

20 January 2021



Christchurch City Council
PO Box 73014
Orchard Road
Christchurch 8154

Customer Services
P. 03 353 9007 or 0800 324 636
200 Tuam Street
PO Box 345
Christchurch 8140
E. ecinfo@ecan.govt.nz
www.ecan.govt.nz

Dear Mr Wilson

CRC080301.1, ABATEMENT NOTICE

This letter relates to an Abatement Notice (attached) issued under section 322(1) (a) (i) of the Resource Management Act 1991 in respect of the discharge of offensive and objectionable odour at Living Earth, 40 Metro Place, Bromley, Christchurch.

The notice gives clear direction as to certain actions that must cease:

- Discharge of offensive and objectionable odour beyond the property boundary of 40 Metro Place, Bromley, in a manner that contravenes condition 27 of Resource Consent CRC080301.1

This abatement notice is being served in consultation with Christchurch City Council staff. In recognition that it will take time to redevelop the site, this abatement notice has a compliance date of 31 January 2022.

Please note that failure to comply with this Abatement notice are offences under the Resource Management Act (1991) which could result in further enforcement action; therefore please take the time to read the Abatement Notice.

If you require any further details concerning Resource Consent CRC080301.1, please contact me on 027 535 0549.

Yours sincerely

A handwritten signature in blue ink, appearing to read "P. Hulse".

Paul Hulse
Senior Manager Operations

**ABATEMENT NOTICE UNDER SECTION 322 OF THE
RESOURCE MANAGEMENT ACT 1991**

To: Christchurch City Council
PO Box 73014
Orchard Road
Christchurch 8154

1. Action Required:

The Canterbury Regional Council gives notice that you must cease and continue to cease the following:

- Discharge of offensive and objectionable odour beyond the property boundary of 40 Metro Place, Bromley, in a manner that contravenes condition 27 of Resource Consent CRC080301.1

2. Location to which the Abatement Notice applies:

Legal Description: RS 40778 Canterbury Dist, Lot 2 DP 37293 and Sec 13 SO 520505 and Lots 1, 3 DP 37293

Located at 40 Metro Place, Bromley, Christchurch

3. Period within which to comply:

You must comply with the abatement notice by and after the following date 31 January 2022.

4. Statutory Basis

This notice is issued under s322(1)(a)(i) of the Resource Management Act 1991.

5. Reason for the Notice:

- Section 15 (1) (c) of the Resource Management Act 1991 states that:
*No person may discharge any—
(c) 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.*
- The Christchurch City Council (CCC) holds resource consent CRC080301.1 to discharge contaminants to air at 40 Metro Place, Bromley, Christchurch.
- CCC operates two resource recovery facilities at Metro Place: a transfer station (EcoDrop Metro) and an organics processing plant.

- The organics processing plant at 40 Metro Place Bromley Christchurch is operated on behalf of CCC under contract by Waste Management New Zealand Limited known by its trading name Living Earth.
- The organics processing plant is an industrial and trade premises as defined in the Resource Management Act 1991; “*industrial or trade process includes every part of a process from the receipt of raw material to the dispatch or use in another process or disposal of any product or waste material, and any intervening storage of the raw material, partly processed matter, or product*”.
- Resource consent CRC080301.1 Condition 27 states that:
The discharges to air shall not cause odour or dust which is offensive or objectionable beyond the boundary of the site on which this consent is exercised.

Circumstances:

1. The issue of offensive and objectionable, chronic and acute odour in Bromley has been a persisting and longstanding issue for the community.
2. Over the last ten years, Environment Canterbury has received 1,775 Pollution Events about odour from residents (one Pollution Event may contain multiple complaints). Of those that have been investigated, few were able to be substantiated to a level satisfying Ministry for the Environment requirements.
3. During the month of March 2020 Environment Canterbury undertook an innovative pilot study to determine the source of odours in Bromley.
4. The study utilised a triangulation approach whereby residents reported incidents of offensive odour using a mobile app called Smelt It. Smelt It has been specifically designed by Environment Canterbury as an easy reporting tool for people affected by odour in Bromley to report odour events.
5. Dedicated Environment Canterbury Officers responded to these notifications with on the ground odour assessments and site visits. The warranted officers used the Ministry for the Environment Good Practise Guide for Assessing and Managing Odour (MfE Guidelines).
6. Weather data, including wind direction and speed was then overlaid to produce “odour plumes” and provide a model to indicate a likely source of odour.
7. An independent odour assessor (IOA) also carried out their own assessment during the pilot period using MfE Guidelines.
8. Using these three sources – the community, warranted officers and an IOA, the pilot study clearly identified CCC-run facilities Living Earth and EcoDrop Metro as significant odour emitters.

9. Following the pilot, Environment Canterbury and CCC worked on an Adaptive Management Plan for three months to progressively address the issues with Living Earth and EcoDrop Metro.
10. During the Adaptive Management period, EcoDrop Metro was able to improve its operations and there have been no further issues with this site.
11. Living Earth trialled several measures including a new compost recipe, misters and other mitigations, but offensive odour reported by the community continued to be substantiated by warranted officers, with Living Earth identified as the source of those odours.
12. Through this work and subsequently, Environment Canterbury has established that Living Earth's odour issues are predominantly chronic but also acute in nature. The odours are generally not at a high intensity, but they occur frequently over a long period of time.
13. There have been 3,174 notifications of odour of the same nature and character as those most frequently complained about via the Smelt It app since 1 April 2020.
14. Since May to mid December 2020, Living Earth Ltd has been issued with 18 Notices of Non-Compliance (NONCs). During the Adaptive Management Plan phase, Living Earth was issued 25 Adaptive Management Plan Substantiated and 23 Adaptive Management Plan Detected notices. This phase was a mutually agreed non-enforcement period, so instead of issuing formal NONCs, we issued notices where we could substantiate to MfE guidelines and those where we detected odour from the site, but not to MfE guidelines.
15. Six Independent Odour Assessments (IOA) have been completed since 1 May 2020 where a wholly independent odour assessor spent 5 days in Bromley assessing odour based on MfE guidelines. The predominant odour noted during the six assessments was compost which was regularly recorded as offensive by the IOA.
16. An independent residential survey was conducted in early November 2020 by Research First:
 - 85% of respondents noticed an odour in Bromley
 - 37% changed their behaviour as a result
 - The most experienced odours were compost (45%), rubbish (36%), faecal-sickening (34%) and meaty-rancid (15%)
17. An Infringement Notice has been issued to Waste Management for an alleged offensive odour discharge that occurred on 17 November.
18. On 9 December 2020, CCC formally approved a redevelopment proposal for the Organics Processing Plant. This is estimated to cost approximately \$22million.
19. Formal notification of that approval was received from the CCC Chief Executive soon after, including an assurance that staff would commence the procurement plan and technical requirements for tender.

20. Further, CCC have initiated negotiations with its contractor Living Earth to mitigate the risk of odour while the upgrades are commissioned. This work looked at reducing avoidable waste streams which pose an added odour risk, such as commercial food waste and continuing the focus on operational improvements to reduce offensive and objectionable odours from the current operation.
21. On 20 January 2021, a letter was received the Chief Executive of CCC who advised that “a contractor was engaged before Christmas to assist the Council complete this work as quickly and efficiently as possible”. It further stated upcoming stages include:
- February 2021 - Approaching the market with a Notice of Intent ahead of tendering for the works
 - March 2021 - Presenting CCC Finance and Performance Committee a detailed procurement plan for approval
 - April/May 2021 – Tender for the plant upgrade design and build works
 - Selection process for the contractor awarded the project will be completed in June 2021
 - Physical works to begin by the end of 2021.
22. In my opinion there have been breaches of s15(1)(c) of the Resource Management Act 1991 on this property relating to discharges of offensive and objectionable odour beyond the property boundary that breach condition 27 and therefore do not comply with the Act.

The action prohibited by this notice is not expressly allowed by a rule in a regional plan or a proposed regional plan, a resource consent, or by any other provision or regulation and therefore will or is likely to contravene s15(1)(c) of the Resource Management Act 1991.

6. Consequence of Non-Compliance:

Please note that contravention of s15(1)(c) is in itself an offence for which you may in any event be prosecuted under section 338(1)(a). If you do not comply with this abatement notice, you may also be prosecuted under Section 338(1)(c) of the Resource Management Act 1991 for contravening an abatement notice (unless you appeal and the notice is stayed as explained below).

7. Right of Appeal:

You have the right to appeal to the Environment Court against the whole or any part of this notice by lodging a notice of appeal. If you wish to appeal, you must lodge a notice of appeal in form 49 with the Environment Court 15 working days after receiving this notice.

8. Stay of the Notice:

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

9. Application to Cancel:

You also have the right to apply in writing to the Canterbury Regional Council to change or

cancel this notice in accordance with Section 325A of the Resource Management Act 1991.

10. Local Body Authorising Officer:

The Canterbury Regional Council authorised the enforcement officer who issued this notice. Its address is 200 Tuam Street, Christchurch 8140.

11. Authorisation under which the Enforcement Officer is acting:

The enforcement officer is acting under the following authorisation:

A warrant appointing Paul Hulse as an enforcement officer of the Canterbury Regional Council, issued under Section 38 of the Resource Management Act 1991 on 26 October 2017.



20 January 2021

Paul Hulse
Senior Manager Operations

Date