

10 February 2023

File No: WGN110357

12 Broken Hill Road

Kenepuru

Porirua 5022

Via email: [valentin@interwaste.co.nz](mailto:valentin@interwaste.co.nz)

**Attn: Valentin Czibesz**

Wellington Office  
100 Cuba Street  
Te Aro, Wellington 6011  
PO Box 11646  
Manners Street  
Wellington 6142  
T 04 384 5708  
F 04 385 6960  
[www.gw.govt.nz](http://www.gw.govt.nz)

Dear Valentin

## **Infringement Notice I888 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

<b>Incident:</b>	Odour
<b>Date:</b>	12.01.23
<b>Impact:</b>	Objectionable odour
<b>Responsible party:</b>	International Waste Limited (Interwaste)
<b>Investigating officer:</b>	Emily McDowall
<b>Section(s) contravened:</b>	15(1)(c)

### Itemised costs

<b>Standard charge:</b>	\$1000.00
<b>Materials:</b>	\$N/A
<b>Other:</b>	\$270.00 cost recovery (for incident attendance)
<b>Subtotal:</b>	\$1270.00
<b>GST (15%)</b>	\$40.50 (charged on the cost recovery only)
<b>Total including GST:</b>	\$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](mailto:emily.mcdowall@gw.govt.nz) or call me on 021-191-9689.

Yours sincerely

A handwritten signature in blue ink that reads "emily mcdowall". The signature is written in a cursive, lowercase style.

Emily McDowall  
**Resource Advisor**  
Environmental Regulation

## 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: Valentin Czibesz, Wellington Operations Manager, Interwaste*

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**

## 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 a 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.**