

# **Environmental Protection Authority**

## **Quarterly Performance Report to the Ministers**

**From 1 April to  
30 June 2020**

## Introduction

1. This report for the period 1 April to 30 June 2020 covers:
  - Delivering on the Letter of Expectations
  - Delivering on our strategy
  - General update
  - Financial overview.

## Delivering on the Letter of Expectations

### High-level priorities

#### **Increasing focus on Compliance, Monitoring and Enforcement**

2. The new operating model effective from 1 March 2020 established a permanent Compliance, Monitoring and Enforcement (CME) group and General Manager Compliance, consolidating all CME functions under one group.
3. Work is under way within the group to establish the 'One CME' approach with an initial focus on design and development at a:
  - strategic level (Statement of Intent, Letter of Expectations, consideration of New Zealand Transport Agency and recent WorkSafe reports applying learning to inform design);
  - operational level (policies, learning and development programme, functional alignment, warranting); and
  - tactical level (workflow management, recruitment).

Additional detail is presented in the CME 23 July 2020 Board paper.

#### **Hazardous substance compliance**

4. Audit reports on Waikato Public Health Unit, Toi Te Ora Public Health and Mid Central Public Health Service have been issued to the respective public health units and are due to be published on the EPA website. The EPA has requested action plans to be provided to address the non-conformities.
5. AgResearch was issued with an advisory letter in April 2020 regarding the late notification of a containment approval field trial.
6. The monthly reports submitted to the EPA as requested by Bayer New Zealand's compliance order continue to be reviewed, with any identified issues followed up.

7. During this period, the team has received and responded to 92 enquiries regarding hand sanitiser, including notifications of potential non-compliances, and questions from users and importers/manufacturers. In response, a guide for hand sanitiser importers and manufacturers was published on the EPA website in late April 2020. We are currently investigating several allegations of potential non-compliance with hazardous substance new organism (HSNO) requirements in relation to hand sanitisers.
8. The EPA is compiling information from the 2019 aerial 1080 post-operation reports, provided by aerial 1080 operators, to draft the 2019 annual report on these operations.
9. The EPA has concluded its investigation on the alleged misapplication of 1080 on Pell Stream Hut during the 2019 Te Maruia operation. As a result, the EPA issued an advisory letter to the Department of Conservation (DOC) and a warning letter to Beck Helicopters, which dropped the 1080 during this operation.
10. As a result of this intervention, DOC advised us that the warning letter to the helicopter company has been taken seriously by the industry, and has generated concerns among helicopter companies working for DOC about their obligations and the potential penalties under the HSNO Act 1996. DOC plans to continue speaking with helicopter operators about the importance of complying with HSNO controls. We will continue to support DOC with this. Working with DOC through their existing relationships allows the EPA to reach duty-holders otherwise more challenging to identify and engage.

### **Land and ocean compliance**

11. During this reporting period, the EPA completed the following land and ocean compliance activities:
  - Opened two investigations, completed nine investigations and progressed 14 investigations into incidents of potential non-compliance in the Exclusive Economic Zone (EEZ). This resulted in the issue of seven advisory letters and two warning letters.
  - Assessed compliance of 16 oil record-books, two dredge trip reports, one discharge report, one dredge sampling methodology, and one dredge sampling results report with the EEZ Act 2012 and associated consents. Educational advisory letters were issued relating to two oil record books where non-compliance was identified.
  - Assessed two marine scientific activity projects, and one space-vehicle launch under the permitted activity regulations. Both were compliant.
  - No physical inspections were conducted in the period due to COVID-19 travel restrictions.
12. The ongoing investigation into an oil spill from the Tui field in November 2019 saw an abatement notice served, which remains in place, preventing further use of the subsea infrastructure until the abatement notice conditions are met. Six additional abatement notices were issued in March 2020 to Tamarind (in liquidation and in receivership), BW Offshore (BWO) Singapore as the owner of the floating production storage and offloading (FPSO) Umuroa, and an employee of BWO. The abatement notices were to stop unlawful disconnection of the FPSO. Tamarind has subsequently been liquidated

and the FPSO remains connected to the subsea assets. BWO is appealing the abatement notices issued to them, and a hearing has been set for 24 August 2020 in the Environment Court.

### **Emissions Trading Scheme compliance**

13. The Emissions Trading Scheme (ETS) Compliance team received a number of enquiries regarding relief from surrender obligations as a result of COVID-19, including two participants who advised they would fail to meet their obligation to surrender units before the deadline.
14. Eight non-forestry ETS participants failed to surrender units to meet obligations by the 2 June 2020 deadline. These participants may be required to pay an excess emissions penalty following an assessment and application of a possible reductions in penalties under section 135 of the Climate Change Response Act (CCRA) 2002.
15. During the ETS reporting period from 1 January to 30 April 2020, 87 applications for Industrial allocations were received. 8.4 million units were transferred as a result of these applications.
16. The ETS Compliance team is investigating two matters relating to the importing of Synthetic Greenhouse Gases (SGG). Specifically, a potential failure to meet reporting obligations under the CCRA, and a potential failure to use appropriate tariff codes for the importing of goods containing SGGs.

### **Interim Resource Management Act Enforcement Unit**

17. Following passage of the Resource Management Act (RMA) Amendment Bill, the Unit is finalising the following processes:
  - establishment of an infringement notice payment system and electronic referral of unpaid infringement notices to the Ministry of Justice
  - an EPA Delegation of Authority for RMA functions
  - RMA warrant content
  - webpages to inform the public and local authorities on how to engage with the EPA.
18. In this reporting period, the Unit assisted with the following activities:
  - an independent review of a forestry investigation case file for a regional council
  - an investigation related to dumping of waste for a regional council
  - carried out a review of an investigation for another enforcement agency.
19. The Unit also engaged with a regional council on a possible review of an RMA investigation where there was a potential conflict of interest. The Unit also presented to the Society of Local Government Managers on the role of the EPA under the RMA Amendment Bill and contributed to a newsletter they circulate to their members.

## **Maintaining fiscal responsibility**

20. The Statement of Performance Expectations 2020/21 was delivered to responsible Ministers and published on the EPA website in late June 2020.
21. The EPA's financial sustainability is closely monitored, with regular internal reporting to management and the Board. This includes forecasting of the cash flow position into future years. The second of our two annual financial reforecasts was completed in April 2020, and the 2020/21 financial budget was approved by the Board on 11 June 2020. As an organisation, the EPA is taking a cautious and measured approach to managing our cash flows and financial position. Our reforecast and 2020/21 financial budget reflects these conservative measures.

## **Managing the Programme of Work**

22. Active projects are the Hazardous Substances Modernisation Programme (HSMP), Mātauranga Māori Programme, ETS CCRA 2020 Update project and the environmental DNA project (eDNA).
23. The post-implementation review of the Te Rito (HR System) project is now being finalised after timelines were adjusted in response to the COVID-19 lockdown.
24. The Project Management Office addressed recommendations from the KPMG Review of Programme Governance and Project Management. Stakeholders are reviewing the recommendations and collateral of the Benefit Management Framework.
25. The Project Management Office has engaged an external supplier to evaluate the governance terms of reference. Feedback is being gathered before recommendations are advanced.

## **Working with iwi/Māori**

### **Te Herenga**

26. Following Rāranga-tahi, the EPA's Te Herenga national hui that was held from 11 to 12 March 2020 at Takapūwāhia Marae, Porirua, our focus has been on reviewing the feedback received. This has included ideas for shaping the way we will engage with our Te Herenga network in the future. The feedback will also inform a planned review of Te Herenga that will be undertaken by Ngā Kaihautū Tikanga Taiao in 2020/21. The following are some of the ideas being explored:
  - appoint rangatahi ambassadors
  - facilitate more opportunities for rangatahi to intern with the EPA and other government agencies
  - use Zoom to hold more wānanga with our Te Herenga members
  - facilitate the use of eDNA technology for monitoring around the country.

### **Mātauranga Programme**

27. The programme was on track prior to lock down on 26 March 2020. Subsequently, we reviewed and re-planned the activities that were due for completion between April and June 2020, and sought agreement from the programme's governance group to defer delivery to 2020/21.

28. We are preparing to launch the EPA's Mātauranga Framework on 16 July 2020 with an online event. The documents to be publicly launched are: an A3 of the framework, a guide to its use and a report on its development. The launch event will be followed with a webinar at a later date to explain how the framework could be used as part of the EPA's decision-making processes.
29. Draft reports were received on three key pieces of work: Monitoring and Evaluation, Cultural Capability Building and a research paper on Māori values and risk at the end of June 2020, previously due end of April 2020. We now plan to report to the Board on the monitoring and evaluation project in September 2020, once feedback from EPA business groups has been incorporated into the paper.
30. Two training modules have been developed for Cultural Capability Building. However, completion of the process to test the training with select staff, incorporate feedback from testing to refine the modules, and deliver to a select group of ten decision-makers has been deferred to December 2020. We will also explore online delivery options alongside the original proposal for face to face workshops.
31. Further development of the draft risk research paper on how Māori values around risk may inform the EPA's risk assessment process has been deferred to 2020/21. An EPA working group has been formed to co-author the paper, with the intention of submitting a final draft for publication in a credible, peer reviewed journal by December 2020. The final paper will also inform aspects of Cultural Capability Training.

### **He Whetū Mārama**

32. During the COVID-19 lockdown, face-to-face te reo classes were suspended, however, a smaller number of sessions continued with staff online via zoom. Online delivery will remain a feature of the coming months, though we intend for the full range of te reo modules to be available again by mid-July 2020.
33. Face-to-face staff workshops and presentations were replaced with weekly articles on our intranet, Kōrero, from our Māori Learning Advisor. These covered a range of subjects, including: cultural concepts, whakataukī or sayings with an explanation of their history, mātauranga and its influence on daily life and recorded sessions to help people learn waiata. The articles proved popular, and planning is underway to make them a regular feature of our He Whetū Marama capability programme
34. The April 2020 training module, *Working with Māori*, for warranted EEZ and HSNO compliance officers, was delivered using Zoom. Assessments were completed in May 2020, with a high standard of presentations from officers. The training is designed to support better understanding of the principles of the Treaty of Waitangi principles, Māori cultural concepts such as kaitiakitanga, manaakitanga and whakapapa, and the practical application of He Whetu Marama to the work of the EPA. We have also begun to upload the training material to Te Rito, ready for when the learning management system module comes online.

## Operational expectations

### Improving hazardous substances – reassessments and chemical modernisation

#### Hazardous substances reassessment

35. The methyl bromide reassessment continued. Expert conferences were held on 30 January 2020, 19 March 2020, and 18 June 2020 to discuss and agree on parameters for air-dispersion modelling. The Decision-making Committee (DMC) directed the applicant to complete the modelling. The applicant set the timeframe for this to occur, with the hearing now taking place in August 2020. The applicant has requested a time waiver on the recapture control for six months. The DMC sought feedback from the parties and has granted the request.
36. Submissions closed on the 2015 Chemical Review. There were five submissions, with none wanting to be heard. The application is under consideration by the DMC, with the decision expected early July 2020.
37. The EPA is progressing work on the reassessment of synthetic pyrethroids. Grounds to reassess synthetic pyrethroids were granted by a DMC in October 2018. Public notification of the reassessment of synthetic pyrethroids is tentatively scheduled for the second half of 2020.
38. The EPA-initiated grounds to reassess neonicotinoids were granted by a DMC in December 2019, and notified on the website on 27 January 2020. The EPA reassessment is planned to run at the same time as the Australian Pesticides and Veterinary Medicines Authority review of neonicotinoids, and we will look at opportunities to work together on some technical aspects of the assessment. The EPA opened a call for information in 2018 for three of the five neonicotinoids being considered by the Australian Pesticides and Veterinary Medicines Authority. The EPA has opened a call for information for the other two neonicotinoids that will close on 12 July 2020.
39. The EPA-initiated reassessment of benzalkonium chlorides was decided 20 May 2020. This revised the hazard classifications for this family of surfactants.
40. Grounds to reassess hydrogen cyanamide were established in September 2019 as part of an external application. The EPA called for information in late January 2020, which will further aid in completing the Chief Executive-initiated application to reassess. The call for information was extended until 29 May 2020 due to the COVID-19 lockdown. The call for information process has now closed, with 12 responses received. The EPA is now reviewing this information as part of preparing an application to reassess hydrogen cyanamide.
41. A grounds application for chlorpyrifos and chlorpyrifos-methyl has been lodged by the EPA. Chlorpyrifos is on the EPA's priority chemical list.

## Hazardous substances modernisation

42. Chemical Map – The Chemical Map Phase 1 was completed, and the project will be handed over to the Science and Strategy team from July 2020 to assess and define a Phase 2.
43. Globally Harmonised System (GHS) implementation project – in early June 2020 the EPA released a second GHS consultation document to seek feedback on proposals relating to updating HS approvals and group standards to transfer their current HSNO classifications to GHS classifications. The closing date for comments is 4 August 2020. The consultation document includes a copy of the submissions analysis report from our consultation released in October 2019, which provides recommendations on the October 2019 proposals related to adopting GHS.
44. Notices are planned to be presented to the Board for consideration and issue in September 2020. Process planning continues around the reissue of 3,500 approvals.
45. HS Database Replacement – requirements for the 2020 IUCLID release, due in October 2020, were provided to the European Chemicals Agency in May 2020. Design work began with the New Zealand-based supplier for reporting, data migration and publishing. A project schedule review is under way and business readiness/transition to BAU and business process definition activities are being confirmed with the EPA team.
46. Quality Management System (QMS) – re-scoping QMS projects for FY20/21 as a result of the scale down between 19 March and 30 June 2020 is in progress with initial discussion with business owner and programme manager held in late June 2020.

## Sustainability

47. The Toitū Carbon reduce programme is continuing its natural course. One of the immediate actions taken by the EPA in response to COVID-19 was to stop all international travel, and this was followed subsequently by the cancellation of all domestic travel. The international travel ban is likely to be in place for the foreseeable future, which should in turn reflect positively against our emission reduction targets. Domestic travel will be assessed on a case-by-case basis in 2020/21. Remote working from home arrangements, which involve holding virtual meetings and working with softcopy documentation have been effective to date.

## Delivering on our strategy

### One EPA

#### Raising the EPA's profile

48. Key social media statistics for the quarter are:
  - Total Facebook reach (number of users who viewed our content on Facebook) was 264,648 – a slight decrease from the previous quarter (287,934).

- There were 17,392 total Facebook engagements (people who actively engaged with our Facebook content – reactions, comments, post clicks, shares, and engagements from shares) – an increase of 54% from the previous quarter (11,259).
- The post with the highest reach (21,079) was the Safer Homes post about flea treatment.
- The post with the highest total engagement (1,357) was the World Environment Day post relating to eDNA.
- The EPA has 2,583 Facebook followers – an increase of 11.8% from 31 March 2020 (2,310).

49. Other public and media information:

- We published 22 media releases and news articles on our website, covering topics including approval of the new insecticide Vayego, Beach Energy's marine discharge application, and consent approval for OMV for activity in the Tui oil field.
- Media pick-up included the call for information on two additional neonicotinoids; consent being granted for the scuttling of the fire-ravaged vessel Dong Won; and grounds being established to reassess 18 HS, including tea tree oil (acting General Manager of HSNO, Clark Ehlers was interviewed by Newstalk ZB for bulletin stories).
- James Doherty, kaumatua and member of Ngā Kaihautū Tikanga Taiao (Ngā Kaihautū), the EPA's statutory Māori advisory committee, was interviewed by Waatea News following our media release congratulating him on being made an Officer of the New Zealand Order of Merit. He spoke about the development of the EPA's mātauranga programme. Mr Doherty and fellow NKTT member Dr Daniel Hikuroa will feature in our launch of the programme, which will include a media release and video content, in July 2020.
- There has been continued interest in the EEZ, with stories on the Court of Appeal's decision to dismiss Trans-Tasman Resource's appeal against a High Court judgment quashing its mining consents; the situation involving BW Offshore and its floating oil production facility in the Tui oil field; and the High Court ruling on the Coastal Resources Limited dumping consent. Ports of Auckland's application to Auckland Council to dredge Rangitoto shipping channel has renewed interest in the granting of its consent to dispose of the dredged sediment 50 km east of Cuvier Island. We are working to ensure that links to relevant background information, including fact sheets about EEZ consenting processes, are included in our public-facing communications.

## Customer centricity

50. During the past six months the EPA engaged a company called Big Ears to host a system enabling EPA teams to undertake frequent and tailored surveys among various customer groups.

- The automated system allows for collection, analysis and reporting of customer feedback from customers that have engaged with the EPA's services. While reports will be about particular customer segments, the data can be aggregated across the EPA to provide a snapshot of overall performance in meeting customer needs. This data will enable EPA to identify and respond to issues and trends as they arise.

- After analysing past years' feedback from customers, the EPA has collated a clear view on its customers' needs at the One EPA level. In summary, customers require clear, current and relevant information; transparency of timeframes and progress; clarity of decision-making processes and decision rationale; and having engagements which are meaningful and add value.
- The ETS Operations team has been running surveys using the Big Ears tool since late 2019, and are gathering data on customers' experiences in using the New Zealand Emissions Trading Register (the Register). The feedback is being used to raise ideas for improvement with EPA's software provider for the Register.
- The customer feedback tool has been rolled out to other customer segments and responses are being received from these customers. More than 200 responses have been received so far, most of which relate to ETS activities.
- The EPA plans to roll out the survey system across all customer-facing activities in 2020/21. When all service groups are configured into the system, the EPA will be able to monitor movement in overall customer experience across the organisation.

51. To connect with the wider public the EPA has developed a 'what's important' survey and a quiz. These tools provide ways for us to connect with the wider public, providing people an opportunity to share their ideas and concerns with us directly, and to learn about our work.

52. An EPA-wide customer centricity maturity model was presented to the Board in May 2020. The EPA was independently assessed to be at an 'achieving' level. The maturity model covers capability development and operational implementation in three main customer centricity capability groupings:

- customer experience information that is collected to inform our practices
- customer-centred design activities undertaken to improve our customer experiences
- customer-centric leadership and practices undertaken in customer-facing teams.

## Consumer awareness

53. Due to COVID-19 restrictions, the EPA shifted its engagement focus to online channels, newsletters and social media. This included using Zoom meetings and webinars to share our work with community groups and stakeholders. We delivered Safer Homes presentations to community organisations via Zoom and a webinar for groups participating in the Open Waters Aotearoa eDNA programme. We are planning a webinar with iwi partners in July 2020 to celebrate the launch of our mātauranga Māori framework.

54. In May 2020, we renamed the EPA Safer Homes Facebook page to Environmental Protection Authority NZ. This new Facebook page still contains Safer Homes posts, but also a broader variety of content from across the EPA. This aligns with our proactive engagement approach. It helps the EPA tell its unique but diverse story to online communities globally.

55. We have developed the Safer Homes programme strategy for 2020/21. This focuses on communicating Safer Homes messages, working with other organisations, and building relationships with local authorities to share Safer Homes guidance.
56. We updated our brand guidelines to align with our new engagement approach. This includes guidance on tone of voice, examples and inspirations for public engagement events, a new icon library and updated guidance for photography.
57. Throughout June 2020, the EPA has been working on a campaign to promote and support Plastic-Free July alongside other government organisations.
58. The EPA continued the monthly radio slot with Turanga FM in Gisborne and quarterly slot with Radio Kahungunu in Hastings, promoting our Safer Homes messaging.

## Partnership plus

### Resource management review and COVID-19 recovery fast-track consenting

59. The Resource Management Review Panel chairperson and two panel members held a Zoom meeting with the EPA chairperson and members of the Executive Leadership Team to discuss their interim findings. The discussion particularly focused on the difficulties of the EPA being initially given large roles, however, then becoming marginalised over time; and the importance of role clarity. Regarding the latter, the EPA noted a lack of role clarity has been problematic regarding CME for HS. The panel will report to the Minister for the Environment and its report is likely to be published in August 2020. It is likely to cover future roles that may be proposed for the EPA.
60. The EPA participated in the inter-agency work, led by MfE, that supported the development of the COVID-19 Recovery (Fast-track Consenting) Act 2020. We also undertook preparatory work to enable us to be ready to support the expert consenting panels and the panel convenor, and to implement the fast-track consenting process.

## People potential

### Leadership capability

61. The ELT remained focused on leadership, including building a strong leadership and coaching culture. Internal promotions into new general manager roles, as well as other leadership roles, highlighted the commitment to developing our own talent.
62. Induction of new staff was conducted virtually during the COVID-19 lockdown, and a refreshed induction programme is in development.

## Organisational capability

63. The new operating model and structure became effective from 1 March 2020. Work on phase two has commenced post lockdown and the design phase involving evaluating the next level structure, roles and capabilities needed to deliver the EPA's strategy is near completion.
64. The 2020–2024 People Strategy “Our People” has been finalised and endorsed by the Performance and Remuneration Committee. A formal launch is scheduled for August 2020.
65. The Resourcing Strategy was also endorsed by the Performance and Remuneration Committee and a dedicated recruitment specialist was hired at the end of June 2020. The strategy takes a proactive approach to ensuring we have the right capability to deliver on our focus areas. The strategy and approved actions will have a phased implementation over the next 12 to 24 months, with a review planned for July 2021.

## General update

### Proactive regulator

#### Fire Fighting Chemicals Group Standard 2017 amendment

66. The proposed amendments provide for the phasing out of all fire-fighting foam products containing PFAS (per- and polyfluoroalkyl substances). Consultation on proposals to amend the Fire Fighting Chemicals Group Standard 2017 closed on 16 December 2019. Twenty submissions were received, with nine submitters indicating that they want to speak at a hearing. Overall, submitters supported the proposals, but the majority of submitters wanted the phase-out of C6 foams at the same time as C8 foams to be reconsidered or delayed, citing ongoing doubts about the effectiveness of alternative fluorine-free foams. A DMC has been appointed and a hearing was originally scheduled for 16 and 17 May 2020. However, due to the disruptions caused by COVID-19 and the requirement to comply with statutory timeframes, the hearing was postponed. The new hearing date is likely to be in August 2020.

#### Update of the Hazardous Substances (Storage and Disposal of Persistent Organic Pollutants) Notice 2004

67. At the Conference of the Parties to the Basel Convention held in May 2019, technical guidelines were adopted on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants (POPs). These guidelines provide internationally recognised best practices on the management of wastes containing POPs.
68. Storage and disposal of POPs are regulated by the HSNO Act and the HS (Storage and Disposal of POPs) Notice. As a result of the above international developments related to the regulation of POPs, the Notice needs to be updated. A draft of the Notice and the consultation document has been prepared. The draft Notice:
  - incorporates by reference the relevant provisions of the Basel Technical Guidelines

- removes the existing cross-references to revoked regulations and incorporates the applicable references to the replacement legislation
- includes provisions to extend coverage to manufactured articles.

69. Further progress on this has been affected by the disruptions caused by COVID-19 and the prioritisation of other work.

### **Consultation under the new Stockholm Convention chemicals**

70. The Conference of the Parties to the Stockholm Convention meets every two years and makes decisions on proposed chemical listings. In May 2019, the Convention added dicofol, and PFOA (Perfluorooctanoic acid), its salts, and PFOA-related compounds to Annex A of the Convention. These listings take effect internationally on 3 December 2020. In order for the listings to apply domestically, they need to be added to Schedule 2A of the HSNO Act. The process for this amendment involves the Minister for the Environment requesting the EPA to consult on the new Stockholm Convention chemicals, and to provide advice to him on the proposed amendments. Consultation was undertaken by the EPA in March 2020 and a report provided to the Minister in April 2020. Subsequently, MfE prepared a paper to the Cabinet DEV Committee for 1 July 2020, which has been forwarded to Cabinet on 6 July 2020.

### **Biosecurity Act 1993 forthcoming review**

71. The EPA contributed to interagency consideration of a discussion document from the Ministry for Primary Industries (MPI) about the forthcoming review of the Biosecurity Act. The review is continuing, although the public consultation is not currently feasible and has been postponed. MPI are working towards initiating public consultation in early 2021, with policy proposals being ready for Cabinet consideration by mid-2021. The draft discussion document raised the question of whether new organisms should remain in the HSNO Act, and the EPA expects to be involved in discussions on this in due course.

### **Trusted regulator**

72. MfE has prepared a cabinet paper proposing amendments to the HSNO Act to enhance assessments and reassessments of HS, including introducing the concept of a 'trusted regulator'. The paper was tabled for the ENV Cabinet Committee on 25 June 2020 and was heard in Cabinet on 29 June 2020.

### **Memoranda of understanding**

73. Work has begun to review and renew memoranda of understandings (MOU) in place between the EPA and other government agencies. An overview has been prepared on which agencies the EPA has an MOU with, and whether the nature of the MOU covers application activities, compliance activities, or is a more general relationship MOU. A draft strategy is also being drafted, which will set the criteria for when a MOU will be used by the EPA.

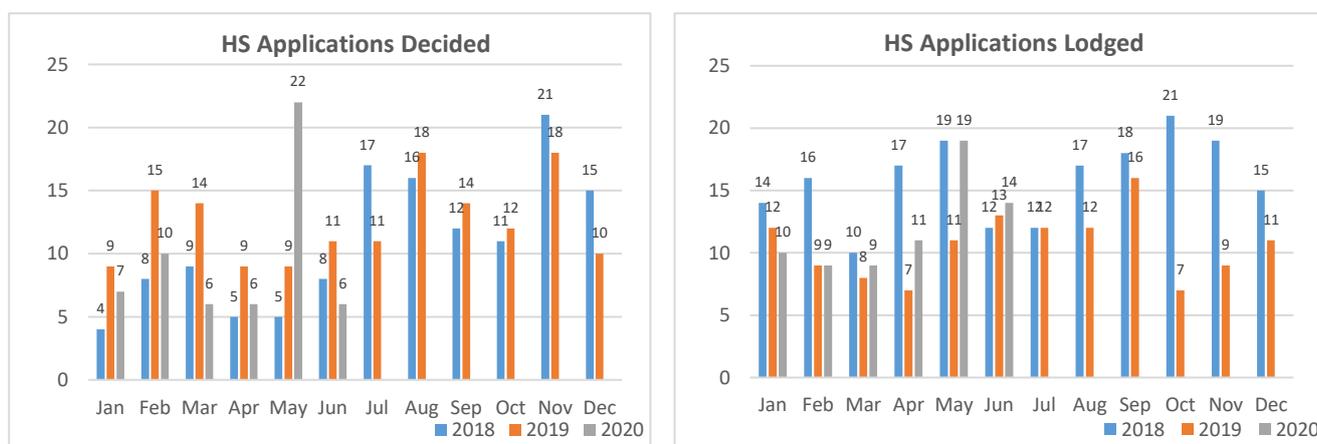
## Decision-making processes are robust, transparent and auditable

### New organisms

74. An Institutional Low-Risk Approval to develop in containment by low-risk genetic modification risk group 1 and risk group 2 microorganisms isolated from plants for research purposes with the goal to develop microbial products predominantly for use in sustainable agri-food production systems, was granted to AgResearch-Grasslands, as approved by a DMC on 16 April 2020. These broad approval applications are similar to those provided to the University of Otago, the University of Auckland, and Massey University following the removal of Institutional Biological Safety Committee delegated decision making in these institutions.
75. A second application from AgResearch-Grasslands to import into containment 42 species of genetically modified plants was approved by a DMC on 30 April 2020. The applicant intends to conduct research and development on practices and products relevant to primary production systems.
76. A rapid approval for the large-scale development by fermentation (80-100 L) of genetically modified non-pathogenic *Vibrio cholerae* was granted to Biocell Corporation on 15 June 2020. The approval was for the purpose of optimising the fermentation conditions of the organism.
77. The EPA determined that the bacterial species *Paenibacillus macerans* is not a new organism to New Zealand under the HSNO Act. The determination was made by a DMC on 26 May 2020, and the applicant was Ecotabs New Zealand. The determination was gazetted on 28 May 2020.

### Hazardous substances applications

78. HS Application statistics for this quarter were: 30 decided, 44 lodged, 30 formally received and eleven formally received publicly notified HS applications. Year-to-date comparative data is provided below for HS applications decided and lodged per month, per calendar year:



### Exclusive Economic Zone applications

*Trans-Tasman Resources Limited*

79. The EPA is considering the implications of the Court of Appeal decision on the Trans-Tasman Resources Limited (TTRL) decision. The Court of Appeal found that there were errors of law that required this matter to be referred back to the EPA for reconsideration. However, TTRL has appealed to the Supreme Court so the appeal needs to run its course before the EPA can take any steps in this regard.

*OMV Taranaki Limited*

80. OMV Taranaki's non-notified application for a marine consent and marine discharge consent in the Māui field within the Taranaki Basin was decided on 8 May 2020. The DMC granted consent, subject to conditions, for activities relating to exploration and appraisal drilling and the discharge of harmful substances associated with OMV's Maui exploration and drilling programme.

*Dong Won*

81. This application was lodged by DWO New Zealand in December 2019. The non-notified application for a marine dumping consent to dump the fishing vessel *Dong Won 701* within an authorised dumping site was granted, subject to conditions, on 30 April 2020.

*Tui field (Tamarind Taranaki, BWO, and the Crown)*

82. The EPA continued to process a second ruling application by BWO (the owner of the FPSO Umuroa). This followed Tamarind Taranaki's liquidation, and the grant of a ruling for removal of mooring lines and removal or temporary placement of anchors in January 2020. Granting the second ruling application would have allowed BWO to disconnect its vessel from the subsea equipment and temporarily place the equipment on the seabed in the Tui oil field off the coast of Taranaki. The application was decided on 23 April 2020, however, as it was only partially granted, it did not authorise the disconnection and sail away of Umuroa.
83. Tamarind Taranaki's liquidators disclaimed the Tui assets at the end of April 2020 and this led to the Ministry of Business, Innovation and Employment (MBIE) commencing work, on behalf of the Crown to manage the assets and plan for decommissioning of the field. It is viewing decommissioning as taking place over two years, the first involving the demobilisation of FPSO Umuroa with works to ensure that the subsea assets are left safe and secure, followed by longer-term plugging and abandonment of wells and permanent removal of the subsea infrastructure.
84. The liquidator notified the transfer of consents to MBIE as at 19 June 2020, which the EPA is now processing. MBIE also advised that it expects to make an application for a ruling and to prepare for a marine consent application for decommissioning.

*OMV New Zealand sale to Jadestone*

85. OMV confirmed to the EPA in January 2020 that, subject to obtaining the necessary regulatory approvals from the Minister of Energy and the Overseas Investment Office, it was selling its entire 69

percent interest in the Maari venture, including wells, platform and FPSO to Jadestone Energy. The relevant assets in the name of OMV, including consents, would need to be transferred.

86. Jadestone has engaged with the EPA to begin preparing for the transfer of consents (which it anticipates will occur in July 2020) and for there to be an emergency spill response plan in place at that time. The EPA has begun processing an application for the latter, contingent on the sale. The EPA has also continued to process a renewal of the emergency spill response plan for the Maari field held by OMV, which is required in place until any sale takes place.

#### *Beach Energy*

87. The EPA has continued to process the application by Beach Energy for a Notified Marine Discharge Consent lodged on 25 March 2020 and to support the DMC appointed to consider the application. This was notified on 22 May 2020 and submissions closed on 6 July 2020. It is anticipated this will be decided towards the end of November 2020.
88. Although Beach Energy originally indicated it intended to lodge non-notified applications for a marine consent and marine discharge consent around August 2020, it has more recently indicated this is likely to be in October 2020. These also relate to exploration and appraisal drilling programmes in the Canterbury Basin, and are for exploration drilling activities and the associated discharge of drilling fluids and other HS.

## **Nationally Significant Proposals**

#### *Otago Plan Call-in*

89. On 8 April 2020, the Minister for the Environment decided to call-in changes to the Otago Regional Council (ORC) plan, to be considered by the Environment Court. The plan changes comprise two parts: one being related to existing water permits with the ORC already having notified this plan change, and the other being known interchangeably as Water Quality Plan changes or the Omnibus Plan Change. The plan changes put in place interim arrangements in the context of longer-term changes to give effect to the National Policy Statement on freshwater management.
90. The RMA provides for a substantial administrative role for the EPA. This involves receiving of information and submissions from the ORC, public notification of the plan changes and service on owners and occupiers of land, production of a summary of submissions, administration of a process allowing further submissions, and provision of all relevant information to the Environment Court.
91. The EPA's role in serving owners and occupiers has been more involved than anticipated due to problems with the workability of the service provisions in the RMA as they relate to the particular plan changes involved. It has been necessary to obtain a waiver from strict compliance with the provisions of the Act from the Environment Court. The EPA is planning for public notification by 7 July 2020.

## Fast Track Consenting

92. MfE has engaged with the EPA since April 2020 as one of multiple agencies interested in the proposed COVID-19 Recovery (Fast Track Consenting) Bill. Relatively recent policy decisions became sufficiently advanced for the EPA to have clarity as to its proposed role, which is still subject to the final form of the Bill after it goes through the Parliamentary process. The EPA is expecting to provide secretariat support to expert consenting panels, and will also support the Panel Convenor (an existing or retired Environment Court Judge). The EPA will be separate from the panels and will play a support role rather than act as a decision-maker.
93. The Bill provides for two distinct stages that projects must pass through for a proposal to be consented: firstly, qualification of a project as suitable for fast-tracking through the Minister for the Environment, and secondly, referral to an expert consenting panel. There are a number of listed projects (around ten in the Bill as currently drafted) that do not have to pass through the first stage because they are listed in the Bill.
94. MfE and EPA staff have been working to plan for implementation, with the EPA being able to plan in much greater detail as greater certainty has emerged as to its proposed role. The EPA has been planning for recruitment, process design, templates, user information, finance, procurement and website requirements. More latterly, it has also included early engagement with prospective applicants of listed projects in the Bill to assist in assessing the likely pipeline of applications. The EPA secretariat and support function will be met by the Land and Oceans Applications team, which also processes EEZ applications and Nationally Significant Proposals.

## Emissions Trading Scheme

95. The EPA has established a project team to work through the implementation of the ETS changes, resulting from the passing of the Climate Change Response (Emissions Trading Reform) Amendment Bill on 16 June 2020. We have also received a number of queries on the changes to the Fixed Price Option under the CCRA Act, and we are working with participants on these issues.

### *Working with Emissions Trading Scheme agencies*

96. The EPA has been working remotely with the United Nations Framework Convention on Climate Change to support the review of Registries contributions to the National Inventory reports. These chapters summarise the Parties activity, Kyoto Protocol accounting, and public reporting. In the past, these reviews have been done during a consolidated review week in Bonn, however this year, due to COVID-19, these are being done remotely by Parties.
97. The EPA is working closely with MfE on the project to implement auctioning into the ETS. While MfE is leading this work there will be some changes required in the Register as well as our internal policies and processes.

98. We are currently planning for the publishing of statutory ETS data under section 89 of the CCRA Act. This data is in regard to participant information, reported emissions, and how participants met their obligations. We expect the data to be published in early to mid-August 2020.

## Science team projects and update

99. The Chief Scientist continues to work inside the science advisors forum and the Prime Minister's Chief Science Advisor's office in the all-of-government response to COVID-19. This includes reviewing applications for COVID-19-related funding.
100. The EPA's community engagement eDNA programme has been named: Open Water Aotearoa/Wai tūwhera o te Taiao. The team continues on its journey of running small-scale eDNA engagements in collaboration with important external stakeholders, including Zealandia, Greater Wellington Regional Council, Universities, MfE, QEII Trust and a number of iwi across New Zealand. We are actively working with 'House of Science' to co-develop a kit that goes into primary schools and recently engaged with students at Wellington High School.
101. The EPA's principal scientist is involved in follow-up work following participation in meetings of the scientific committees of the Stockholm Convention and the Rotterdam Convention in Rome in October 2019. The drafted Decision Guidance Document for the flame retardant Decabromodiphenyl ether, under the criteria of the Rotterdam Convention, has been finalised after being sent for review to all parties (161 countries) and observers to the Rotterdam Convention. As Chair of the Stockholm Convention POP's Review Committee, the principal scientist has been involved in the rescheduling, due to the impact of COVID-19, of the meeting planned for Rome in September 2020.

## Reporting

102. Between 1 April and 30 June 2020 the EPA received 31 Official Information Act requests, three Ministerials, and 21 Parliamentary Questions. We also had one notification of a complaint to the Ombudsman regarding Official Information Act requests.

## Financial overview

103. The year-end audited financial results will be included in the 2019/20 Annual Report, which will be provided to responsible Ministers in late-September 2020 in line with statutory timeframes.