Odour Emission Standards established under the Resource Management Act 1991 for the Moa Point Treatment Plant, Wellington

Office of the
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Te Kaitiaki Taiao a Te Whare Pāremata

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Preface

Persistent odour issues are difficult to deal with and commonly arouse passionate responses. Many of the activities we engage in as a society have smells associated with them, none more so than those involving the treatment and disposal of wastes of one form or another.

Assessing the offensive and objectionable nature of an odour is inherently difficult because of the degree of subjectivity involved in odour measurement and characterisation.

Odour is, however, an important environmental concern and one that is frequently dealt with through controls that can be imposed as conditions of designations and/or resource consents.

In this case I received representations from the Wellington Wastewater Community Liaison Group requesting assistance in resolving ongoing odour issues at the Moa Point sewage treatment plan in Wellington. Happily I am able to report that the significant odour issues of the past associated with the plant seem to have been largely resolved, and that the parties involved (the Liaison Group, the Regional Council, the City Council, and the plant's operator) are working co-operatively towards increased improvement in performance.

It is my perception that the odour conditions imposed upon the operation of the plant were onerous, probably unachievable, and led to unrealisable expectations in the community. The conditions were imposed at a time when the Resource Management Act was very young. Since that time experience with the Act has grown and helpful guidelines and best practice models have been developed. The odour conditions imposed at the Moa Point facility, and agreed to by the developers, are not in line with current guidelines.

Despite the practical issues in this case having been largely resolved, I think the content of this report provides a salient reminder that where environmental conditions are imposed, a primary consideration must be the achievability of compliance and the expectations they are likely to engender. The inclusion of virtually unachievable conditions that engender unattainable expectations can only lead to frustration and disappointment and, in some cases, excessive cost for little or no environmental gain. This in turn has the potential to fuel opposition to investment in environmental management, it being seen as costly when in most cases it need not be. Hopefully this study will help avoid the establishment of further unsustainable environmental standards and the tensions they can generate.

Dr J Morgan Williams
Parliamentary Commissioner for the Environment

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1 Introduction

When exercising functions under the Resource Management Act 1991, one of the challenges for territorial authorities (TAs) and regional councils (RCs), and for the Environment Court when cases are taken on appeal, is determining effective controls on odour emissions which are having adverse effects on the environment.

Assessing the offensive and objectionable nature of odour is inherently difficult because people vary in their response to and tolerance of odour, and there is no method for assessing odour strength that does not involve a degree of subjectivity.

The challenge for TAs, RCs and the Court is to determine odour emission standards that are specific, clearly targeted at all likely sources, and which can be realistically complied with and enforced. If the standards don't meet these requirements then the likely consequences are on-going complaints and unresolved disputes.

Odour issues associated with Moa Point, initially with a milliscreening facility and subsequently with the transportation to and treatment of sewage there, have arisen repeatedly over a period of years.

From its opening on 21 September 1998 until October 2001, odour emissions from the Wellington Wastewater Treatment Plant at Moa Point were the subject of numerous complaints to the Wellington City Council (WCC) and the Wellington Regional Council (also known as Greater Wellington Regional Council and referred to in this report as 'GW'), and a hearing before the Environment Court.[1]

Work undertaken by the plant operator, Anglian Water International (NZ) Ltd (Anglian Water), effected significant reduction in odour emissions but not total compliance with a 'no discernible odour' performance standard required by the designation for the plant.[2]

On 11 October 2001 the Parliamentary Commissioner for the Environment (PCE) received representations from the Wellington Wastewater Community Liaison Group requesting assistance in finding solutions to the problem.[3]

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[1] *Wellington Regional Council v Wellington City Council* (W109/98).
[2] See Chapter 24 – Designations, Wellington City District Plan (2000).
[3] The Wellington Wastewater Community Group is the Community Liaison Committee established by WCC in accordance with the designation placed in the Wellington District Plan. The role of the Group is to work with Council staff and consultants to establish ways to minimize any adverse effects of the Moa Point Treatment Plant on the adjacent communities. (Reference: Wellington City District Plan Appendix 1A, Section 16)

Subsequent discussions with all parties resulted in a decision, taken in November 2002, for **a study by the PCE of odour emission standards established under the Resource Management Act 1991 for the Moa Point Treatment Plant.**

This report documents the results of the PCE's study, and covers the following areas:

1. Events leading up to the designation of land for the wastewater treatment plant in the Wellington City District Plan, and the granting of air discharge consents for the plant and an associated sewage pumping station.
2. The legislative framework relating to the discharge of contaminants to air.
3. Elements of the sewage management process.
4. Statutory designation and resource consent processes.
5. Conclusion and recommendation.

2 Background

Historically the majority of wastewater from Wellington City was discharged untreated into the sea from an outfall near Moa Point. This resulted in adverse effects on the receiving environment, and birds attracted to the 'boil' and flotsam on the surface and nearby shore increased the risk of bird strike by planes using Wellington airport.

As a short-term solution to reduce the risk of bird strike, the WCC resolved to install a milliscreen and a longer outfall pipe. Milliscreening is a process whereby sewage is passed through a screen or sieve to remove particles above a certain size. At Moa Point, the milliscreen sifted out all particles larger than one millimeter. However, milliscreening is not a biological form of sewage treatment and therefore raw sewage, but with smaller particles, continued to be discharged.

In 1990 the WCC commenced the planning process for a sewage treatment plant, which was commissioned in January 1998. Associated with the operation of the sewage treatment plant are sewage pumping stations (SPS). An SPS partially contained within the area designated for the treatment plant has, on occasion, been linked to odour discharges.

Statutory authorisations for both the milliscreen and the sewage treatment plant imposed various conditions on operations, including the condition that there be no discernable odour at or beyond the boundary of the plant. No equivalent provision has been imposed in relation to the SPS, though a discharge to air consent has been issued in respect of it. Over the years a number of complaints have been lodged in relation to odour initially from the milliscreen operation, and latterly from the sewage treatment plant and SPS.

Major improvements have been made, at considerable expense, which have aimed to minimise offensive odour. However, because of the way the relevant odour conditions in both the designation and resource consent are worded, any odour emanating from the sewage treatment plant, no matter how transitory or inoffensive, represents a breach if the odour is discernible.

3 Legislative framework

The initial authorisations for the milliscreen were issued prior to the enactment of the Resource Management 1991 (RMA). In order to appreciate the 'evolution' of the odour conditions**,** which applied initially to the milliscreen operation and subsequently to the sewage treatment plant**,** it is helpful to outline the former and current legislative frameworks.

3.1 Land use and designations

3.1.1 Town and Country Planning Act 1977

Section 118 of the Town and Country Planning Act 1977 (TCPA) provided that a local authority could notify the Council of its requirement that provision be made in the district scheme for a public work. Any person affected by the decision to provide for the public work could appeal the decision to the Planning Tribunal. Both the Council and, on appeal, the Planning Tribunal had the power to impose such conditions, restrictions, or prohibitions in respect of the requirement as they saw fit

Section 36 of the TCPA required district schemes to make provision for matters referred to in Schedule 2 of the TCPA. Clause 8 of Schedule 2 included, among other things, the avoidance or reduction of nuisance caused by the emission of smell.

The TCPA was repealed and replaced by the RMA in 1991.

3.1.2 Resource Management Act 1991

Under the provisions of the RMA the management of land use is a function of territorial authorities (district and city councils). Section 31 describes the functions of territorial authorities. One is to provide for the establishment, implementation and review of policies and methods to achieve integrated management of the effects of the use of land, while another is to control the actual or potential effects of the use or development of land.

One mechanism, under the RMA, that can be used to control the use of land is a designation.[4] In effect designations are not dissimilar to resource consents in that they authorise the use of land in a manner that is not otherwise provided for in the district plan. The processes involved in obtaining a designation are, however, considerably different to those involved in obtaining a resource consent.

[4] For more detailed information on designations see the Ministry for the Environment publication 'A Guide to Designations under the Resource Management Act 1991' (September 2003). An electronic version of the publication can be found on the Ministry's website, http://www.mfe.govt.nz.

Designations are commonly used for major infrastructure projects such as motorways, railway corridors, and other major works like the establishment of corrections facilities, schools, or sewage treatment plants. Section 168A provides that a territorial authority may issue a notice of requirement for a designation for a public work within its district and for which it has financial responsibility. Under section 168A(4)(c) it has the power to impose conditions as it thinks fit (subject to consideration of matters set out in section 168A(3)).

There have been instances, under the RMA framework, where it has been found that to achieve integrated management the inclusion of odour related provisions in a district plan is within the limits of a territorial authority (*Auckland Regional Council v Auckland City Council* [1997] NZRMA 205). However, as discussed below, control of odour as an air quality issue is a specific function of regional councils under the RMA.

3.2 Odour control

3.2.1 Clean Air Act 1972

Prior to the enactment of the RMA, discharges to air were controlled by the Clean Air Act 1972 (CAA), which was administered by the Department of Health. Schedule 2 of the CAA listed processes that were required to be licensed. Wastewater treatment plants were not listed and therefore did not require a licence unless there was a relevant local authority bylaw. However, section 7(1)(b) of the CAA imposed a general duty on the occupier of premises to adopt the best practicable means to render any air pollutant emitted from the premises harmless and inoffensive. Schedule 1 of the CAA listed classes of specified air pollutants and included hydrogen sulphide, mercaptans and other odorous sulphur compounds all of which are likely to emit from sewage. Consequently, operators of sewerage systems were under a general duty to render the odorous pollutants inoffensive.

3.2.2 Health Act 1956

The Health Act 1956 contains residual provisions that enable territorial authorities to appoint health officers and make bylaws which provide a means of abating a wide range of nuisances that are likely to be injurious to health or that are offensive. Such nuisances can include odours. The more user-friendly enforcement provisions of the RMA coupled with the significantly larger fines and the wider scope of coverage available under that Act has meant that it is rare for the Health Act enforcement provisions to be relied upon in relation to nuisance odours.

3.2.3 Resource Management Act 1991

Section 30(1)(f) of the RMA provides that every regional council has, for the purpose of giving effect to the Act in its region, the function of control of discharges of contaminants into air. Section 15(1)(c) provides that no person may discharge any contaminant from any industrial or trade premises into the air unless the discharge is expressly allowed by rule in a regional plan and in any relevant proposed regional plan, a resource consent, or regulations.

Section 17 imposes a general duty to avoid, remedy or mitigate any adverse effects on the environment caused by an activity, whether or not that activity is in accordance with a rule in a plan, a resource consent, designation, or existing use right. Although this general duty is not of itself enforceable section 17(3)(a) provides that:

> *… an enforcement order or abatement notice may be made or served under Part XII to –*
>
> *(a) require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the Environment Court or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; …*

4 Elements of the sewage management process

4.1 The milliscreen

4.1.1 Designation for the milliscreen

The introduction of the milliscreen facility necessitated a change to the District Scheme (under the then operative TCPA), as the land involved was, at the time, designated for Airport purposes with an underlying zoning of Industrial B2.

The WCC approved District Scheme Change 86/26 in a decision dated 18 June 1987. The Scheme Change introduced a new designation over an area of land at the south-eastern corner of Wellington Airport to allow for the installation of the milliscreen facility. The designation was to remain in place for a maximum period of ten years. The Council was satisfied that the proposed milliscreen would reduce the risk of bird strike by aircraft and that the site with an underlying zoning of industrial was suitable for the proposed purpose. In relation to environmental considerations the Council considered that the milliscreen would have no great impact on the surrounding area.

The decision to approve the district scheme change was appealed to the Planning Tribunal pursuant to section 49 of the TCPA (appeal TCP 461/87[5]). The hearing was held before His Honour Judge Treadwell, sitting with Mrs McMillan and Mr Dart, in October 1987.

Counsel for WCC submitted that:

> *Evidence will be given about various environmental effects. In particular, the plant would not be visually intrusive and sound and smell would not be discernable in residential areas. On the other hand, the removal of sewage solids would effect an immediate improvement to water and beach quality.*

WCC's drainage engineer gave evidence that:

> *... concentrations of air containing odour would be collected by a fan driven venting system and carried to a soil filter to remove the odour. ... This method has been used recently at the Christchurch Drainage Board's sewage treatment plant and at the milliscreening plant at Timaru. In both cases officials at the controlling authorities have advised me that the plants have been most successful in removing odour.*

[5] *Wellington Clean Water Campaign v Wellington City Council* (W51/87).

In its decision the Planning Tribunal found that the decision of WCC to confirm the designation should not be cancelled, but imposed two conditions, one of which related to odour as follows:

> *… that there shall be no discernable odour at or beyond the site boundary.*

It should be noted that although WCC's counsel and WCC's drainage engineer discussed odour in their submissions and evidence, respectively, they did not specifically state that odour would, or could, be removed to the extent that there would be no discernable odour at or beyond the site boundary, though both implied that odour emissions could be successfully managed.

4.1.2 Resource consent for a discharge of contaminants to air from the milliscreen

In May 1995, GW granted WCC a resource consent (consent number WGN 940096) to discharge contaminants to air from the milliscreen. Additional Condition 10 of the resource consent required that:

> *The operation of the milliscreening plant, the foul air ventilation system and the biofilter shall not cause an odour at or beyond the boundary of the site, as shown on the plan attached hereto, which is objectionable, offensive or noxious in the opinion of an Enforcement Officer employed by the Wellington Regional Council.*

This condition was imposed on top of the conditions contained in the WCC designation for the milliscreen, as it related to a discharge of contaminants to air (a regional council concern under the RMA) rather than the land use associated with the siting of the milliscreen (a district council concern under the RMA).

As part of the development of a full wastewater treatment plant, the milliscreen facility was disestablished and the GW air discharge consent relating to it was cancelled.

4.2 Wastewater treatment plant

4.2.1 Designation for wastewater treatment plant

The site for the wastewater treatment plant needed to be designated in the District Plan. In October 1991 WCC commenced the hearing process for the notice of requirement. This was the first notice of requirement they had dealt with under the RMA, which had come into force on 1 October 1991.

The Hearings Committee report, dated 25 November 1991, confirmed the District Scheme Change 91/15 to provide for the wastewater treatment plant (the mixed use of the terms 'district scheme' and 'district plan' in relevant documentation reflects the fact that this designation process occurred at a time of legislative transition from the TCPA to the RMA). The report acknowledged that odour control was a major concern for submitters and the committee

resolved to place an odour condition on the designation which required that there be '… no objectionable odour at or beyond the boundary'.

The Hearings Committee's decision to confirm the designation was appealed to the Planning Tribunal (appeal TCP 505/91). The hearing was held before His Honour Judge Treadwell, sitting with Commissioners Bishop and Rowan, in October 1992. The Planning Tribunal decision[6] discussed odour at length. The Tribunal considered evidence presented by Dr M Jones in relation to odour control and the tender contract guarantee relating to odour control. In its decision the Tribunal stated that:

> *… we are satisfied that the plant should be well capable of meeting a standard whereby no odour is detectable beyond the site boundary. Therefore if odour should occur it appears clear that it would be the responsibility of the respondent Council and/or its management in which case proceedings under the Resource Management Act 1991 could follow against the Council itself and/or those responsible for the management of the plant which might well include members of Council committees responsible for this part of the Council's operations. … We have therefore concluded that the plant if operated properly will not produce odour and therefore that environmental effect can be discounted in terms of the Act.*

The Tribunal concluded that it would allow the residents' appeal in part by tightening the conditions. This included a change that stated:

> *The measurement of odour, noise etc at a 'residentially zoned boundary' is to be amended to refer to the site boundary.*

In the course of the hearing process, WCC came to an agreement with one of the other participants (Wellington International Airport Ltd) that resulted in the following alteration to the terms of the designation:

- the condition below, contained in ordinance 19A.4, was deleted:

  > *The treatment process shall collect, contain and minimise air pollution and make provision for adequate odour control equipment and, in any case, emissions from the process shall not result in objectionable odour beyond the boundary of the site.*

- and the following conditions were added:

  > *There shall be no discernable odour resulting from the operation of the waste water treatment plant, at or beyond the boundary of the plant site as designated in the District Plan.*

[6] *Wellington International Airport Limited v Wellington City Council* (W01/93).

There shall be no discharge into the air of any contaminant from the waste water treatment plant which has adverse effects at or beyond the site boundary.

This settlement resulted in the two conditions quoted above being included as Condition 6 in the Wellington City District Plan 'Moa Point Drainage and Sewage Treatment Details and Conditions'.

4.2.2 Resource consent to discharge contaminants to air from the wastewater treatment plant

In April 1992 GW granted WCC a resource consent (WGN 910096) to discharge contaminants to air from the wastewater treatment plant (as in the case of the milliscreen, air discharges from the wastewater plant are a regional council concern, while land use associated with the treatment plan is a district council concern, under the RMA). The odour condition placed on the designation was the same as the odour condition included in the resource consent. That is:

2. *There shall be no discernable odour resulting from the operation of the waste water treatment plant, at or beyond the boundary of the plant as designated in the District Plan;*

and

3. *There shall be no discharge into the air of any contaminant from the waste water treatment plant which has adverse effects at or beyond the site boundary.*

The consent was granted for a period of ten years, which commenced when the treatment plant was commissioned in January 1998.

4.2.3 Odour problems at the wastewater treatment plant

During commissioning of the wastewater treatment plant a number of problems were experienced which resulted in breaches of the resource consent for discharge of contaminants to air from the plant. Following the commissioning, odour problems continued and the clarifiers were identified as being the source of the odour. The clarifiers are pond systems designed to improve the clarity of treated water that is to be discharged from the plant.

When evidence was given before the Planning Tribunal in 1992[7] the issue of potential odour emission from the clarifiers was not explored at length. The little evidence that was presented suggested that the effects were expected to be low, but despite that a wind protection/wave suppression system was to be installed to minimise those effects.

[7] *Ibid*.

In late 1998 GW and the Wellington City Environmental Control Business Unit (ECBU) sought enforcement orders, from the Environment Court, against WCC and Anglian Water to ensure they operated the wastewater treatment plant in accordance with Condition 6 of the WCC designation and condition 3 of the GW resource consent (WGN 910096) – both of which use the term 'discernable odour'.

The Environment Court found that the report of the GW Hearings Committee for the resource consent indicated that the clarifiers would be odour free. The discharge permit was therefore found to be limited to odours from the ventilation system and did not authorise odours from other services, such as the clarifiers. As Her Honour Judge Kenderdine stated, at paragraph 11 of her decision:[8]

> *The discharge permit only authorizes the discharge of 'deodorised air from the Wellington Wastewater Treatment Plant Ventilation System'. There is no disagreement that the discharge of odour from the clarifiers is not authorised by way of resource consent or otherwise and requires consent pursuant to s 15(1)(c) of the Resource Management Act 1991.*

At the time of the Court hearing Anglian Water had already commenced a programme to cover the clarifiers. The Court found that remedial action was already being taken and determined the enforcement order was not necessary. Accordingly it adjourned the application.

Since 1999 the clarifiers have been covered and they have been eliminated as a source of odour.

4.2.4 'No discernable odour' condition

This condition is unusual and seems to have flowed through from the 1987 Planning Tribunal decision on the designation for the milliscreen. The 'no discernable odour' condition was also imposed, via later designation and resource consents, on the operation of the wastewater treatment plant. However, air discharge permits for most wastewater treatment plants in other parts of the country have a condition that requires there to be 'no offensive or objectionable odour', as opposed to no 'discernable odour'.

It is evident the Planning Tribunal placed odour controls on the designation for the wastewater treatment plant because expert evidence on such issues was called before it. Dr Jones, the odour expert called, noted in his evidence that in addition to conditions under the designation 'a resource consent will be required for scrubber plant emissions. Issues concerning odour and airborne contaminants will be addressed at that stage by the regional council, which may impose its own conditions.'

[8] *Wellington Regional Council v Wellington City Council* (W109/98).

The inclusion of the odour condition in the designation should be placed in context, in that it was accepted by the parties in the course of a proceeding occurring within a few months of the RMA coming in to force.

The Ministry of the Environment (MFE) has recently published a document providing good practice guidance for odour management.[9] In that guide the Ministry recommends that the consent condition for the environmental effect of an odour should be of the general form:

> *There shall be no objectionable or offensive odour to the extent that it causes an adverse effect at or beyond the property's boundary.*

The 'no discernable odour' requirement is onerous and means that any waft of odour at the site boundary, that is identifiable as having resulted from the operation of the wastewater treatment plant, is a breach of Condition 3 of the GW resource consent (WGN 910096). This matter has been considered by Her Honour Judge Kenderdine of the Environment Court, in *Wellington Regional Council v Wellington City Council* W109/98. She noted that WCC as the consent holder had accepted the condition in the knowledge that any breach of the condition was an offence, and in the assignment of the contractual documents Anglian Water International (NZ) Ltd had also accepted the condition.

4.3 Sewage pumping stations

Sewage pumping stations (SPS) are an integral part of the sewerage system and pump sewage up the rising mains.

SPS are provided for in Chapter 23, the Utilities Chapter of the Wellington City District Plan. SPS that are underground or that have a footprint not exceeding $1.5m^2$ and a height not exceeding 1.7m are permitted activities. The majority of SPS are controlled activities, whereby a resource consent is required and limited conditions may be imposed in the consent, but consent cannot be refused. Written approval of affected persons is not required in respect of location, design and external appearance, and resource consent applications to establish an SPS need not be notified.

The discharge of contaminants from SPS into the air is provided for in Rule 21 of the GW Regional Air Quality Management Plan (2000). Such discharges are permitted activities, subject to a condition, that:

> *The person(s) responsible for the activity shall ensure that:*
> *(i) there is no discharge of odour, gas, vapour or aerosol which is noxious, dangerous, offensive, or objectionable at or beyond the boundary of the property.*

[9] Ministry for the Environment (MFE). June 2003. *Good Practice Guide for Assessing & Managing Odour in New Zealand.* Air Quality Report 36. MFE: Wellington.

4.3.1 Moa Point SPS: Land use authorisation

The Moa Point SPS is sited partly within the area designated for the wastewater treatment plant. It can be argued that the part of the SPS that is located within the designated area is subject to the 'Air Pollution' controls placed on the designation, one of which is:

> *There shall be no discernable odour resulting from the operation of the waste water treatment plant, at or beyond the boundary of the plant site as designated in the District Plan.*

However, this argument turns on whether or not the SPS is part of wastewater treatment plant. As discussed above, the sewerage system has a number of SPS, and it also has an extensive drainage network and a wastewater treatment plant.

Activities authorised by the designation are specified at paragraph 3.1 of the Moa Point Drainage and Sewage Treatment Designation as follows:

> *Activities under the designation 'Drainage – Sewage Treatment' in the designated areas shall be restricted to the following:*
> - *sewage treatment plant and ancillary uses and amenities;*
> - *laboratories ancillary to the treatment plant;*
> - *administrative offices ancillary to the treatment plant;*
> - *workshop and parts storage ancillary to the treatment plant;*
> - *staff and visitors' amenities.*

In February 1995 the WCC issued a certificate of compliance under section 139 of the RMA in relation to the Moa Point SPS and in doing so found that "it is an activity covered by the designation". Accordingly, the Moa Point SPS was subject to the odour conditions relevant to the Sewage Treatment Designation.

4.3.2 Moa Point SPS: Air discharge authorisation

In 1996 GW granted Anglian Water (the company which is contracted to operate the Wellington City sewage system by the City Council) a resource consent (WGN 960094) to discharge contaminants to air through the operation of the Moa Point SPS. No specific odour condition was imposed by the resource consent. However, there are a number of conditions limiting the type and amount of compounds which can be released from the plant, and a condition concerned with adverse environmental effects that states:

> *Any incident that could have caused or has caused adverse effects on the environment at or beyond the boundary, as designated in the Wellington City Transitional District Plan and Designation No. 58, Map No. 5 of the Wellington City Proposed District Plan, shall be notified to the Wellington Regional Council within twenty-four hours. This includes any incident that results in complaints.*

Specific conditions involving the preparation and review of an Operation and Maintenance Manual for the SPS are included in the consent. Associated with

those conditions is a requirement that the Moa Point Community Liaison Group receive copies of the Manual and any updates to it.

As noted above, the SPS is now subject to the odour controls contained in the GW Regional Air Quality Management Plan (2000). The conditions imposed by the resource consent need to be read with the controls imposed by the Regional Air Quality Management Plan, and the more stringent controls will apply.

5 Position of the parties at the time of publication of this report

A draft copy of this report was provided to WCC, GW, AW, and a representative a successor group to the Wellington Wastewater Community Liaison Group (CLG) for comment.

The WCC has indicated that since the PCE has been looking at the issue of odour emanating from the Moa Point Sewage Treatment Plant, significant progress has been made in improving the management of odour, especially at the Moa Point SPS. The WCC has recently advised the PCE it is of the view that "the odour condition can be met", and, having consulted with the parties mentioned above, it is of the view that:

> *The agreed position of all the parties … is that they do not want to pursue the costly option of changing the designation conditions. Rather all parties are committed to working together and to make any further improvements as required.*

GW has also commented that "[s]ignificant progress has been made regarding odour issues associated with the Moa Point sewage treatment plant since the PCE received representations from the Wellington Wastewater Community Liaison Group in 2001."

GW also commented that:

> *We largely agree with the observation by the PCE that the 'no discernible odour' condition is "virtually impossible to comply with or enforce and is likely to create unattainable expectations".*
>
> *We also agree that, in order to be effective, the relevant condition of the designation would need to be amended. We doubt, however, that the criteria listed under section 181(3) of the [RMA], with respect to alterations to designations, could be satisfied in this instance. This is, that the alteration is no more than minor, and all affected owners and occupiers agree to the alteration. Therefore a new notice of requirement would be necessary. We consider this process would be onerous and potentially prohibitive in terms of cost for Wellington City Council, particularly given odour issues from the site have largely been resolved. We consider there would be little merit in only changing the condition of the Greater Wellington resource consent.*

A representative of the CLG's successor group does not accept the PCE view that the current odour conditions are unattainable or impossible to comply with, and for that reason, among others, is opposed to any review of the odour conditions for the Moa Point designation.

AW has made no formal response to the draft report. We note that very recently the contract to operate the Sewage Treatment Plant has been sold by AW and that United Water International is the new operator of the plant.

The overall message we have got from the parties' feedback on the draft report is that while the nil odour condition has proven to be difficult, if not impossible, to achieve in the past, through a process of active improvement and co-operation between the parties a position has now be attained where odour emission incidents are few, and generally associated with maintenance processes. There is a notification system in place to warn of potential odour prior to maintenance activities. Obviously the emission of odour during a maintenance period is a technical breach of the conditions of the designation and consent, but all parties have indicated they would be very reluctant to see the odour conditions of the designation altered, albeit possibly for differing reasons.

6 Conclusion

Since its commissioning in 1998 the Wastewater Treatment Plant at Moa Point has resulted in a significant improvement in environmental qualities. Most notably it has brought about a major improvement in the quality of marine water along the coastline east of Moa Point.

However, some issues remain. One is the apparent inability of the plant to meet an extremely stringent 'no discernible odour' condition of the designation and relevant air discharge resource consent. Another is the lack of clarity about which components of the treatment system are covered by the odour emission control. A further issue is a longstanding and unresolved odour concern for residents living near the plant and for users of the Miramar Golf Course. The PCE investigation has been directed at identifying the underlying causes of these problems and exploring how the issue could be resolved.

The investigation identifies insufficiently integrated public authority planning as a principal cause of the problems associated with odour emissions. The decision on the performance standard for the Wellington City District Plan designation for the wastewater treatment station was determined first and set the 'baseline' for the air discharge resource consents, which had to be obtained from GW. **The preferred approach to the granting of consents (which in the broadest sense include designations) for projects that involve activities falling within the jurisdiction of both regional and territorial authorities is for coordinated and integrated hearing and consent processes to occur.** It is acknowledged that such a comment is easily made with the benefit of hindsight, and it is recognized that in this case the situation may well have been complicated by the fact that the designation process occurred at a time when the RMA was very new.

The odour condition on the air discharge permit pertaining to the wastewater treatment plant is onerous and not in line with current guidelines where the recommended standard is that 'there shall be no objectionable or offensive odour to the extent that it causes an adverse effect at or beyond the boundary of the site'. **The present condition is virtually impossible to comply with or enforce and is likely to create unattainable expectations.** It would be reasonable to seek a change to the discharge permit condition to bring it into line with current guidelines, though the PCE recognizes this could well be an expensive and time consuming process that might serve to direct resources away from implementing steps to further reduce any odour problem that may still arise.

In summary, inconsistent and, in some cases, unrealistic wording in various aspects of the designation and resource consents pertaining to the operation of the sewage treatment plant and SPS, has given rise to issues relating to the enforcement of conditions, and community expectations in relation to outcomes that will be achieved.

Wellington City Council's assurances given at the designation hearings added to those expectations. All parties involved signed up to and agreed to accept specific consent conditions, possibly without proper regard to the consequences in terms of compliance and enforcement. The solution lies in the parties involved coming to a negotiated agreement on an appropriate odour management standard, covering the Treatment Plant and the Moa Point Sewage Pump Station, which can be complied with and which, as far as is possible, meets the needs of all parties. This could be done through a formal change to the conditions of designation and consent, or, as the parties seem to prefer, retention of the current conditions and development of an associated work plan to focus on achieving full compliance.

7 Recommendation

To Greater Wellington Regional Council

That the Council continue to facilitate negotiations between the Wellington City Council, Anglian Water International (NZ) Ltd's successor United Water International, and the Wellington Waste Water Treatment Plant Liaison Group with a view to agreeing appropriate, and realistic, odour management standards for the Moa Point Treatment Plant and Sewage Pump Station.

Note: Implementation of an agreement may, but need not necessarily, involve initiation of processes under the RMA to amend the Wellington City District Plan designation for the Treatment Plant, and for appropriate review and change of related GW air discharge consents.