


Compliance monitoring assessment Southern Landfill 2022

Consent No:	WGN940045	[5963] [4956] [20346] [35860]	Date: 10 January 2023	Monitoring officer: Claire McKeveitt
Activity:	Various consents associated with the operation of Southern Landfill			

Your compliance rating

[5963] [4956] [20346]		FULL COMPLIANCE All conditions met – well done! No further action required
[35860]		MODERATE NON-COMPLIANCE Some condition(s) not met. Action required (see comments below)

Overall compliance summary for Southern Landfill:

FAIR 	Overall the management of site and consents is considered to be fair. There are occasional breaches of consent conditions and/or lapses in providing information to GWRC.
--	---

Comments

This compliance report covers the period from 1 January 2022 to 31 December 2022 for the consent suite WGN940045, landfilling at Southern Landfill.

Site Inspections

I inspected the site on 30 March 2022, 13 April 2022 and 13 October 2022. The purpose of my visit on 30 March was in response to ongoing odour issues allegedly relating to sludge. On that inspection, I saw waste on the active tipping face which had not been covered overnight which is required by conditions 16 and 17 of resource consents WGN940045 [20346] and [35860] respectively. I also saw a manhole cover for what I understood to be on the centrate line ajar. Although both are potential odour sources, there was no odour that I would have considered offensive or objectionable at that time.

The purpose of my visit on the 13 April 2022 was to discuss the proposed next landfill stage. During this inspection, I saw a skip bin of stored plastic beads which are used in the wastewater treatment process spilling over the Stage 2 closed landfill face. I advised WCC that these needed to be cleaned up as soon as possible. Please confirm that this has been completed.

The purpose of my visit on 13 October 2022 was in regard to the processing of the new LMS Energy generator and flare.

Contaminated Land Filling

The 2021 GWRC compliance report discussed the non-consented filling of contaminated material on Stage 2 of the landfill. Due to the extent and contaminants within the fill, the placement of this fill on stage 2 of Southern Landfill is unable to meet permitted Rule 80 of the Natural Resources Plan. As the placement of fill on Stage 2 is not a permitted activity, is not permitted by a resource consent, consent is required in accordance with Rule 94 of the Natural Resources Plan.

GWRC advised by letter dated 24 February 2022 that the following actions were required:

- WCC to update the Landfill Management Plan regarding acceptance, handling and disposal of contaminated soil; and,
- WCC must apply for retrospective consent to cover this filling a part of the next stage application due November 2022; or
- Apply for a separate retrospective consent application to cover this filling; or
- Remove the contaminated material.

Tonkin + Taylor Ltd. on Southern Landfills behalf have advised GWRC that they will be applying for a separate, retrospective resource consent for the contaminated fill by end of January 2023. Attached to this report is an advisory notice which requires the retrospective resource consent to be lodged by the January timeframe.

The November 2022 date had previously been given as it was thought that this activity would be included with the broader Southern Landfill Extension Piggy-back Option (SLEPO) programme, however, Tonkin + Taylor Ltd have indicated that this is not the intention, and this matter needs to be closed out through retrospective resource consent.

Water Quality

Conditions 25, 26, and 27 of consent [35860] set out the groundwater, surface water, and biological monitoring required by the consent holder. Rather than having limits on the quality of water monitored by the landfill, condition 25 states “there shall be no significant increase in the following parameters by virtue of the exercise of this permit”. Condition 37 of the consent reiterates this level of expected effects by stating that “if a significant change in the monitoring results, either between upstream and downstream sites, or over time at the downstream sites in condition 26, 27 or 28, the grantee shall instigate investigations into why these changes are occurring and identify and undertake remedial action that may be required”. GWRC and WCC have come to an agreement to use the Mann Kendall assessment to determine a significant change.

AECOM prepare the water quality monitoring report annually on behalf of WCC. This report was reviewed by Dr Bull and I. There are two key points about the report that are raised below, being failure to complete the MCI sampling and investigations into faecal coliforms.

The first is the failure to complete the MCI sampling as required by condition 27 of consent WGN940045 [35860] during both the December 2021/January 2022 and July/June 2022 periods. On further investigation, it appears that MCI sampling has been missed on several occasions which you have informed me is due to the following reasons:

December 2019/January 2020	Not completed
June/July 2020	Not completed (Covid Restrictions)
December 2020/January 2021	Sampled
June/July 2021	Not completed
December 2021/January 2022	Not completed
July /June 2022	Not completed, staff error.

An advisory notice and formal warning in relation to this non-compliance was issued to WCC in December 2022. Should a sample not be undertaken by 31 January 2023, further enforcement action may be required. Please advise GWRC when this has been completed.

Secondly, in the AECOM water quality report, it mentions investigations into faecal coliforms in the downstream water quality. It is not clear if the authors of the AECOM report are aware of the investigations into faecal coliforms being undertaken by Tonkin + Taylor. It would be helpful if this is clarified.

Conclusion

The overall compliance with resource consent requirements at Southern Landfill has been assessed as 'Fair'. This has been assessed as fair rather than 'Good', due to the lack of MCI sampling, and so it is not possible to determine whether the landfill is having adverse environmental effects beyond what was consented.

The key actions to be addressed are:

- Lodging a retrospective consent application for the filling of contaminated material on Stage 2. If this consent is unable to be granted, this will need to be removed.
- Undertaking MCI sampling ASAP, and 6 months there-after as required by the consent conditions.

GWRC compliance rating system

	<p>FULL COMPLIANCE – All conditions met – well done! No further action required</p> <ul style="list-style-type: none"> All conditions assessed are met including supplying information and/or records
	<p>LOW RISK NON-COMPLIANCE – Most conditions met. Some action may be required</p> <ul style="list-style-type: none"> Minor breach of effects based conditions or works outside scope of consent with low risk of adverse environmental effects Breach of conditions which is technical in nature (eg, failure to submit monitoring report or records)
	<p>MODERATE NON-COMPLIANCE – Some condition(s) not met. Action required</p> <ul style="list-style-type: none"> Repeated failure to supply monitoring report or records. Breach of conditions where there are some environmental consequences and/or moderate risk of adverse environmental effects
	<p>SIGNIFICANT NON-COMPLIANCE – Many condition(s) not met. Immediate action required</p> <ul style="list-style-type: none"> Breach of conditions where there are significant environmental consequences and/or high risk of adverse environmental effects

<p>VERY GOOD</p> <p>★★★★★</p>	<p>Overall excellent management of site and consents. The consent holder is proactive in meeting their consent requirements. If issues have arisen concerning consent conditions, the consent holder responds with promptness and effectiveness.</p>
<p>GOOD</p> <p>★★★★☆</p>	<p>Overall good management of site and consents. The consent holder is generally on top of meeting their consent requirements. Whilst there are some minor breaches of consent conditions, these have no ongoing environmental effects.</p>
<p>FAIR</p> <p>★★★☆☆</p>	<p>Overall the management of site and consents is considered to be fair. There are occasional breaches of consent conditions and/or lapses in providing information to GWRC.</p>
<p>POOR</p> <p>★★☆☆☆</p>	<p>Overall the management of site and consents is considered to be poor. There are consistent and ongoing breaches of consent conditions. The consent holder is not getting on top of their consent requirements.</p>

Consent monitoring charges

<p>Each consent receives a consent monitoring charge from GWRC.</p> <p>This charge is made up of three parts:</p> <ul style="list-style-type: none"> A <i>customer service charge</i> that covers the administrative cost of your consent(s); A <i>compliance monitoring charge</i> that covers all actual and reasonable time associated with assessing compliance with your consent(s) including the time spent visiting and assessing your site, information and reports you submit, file notes, travel time and reporting to you on compliance with your consent(s); and A <i>State of the Environment (SoE) charge</i> that covers a proportion of the cost of GWRC monitoring the environment that relates to your activity. <p>For further information on consent monitoring charges, please see our <i>Resource Management Charging Policy</i>.</p>
--

Advisory notice



Recipient details		
Name: Stefan Borowy		
Title/position: Waste Operations Manager, Wellington City Council		
Address (or company name and address): Southern Landfill, Owhiro Road, Owhiro Bay/113 The Terrace, Wellington Central		
Telephone: 0272294570		
Location of activity		
Stage 2, Southern Landfill, Owhiro Bay.		
Activity observed & action(s) required		
Non-compliant activity	Required action(s)*	Implement by
Discharge of contaminated soil on Stage 2 of the closed Southern Landfill without resource consent which cover this extent of landfilling	Remove the soil or Apply for retrospective resource consent for this activity	31/1/2023
Date/time observed:		24 November 2021
Issuing officer: Claire McKevitt Warrant No:851 Date: 10 January 2023	Recipient: Sent via email to Stefan.Borowy@wcc.govt.nz on 10/1/23 Date: 10 January 2023	
IMPORTANT – Cost recovery		
<i>Where this advisory notice identifies that there has been a breach of the Resource Management Act 1991 or a resource consent, a fixed minimum charge of \$260 (excl. GST) applies in accordance with our Resource Management Charging Policy. Unless advised otherwise below, you will be invoiced in due course for this minimum charge or the actual and reasonable costs that exceed the minimum charge.</i>		
Cost recovery instructions		
Cost will be covered in general resource consent monitoring fees.		

Important information

1. Responses

All communication or correspondence regarding this notice should be directed to the issuing officer at the following address. It should be noted that any response may be used as evidence in formal proceedings regarding this matter.

Environmental Regulation Department
Greater Wellington Regional Council
PO Box 11646
Wellington 6142
100 Cuba Street, Te Aro

PO Box 41
Masterton 5840
34 Chapel Street, Masterton

Telephone: 04 384 5708
Fax: 04 385 6960

Telephone: 0800 496 734

2. Status of this notice

This notice is a non-statutory instruction to undertake works/action required to avoid, remedy or mitigate adverse environmental effects and/or to address confirmed non-compliance with the Resource Management Act 1991, a resource consent, one or more rules in the Regional Plans.

3. Summary of the Resource Management Act 1991

The following is a synopsis only, and the Act itself should be consulted for a more detailed understanding.

No person may undertake the following activities unless they are expressly authorised by resource consent, a rule in a regional plan as well as a rule in a proposed plan, a national environmental standard or other regulation:

Coastal Marine Area (Section 12)

- Occupy, erect, reconstruct, alter, extend, remove or demolish any structure.
- Reclaim, drain, excavate, drill, tunnel, disturb, damage or destroy any foreshore or seabed.
- Deposit any substance that may have an adverse effect on the foreshore or seabed.
- Remove sand, shingle, shell or other natural material, or place exotic or introduced plants.

Rivers and Lakes (Section 13)

- Use, erect, reconstruct, alter, place, extend, remove or demolish any structure.
- Reclaim, drain, excavate, drill, tunnel or otherwise disturb the bed.
- Deposit any substance on or under the bed.
- Enter or pass across the bed.
- Introduce any plant or disturb, remove, damage or destroy any plant or habitat in, on or under the bed.

Water Resources (Section 14)

- Take, use, dam or divert water, heat or energy unless for reasonable domestic needs or fire-fighting purposes.

Discharge of Contaminants (Section 15)

- Discharge contaminants to water, land or air.

Noise Emissions in the Coastal Marine Area (Section 16)

- Best practicable option must be adopted to avoid unreasonable noise emissions

Section 17 states that every person has a duty to avoid, remedy or mitigate the adverse environmental effects of their activities.

Section 330 provides defences against contravention of sections 9, 12, 13, 14 and 15 in the following cases:

- Emergency works by a public authority or network utility, where;
- Action necessary to save life, protect health, or prevent serious property damage; or
- Action necessary to avoid adverse environmental effects.

Failure to comply with the Act can result in an infringement notice with a maximum fee of \$1,000 or prosecution with a maximum fine of \$600,000 for a company or \$300,000 or two years imprisonment for an individual.

4. Formal Warning

A formal warning is issued where the officer has determined there is enough evidence to show a breach of the Act, a resource consent or a rule in the Regional Plan. It constitutes a record of non-compliance and may be considered in event of future incidents.

Greater Wellington Regional Council reserves the right to take any further enforcement action deemed necessary, such as the issue of an Infringement Notice, Abatement Notice, Enforcement Order or Prosecution.

