliance is identified.</p>	
<b>Notice requiring removal of litter on private land (s 10)</b>	<p>Council may serve on the occupier of any private land or of any land vested in or controlled by the crown or any local authority, a notice in writing requiring the occupier to the satisfaction of the officer to clear away, remove or clean up or screen, cover or otherwise obscure from view, such litter.</p>	<p>Occupier may commit an offence under the Act if they fail to comply with issued notice.</p> <p>Every person receiving a notice may object to the requirements of the notice on the grounds that the requirements are unreasonable.</p>	<p>When litter, in the opinion of Council, tends to grossly deface or defile the area in which the land is sited.</p>
<b>Notice ordering an area to be cleared (s 20)</b>	<p>The offender is ordered to clear up and remove the deposited litter within a certain period to the satisfaction of the court.</p>	<p>The offender may be liable to a fine not exceeding \$500 if the order is not complied with.</p>	<p>If the offender is convicted of an offence against s 10, s 15 or s 16.</p>
<b>Prosecution</b>	<p>A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of criminal law.</p>

## 4.6 LOCAL GOVERNMENT ASSETS

### Legislation

- *Local Government Act (LGA) 2002*

### Common breaches of this legislation

- Damage to Council assets (eg. road reserves and storm water infrastructure).
- Breach of bylaws

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal Warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Recovering Costs</b>	Recovery of costs associated with the offence is sought from the offender.	The offender will receive an invoice.	When a person wilfully or negligently destroys, damages, stops, obstructs, or otherwise interferes with any works or property owned, constructed, acquired, or used by a local authority.
<b>Prosecution</b>	A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions.	A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.  A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.	A prosecution may be considered appropriate when the offence is sufficiently serious to warrant the intervention of criminal law.

*Local Government Act – Bylaws*

Bylaws are created under the Local Government Act 2002 to reduce nuisance effects on general public. Each bylaw has different enforcement provisions available.

Please find a list of all bylaws on our QLDC website, or alternatively, contact QLDC for more information.

## 4.7 PARKING

### Legislation

- *Land Transport Act 1998*
- *Land Transport (Road User) Rule 2004*
- *Local Government Act 2002*
- *QLDC Traffic and Parking Bylaw 2018*

### Common breaches of legislation

- Stationary Vehicle Offences
- Expired Registration and Warrant of Fitness
- Abandoned Vehicles

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
<b>Education</b>	<p>Education involves explaining the nature of the breach that has occurred under the relevant legislation.</p> <p>Usually a flyer would be attached to a vehicle. There may also be a media release, if it is deemed appropriate.</p>	<p>This will be recorded against the offender and considered if any further offending occurs.</p>	<p>If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance (depending on the circumstances).</p> <p>Education is usually provided with any new parking restrictions and to notify the public on bylaws that are in place.</p>
<b>Formal warning</b>	<p>Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.</p>	<p>Non-compliance with the formal warning will be considered if and when escalating enforcement action.</p> <p>If formal warning is ignored an infringement may be issued.</p> <p>There can be an opportunity for the offender to rectify.</p>	<p>Formal warning may be appropriate any time there is a breach of the legislation.</p> <p>A formal warning can be issued for vehicles with an expired WOF and/or Registration.</p>
<b>Infringement</b>	<p>An infringement is a monetary fine imposed on an individual/s and or companies. An infringement is issued when an offence under</p>	<p>Receipt of infringement and payment of infringement.</p> <p>An infringement notice will be filed and it will be taken into consideration</p>	<p>An infringement may be issued any time there is a breach of the Land Transport Act (depending on the circumstances).</p>

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
	the relevant legislation has occurred.	in the future, if further non-compliance is identified.	
<b>Removal and Disposal of Vehicle</b>	A vehicle may be towed if it is considered 'inconsiderate' or 'abandoned' by the Parking team.	<p>There is a towing fee.</p> <p>There may be storage fees.</p> <p>The vehicle may be disposed of if it is not claimed.</p> <p><i>Please contact our Parking team for more information on applicable fees.</i></p>	<p>A vehicle may be moved if it is inconsiderate to other road users (e.g. dangerous, blocking access).</p> <p>A vehicle may be removed from the road if it is legally 'abandoned' (Local Government Act 2002).</p>
<b>Prosecution</b>	<p>If a fine is not paid within the specified time period, this will be sent to court for prosecution.</p> <p>An offender may choose to have a court hearing, if they dispute the offence.</p>	There are additional fees to be paid (e.g. court costs).	<p>Prosecution can happen any time a fine is not paid within the specified time period.</p> <p>A hearing will generally happen if an offender wants to dispute the offence.</p>

## 4.8 RESERVES

### Legislation

- *Reserves Act 1977*
- *Reserves (Infringement Offences) Regulations 2019*

### Common breaches of this legislation

- Damage to Council reserves
- Planting on reserves
- Occupation of reserves

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal Warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Infringement</b>	An infringement is a monetary fine imposed on an individual/s and or companies. An infringement is issued when an offence under the relevant legislation has occurred.  Schedule 2 of Reserves (Infringement Offences) Regulations 2019 relevant.	Receipt of infringement and paying the infringement.  An infringement notice will be filed and it will be taken into consideration in the future, if further non-compliance is identified.	Any breaches of Section 105B of the Reserves Act 1977.
<b>Prosecution</b>	A prosecution is a process taken through the criminal courts to establish guilt or innocence and, if appropriate, the court will impose sanctions.	A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.  A prosecution forms part	A prosecution may be considered appropriate when the offence is sufficiently serious to warrant the intervention of criminal law.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
		of the history of non-compliance and will be considered if there are future incidents of non-compliance.	

## 4.9 RESOURCE MANAGEMENT ACT (RMA) 1991 (EXCLUDING NOISE)

NB: Please note that the RMA requires territorial authorities to create and implement a District Plan to assist in carrying out the territorial authority's functions in order to achieve the purpose of this Act.

### Common breaches of this legislation

- District Plan rule breaches:
  - Breach of earthworks standards within District Plan
  - Number of flats/units exceeding what is permitted within the Zone
  - Commercial activity operating from residential properties
- Non-compliance with resource consent conditions
  - Environmental Management Plan (EMP) related conditions (dust and sediment leaving site, failing to submit an EMP)

Action	Description	Potential effects of liable party	When this action might be appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered if and when escalating enforcement action.  No further action will be taken in respect of that breach.  However, the warning forms part of a history of non-compliance and will be considered if there are future incidents of non-compliance.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Infringement</b>	An infringement is a monetary fine imposed on individual(s) and or companies. An infringement is issued when an offence under the relevant legislation has occurred.	Receipt of infringement and paying the infringement.  An infringement notice will be filed and it will be	An infringement may be appropriate any time there is a breach of the RMA.

Action	Description	Potential effects of liable party	When this action might be appropriate
		taken into consideration in the future, if further non-compliance is identified.	
<b>Abatement notice</b>	<p>An abatement notice is a formal, written direction that there has been a contravention of the RMA.</p> <p>The notice instructs an individual or company to comply with the RMA and will outline the steps required to gain compliance. Usually it includes requiring an activity to cease, requiring the offender to take action or prohibiting an activity.</p>	<p>A direction given through an abatement notice is legally enforceable.</p> <p>To breach an abatement notice is to commit an offence against the RMA and it can lead to further enforcement action.</p> <p>These notices can be appealed by the recipient.</p>	<p>An abatement notice may be appropriate for example when Council has previously educated and requested the offender take action and/or cease an action within a certain time frame and this has not been complied with.</p>
<b>Enforcement Order</b>	<p>An enforcement order can direct a party to take particular action (similar to abatement notice). An application for an enforcement order must be made to the Environment Court, but can also be made during the course of an RMA prosecution.</p>	<p>A direction given through an enforcement order is legally enforceable.</p> <p>To breach an enforcement order is to commit an offence against the RMA and it can lead to further enforcement action.</p>	<p>An application for an enforcement order may be appropriate any time there is a risk of further breaches of environmental regulation, or remediation or mitigation is required because of non-compliance.</p>
<b>Prosecution</b>	<p>A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions. RMA matters are heard by a District Court Judge with an Environment Court warrant.</p> <p>All criminal evidential rules and standards must be met in an RMA prosecution.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of criminal law, as well as the evidential and public interest tests being met.</p>

#### 4.10 RESOURCE MANAGEMENT ACT 1991 – NOISE

Common breaches of this legislation

- Loud stereo noise
- Excessive and/or unreasonable activities causing noise

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered when escalating enforcement action.	Formal warning may be appropriate any time there is a breach of the legislation.
<b>Excessive Noise Direction (END)</b>	An END is a formal written directive instructing an offender to cease the excessive and/or unreasonable noise.	The offender must cease the excessive noise for 72 hours.  A breach of an END is an offence against the RMA and may result in the offending equipment to be seized.	An END may be appropriate any time there is determined to be excessive and/or unreasonable noise.
<b>Abatement Notice to Abate Excessive Noise</b>	An abatement notice is a formal, written direction that there has been a contravention of the RMA.  The notice instructs an individual or company to comply with the RMA and will outline the steps required to gain compliance. Usually it includes requiring an activity to cease, requiring the offender to take action or prohibiting an activity.	To breach an abatement notice is to commit an offence against the RMA and it can lead to further enforcement action.	An abatement notice may be appropriate for example when Council has previously educated and requested the offender take action and/or cease an action within a certain time frame and this has not been complied with.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate?
<b>Prosecution</b>	<p>A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions. RMA matters are heard by a District Court Judge with an Environment Court warrant.</p> <p>All criminal evidential rules and standards must be met in an RMA prosecution.</p>	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	<p>A prosecution may be considered appropriate when the factors listed above indicate that the matter is sufficiently serious to warrant the intervention of criminal law as well as the evidential and public interest tests are met.</p>

## 4.11 WATERWAYS

### Legislation

- *Maritime Transport Act 1994*
- *Shotover River Bylaw 2015*
- *Navigation Safety Bylaw 2019*

### Common breaches of this legislation

- Using Shotover River Concession Area without permit
- Operating in Shotover River Concession Area contrary to permit
- Failing to wear a life jacket on a vessel less than 6 metres in length

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
<b>Education</b>	Education involves explaining the nature of the breach that has occurred under the relevant legislation/bylaw.	This will be recorded against the offender and considered if any further offending occurs.	If a minor offence has occurred, or there are mitigating factors, education may be appropriate in the first instance.
<b>Formal Warning</b>	Formal warnings can be verbal or written warnings that identify to the offender that a breach of the relevant legislation has occurred and that they are liable.	Non-compliance with the formal warning will be considered when escalating enforcement action.  Warnings can be registered against an offenders name and considered when determining enforcement action for any potential future non-compliance.	Formal warning may be appropriate any time there is a breach of the legislation.  Any breaches of the related clauses of the relevant Bylaws. Minor in nature breaches and first time offenders.
<b>Infringements</b>	An infringement is a monetary fine imposed on an individual/s and or companies. An infringement is issued when an offence under the relevant legislation has occurred.	Receipt of infringement and paying the infringement.  An infringement notice will be filed and it will be taken into consideration in the future, if further non-compliance is identified.	An infringement can be deemed appropriate to issue when an individual contravenes any of the infringement provisions listed under the offences and fees schedule.

Action	Description	Potential Effects on the Liable Party	When This Action Might Be Appropriate
		Financial penalty outlined within the infringement offences and fees.	
<b>Prosecution</b>	A criminal prosecution is taken to establish guilt or innocence and, if appropriate, the court will impose sanctions.	<p>A successful prosecution will generally result in a conviction, a penalty imposed, and consideration to costs of the investigation.</p> <p>A prosecution forms part of the history of non-compliance and will be considered if there are future incidents of non-compliance.</p>	A prosecution may be considered appropriate when the offence is sufficiently serious to warrant the intervention of criminal law and the evidential and public interest tests are met.