

26 April 2023

File Ref: 2023-064-FYI

Tēnā koe

Request for information 2023-064

I refer to your request for information dated 27 March 2023, which was received by Greater Wellington Regional Council (Greater Wellington) on 28 March 2023. You have requested the following:

- 1. Why did the GWRC not come out and inspect the breaches that were occurring?*
- 2. Has the GWRC ever heard of noise control never coming out? And if not why do they believe that the response to these two discharges are acceptable?*
- 3. (sic) What action has been taken against Interwaste for the constant breaches of their discharge permit over the past 5 years?*
- 4. I'd like a copy of all the smell complaints made against Interwaste along with the actions that the GWRC has taken against each complaint*

Please be aware that the GWRC can only provide you with the recorded information that we hold, any questions regarding the informalities and practices carried out by officers, are not required to be answered under an OIA. However, provided your concerns in the GWRC's response to your odour complaints we are willing to answer your questions and hopefully provide some assurance to our best practice methods, and such events occurred.

Greater Wellington's response follows:

Your questions are provided below with our answer to each respectively.

- 1. Why did the GWRC not come out and inspect the breaches that were occurring?**

The Environmental Protection Officer who was on duty at the time of the complaint on **22 March 2023** was unable to attend as they were attending another incident regarding the unauthorised

discharge of contaminant, namely hydraulic fluid into Waiwhetu Stream, in breach of Section 15(1)(b) of the RMA.

The Environmental Protection Officer who was on duty at the time of the complaint on **23 March 2023** was unable to attend on site for the required odour assessment, due to being in Kāpiti area, and carrying out an investigation relating to an incident involving the Ōtaki river.

The investigation into such incidents, and the capacity for other officers within the region meant that the odour complaints recorded on the **22 March 2023**, and **23 March 2023**, could not be attended within the required or appropriate time frame, and an odour assessment was not conducted as per the complainant's request.

2. Has the GWRC ever heard of noise control never coming out? And if not why do they believe that the response to these two discharges are acceptable?

GWRC does not regulate noise on land, so we are not familiar with noise control officer's attendance.

GWRC understands the responsibility it holds to monitor and assess compliance with the RMA, provided there is the appropriate capacity to carry out such assessments. Given the duty officer at the time was attending other incidents, the odour assessments were not carried out.

The two other incidents which were being investigated at the time, involved the discharge of hydraulic fluid to Waiwhetu Stream, and the unauthorised earthworks within 5m of Ōtaki River were provided priority given the time in which each of the incidents were logged, and of the locations the incidents were occurring.

- Under the proposed Natural Resources Plan (pNRP), for the Greater Wellington Region (Appeals Version), the Ōtaki Stream is considered as Schedule F1, indicating a stream of high character, i.e., the ecosystems habitats to which the stream holds are home to significant indigenous and biodiversity values.
- Under the proposed Natural Resources Plan (pNRP), for the Greater Wellington Region (Appeals Version), the Waiwhetu Stream is considered as a Schedule F1b, indicating a stream which feeds into parts of the coastal marine area, and which contains inanga spawning habitat and holds significant natural character.

The two odour incidents relating to Interwaste were logged at the same time as the two incidents mentioned above. When multiple notifications are received at once, the Environmental Protection Officer on duty must prioritise the notifications and attend the incidents they consider the most significant. On this occasion, based on the importance of the ecological receiving environments mentioned above, the significance of each of the contaminants, and evidence of breaches to Section

9(2)(a) and 15(1)(b) of the RMA, a decision was made to attend the other incidents in the Waiwhetu Stream and Ōtaki River.

3. (sic) What action has been taken against Interwaste for the constant breaches of their discharge permit over the past 5 years?

GWRC issued resource consent WGN110357 on 14 July 2011 for the discharge of contaminants to air, namely odour arising from the operation of a waste sterilisation facility to International Waste Limited.

Under this consent, monitoring and compliance inspections have been conducted, both from reported odour complaints, and under compliance requirements set out within the parameters/conditions of the consent. GWRC is aware of the responsibilities and actions it must carry out in terms of ensuring that no unauthorised discharge, namely that of offensive and objectionable odour is witnessed beyond the boundary of their property.

In the past year, GWRC has received numerous complaints relating to odour from Interwaste, which GWRC Officers have attended and assessed. On occasions that odour is not smelt by officers, a full odour assessment is not undertaken. If an officer detects odour on attendance, a full odour assessment is completed.

On **12 January 2023** GWRC conducted an on-site investigation to assess compliance with the RMA, and relative resource consent WGN110357. In light of this investigation, offensive and objectionable odour was assessed to be causing an adverse effect, and an infringement notice was issued against the offending party, 'Interwaste' on **10 February 2023** under Section 15(1)(c) of the RMA.

- All recorded odour assessment sheets are attached as appendix 1 (three in total).
- Infringement I888 is attached as appendix 2.

4. I'd like a copy of all the smelt complaints made against Interwaste along with the actions that the GWRC has taken against each complaint."

On the **20 April 2023**, clarification was sought to ensure that the above question was answered with the correct information. As no response providing clarification was received, this information is now being released to you subject to the condition that you were unable to clarify the below request;

❖ *"Kia ora Kris,*

I hope this email finds you well.

*I have recently been assigned the task of completing your LGOIAMA request, due on the **26 April 2023**, and currently seek the clarification on the below question,*

“3. I'd like a copy of all the smelt complaints made against Interwaste along with the actions that the GWRC has taken against each complaint.”

By this, are you meaning to state that you wish to obtain all actioned/ completed odour assessments by the GWRC Environmental Regulation Staff, in light of any reported odour complaints made against Interwaste?

Or,

All the times odour has been reported about Interwaste, to the GWRC, and the records we have of all of these complaints?

*Would be great to get your clarification on the above, so we are able to provide you with the correct information going forward. However, if I have not heard back from you by the **24 April 2023 COB**, I will assume that you are referring to all conducted odour assessments carried out by our Environmental Regulation Department, in light of each recorded odour complaint made against Interwaste. All other relevant information will be supplied as per your relevant questions”.*

Provided the above was sent to no response, all odour assessment sheets, where the odour was 'smelt' are attached within Appendix 1, and 1x Infringement was issued to 'Interwaste' for the assessment carried out on **12 January 2023** attached as appendix 2.

If you have any concerns with the decision(s) referred to in this letter, you have the right to request an investigation and review by the Ombudsman under section 27(3) of the Local Government Official Information and Meetings Act 1987.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request will be published shortly on Greater Wellington's website with your personal information removed.

Nāku iti noa, nā,



Al Cross

Kaiwhakahaere Matua Taiao | General Manager Environment Management

Encl: Appendix 1 and 2

Appendix 1

Data record sheet for odour measurements

10705

greater WELLINGTON
REGIONAL COUNCIL
Te Pane Matua Taiao

Site being monitored: INTEGWASTE Assessors name: Nikki FENN

Location of assessment: VACC CANYON Date: 14.12.2022

Reason for investigation: COMPLAINT/PROACTIVE Consent no. _____

INITIAL IMPRESSIONS

Initial character: Organic / kind of rubbishy

Time of the initial impression: 2:59 VC door Initial general hedonic tone: -2

Initial odour intensity: 3 Plume width (if known): 5 metres from VC door

Odour samples every 10 seconds. The time between the 10 seconds is disregarded (interval method). Breathe normally rather than sniffing.

Start time: 15:10

Time	Intensity		Character/notes	Intensity		Character/notes
	0	1		0	1	
1st min	0	0	Faint IW	0	0	
	10	1		10	0	
	20	0		20	0	Wind behind
	30	2		30	0	
	40	0		40	0	
2nd min	0	1		50	1	Wind was behind
	10	3	Organic / Rubbish	6th min	0	0
	20	0		10	0	Working
	30	2	Smell	20	0	
	40	1		30	0	Vape smell
3rd min	0	0	Wind blowing behind	40	0	
	10	0		50	0	
	20	0	Wind switching	8th min	0	1
	30	1		10	2	
	40	0		20	0	
4th min	0	0	Wind behind	30	0	Wind behind
	10	0		40	1	
	20	1		50	1	
	30	2		9th min	0	2
	40	2		10	3	
5th min	0	0		20	1	
	10	2		30	0	
	20	0		40	0	
	30	1		50	1	
	40	0	Wind behind	10th min	0	2
	0	0		10	1	Stronger wind
	10	2		20	0	
	20	0		30	2	
	30	1		40	0	
	40	0		50	0	Vape smell

Scale of intensity

6 Scale of intensity

5 Very strong

4 Strong

3 Distinct

2 Weak

1 Very weak

0 No odour

Weather data (see over)

Wind direction: NWS / WNW

Wind velocity: 6 km/h

Cloud cover: 10%

Temperature: 25°

General hedonic tone

Record at the end of the survey as an overall impression

-4 Extremely unpleasant

-3

-2

-1

0 Neutral

1

2

3

4 Extremely pleasant

Based on your assessment on this occasion, which of the following applies:

I did not detect any odour

I did detect odour and consider it would not be objectionable at any location for any duration or frequency

I did detect odour and consider it would be objectionable, if it became continuous

I did detect odour and consider it would be objectionable if it occurred on a regular or frequent basis

I did detect odour and consider it to be objectionable even in periods of short duration.

- could detect coming inside VC reception - Not OK today

FINAL CHECKLIST

Upwind assessment completed. Record details below. If not, detail reason: No odour + the east

Aerial photo/sketch showing location of assessment and upwind assessment attached No odour south

Are there potential witness statements to obtain YES/NO (VC) - odour is very localized to front of IW

REMARKS:

Iw. smell at 15:25 odour is distinct in a burst & at 15:24 & 15:28 x 15:29

Data record sheet for odour measurements

10707

Site being monitored: Interwatts Assessors name: Callum Hawthorne
 Location of assessment: Broken Hill parirua Date: 12/1/23
 Reason for investigation: COMPLAINT/PROACTIVE Consent no. _____

INITIAL IMPRESSIONS Initial character: strong, thick rotting
 Time of the initial impression: 12:34 Initial general hedonic tone: _____
 Initial odour intensity: 4 Plume width (if known): _____

Odour samples every 10 seconds. The time between the 10 seconds is disregarded (interval method). Breathe normally rather than sniffing.

Start time: 12:34

Intensity	Character/notes	Intensity	Character/notes
1st min 0: 4	thick heavy	6th min 0: 2	
10: 3		10: 1	
20: 2	wind blowing	20: 1	
30: 1	pushing scent away.	30: 0	
40: 0		40: 4	Chemical smell, mixing
50: 0		50: 4	resolving? well rain
2nd min 0: 0		7th min 0: 2	
10: 3		10: 1	
20: 2		20: 0	
30: 0		30: 0	
40: 3		40: 2	thick charred
50: 2		50: 2	
3rd min 0: 3	Door open	8th min 0: 2	
10: 2	Briefly	10: 1	vape smell
20: 2	truck leaving	20: 2	Burning smell
30: 1		30: 3	more cleaner
40: 6	Noxious bad	40: 3	of rotten meat
50: 6		50: 2	smell.
4th min 0: 6	domest	9th min 0: 1	like bleach
10: 6	Door still open	10: 0	over dead
20: 5		20: 2	meat.
30: 4	truck leaving	30: 2	Door open
40: 4		40: 1	cigarette
50: 3	Door closed	50: 4	from coal
5th min 0: 3		10th min 0: 6	Door closed
10: 5	off meat	10: 1	Truck arriving
20: 4	off meat smell	20: 0	Diesel
30: 4		30: 1	Door open
40: 3	rotting	40: 6	feces smell
50: 3	thick wet	50: 4	truck leaving

Scale of intensity

6	Scale of intensity
5	Very strong
4	Strong
3	Distinct
2	Weak
1	Very weak
0	No odour

Weather data (see over)

Wind direction:	<u>South</u>
Wind velocity:	<u>34 km/h</u>
Cloud cover:	<u>very cloudy 90%</u>
Temperature:	<u>cold - 15°C</u>

General hedonic tone

Record at the end of the survey as an overall impression

-4	Extremely unpleasant
-3	
-2	
-1	
0	Neutral
1	
2	
3	
4	Extremely pleasant

- Based on your assessment on this occasion, which of the following applies:
- I did not detect any odour
 - I did detect odour and consider it would not be objectionable at any location for any duration or frequency
 - I did detect odour and consider it would be objectionable, if it became continuous
 - I did detect odour and consider it would be objectionable if it occurred on a regular or frequent basis
 - I did detect odour and consider it to be objectionable even in periods of short duration.

FINAL CHECKLIST

- Upwind assessment completed. Record details below. If not, detail reason: was up wind
- Aerial photo/sketch showing location of assessment and upwind assessment attached
- Are there potential witness statements to obtain YES/NO

REMARKS: Door open briefly - TRUCK leaving really accentuated the smell. would consider objectionable in the short periods i smell it. Doors not open for more than 20secs at a time.

Data record sheet for odour measurements

10713

Site being monitored: interstate Assessors name: Kallum Hawthorne
 Location of assessment: Uare canyon driveway Date: 9/2/23
 Reason for investigation: COMPLAINT/PROACTIVE Consent no. WGN110

INITIAL IMPRESSIONS

Time of the initial impression: 12:01 Initial character: rotting eggs
 Initial odour intensity: 3 Plume width (if known): 50m down drive

Odour samples every 10 seconds. The time between the 10 seconds is disregarded (interval method). Breathe normally rather than sniffing.

Start time: _____

	Intensity	Character/notes		Intensity	Character/notes		
1st min	0	3	eggs	6th min	0	1	strawberry
	10	3	"		10	0	
	20	3	"		20	0	
	30	2			30	0	
	40	1	sweet vapour		40	0	
2nd min	0	2	rotting fermentation	7th min	0	0	
	10	1	soy?		10	0	
	20	1			20	0	
	30	1			30	2	rotting sheep
	40	1			40	1	rotting
3rd min	0	2	rot	8th min	0	0	
	10	0	poo		10	2	dog biscuits
	20	1	fermentation		20	2	
	30	1	sweet		30	0	
	40	2	meat warm		40	0	
4th min	0	2	chemical	9th min	0	1	chemical
	10	0			10	0	wash
	20	0			20	0	
	30	1	Diesel Truck		30	0	
	40	1			40	2	fermenting
5th min	0	1	sweet vapour	10th min	0	0	
	10	0	vanilla		10	2	"
	20	2	dog biscuits		20	0	
	30	2	meat		30	1	vapour
	40	1			40	0	
50	0		50	0			

Scale of intensity

6	Scale of intensity
5	Very strong
4	Strong
3	Distinct
2	Weak
1	Very weak
0	No odour

Weather data (see over)

Wind direction:	SE
Wind velocity:	20km/h
Cloud cover:	60%
Temperature:	15°C

General hedonic tone

Record at the end of the survey as an overall impression

-4	Extremely unpleasant
-3	
-2	
-1	
0	Neutral
1	
2	
3	
4	Extremely pleasant

Based on your assessment on this occasion, which of the following applies:

- I did not detect any odour
- I did detect odour and consider it would not be objectionable at any location for any duration or frequency
- I did detect odour and consider it would be objectionable, if it became continuous
- I did detect odour and consider it would be objectionable if it occurred on a regular or frequent basis - *Not prominent or often enough to determine as objectionable*
- I did detect odour and consider it to be objectionable even in periods of short duration.

FINAL CHECKLIST

- Upwind assessment completed. Record details below. If not, detail reason: _____
- Aerial photo/sketch showing location of assessment and upwind assessment attached
- Are there potential witness statements to obtain YES/NO

REMARKS:

Noticeable when detected, distinct from vapour and other tones. But not prominent - no doors open. often meaty / veggie fermenting odour. mixed w/ human waste.

Appendix 2



10 February 2023

File No: WGN110357

12 Broken Hill Road
Kenepuru
Porirua 5022

Via email: [REDACTED]@interwaste.co.nz

Attn: [REDACTED]

Wellington Office
100 Cuba Street
Te Aro, Wellington 6011
PO Box 166
Manners Street
Wellington 6142
T 04 384 5708
F 04 385 960
www.gw.govt.nz

Dear Valentin

Infringement Notice 1888 and formal warning for objectionable odour from Interwaste on 12 January 2023

Thank you for your letter dated 1 February 2023, detailing your explanation of events that surrounded the production of odour beyond Interwaste's boundary on 12 January 2023. The information you provided was considered in reaching a decision on the outcome of the incident. This letter now concludes the Greater Wellington Regional Council's investigation into this matter. You have received this letter because you directed the discharge to air on 12 January 2023.

On this occasion we have decided to issue you with an infringement notice and formal warning for the breaches of the Resource Management Act 1991 (RMA) that you are responsible for, and to recover the costs of the investigation from you.

Summary of investigation

On 12 January 2023, at 11.34am, Greater Wellington received a notification of odour allegedly emanating from Interwaste. When the rostered enforcement officer spoke to the notifier, the notifiers described the smell as "a strong and disgusting toxic waste smell" which had lasted intermittently for between one minute and a few minutes at a time.

Around 12.30pm, the officer conducted a site visit. Standing beyond the Interwaste site boundary, the officer detected a strong, unpleasant odour. He conducted an odour assessment from 12:34-12:44pm, describing the odour overall as a "fleshy smell covered in bleach". Some of his notes across the ten minutes rate the smell as 4-6/6 at times and describe the smell as being "thick, heavy, noxiously bad, [like] vomit / off meat / chemical[s] / faeces" and "like bleach over dead meat."

170999-971342186-24

The officer found the odour to be objectionable, even in periods of short duration.

Breach(es) of the RMA

This discharge of odour contravenes section 15(1)(c) of the RMA which states that:

no person may discharge any contaminant [...] from any industrial or trade premises into air [...] 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.

This discharge is not expressly allowed by a national environmental standard, a rule in a regional plan or a resource consent. Interwaste's resource consent WGN110357 [34191] allows Interwaste to produce odour beyond its boundary, but under condition 6:

there shall be no discharges to air that are, in the opinion of an enforcement officer of the Wellington Regional Council, noxious, dangerous, offensive or objectionable at or beyond the legal boundary of the property from which the consent holder operates.

Infringement notice

Attached is an Infringement Notice issued under section 343C of the RMA. It is important that you read and understand the Infringement Notice including the *Summary of Rights* on the reverse side, which sets out the actions available to you if you wish to appeal this notice. Please note that if you do not pay the infringement fee and do not deliver a letter requesting a hearing within 28 days after the service of this notice, you will be served with a reminder notice requesting payment within a further 28 days. If you do not pay the infringement fee and do not deliver a letter requesting a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, the notice will be referred to the court for collection of the fee and you may become liable to pay court costs in addition to the infringement fee.

You should be aware that if you request a hearing and you are found guilty, or plead guilty, the Court may impose a penalty which is different from the infringement fee set out in the infringement notice. The penalty imposed by the Court may be more, less or the same as the infringement fee. The penalties which the Court can impose at a hearing are in the case of a company, a fine up to \$600,000 or in the case of an individual, a fine up to \$300,000. You may wish to seek your own legal advice on the matter.

Formal warning

On this occasion you have committed one offence against the RMA and have received only one infringement notice. Please ensure that you take all necessary steps to comply with your obligations under the RMA in future as we may not be so lenient if a further breach occurs. Please also note that

this letter will form part of your compliance history and will be considered in the event of any future incidents.

GWRC has a responsibility to enforce the RMA. Failure to comply with the RMA may result in enforcement action including formal warnings, infringement notices or prosecution. More information on potential penalties is available online at <http://www.legislation.govt.nz/act/public/1991/0069/latest/DLM239042.html> and <http://www.legislation.govt.nz/regulation/public/1999/0359/latest/whole.html#DLM300060>

Cost recovery

Please find enclosed an invoice for costs incurred by GWRC in responding to a confirmed breach of the Resource Management Act 1991. In accordance with our Resource Management Charging Policy, a minimum standard charge of \$260.00 will apply to all environmental incidents inspected. Additional charges may apply in circumstances where the incident investigation costs exceed the minimum standard charge.

These costs are sought to ensure that the actual and reasonable costs of GWRC's compliance work are shared with the party undertaking the non-compliant activity. The details of this breach are summarised below.

Incident details

Incident: Odour
Date: 12/01/23
Impact: Objectionable odour
Responsible party: International Waste Limited (Interwaste)
Investigating officer: Emily McDowall
Section(s) contravened: 15(1)(c)

Itemised costs

Standard charge: \$1000.00
Materials: \$N/A
Other: \$270.00 cost recovery (for incident attendance)
Subtotal: \$1270.00
GST (15%): \$40.50 (charged on the cost recovery only)
Total including GST: \$1310.50

These costs are being recovered in accordance with section 150 of the Local Government Act 2002. Please note that if payment is not received within 28 days after **10 February 2023**, GWRC reserves the right to refer the matter to a collection agency.

If you have any questions about this matter please email me at emily.mcdowall@gw.govt.nz or call me on 021-191-9689.

Yours sincerely



Emily McDowall
Resource Advisor
Environmental Regulation

PROACTIVE RELEASE

Resource Management Infringement Notice

(Issued under the authority of section 343c of the Resource Management Act 1991)

Enforcement authority

Wellington Regional Council
PO Box 11646, Wellington 6142

Enforcement officer: *Emily McDowall*

Authority: A warrant 941 issued by Wellington Regional Council on 2 December 2019 and delegated authority

TO: *International Waste Limited (Interwaste)*
12 Broken Hill Road, Kenepuru

For: [REDACTED]

You are alleged to have committed an infringement offence against the Resource Management Act 1991, as follows:

Details of alleged infringement offence

Section of Resource Management Act 1991 contravened: *section 15(1)(c) being an offence against section 338(1)(a) of the Resource Management Act 1991.*

Nature of infringement:

Objectionable odour beyond the site boundary

This discharge contravenes section 15(1)(c) which states that: *no person may discharge any contaminant [...] from any industrial or trade premises into air [...] 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.*

This discharge is not expressly allowed by a national environmental standard, a rule in a regional plan or a resource consent

You have received this notice because you are the Wellington Operations Manager at Interwaste, the business from which the odour emanated.

Location *12 Broken Hill Road*
Kenepuru
Porirua 5022

Date: *12 January 2023*

Approximate time: *12.36pm*

The fee for this infringement is \$1460.50 including GST

Payment of infringement fee

The infringement fee is payable to the enforcement authority within 28 days after *10 February 2023*

The infringement fee is payable to the enforcement authority
at *100 Cuba Street, Te Aro, Wellington or PO Box 11646, Wellington 6142*

Payments by cheque should be made out to Greater Wellington Regional Council and crossed "Not Transferable".



.....
Signature of Enforcement Officer

Important
Please read summary of rights printed overleaf



Resource Management Infringement Notice

Notice no: 1888

Name: *International Waste Limited (Interwaste)*

Invoice no: *Invoice Number*

Electronic Payment may be made to Bank A/c 06-0582-0104781-00
Please put our invoice number in the reference field.

Payment made: \$ _____

Date: _____

For manual payments please forward this slip and payment to:
Greater Wellington Regional Council
PO Box 11646, Wellington 6142

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

PROACTIVE RELEASE

Summary of rights

Note: if, after reading this summary, you do not understand anything in it, you should consult a lawyer immediately.

Payment

1. If you pay the infringement fee within 28 days after the service of this notice, no further action will be taken against you in respect of this infringement offence. Payments should be made to the enforcement authority at the address shown on the front of this notice.

Note: if, under section 21 (3A) or (3C) (a) of the Summary Proceedings Act 1957, you enter or have entered into a time to pay arrangement with an informant in respect of an infringement fee payable by you, paragraphs 3 and 4 below do not apply and you are not entitled either to request a hearing to deny liability or to ask the Court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Further action

2. If you wish to raise any matter relating to circumstances of the alleged offence, you should do so by writing a letter and delivering it to the enforcement authority at the address shown on the front of this notice within 28 days after the service of a reminder notice in respect of the offence.
3. If you deny liability and wish to request a hearing in the District Court in respect of the alleged offence, you must, within 28 days after the service of a reminder notice in respect of the offence, deliver, to the enforcement authority at the address shown on the front page of this notice a letter requesting a Court hearing in respect of the offence. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court.

Note: if the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.

4. If you admit liability in respect of the alleged offence but wish to have the Court consider submissions as to penalty or otherwise, you must, within 28 days after the service of a reminder notice in respect of the offence, deliver, to the enforcement authority at the address shown on the front page of this notice a letter requesting a hearing in respect of the offence AND in the same letter admit liability in respect of the offence AND set out the submissions that you would wish to be considered by the Court. The enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the Court. There is no provision for an oral hearing before the Court if you follow this course of action.

Note: costs will be imposed in addition to any penalty.

Non-payment of fee

5. If you do not pay the infringement fee and do not deliver a letter requesting a hearing within 28 days after the service of this notice, you will be served with a reminder notice (unless the enforcement authority decides otherwise).
6. If you do not pay the infringement fee and do not deliver a letter requesting a hearing in respect of the alleged infringement offence within 28 days after the service of the reminder notice, you will become liable to pay **costs in addition to the infringement fee** (unless the enforcement authority decides not to commence court proceedings against you).

Defence

7. You will have a complete defence against proceedings relating to the alleged offence if the infringement fee is paid to the enforcement authority at the address shown on the front page of this notice within 28 days after the service of a reminder notice in respect of the offence. Late payment or payment made to any other address will not constitute a defence to proceedings in respect of the alleged offence.
8.
 - (1) This paragraph describes a defence additional to the one described in paragraph 7. This defence is available if you are charged with an infringement offence against any of sections 9, 12, 13, 14, and 15 of the Resource Management Act 1991.
 - (2) You must prove either of the following to have the defence:
 - (a) that—
 - (i) the action or event to which the infringement notice relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property, or avoiding an actual or likely adverse effect on the environment; and
 - (ii) your conduct was reasonable in the circumstances; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred; or
 - (b) that—
 - (i) the action or event to which the infringement notice relates was due to an event beyond your control, including natural disaster, mechanical failure, or sabotage; and
 - (ii) you could not reasonably have foreseen or provided against the action or event; and
 - (iii) you adequately mitigated or remedied the effects of the action or event after it occurred.
 - (3) Subparagraph (2) does not apply unless—
 - (a) you deliver a written notice to the enforcement agency; and

- (b) in the notice, you—
 - (i) state that you intend to rely on subparagraph (2)(a) or (b); and
 - (ii) specify the facts that support your reliance on subparagraph (2)(a) or (b); and
- (c) you deliver the notice—
 - (i) within 7 days after you receive the infringement notice; or
 - (ii) within a longer period allowed by a District Court.
- (4) If you do not comply with subparagraph (3), you may ask the District Court to give you leave to rely on subparagraph (2)(a) or (b).

8A (1) This paragraph describes a defence additional to those described in paragraphs 7 and 8. This defence is available if—

- (a) you are—
 - (i) a principal; or
 - (ii) an employer; or
 - (iii) the owner of a ship; and
- (b) you may be liable for an offence alleged to have been committed by—
 - (i) your agent; or
 - (ii) your employee; or
 - (iii) the person in charge of your ship.

(2) If you are a natural person, including a partner in a firm, you must prove either of the following to have the defence:

- (a) that you—
 - (i) did not know, and could not reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.

(3) If you are not a natural person (for example, you are a body corporate), you must prove either of the following to have the defence:

- (a) that—
 - (i) neither the directors (if any) nor any person involved in your management knew, or could reasonably be expected to have known, that the offence was to be, or was being, committed; and
 - (ii) you took all reasonable steps to remedy any effects of the act or omission giving rise to the offence; or
- (b) that you took all reasonable steps to—
 - (i) prevent the commission of the offence; and
 - (ii) remedy any effects of the act or omission giving rise to the offence.

8B (1) This paragraph describes a defence additional to the defences described in paragraphs 7, 8, and 8A. This defence is available if you are charged with an infringement offence against section 15A(1)(a) of the Resource Management Act 1991 (relating to dumping waste or other matter in the coastal marine area from a ship, aircraft, or offshore installation).

(2) In order to have the defence, you must prove all of the following in relation to the act or omission that is alleged to constitute the offence:

- (a) that the act or omission was necessary—
 - (i) to save or prevent danger to human life; or
 - (ii) to avert a serious threat to any ship, aircraft, or offshore installation; or
 - (iii) in the case of *force majeure* caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and
- (b) that the act or omission was a reasonable step to take in all the circumstances; and
- (c) that the act or omission was likely to result in less damage than would otherwise have occurred; and
- (d) that the act or omission was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.

8C (1) This paragraph describes a defence additional to the defences described in paragraphs 7, 8, 8A, and 8B. This defence is available if you are charged with an infringement offence against section 15B(1) or (2) of the Resource Management Act 1991 (relating to certain discharges of a harmful substance, a contaminant, or water in the coastal marine area from a ship or offshore installation).

(2) You must prove either of the following to have the defence:

- (a) that the harmful substance, contaminant, or water was discharged for the purpose of securing the safety of a ship or an offshore installation, or for the

purpose of saving life and that the discharge was a reasonable step to effect that purpose; or

- (b) that the harmful substance, contaminant, or water escaped as a consequence of damage to a ship or its equipment or to an offshore installation or its equipment, and—
 - (i) such damage occurred without your negligence or deliberate act; and
 - (ii) as soon as practicable after that damage occurred, all reasonable steps were taken to prevent the escape of the harmful substance contaminant, or water or, if any such escape could not be prevented to minimise any escape.

Queries/correspondence

9. When writing or making payment of an infringement fee, please indicate
- (a) The date of the infringement offence; AND
 - (b) The infringement notice number; AND
 - (c) The identifying number of each alleged offence and the course of action you are taking in respect of it (if this notice sets out more than 1 offence and you are not paying all the infringement fees for all the alleged offences); AND
 - (d) Your address for replies (if you are not paying all the infringement fees for all the alleged offences).

Full details of your rights and obligations are set out in sections 341 to 343D of the Resource Management Act 1991 and section 21 of the Summary Proceedings Act 1957.

Note: all payments, all queries, and all correspondence regarding this infringement must be directed to the enforcement authority at the address shown.