

15 August 2023
File No: WAR120258

South Wairarapa District Council
19 Kitchener Street, Martinborough 5711
PO Box 6, Martinborough 5741

Masterton Office
34 Chapel Street
PO Box 41
Masterton 5840
T 0800 496 734
www.gw.govt.nz

Attn: Paul Gardner [Interim Chief Executive, South Wairarapa District Council]

Dear Paul,

Abatement Notice A1064 for Martinborough Wastewater Treatment Plant

Attached is an abatement notice A1064 issued under section 322 of the Resource Management Act 1991. It is important that you read and understand the abatement notice including your rights that are listed on the notice. You may wish to seek your own legal advice on the matter.

This notice specifically requires you to:

- Carry out concept selection for desludging at the Martinborough WWTP to improve pond retention time and reduce contaminant concentrations in the treated wastewater.

Please be aware that if you fail to comply with the abatement notice you are committing an offence under the Resource Management Act 1991. The Greater Wellington Regional Council (GWRC) may issue an infringement notice requiring you to pay a fine or prosecute you if you do not comply with this abatement notice.

An assessment will be undertaken by an officer from GWRC in due course to determine whether the abatement notice has been fully complied with.

I am the warranted enforcement officer who issued this abatement notice, so any inquiries can be directed to me at GWRC on 021 379 920.

Yours sincerely



Aaron Johnston

Enforcement Officer with the designation of Resource Advisor
Environmental Regulation

Encl: Abatement Notice A1064

Attachment 1: **Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) and Schedule 4: Condition 2(a) of resource consent WAR120258**

Abatement Notice

In accordance with sections 322, 323 and 324, Resource Management Act 1991

To: South Wairarapa District Council
19 Kitchener Street, Martinborough 5711
PO Box 6, Martinborough 5741

Attn: Paul Gardner [Interim Chief Executive, South Wairarapa District Council]

1. Wellington Regional Council gives notice that you must take the following action:

Carry out concept selection for desludging at the Martinborough Waste Water Treatment Plant to address reduced retention time and elevated contaminant concentrations in the treated wastewater.

2. The location to which this abatement notice applies is:

Martinborough Wastewater Treatment Plant (MWWTP), Dublin Street, Martinborough

At or about NZTM 1804575.5434994

Legal Description(s): Lot 1 DP 44557 and Lot 5 DP 87782

3. You must comply with this abatement notice within the following period:

By 00:00 on 24 November 2023

4. This notice imposes the following further conditions which must be complied with by the relevant dates:

- a) Carry out the following corrective actions at the Martinborough Wastewater Treatment Plant to improve pond retention time and reduce contaminant concentrations in the treated wastewater, including:
 - i) Undertake a site geotechnical investigation by 17 November 2023.
 - ii) Undertake a sludge survey and sampling investigation by 17 November 2023.
 - iii) Undertake concept selection of the preferred desludging proposal by 17 November 2023.

- iv) Determine forward work programme and timeframes for preferred desludging option by 17 November 2023.
- b) Supply a summary of these actions and confirmation of the completion of above i) to iii), to the Manager, Environmental Regulation, Greater Wellington Regional Council (GWRC) by 24 November 2023.

5. This notice is issued under:

Section 322(1)(b)(i) of the Resource Management Act 1991.

6. The reasons for this notice are:

Consents and conditions

6.1 On 13 April 2016, South Wairarapa District Council (SWDC) was granted resource consent WAR120258 [31707, 32044, 32045, 33045] which allows for the discharge of treated effluent from the MWWTP. The MWWTP is currently operated by Wellington Water Limited (WWL) on behalf of SWDC.

6.2 The following conditions of WAR120258 are specifically relevant (a copy of Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) and Schedule 4: Condition 2(a) are included as **Attachment One**):

- *Schedule 2: Condition 5(c), (d) and (e) sets limits on the wastewater quality parameters of Total Ammonia-nitrogen (NH₄-N), Total Nitrogen and Dissolved Reactive Phosphorous respectively.*
- *Schedule 2: Condition 6(a) sets limits on the E.coli values of UV-treated wastewater for discharges up to 3000 m³/day.*
- *Schedule 4: Condition 2(a) sets limits on the weekly and daily hydraulic loading rate (mm) of wastewater discharged to land.*

Incidents and Correspondence

6.3 On 15 August 2022, GWRC served Abatement Notices A1019 and A1020 to WWL and SWDC, respectively. The Abatement Notices required the parties to cease, and be prohibited from commencing, all unauthorised discharges from the MWWTP.

6.4 Abatement Notices A1019 and A1020 related to non-compliances associated with WAR120258 Schedule 2: Condition 2(b), Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) and Schedule 4: Condition 2(a).

6.5 Abatement Notices A1019 and A1020 included an additional request for an individual, or joint, proposal for corrective actions to bring the MWWTP into full compliance with WAR120258 from SWDC and WWL. GWRC requested that the proposal(s) be provided by 1 December 2022.

6.6 On 1 December 2022, SWDC submitted a joint response by both parties, which included a covering letter from SWDC and a Corrective Action Plan proposal for the MWWTP provided by WWL.

- 6.7 WWL advised that achieving full compliance with the conditions of WAR120258 by 15th August 2023 would not be possible, as CAPEX funding availability and project deliverability constraints meant that the upgrade project would require significantly more time than was provided for by Abatement Notices A1019 and A1020. The Corrective Action Plan proposal covered the period January 2023 to approximately 2030 and from July 2024 onwards relied on 'unconstrained' Entity C CAPEX funding which was proposed to be provided by the proposed Central Government Water Reform initiative.
- 6.8 On 13 April 2023 GWRC met with representatives from SWDC and WWL to discuss the Corrective Action Plan proposal. The meeting was preceded on the same day by an announcement from Central Government regarding the Water Reform proposal. The announced changes to Water Reform negatively impacted on the funding aspects of the Corrective Action Plan proposal. It was agreed at the meeting that SWDC and WWL would revise the Corrective Action Plan proposal in light of the Central Government announcement and include a formal structure for the plan that established the steps required to achieve each item and timeframes for the completion of each item of work. GWRC requested that SWDC and WWL provide the revised Corrective Action Plan proposal by 31 May 2023.
- 6.9 On 31 May 2023 SWDC provided a cover letter and a technical memorandum by Lutra/Stantec ("Compliance Delivery Plan," Document Ref 310103998 CCU M01). Compliance Delivery Plan for the MWWTP. The Compliance Delivery Plan outlined the first year of planned work. The first year work programme included an Influent Flow & Quality Measurement workstream, which is intended to inform the subsequent years of plant improvement works, including the production of design envelopes, evaluation of risk, and cost estimations. Until the Influent Flow & Quality Measurement workstream results are available, SWDC have stated that they unable to provide a firm work programme for the subsequent corrective actions. The Corrective Action Plan also includes the following works:
- Desludging of the treatment pond. This is intended to restore oxidation treatment plant capacity. The report states that this will assist in meeting resource consent compliance by improving ammonia and E. coli reduction prior to the treated effluent reaching the UV reactor.
 - UV system investigation and optimisation. WWL expect that this will restore UV system treatment capacity in line with design specifications and increase E.coli reduction efficiency prior to discharge.
- 6.10 On 13 July 2023 SWDC provided a contingency plan covering possible alternative work items that could be implemented in the event the Compliance Delivery Plan doesn't achieve all of the outcomes intended to address the non-compliances.
- 6.11 On 9 August 2023 GWRC met with representatives from WWL and SWDC to discuss the timeframes for the planned To Do Abatement Notices (A1061-A1066), to ensure the timeframes for the abatement notices were achievable.
- 6.12 On 14 August 2023 Stantec, on behalf of WWL and SWDC provided an updated proposal for the required actions in the planned To Do Abatement Notices (A1061-A1066). GWRC agreed to adopt the new proposed dates for completion in A1061-A1066.

Breaches

- 6.13 On 22 September 2021, WWL submitted the annual report for the MWWTP to GWRC, in compliance with WAR120258 Schedule 1: Condition 26. The report provided aggregated data for the period 1 July 2020-30 June 2021. On 4 February 2022, I conducted an audit of the report and noted non-compliance with the following conditions of resource consent WAR120258:
- Schedule 2: Condition 5(c), (d) and (e) – there were 9 exceedances of the Total Ammonia-nitrogen (NH₄-N) limit, 8 exceedances of the Total Nitrogen limit and 8 exceedances of the Dissolved Reactive Phosphorous limit
 - Schedule 4: Condition 2(a) – there were 61 days where the weekly wastewater hydraulic loading rate limit of 35mm/week was exceeded (using a rolling weekly average)
- 6.14 On 12 January 2022, WWL submitted to GWRC a Quarterly Data and Exception Report for the MWWTP for the three month period ending 30 September 2021, in compliance with WAR120258 Schedule 1: Condition 25. On 17 January 2022, I conducted an audit of the report and noted non-compliance with the following condition of resource consent WAR120258:
- Schedule 2: Condition 5(c), (d) and (e) – there were 3 exceedances of the limits of each of Total Ammonia-nitrogen (NH₄-N), Total Nitrogen and Dissolved Reactive Phosphorous
- 6.15 On 4 February 2022, WWL submitted to GWRC a Quarterly Data and Exception Report for the MWWTP for the three month period ending 31 December 2021, in compliance with WAR120258 Schedule 1: Condition 25. On 9 February 2022, I conducted an audit of the report and noted non-compliances with the following condition of resource consent WAR120258:
- Schedule 2: Condition 5(d) – there were 3 exceedances of the Total Nitrogen limit
 - Schedule 2: Condition 6(a) – there were 2 exceedances of the E.coli limit when the daily discharge of treated wastewater to the Ruamahanga River was less than 3000 m³/day
- 6.16 On 14 April 2022, WWL submitted to GWRC a Quarterly Data and Exception Report for the MWWTP for the three month period ending 31 March 2022, in compliance with WAR120258 Schedule 1: Condition 25. On 26 April 2022, I conducted an audit of the report and noted non-compliance with the following conditions of resource consent WAR120258:
- Schedule 2: Condition 5(c) and (d) – there was 1 exceedance of the Total Ammonia-nitrogen (NH₄-N) limit and 2 exceedances of the Total Nitrogen limit
 - Schedule 2: Condition 6(a) – there were 3 exceedances of the E.coli limit when the daily discharge of treated wastewater to the Ruamahanga River was less than 3000 m³/day
- 6.17 On 30 July 2022, WWL submitted to GWRC a Quarterly Data and Exception Report for the MWWTP for the three month period ending 30 June 2022, in compliance with WAR120258 Schedule 1: Condition 25. On 1 August 2022, I conducted an audit of the report and noted non-compliance with the following conditions of resource consent WAR120258:

- Schedule 2: Condition 5(c) and (d) – there was 1 exceedance of the Total Ammonia-nitrogen (NH₄-N) limit and 1 exceedance of the Total Nitrogen limit
- Schedule 2: Condition 6(a) – there was 1 exceedance of the E.coli limit when the daily discharge of treated wastewater to the Ruamahanga River was less than 3000 m³/day

6.18 On 1 August 2022, I accessed the “Infrastructure Data” website (<https://app.infrastructuredata.nz/Home>), which provides live access to the MWWTP flow meters, sensors and other data. I noted that the weekly hydraulic loading rate (mm/week) of wastewater discharged to the adjacent land block had exceeded 35 mm/week for extended periods on three occasions, in non-compliance with WAR120258 Schedule 4: Condition 2(a). Within the previous 12 months, I noted the data showed:

- Between 9 January 2022 to 15 January 2022 the weekly hydraulic loading rate exceeded 35 mm/week, with a maximum of 54mm/week on 11th January 2022
- Between 30 January 2022 to 6 February 2022 the weekly hydraulic loading rate exceeded 35 mm/week, with a maximum of 48 mm/week on 3rd February 2022
- Between 6 May 2022 to 13 May 2022 the weekly hydraulic loading rate exceeded 35 mm/week, with a maximum of 64 mm/week on 8th May 2022

6.19 In my opinion, these discharges of effluent to water or to land where it may enter water, namely the Ruamahanga River or Groundwater, contravene sections 15(1)(a) or 15(1)(b) of the Resource Management Act 1991.

6.20 Sections 15(1)(a) and 15(b) of the Resource Management Act 1991 states: “No person may discharge any–

(a) contaminant into water; or

(b) contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water

unless the discharge is expressly allowed by a national environmental standard or other regulations, a rule in a regional plan as well as a rule in a proposed regional plan for the same region (if there is one), or a resource consent.

6.21 These discharges contravene Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) or Schedule 4: Condition 2(a), and therefore are not expressly allowed by resource consent WAR120258 [31707, 32044, 32045, 33045].

6.22 In my opinion, the actions described in section 1 and 4 of this notice are necessary to ensure compliance with the Resource Management Act 1991, and Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) or Schedule 4: Condition 2(a) of resource consent WAR120258 [31707, 32044, 32045, 33045], and to avoid, remedy and mitigate against the actual or likely effects of unauthorised discharges of partly treated wastewater.

6.23 You have received this notice as you are the owner of the MWWTP, and hold resource consent WAR120258, and you are responsible for ensuring compliance with all conditions of resource consent WAR120258.

Effects

6.24 The actual or likely effects of this discharge of treated wastewater in breach of conditions of resource consent WAR120258 include:

- Environmental impacts on flora, fauna, and human health.
- Cultural impacts on tangata whenua, particularly on Rangitāne o Wairarapa and Ngati Kahungunu. The discharge is contrary to tikanga Māori and has impacts including:
 - diminished mauri of the water
 - impacts on mahinga kai, as well as the potential human health impacts if contaminated mahinga kai is consumed
 - the discharge could negatively affect the responsibilities of Rangitāne o Wairarapa and Ngati Kahungunu as kaitiaki, and identity and mana as tangata whenua
- Impacts on the recreational amenity and contact recreation values of the Ruamahanga River.

7. Consequences of not complying with this notice:

If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below), or an infringement notice may be served on you under section 343C of the Resource Management Act 1991.

8. Right of appeal:

You have the right to appeal to the Environment Court against the whole or any part of this notice. If you wish to appeal, you must lodge a notice of appeal in form 49 (Resource Management (Forms, Fees, and Procedure) Regulations 2003) with the Registrar, Environment Court, PO Box 5027, Wellington, within 15 working days of being served with this notice.

An appeal does not automatically stay the notice and so you must continue to comply with it unless you also apply for a stay from an Environment Judge under section 325(3A) of the Resource Management Act 1991 (*see* form 50, Resource Management (Forms, Fees, and Procedure) Regulations 2003). To obtain a stay, you must lodge both an appeal and a stay with the Environment Court.

9. Application to change or cancel this notice:

You also have the right to apply in writing to Wellington Regional Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

10. Wellington Regional Council authorised the enforcement officer who issued this notice. Its address is:

Greater Wellington Regional Council
100 Cuba Street, Te Aro
PO Box 11646

Wellington 6142

Phone: 04 384 5708

Facsimile: 04 385 6960

11. The enforcement officer is acting under the following authorisation:

Appointment as an enforcement officer by Wellington Regional Council under section 38(1)(a) of the Resource Management Act 1991 as certified by Warrant No. 983.



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Signature of enforcement officer

15 August 2023

Date notice issued

Note: Irrespective of any appeal and irrespective of any time for compliance specified in this notice, you may be liable to prosecution or other enforcement action if the activity or inactivity in question contravenes the Resource Management Act 1991, a resource consent, or a rule in a plan. This notice is issued without prejudice to additional or alternative enforcement action being taken by Wellington Regional Council.

ATTACHMENT ONE – Schedule 2: Condition 5(c), (d) and (e), Schedule 2: Condition 6(a) and Schedule 4: Condition 2(a) of resource consent WAR120258

Schedule 2: Condition 5(c), (d) and (e):

Any treated wastewater discharged to the Ruamahanga River shall meet the following standards:

- c) The concentration of Total Ammonia-nitrogen (NH₄-N) shall not exceed 30g/m³ in more than 4 out of any 12 consecutive monthly test results; and
- d) The concentration of TN shall not exceed 35mg/l in more than 4 out of any 12 consecutive monthly test results
- e) The concentration of DRP shall not exceed 7g/m³ in more than 4 out of any 12 consecutive monthly test results

Schedule 2: Condition 6(a):

The following UV treatment standards shall apply:

- a) For discharges up to 3,000m³/day no more than 5 of 10 consecutive E.coli values shall exceed 100 cfu per 100 millilitres, and no more than 2 out of 10 consecutive values shall exceed 1,400 cfu per 100 millilitres

Schedule 4: Condition 2(a):

The wastewater hydraulic loading rate shall not exceed the following:

- a) 35mm depth per week, and no more than 15mm in any 24 hour period during Stage 1B