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GUIDELINE

# COMPLIANCE INSPECTION AND MONITORING

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**HCCREMS**  
HUNTER & CENTRAL COAST REGIONAL  
ENVIRONMENTAL MANAGEMENT STRATEGY

A project delivered by the Hunter and Central Coast Regional Environmental Management Strategy (HCCREMS): a program of the Environment Division of Hunter Councils Inc.



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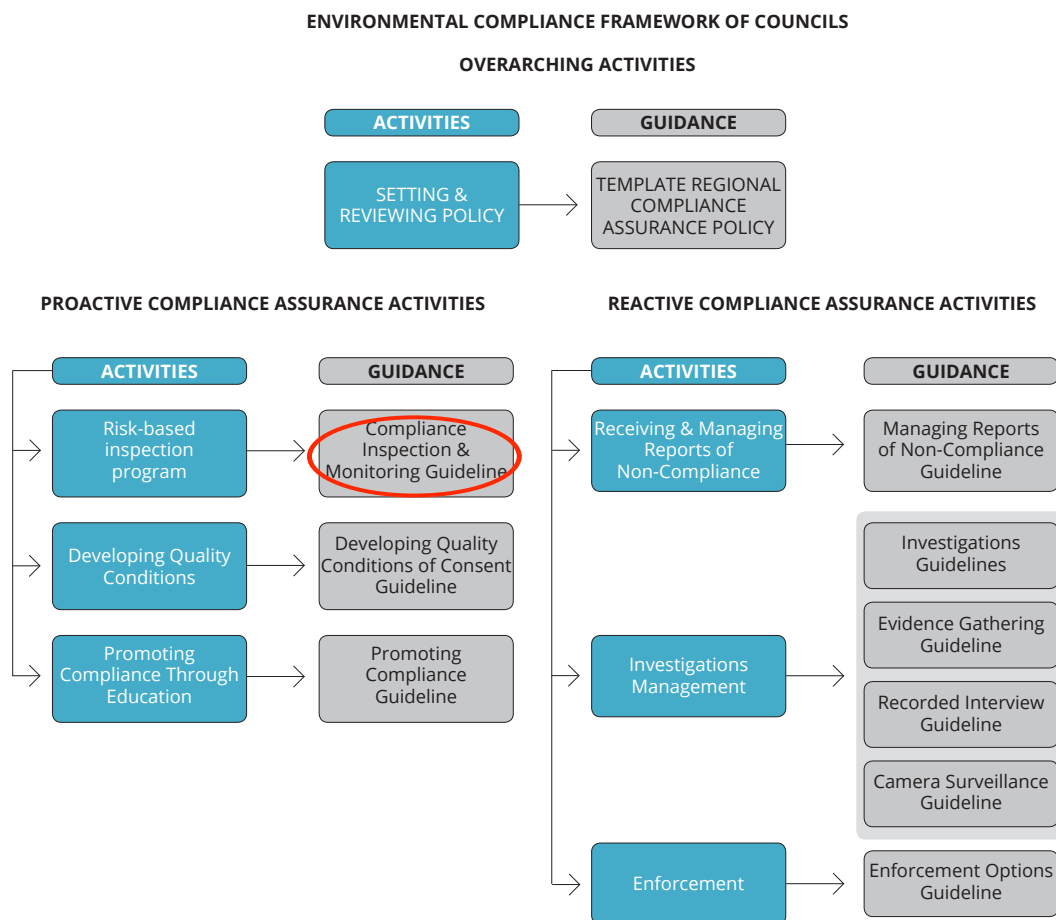
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# FOREWORD

The Compliance Inspection and Monitoring Guideline is provided as supporting guidance to the HCCREMS model Compliance Assurance Policy and is designed to provide a consistent approach to the environmental regulatory framework implemented throughout the fourteen member councils of HCCREMS.

The model Compliance Assurance Policy provides councils with a position on the use of both proactive and reactive compliance assurance activities to manage compliance of the regulated community. **Figure 1** (below) displays the relationship of this guideline to the Regional Compliance Assurance Policy and other guidance documents.



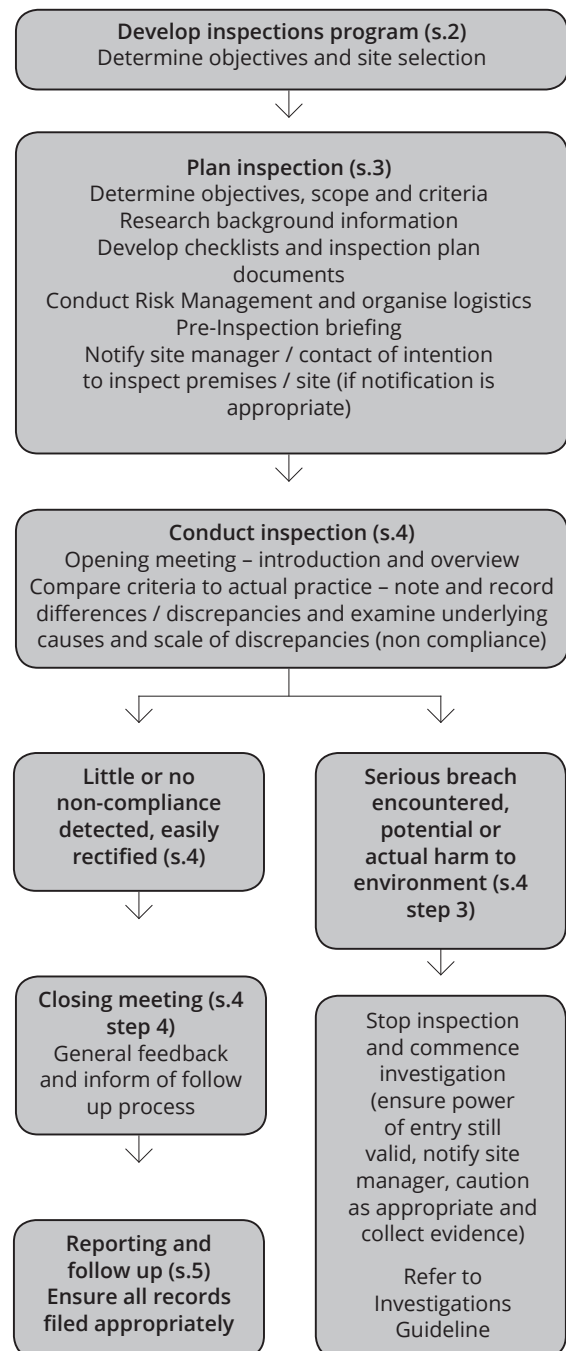
**Figure 1:**  
Regional Compliance Assurance Framework

# 1. INTRODUCTION

The Compliance Inspection and Monitoring Guideline provides practical guidance on the planning, conducting and reporting on compliance inspections. The guidance is provided to assist officers to meet council expectations on the proactive monitoring and inspection programs implemented to reduce the number of environmental incidents occurring due to non-compliance. The Compliance Inspection and Monitoring Guideline does not address:

- Formal inspections that occur as part of an investigation, in response to an alleged breach – more information on investigations can be found in the HCCREMS Investigations Guideline.
- Any enforcement that may occur in response to a breach detected during inspection – more information on enforcement can be found in the HCCREMS Enforcement Options Guideline.

**Figure 2** provides a summary of the recommended inspection process included in the guideline. The section where each activity is addressed is noted in the diagram, to assist with fast navigation to the particular guidance sought.



**Figure 2:**  
Compliance inspection process

In addition to the information included in the body of the guideline, a number of templates are attached to assist in the development of inspection plans, checklists and reports.

#### **WHAT IS A COMPLIANCE INSPECTION?**

A compliance inspection is a systematic process used to determine if the conditions or requirements of a licence, approval or legislative instrument are being met, and to what extent. Compliance inspections differ from audits, investigations and surveillance as described below.

- *Audits* – share many of the same processes as a compliance inspection but are typically larger in scope and scale.
- *Investigations* – are in direct response to a report of non-compliance whereas compliance inspections are proactive activities (see Investigations Guideline).
- *Surveillance* – is usually undertaken as part of an investigation and is less criteria-based than a compliance inspection (see Surveillance Cameras Guideline).

## 2. DESIGNING A COMPLIANCE INSPECTION PROGRAM

A proactive compliance inspection program assists councils to meet their statutory requirements, respond to common complaints, and maintain a positive monitoring presence with operations that pose significant environmental risk. A proactive program also provides the opportunity for councils to actively work with particular industries to improve compliance levels and environmental outcomes.

Effective compliance inspection programs are 'outcome' focused (designed to achieve positive environmental results) not 'output' focused (designed to conduct a large number of inspections, without consideration for the desired management of environmental risk). Compliance inspection programs are typically:

- *Risk-based* – focussing on areas or industries that pose the highest risk to the environment based on their location or activity.
- *Transparent* – be open and accountable to internal and external scrutiny.
- *Aligned with ISO 19011:2011 principles* for auditors (ethical, fair, professional, evidence-based).
- *Consistent with enabling legislation* – organisation procedures policies and codes of conduct and industry best practices and Australian Standards.

### OBJECTIVES OF A COMPLIANCE INSPECTION PROGRAM

The objectives of a compliance inspection program would ideally be informed by management priorities, policy, and any statutory requirements and may include some of the following example objectives:

- To assess and monitor levels of compliance (in a locality or industry).
- To improve levels of compliance (from a locality or industry).
- To ensure credible, robust, consistent and transparent regulation.
- To provide the community with confidence that compliance assurance systems are operating.
- To provide feedback to the regulated community on compliance levels and areas needing attention.
- To ensure internal quality assurance of compliance policies, processes and regulatory instruments used by council (e.g. review enforceability of consent conditions).
- To inform compliance education programs (e.g. through identification of common issues).
- To raise the regulatory profile and perceived risk of 'getting caught' when not complying with conditions imposed by legislation or councils.

The objectives of a compliance inspection program should be focussed on providing information and feedback to council on the effect, and management of activities; and compliance levels of the regulated community included in the program. Individual inspections may include other objectives related specifically to the site being inspected.

## PLANNING AND IMPLEMENTING A COMPLIANCE INSPECTION PROGRAM

Compliance inspection programs should be designed to:

- Achieve the objectives of the program.
- Realistically utilise the available resources to implement the program.
- Focus on the locations or industries that pose the greatest environmental harm to the community.

A number of different mechanisms can be used to identify either the location of inspection activities, or the industries to be actively inspected. Selection systems may be:

- Random and unbiased processes.
- Risk based – enforcement history, potential threat, proximity to sensitive environments.
- Complaint and advice based.
- In response to emergencies.

Utilising the Council's risk-based priority system will ensure locations or industries included in the program align with Council's priority areas. When developing a compliance inspection program, it is useful to consider the following:

- What is the time length of the program? (6 months, 12 months, ongoing with review each 12 months?)
- Resources available (How many staff will be conducting inspections? Can assistance be provided by council environmental educators or communications team?)
- What systems need to be in place to track inspection activities and outcomes?

It is recommended that inspection programs be developed as an ongoing activity of council and reviewed annually. This will allow the program to be included in Council's annual planning activities and resourcing plans. An effective compliance inspection program should, over time, reduce the amount of reactive investigations undertaken and reduce the amount of environmental incidents occurring.

The main elements of a compliance inspection program are:

- System design (risk-based site selection), inspection plans, data capture systems and report generation;
- Individual inspection processes; and
- Communications plan, to promote the program, outcomes and businesses with good environmental credentials.

Sections 3, 4 and 5 of the guideline provides guidance on the inspection process. Advice on communications of any program is provided in the Promoting Compliance Guideline.

### 3.

## PLANNING COMPLIANCE INSPECTIONS

Inspection plans typically provide details on why inspections are occurring, what information is sought from the inspection, and how Council will utilise the information once gathered. A template inspection plan is provided in **Appendix 1** for reference, modification and/or use. The following process steps are designed to assist council officers to effectively plan compliance inspections:

#### **Step 1: Inspection objectives**

The objectives of individual compliance inspections are likely to be the same (or similarly worded) as the objectives of the overall inspection program's objectives. Depending on the site or activity to be inspected, officers might identify more specific objectives in addition to the overarching objectives. These additional objectives might relate to issues specific to the location of the inspection, or the industry/activity being inspected.

#### **Step 2: Inspection scope**

The scope of the inspection activities may be defined by geographical location, organisational units, activities (and the environmental risk of these activities), processes, time period or time/resources available. Consider if the inspection will be comprehensive, covering all areas of environmental compliance, or focused on a particular, high-risk area.

#### **Step 3: Inspection criteria and checklists**

An inspection plan will typically indicate the criteria to be assessed and reported on in final documentation. It is likely that specific Federal/State/Local requirements applicable to the activity to be inspected were identified during the objective and scoping steps. These criteria should be clearly listed and included in the inspection checklist

to ensure the inspection officer gathers the appropriate information necessary to determine compliance. A sample inspection checklist is included in **Appendix 2**.

#### **Step 4: Research inspection property and activity**

Gathering background information on the site and customer will assist with the inspection activity. The background information will enable a final review of the inspection criteria, as it may be appropriate to add criteria for follow up, based on previous inspection reports. When conducting research consider the value of sources such as permits, consents, property records, and past compliance inspections. Information sought may include:

- Site details - name and address of premises.
- Details of relevant permits, consents, certificates and associated requirements.
- Information on the industry or activity type.
- Contact person or manager's name.
- Compliance history, previous inspection reports.
- Details of any complaints or community concerns.
- Details of activities occurring on the site and their likely environmental impacts.
- Technical information about the processes and operations.
- Industry best practice and relevant standards.
- Company policies, plans and procedures.
- Information on statutory and other requirements.
- Social and cultural characteristics.
- Safety requirements.



### Step 5: Inspection logistics

A number of logistical aspects of the inspection should be considered and organised, including:

- Ensuring all officers involved in the inspection have relevant training and qualifications.
- Ensuring inspection officers have the correct delegations and authorities (refer to the relevant legislation to check powers and conditions of these powers).
- Organising technical or specialist assistance that may be required (e.g. access to contact details of council ecologists).
- Deciding on an appropriate time to conduct the inspection (e.g. during operating hours, before / during / after rainfall events).
- Contingencies for bad weather (if appropriate).
- Organising resources and equipment (e.g. PPE, GPS, camera and associated equipment) and ensuring all equipment is operational and available (booked).
- Confirming procedures, such as for sampling (NB some may be prescribed in legislation or Australian Standards) and ensuring protocols for collecting and handling samples are documented and available for onsite reference.

Depending on the outcome of the logistics planning, it may be necessary to update the compliance inspection plan.

### Step 6: Risk management

Identify potential risks for each activity involved in the inspection. Evaluate the consequence and likelihood of each of these risks to determine any actions or processes to be implemented to manage the risk (e.g. accept, avoid, control, reduce, retain, or transfer). For more information on risk management see AS 4360:1999 Risk Management Standard. Where necessary, the compliance inspection plan may need to be updated with information regarding potential risks and management strategies.

### Step 7: Pre-inspection briefing

Ensure all council staff involved in the compliance inspection understand the inspection objectives, plan and activities. A pre-inspection briefing covering all aspects of the plan will ensure all staff involved are aware of their responsibilities and assist in identifying any final areas of the plan that should be addressed.

### Step 8: Notify site manager of inspection

Generally, the entity (e.g. company) to be inspected should be notified unless an unannounced visit is required to fulfil the objectives of the inspection (i.e. to detect 'true' levels of compliance). The benefits of providing several days' notification prior to the inspection include:

- The correct personnel and records required for the inspection can be made available.
- You are likely to receive a more positive reception from personnel than if you arrive unannounced.
- You have an opportunity to request information regarding OH&S requirements of the site, e.g. whether a mandatory site induction or special PPE is required.

When determining if site managers will be notified of an upcoming inspection, consider all relevant council policies or procedures as there may be a standard practice to follow. If notification is to be provided, the following items are typically provided to assist the site managers to understand the activities that will be undertaken as part of the inspection:

- Purpose of the inspection.
- Areas/ aspects to be inspected.
- Information and personnel required.
- Time and date and expected duration.
- Request for site orientation or any necessary inductions.
- Obligations of entity.

## 4. CONDUCT COMPLIANCE INSPECTIONS

When conducting compliance inspections, there are a number of steps that should be followed to assist with the inspection activities occurring in a timely and unobtrusive fashion, (see **Appendix 2** for example);

### Step 1: Introduction Meeting

Meet with site manager / representative to:

- Introduce personnel involved and provide ID (authorised officer identification).
- Explain and confirm purpose and scope of the inspection.
- Outline plan for inspection activities (intention to take photographs, samples etc.).
- Allow opportunity for them to ask questions.
- Outline steps to be taken in producing and providing inspection report / feedback.
- Ensure necessary resources/facilities available.
- Determine safety, emergency and security procedures.
- Discuss any matters of confidentiality.

### Step 2: Conduct Inspection

Use the compliance inspection checklist developed during the planning activities, to guide the inspection of the site or activity. Inspection activities will typically require an assessment of the actual activities/controls operating compared to those required by the various legislative instruments applicable to the site or activity. Where the inspection identifies discrepancies between expected practices and actual practices, further investigation of the underlying causes and the scale and effects of discrepancies will assist with determining appropriate follow-up action. All observations should be documented on the compliance inspection

forms and checklist or, where appropriate, in an official notebook. Where necessary, take photographs and copies of appropriate documentation and samples. Ensure all sampling activities meet the appropriate Standards (for guidance on sampling, refer to the Evidence Gathering Guideline). All conclusions on the practices and level of compliance drawn from the inspection must be based on objective evidence (provable and retrievable).

### Step 3: Acting on non-compliance (if applicable)

If you notice any issues of non-compliance ensure appropriate notes, photographs and statements are taken.

If an activity that is likely to cause environmental harm or a serious breach of the law is observed, it may be necessary to stop the inspection, inform the site manager of the breach, issue any appropriate cautions and commence collecting sufficient evidence in an admissible form for a potential prosecution. Refer to the Evidence Gathering, Investigations, and Enforcement Guidelines for further information.

Irrespective of the action to be taken in relation to any breaches (e.g. Penalty Notice, order or court action) the inspector must ensure they have gathered and secured sufficient evidence, at the required legal standard, to support any action taken.

### Step 4: Closing Meeting

Inspection staff may like to provide preliminary findings of the inspection to the site manager to let them know if and how they will receive an inspection report. Where immediate corrective actions are sought, these should be discussed and documented prior to leaving the site.

## 5. REPORTING AND INSPECTION FOLLOW-UP

Typically, a record of the inspection and any findings should be generated after each inspection. Two levels of reporting may be necessary.

### INDIVIDUAL INSPECTION REPORT

Individual inspection reports should provide appropriate information on the intent of the inspection (all relevant information developed during the inspection planning process) and the level of compliance or non-compliance observed. A template inspection report is provided in **Appendix 3**. An inspection report should, at a minimum, provide details on:

- The assessment of the level of compliance (considering the significance of actual or potential environmental impacts); and
- Actions recommended to remedy any non-compliance or improve practices at the site, including timeframes for these actions to occur.

You should also record in the report or in other accompanying documents (such as file notes):

- A summary of inspection process, any obstacles encountered and any recommendations for improvements to the process;
- Any areas or activities not inspected (that were in the original inspection plan) and why; and
- Inspection report distribution list (of personnel) and a statement of the confidential nature of the report.

Ensure all files generated through the inspection process are managed to council's record keeping requirements.

Ensure all reviews and approvals consistent with council's policies and procedures are conducted prior to providing a finalised Compliance Inspection Report to the entity audited. Where necessary, develop and provide any letters, directions or legal proceedings with the entity audited.

### INSPECTION REPORT TO INFORM THE COMPLIANCE INSPECTION PROGRAM

A summary report on the inspection outcomes may also be necessary to assist in the evaluation of the overall compliance inspection program (see Section 6). A summary report should provide information relevant to address the objectives of the overall inspection program and would typically include the following:

- Whether objectives of the inspection were or were not met (and how).
- Overview of the process used and any comments on what officers would do differently next time.
- Summary of major issues encountered.
- Summary of feedback or enforcement methods used in response to issues and how these were received/ acted upon.
- Any positive or unintended outcomes (e.g. building of rapport with industry).
- Any safety or unforeseen risks encountered.
- Any feedback from those subject to inspections.

## 6. REVIEW OF COMPLIANCE INSPECTION AND MONITORING PROGRAM

Following completion of the first 'round' or the scheduled number of inspections (e.g. after year 1 of program), a review of the compliance inspection and monitoring program should occur to ensure the program objectives are being met and the best outcomes are achieved. The review should involve officers who undertook the inspections, management and, where relevant and available, representatives from the regulated or inspected community. Aspects of the program that may be reviewed, in light of inspections conducted may include:

- The objectives, scope and criteria of the program and whether they are still relevant.
- The process used (i.e. steps taken when planning, conducting and reporting on inspections).
- Timing of inspections.
- Resources used and available for further inspections (staff, budgets).
- Methods of selecting premises for inspection.
- Tools used (considering if template forms and checklists should be changed).
- Communication plan – communications with those subject to inspections, council and the general community.
- Risk assessments undertaken for the inspection program.

## 7. REFERENCES AND FURTHER INFORMATION

American Public Health Association (APHA) 1998. Standard Methods for the Examination of Water and Waste Water. Department of Environment and Conservation NSW (DEC). 2006. Compliance Audit Handbook.

Department of Environment and Conservation NSW (DEC). 2004. Approved methods for the sampling and analysis of water pollutants in NSW Available at: <http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf>

HCCREMS, 2010, Cert IV Local Government Investigations training materials by ICETS, Available to HCCREMS members at: <http://www.hccrems.com.au/Partners/Login.aspx?ReturnUrl=%2fPrograms%2fEnvironmental-Compliance%2fRegional-Compliance-Network%2fMembers-Only-Resources.aspx>

Standards Association of Australia. 1998. AS/NZS 5667.1:1998: Water Quality - Sampling- Part 1: Guidance on the design of Sampling Programs, Sampling Techniques and the Preservation and Handling of Samples. Homebush, NSW.

Standards Association of Australia, 1999. AS/NZS ISO 31000:2009 Risk management - Principles and guidelines.

Standards Association of Australia, 2011. AS/NZS ISO 19011:2011 Guidelines for auditing management systems

# APPENDIX 1. TEMPLATE INSPECTION PLAN

## Appendix 1: Template inspection plan

Site/customer details	
Licensee and/or company name	
Site address	
Development Approval No.	
Name and position of contact persons/s during inspection	
Date of proposed inspection	
Name & title of inspector/s	

Inspection objectives
<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>

Inspection scope (outline what the inspection will be limited to)

Inspection criteria and reference documents	
Criteria	Reference documents (Document where criteria is derived from e.g. Development Consent; legislation)





# APPENDIX 2. TEMPLATE INSPECTION CHECKLIST

## Appendix 2: Template inspection checklist

General information	
Licensee/company name	
Site address	
Name and position of contact persons/s during inspection	
Date of inspection	

Criteria checklist		
Condition/ requirement	Elements/ questions	Compliance rating and notes
<p>E.g. Condition of consent 1:</p> <p>A single all weather access way is to be provided on site that extends from the kerb to the building construction site. All construction vehicles are to enter and exit the site via this access way so as to minimise erosion on site and prevent the movement of soil material onto roadways. When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material.</p>	<p>E.g.</p> <p>Is a single all weather access on site?</p> <p>Does it extend from the kerb to the construction site?</p> <p>Is it constructed from appropriate materials?</p> <p>Is there evidence of vehicles using other access points?</p> <p>Is there tracking of mud/dirt on roads or sediment material in gutters?</p>	<p><input type="checkbox"/> Full compliance    <input type="checkbox"/> Minor Non-compliance (follow up required)    <input type="checkbox"/> Major Non-compliance (follow up required)</p> <p>Notes:</p> <p>Photos/ records of samples taken:</p>
Condition 2 etc.		<p><input type="checkbox"/> Full compliance    <input type="checkbox"/> Minor Non-compliance (follow up required)    <input type="checkbox"/> Major Non-compliance (follow up required)</p> <p>Notes:</p> <p>Photos/ records of samples taken:</p>
		<p><input type="checkbox"/> Full compliance    <input type="checkbox"/> Minor Non-compliance (follow up required)    <input type="checkbox"/> Major Non-compliance (follow up required)</p>



		Notes:  Photos/ records of samples taken:
		<input type="checkbox"/> Full compliance <input type="checkbox"/> Minor Non-compliance (follow up required) <input type="checkbox"/> Major Non-compliance (follow up required) Notes:  Photos/ records of samples taken:
		<input type="checkbox"/> Full compliance <input type="checkbox"/> Minor Non-compliance (follow up required) <input type="checkbox"/> Major Non-compliance (follow up required) Notes:  Photos/ records of samples taken:
		<input type="checkbox"/> Full compliance <input type="checkbox"/> Minor Non-compliance (follow up required) <input type="checkbox"/> Major Non-compliance (follow up required) Notes:  Photos/ records of samples taken:

Sign off			
Inspecting officer/s	Position	Signature	Date





# APPENDIX 3. TEMPLATE INSPECTION REPORT

## Appendix 3: Template inspection report

Inspecting officer sign off			
Name	Position	Signature	Date

Inspection report reviewed & approved by:			
Name	Position	Signature	Date

General information	
Case/file No.	
Licence/permit No.	
Inspected entity/company	
Location/site name and address	
Client (Contact person/ site representative/ permit holder) details: Name Title Phone/ Fax no. Postal address/ email	

### 1. PRE-INSPECTION INFORMATION

Environmental / health / land use risk	<input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low
Last inspection date	
General description of location and surrounding environment (where applicable)	
Description of activity (e.g. major industrial processes)	
Outstanding issues and/or non-compliances (from previous known history)	
Current enforcement measures (if applicable)	



## 2. INSPECTION DETAILS

Date of inspection	
Estimation of time spent on inspection (cumulative in person days)	
Inspection trigger/purpose	<input type="checkbox"/> Scheduled inspection <input type="checkbox"/> Proactive strategy <input type="checkbox"/> Reactive (specify why) <input type="checkbox"/> Other: (specify)
Inspection focus/ scope (e.g. water and erosion control)	
Process followed for notification of inspection and entry to site	
Further information (e.g. samples taken, lab analysis, photos, drawings, interviews, official notebook) – refer to and attach other documents as necessary	

## 3. INSPECTION ATTENDEES

Council officers (who undertook site inspection or desktop review) - Names and titles	
Client representative/s - Names and titles	
Other parties (e.g. specialist or expert assistance)	

## 4. OVERALL FINDINGS (NB: refer to inspection checklist where relevant)

General observations	
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Overall compliance level	<input type="checkbox"/> Fully compliant and evidence of best practice <input type="checkbox"/> Satisfactory level of compliance with all aspects <input type="checkbox"/> Evidence of environmental nuisance or minor non-compliance <input type="checkbox"/> Evidence of actual or significant risk of environmental harm or repeated minor non-compliance <input type="checkbox"/> Evidence of actual or significant risk of serious environmental harm
Compliance behaviour (e.g. intentional non-compliance)	

**5. CLIENT ACTION/S REQUIRED**

Condition No. / Permit Criteria Description		
Observations		
Compliance level	<input type="checkbox"/> Major-non compliance	<input type="checkbox"/> Minor non-compliance
Requirement		
Due date		
Client agreement	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Condition No. / Permit Criteria Description		
Observations		
Compliance level	<input type="checkbox"/> Major-non compliance	<input type="checkbox"/> Minor non-compliance
Requirement		
Due date		
Client agreement	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Condition No. / Permit Criteria Description		
Observations		
Compliance level	<input type="checkbox"/> Major-non compliance	<input type="checkbox"/> Minor non-compliance
Requirement		
Due date		
Client agreement	<input type="checkbox"/> Yes	<input type="checkbox"/> No



**6. AGENCY ACTIONS TAKEN / RECOMMENDED**

Enforcement measure/s taken during inspection	Date issued	Type	Next due date
Further enforcement measures recommended (Refer to relevant client action items listed above in section 5)			
Other recommendation (e.g. permit/licence amendments)			
Next inspection date			

Notes

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