Submission Analysis - Flood Protection and Control Works

Introduction
1. This report summarises submissions, and where appropriate provides recommendations, on the “Flood Protection and Control Works” discussion document of the Local Government Mandatory Performance Measures consultation.

Structure of this report
2. The report sets out submitters’ responses by the order of the questions in the discussion document and any relevant general comments made by the submitters at the beginning. Recommendations on the individual performance measures are at the end of each section. Submitters’ comments are, where relevant, ordered by themes arising from the submissions.

Common abbreviations
3. A number of abbreviations are used in this report and are set out in the table below.

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<thead>
<tr>
<th>Term</th>
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<tr>
<td>District Council</td>
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Overall number of submitters

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General comments

Submitters

Five submitters provided general comments on flood protection including: Nelson CC, Otago RC, Ruapehu DC, SOLGM, and Selwyn DC.

4. Some submitters provided general comments on the flood protection measures as a whole, mainly as to whether they were relevant or not.

Relevance of the performance measure

5. SOLGM, supported by Ruapehu DC, submitted that it was difficult to develop service levels and performance measures for this service. The key aspect for SOLGM was whether a flood was prevented. Additionally, SOLGM submitted that the Department of Internal Affairs may wish to reconsider whether the performance measure is necessary at all. Ruapehu DC submitted that further work should occur to assess the ability and cost effectiveness of developing a mandatory measure.

6. Nelson CC noted that flood protection activity is a small part of its expenditure. As such, they commented that it would be difficult to justify significant expenditure on performance measurement in this area.

7. Otago RC submitted that most local authorities describe flood protection service levels in terms of a particular water level, flood flow, or river control. Few use Annual Exceedance Probability (AEP) as it is problematic and not informative for the public. Additionally, they noted that most of the other measures proposed involve the number of times, within a period, a service level was achieved or not achieved and do not involve a probabilistic measure of performance. The measures for flood protection should be consistent with the other measures.

Other comments

8. Ruapehu DC also commented that the ability of the river system to conduct the river flow within its banks could use a roughness score as an indicator of maintenance.
KEY ASPECTS OF FLOODWATER PROTECTION

Q2a - Are these the key aspects on which members of the public need information in order to participate in discussions on levels of service for flood protection and control works?

1. What level of protection do flood protection and control works provide?
2. Are the works being adequately maintained?
3. Are the environmental impacts of the works being managed appropriately?

Submitters

Five submitters responded to this question including: Auckland CC and Auckland City Transport (Joint), Otago RC, Tāranaki DC, Waikato RC, and Wellington CC.

9. Auckland CC and Auckland City Transport (Joint) submitted that within an urban environment it is hard to differentiate between stormwater and flood protection. Stormwater focuses on reticulation and drainage in urban areas while flood protection relates to stream and river management mainly in a rural area. Auckland CC and Auckland City Transport (Joint) also noted that the measures are key performance indicators (KPI) rather than level of service statements. However, they will provide a general overview on flood protection activity.

10. Waikato RC submitted that flood protection levels and adequate maintenance of the levels of services are the two most important aspects to measure and report against. They also link to the capital and operational programmes in the Long Term Plan (LTP) and Annual Plan (AP). Managing the environmental impacts are important, but it is a process one for each of these aspects. Having the measure focus on compliance with resource consents by itself is not overly useful. When discussing flood protection levels, the Waikato RC seeks to balance environmental concerns with the economic, social, and cultural benefits being sought from the flood protection against the costs of design options.

11. Otago RC noted the most important aspect of flood protection is whether, or not, the flood protection has worked.

12. Two submitters (Taranaki RC and Wellington CC) agreed that these were the key aspects for floodwater protection.

Q2b - Are there any others?

Submitters

Two submitters responded to this question including: Waikato RC and Whakatane DC.

13. Both submitters commented that they thought that the aspects were appropriate.
Q2C - Do you have any other comments?

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<td>Three submitters responded to this question including: Taranaki RC, Whakatane DC, and Whangarei DC.</td>
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14. Taranaki RC noted that information on the design of floodwater protection provided by a council and its relation to climate change, would be useful for the public.

15. Whangarei DC commented that making comparisons across territorial authorities will be difficult given the variations in scheme specific design and management regimes.

16. Whakatane DC submitted that the definition of flood protection seems restricted to rivers and queried whether streams were included. They noted flooding resulting from streams can be as threatening as that from rivers.

**Recommendation on key aspects of floodwater protection**

17. There was limited comment on the key aspects of floodwater protection compared to the overall number of submitters as a whole. The comment that submitters did make was divided on the aspects. Given this; it is recommended that there be no change to the key aspects.
CRITERIA TO SELECT 'MAJOR' FLOOD PROTECTION AND CONTROL WORKS:
“a) Operating expenditure of more than $250,000 in any one year;
b) Capital expenditure of more than $1 million in any one year;
c) Scheme asset replacement value of more than $10 million; and
d) Directly benefitting a population of 5,000 or over.”

Q3A – Should only major works be measured?

Submitters

18. Fourteen submitters (Auckland CC and Auckland City Transport (Joint), Bay of Plenty RC, ECAN, New Plymouth CC, Otago RC, Northland RC, SOLGM, Taranaki RC, Waikato RC, Wellington CC, Whakatane DC, Whangarei DC, Anonymous #4, and Anonymous #8) agreed that only major works should be measured.

19. SOLGM submitted that implementation of the criteria will mean most schemes will not be reported upon and suggested that the Department should consider how this fits with the policy intent that underpins development of these measures. Similarly, they noted that some councils will voluntarily report on schemes and will do so as some schemes that are of public interest sit outside the criteria. A ‘significant public interest’ test may be useful to include in the measures.

20. Two submitters (Nelson CC and Waitaki DC) disagreed that only major works should be measured. Nelson CC submitted that trigger value was irrelevant and the use of ‘AEP’ would not be meaningful to the public. Waitaki DC submitted that the limits on the measure mean that only a small number of schemes will be measured and if that set of criteria were applied similarly to the other measures there would be less reporting. They also considered that the measure will not achieve its purpose because where there is flood protection in place, flooding events will not be recorded.

Q3B - If so, are the criteria for a 'major work' appropriate?

Submitters
Ten submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), Hawkes Bay RC, New Plymouth DC, Otago RC, Palmerston North CC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, and Anonymous #4.

21. Seven submitters (Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Otago RC, Taranaki RC, Whakatane DC, Whangarei DC, and Anonymous #4) agreed
that the criteria for a major work were appropriate. Two submitters in support (New Plymouth DC and Taranaki RC) noted they would either continue to report on other schemes voluntarily or that the criteria should allow for voluntary reporting.

22. Two submitters proposed changes to the wording of the criteria. Hawkes Bay RC submitted that the wording “protection from flooding from rivers” be broadened to include “all waterways”. Palmerston North CC submitted that the definition of major flood works needs refining because capital expenditure on a scheme may trigger the criteria in some years. Therefore they submitted that the proposed operating and capital expenditure figures be the average annual expenditure over a decade.

Q3C - If the criteria are not appropriate, what criteria would be?

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<td>Two submitters commented on this question including: Waikato RC and Anonymous #4.</td>
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23. No relevant comments.

**Recommendation on criteria to select 'major' flood protection and control works**

24. Submitters generally agree that only major works should be measured, but noted that many schemes would not meet the criteria to be reported upon and some councils would continue to do so voluntarily.

25. It is recommended that the criteria for selecting major flood works remain as currently formulated, pending a consideration of whether a test for including more schemes could be incorporated into the measure.
PROPOSED PERFORMANCE MEASURE ONE: SYSTEM ADEQUACY AND MAINTENANCE

“Major flood protection and control works perform to their agreed performance standards.”

Q4A - Is the measure easy to understand?

Submitters

Twelve submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Otago RC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, Anonymous #3, Anonymous #4, Anonymous #5, Anonymous #6, and Anonymous #8.

26. Six submitters (Otago RC, Taranaki RC, Whakatane DC, Whangarei DC, Anonymous #4, and Anonymous #8) agreed that the measure was easy to understand.

27. Three submitters (Auckland CC and Auckland City Transport (Joint), Anonymous #5, and Anonymous #6) were neutral on whether the measure was easy to understand.

28. Two submitters (New Plymouth DC and Waikato RC) disagreed that the measure was easy to understand. Waikato RC also submitted that:

- while the use of AEP was appropriate, it would not be understood by the community without more explanation;
- AEP could reference a specific scheme review. This would allow a static level of service that would not change due new hydrological data;
- a more appropriate measure may be “No flooding in the x% AEP flood as per the adopted design dated YYYY”; and
- an individual scheme may have a range of different performance standards or AEPs, which may be a challenge to reporting, but could be overcome with appropriate explanations.
Q4B - Will the information provided by the performance measure help the public to assess a local government organisation’s levels of service and to participate in discussions on future levels of service?

**Submitters**

Eleven submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Otago RC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, Anonymous #3, Anonymous #4, Anonymous #5, and Anonymous #6.

29. Four submitters (New Plymouth DC, Taranaki RC, Whakatane DC, and Anonymous #4) either agreed or strongly agreed that the performance measure would help the public to assess a local government organisation’s levels of service and to participate in discussions on future levels of service.

30. Auckland CC and Auckland City Transport (Joint) and Otago RC either disagreed or strongly disagreed that the performance measure would help the public to assess a local government organisation’s levels of service and to participate in discussions on future levels of service. Otago RC submitted that the measure would be better expressed in terms of what occurs during the reporting period, the measure could be amended to:

   “the number of times the community was flooded during the reporting period”.

31. Four submitters (Whangarei DC, Anonymous #3, Anonymous #5, and Anonymous #6) were neutral on the performance measure’s usefulness for the public.

4C - Would implementing the measure result in additional costs or other implementation issues for local government organisations? If so, what are they?

**Submitters**

Nine submitters commented on this question, including: Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Otago RC, Taranaki RC, Waikato RC, Whangarei DC, Whakatane DC, Anonymous #4, and Anonymous #8.

32. Seven submitters (Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Taranaki RC, Waikato RC, Whangarei DC, Whakatane DC, and Anonymous #8) submitted that there would be no additional costs or implementation issues.

33. Waikato RC and Anonymous #4 submitted that there would be costs and implementation issues. Waikato RC submitted that:

   - they interpreted the bulleted list of ways to measure performance as options to choose from, and did not support the first option alone, they would use the second option (flood hydraulic modelling) annually and would supplement this information with how well the systems performed against actual flood events as they occurred;
• dependent on the interpretation of the measurement, Waikato RC’s stopbanks may achieve sometimes or not achieve at others; and

• due to the nature of their schemes and existing monitoring they are already measuring performance as described by this proposed measure.

Q4D - Do you have any other comments?

Submitters

Eleven submitters commented on this question, including: Auckland CC and Auckland City Transport (Joint), Bay Plenty RC, ECAN, Hawkes Bay RC, Nelson CC, New Plymouth DC, Otago RC, SOLGM, Taranaki RC, Whangarei DC, and Anonymous #4.

34. Submitters made a number of general comments pertaining to definitional issues with the measure itself, possible alternative measures that could be used, and the use of AEP within the measure.

Definitional issues with the measure

35. SOLGM (supported by Whangarei DC) commented on definitional issues with the measure, specifically:

• they noted the use of the term “adequacy” as a descriptor. SOLGM noted that for flood protection this means the intended level of protection provided. They proposed that a better term for this level of service is therefore “level/degree of protection” (or similar);

• protection of people and property is the most basic function of flood protection activity and should be reflected in any associated regulation. SOLGM noted a division of views amongst their members over how the intended level of flood protection should be expressed. SOLGM noted a majority of their members chose to go for AEP as the preferred means for expressing this service level of service, with appropriate definitions for this; and

• they noted that determining the levels of protection that schemes are providing maybe problematic.

Alternative measures

36. Four submitters (Auckland CC and Auckland City Transport (Joint), Bay of Plenty RC, ECAN, and Hawkes Bay RC) proposed different alternative measures for this aspect including:

• Auckland CC and Auckland City Transport (Joint), proposed “Percentage of catchments with accurate floodhazard mapping completed”;

• Bay of Plenty RC submitted that the measure should be kept simple by only tracking actual failures as opposed to potential failures found by modelling different scenarios. They proposed “Number of times flood protection systems do not meet agreed design levels”, and that the unit of measurement should be “number of failures”;
• ECAN proposed “flow rate, with an indication of probability, would be a more useful and understandable standard and something that can be standardised across the country” as a possible measure, and

• Hawkes Bay RC submitted that “what level of protection does flood protection & control works provide” be revised to “the number of times a flood protection system has not met agreed design standards over the past 10 years”.

Use of Annual Exceedance Probability
37. Three submitters (Bay of Plenty RC, ECAN, and New Plymouth DC) raised issues over whether using AEP was appropriate.

Other comments
38. Otago RC commented that the community is only interested in how its scheme performs.

39. Hawkes Bay RC expresses a measure similar to this in its AP and LTP. They noted that while such a measure would be useful this data cannot be easily collected, and is not necessarily a good indication of risk.

Recommendation on proposed performance measure one: system adequacy and maintenance
40. A majority of submitters agreed that the performance measure was easy to understand. However, opinion was divided on the usefulness of the information the performance measure would provide. A small majority of submitters either disagreed or were neutral on the usefulness of the performance measure.

41. Most of the submitters did not identify significant cost or implementation issues. Definitional issues were raised with respect to the use of the term “adequacy” and AEP. Submitters also proposed a number of alternative measures. There was no specific theme to the alternative measures.

42. The Department considers that the performance measure supplemented by appropriate guidance and information could be used by local authorities. It is recommended that, notwithstanding the division of opinion on this performance measure, it is re-examined to check that it will be useful for local authorities and the public with appropriate guidance to support its implementation.
PROPOSED PERFORMANCE MEASURE TWO: MAINTENANCE OF WORKS

“Existing major flood protection and control works are maintained, repaired and renewed to the key standards defined in activity management plans, asset management plans or annual works programmes.”

Q5A – Is the measure easy to understand?

Submitters

Thirteen submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), New Plymouth DC, Otago RC, Taranaki RC, Waikato RC, Waitaki DC, Whakatane DC, Whangarei DC, Anonymous #3, Anonymous #4, Anonymous #5, Anonymous #6, and Anonymous #8.

43. Five submitters (Otago RC, Taranaki RC, Waikato RC, Anonymous #4, and Anonymous #8) agreed that the proposed performance measure was easy to understand.

44. Three submitters (New Plymouth DC, Waitaki DC, and Whangarei DC) disagreed that the proposed performance measure was easy to understand.

45. Five submitters (Auckland CC and Auckland City Transport (Joint), Whakatane DC, Anonymous #3, Anonymous #5, and Anonymous #6) were neutral on the proposed performance measure.

Q5B - Will the information provided by the performance measure help the public to assess a local government organisation’s levels of service and to participate in discussions on future levels of service?

Submitters

Eleven submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), Otago RC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, Anonymous #3, Anonymous #4, Anonymous #5, Anonymous #6 and Anonymous #8.

46. Four submitters (Taranaki RC, Waikato RC, Anonymous #4, and Anonymous #8) agreed or strongly agreed that the performance measure would assist the public to assess a local government organisations service levels and to participate in discussions on future service levels.

47. Four submitters (Whakatane DC, Anonymous #3, Anonymous #5, and Anonymous #6) were neutral as to whether the performance measure would be useful for the public.

48. Three submitters (Auckland CC and Auckland City Transport (Joint), Otago RC, and Whangarei DC) disagreed that the performance measure would be useful for the public. Additionally, Otago RC commented the usefulness of the performance measure will depend on the rigour of the activity and work programmes. They noted that, in the
absence of national standards the information provided will be subjective and variable between local authorities.

**Q5C - What would be the optimum number of key standards to be reported on?**

**Submitters**

Seven submitters commented on this question including: New Plymouth DC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, Anonymous #4, and Anonymous #8.

49. Whakatane DC and Whangarei DC submitted that the number of key standards would vary from scheme to scheme. Whakatane DC also commented that if this performance measure is to be applied, then each flood protection work be assessed independently of the others.

50. New Plymouth DC recommended that efficiency be considered when setting the number of standards so as to not to make reporting too complex or hard to understand.

51. Waikato RC commented that there should be one standard for each major type of asset within the flood protection scheme.

52. Anonymous #8 submitted that there should be two or three key standards, which would align with the KPIs in service or maintenance contracts.

**Q5D - Do you have any other comments?**

**Submitters**

Thirteen submitters commented on this question including: Auckland CC and Auckland City Transport (Joint), Bay of Plenty RC, ECAN, Hawkes Bay RC, New Plymouth DC, Northland RC, SOLGM, Southland DC, Taranaki RC, Whakatane DC, Whangarei DC, and Anonymous # 4.

**Support for the measure**

53. Two submitters (Bay of Plenty RC and ECAN) supported the performance measure without change. Additionally:

- Bay of Plenty RC noted that Performance Measures One and Performance Measure two were intrinsically linked; and
- ECAN submitted that the reference to ‘asset management plans and annual maintenance programme standards’ is critical. Reporting on individual asset and overall scheme condition and serviceability is more important than whether or not a specified works programme is completed for a given budget.

**Issues with the proposed measure**

**Comparability of information**

54. Four submitters (Auckland CC and Auckland City Transport (Joint), Hawkes Bay RC, SOLGM and Whakatane DC) queried whether the measure would provide a useful
comparison between councils. Whakatane DC comments raised questions as to the usefulness of the measure itself.

55. Three submitters (SOLGM, Whangarei DC, and Northland RC) queried the use of achieved/not achieved as a reporting mechanism. Submitters considered that it would not provide information that was comparable or meaningful even if it was done on a scheme by scheme basis.

**Usefulness of the Measure**

56. Two submitters (SOLGM and Whangarei DC) submitted that they were unconvinced that this proposed level of service meets the tests in section 261B of the Local Government Act 2002 (LGA02) or that it yields information of a comparative nature.

57. SOLGM submitted that the proposed measure is not a level of service in and of itself, rather it is an intermediate step that generates levels of service. SOLGM’s guidance on performance management discourages the use of measures of this nature in public documents.

58. SOLGM submitted that this measure should be excluded from the measures.

**Recommendation on proposed performance measure two: maintenance of works**

59. Submitters were divided on whether performance measure two was easy to understand and its usefulness for local authorities and the public. Neither did submitters have a fixed view either on the optimum number of key standards to be reported on by local authorities.

60. More generally, submitters identified issues with comparability of the resulting information and the usefulness of the measure. Two submitters considered that the proposed measure did not meet the tests in section 261B of the LGA02 for a performance measure.

61. The Department notes the concerns of submitters over the performance measure and in particular its usefulness for local authorities and the public. The Department does not necessarily consider that the performance measure does not meet the tests in the LGA02. However, it is recommended that the performance be retained subject to an examination of whether it will produce useful information and whether it meets the requirements for a performance measure in the LGA02.
PROPOSED PERFORMANCE MEASURE THREE: MANAGEMENT OF ENVIRONMENTAL IMPACTS

“All construction, maintenance, repair, and renewal work on major flood protection and control works complies with resource consents, measured by the number of:

a) abatement notices;
b) infringement notices;
c) enforcement orders; and
d) successful prosecutions.”

Q6A - Is the measure easy to understand?

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62. Six submitters (Otago RC, Taranaki RC, Waikato RC, Whakatane DC, Whangarei DC, Anonymous #4, and Anonymous #8) agreed or strongly agreed that the measure is easy to understand. Additionally:

- Otago RC submitted that the use of “all” made the measure more like a target; and
- Waikato RC submitted that the focus on compliance was not helpful and was a limited measure of environmental management.

63. New Plymouth DC and Whangarei DC disagreed that the measure was easy to understand.

64. Four submitters (Auckland CC and Auckland City Transport (Joint), Anonymous #3, Anonymous #5, and Anonymous #6) were neutral on whether the measure was easy to understand.

Q6B - Will the information provided by the performance measure help the public to assess a local government organisation’s levels of service and to participate in discussions on future levels of service?

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65. Four submitters (New Plymouth DC, Taranaki RC, Anonymous #4, and Anonymous #8) agreed or strongly agreed that the information from the proposed performance measure would be useful to the public.

66. Three submitters (Auckland CC and Auckland City Transport (Joint), Otago RC, and Whangarei DC) disagreed that the information from the proposed performance measure would be useful to the public.

67. Five submitters (Waikato RC, Whakatane DC, Anonymous #3, Anonymous #5, and Anonymous #6) were neutral as to whether the information from the proposed performance measure would be useful to the public. Additionally, Waikato RC submitted that the public would expect councils to manage environmental impacts and that consultation that occurs through long term plans allow for such discussions.

Q6C - Would implementing the measure result in additional costs or other implementation issues for local government organisations? If so, what are they?

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68. The Waikato Regional Advisory Group and Anonymous #4 commented that implementing the measure would involve additional costs. Further, the Waikato Regional Advisory Group noted that there would be costs to list works for which resource consents have been issued in the LTP. Having to list individual flood protection works would increase the size of the LTP. The relevant information should be in Asset Management plans which are publicly available from councils’ websites.

69. Five submitters considered that there would no additional costs or implementation issues (New Plymouth DC, Taranaki DC, Whakatane DC, Whangarei DC, and Anonymous #8).

Q6D - Do you have any other comments?

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Support for the proposed measure

70. Two submitters (Bay of Plenty RC and Nelson CC) expressed support for the measure. Nelson CC noted that other options for measuring the environmental impact of scheme works do not allow for strong comparison between regions.

71. New Plymouth DC considered that the proposed measure was suitable but the measure needed to be accompanied by suitable definitions or explanations to aid public
understanding. New Plymouth DC proposed an alternative measure. They receive a grading from the Taranaki RC each year on the level of compliance with consent conditions which it uses as part of its performance monitoring programme. The grading ranges from high to poor. This could be an easily understandable alternative option.

Objections and/or concerns about the measure

72. Six submitters (Auckland CC and Auckland City Transport (Joint), ECAN Northland CC, SOLGM, Taranaki RC, and Whangarei DC) raised objections to, or concerns about, the proposed measure. There was no specific common theme to the objections and concerns to the proposed measure. Submitters comprised:

- Auckland CC and Auckland City Transport (Joint), who submitted that the proposed measure was an output related measure relating to building work and is not a direct measure gauge protection of the environment;
- Northland RC commented that measurement of compliance and enforcement action does not measure environmental impact and often compliance action is avoided by remedial action;
- SOLGM submitted that level of service is currently not described and is it difficult to identify the environmental effects arising from flood protection and river control. SOLGM recommend that the performance measure be removed until clarification about the measure is gained;
- Taranaki RC noted that the measure had a negative connotation because of the measures used. An alternative would be to refer to whether the works have been under-taken in accordance with all resource consents, and if the measure has not been met an explanation could be given;
- Whangarei DC notes two issues, first that not all schemes have resource consents, some items may be unconsented or permitted. Second, resource consents cover a range of issues, not just environmental impacts; and
- ECAN submitted that they do not support the proposed measure and note that not all works in rivers require resource consent. Therefore, relying on notices and compliance actions are at the extreme end of the regulatory spectrum and occur rarely.

Recommendation on proposed performance measure three: management of environmental impacts

73. Submitters were divided on both whether this measure was easy to understand and whether it would provide useful information. Submitters also provided general objections and concerns to the measure without any one specific theme except that information resulting from the performance measure may not equate to actual environmental impact.

74. It is recommended that a two step approach be taken with firstly, the performance measure be re-examined to confirm whether it will provide good information on the environmental impacts of flood protection works. Secondly, if the performance measure cannot produce appropriate information then it is recommended that it be considered whether there is a suitable alternative measure.