

5 October 2021

File Ref: OIA-7-21982

Brain Warburton

By email: fyi-request-16668-d270c581@requests.fyi.org.nz

Dear Mr Warburton

Request for information 2021-249

I refer to your request for information dated 8-Sep-2021, which was received by Greater Wellington Regional Council (Greater Wellington) on 8-Sep-2021. You have requested the following:

"1. In response to my request for a copy of correspondence about this event GWRC has decided to refuse my request "as release of the information would prejudice the maintenance of law". This refusal is contained in a letter from Mr A Cross (GM - Environment Group) dated 16/08/2021. As a consequence of this unequivocal response, I hereby request the following information:

(a) all information GWRC has used to come to the conclusive conclusion I've cited.

2. In his letter, Mr A Cross confirms that the wastewater discharge was not consented, and also that the unlawful discharge was (at that time) the subject of investigation with related collation of documents and correspondence by GWRC. In relation to this investigation by GWRC, I hereby request the following information:

(a) a copy of the documents and correspondence GWRC has collated; and,

(b) if GWRC has come to a conclusion about prosecution under the RMA, a copy of the document that records: what the conclusion was, who came to that conclusion, the date, the reasons why, and the document that records that the person making that conclusion has the required delegation under the RMA.

(c) if GWRC has not come to a conclusion about prosecution under the RMA, a copy of the document that records the reasons why a decision has not yet been made."

Greater Wellington's response follows:

Part 1 of the Request

The conclusion to withhold information *"as release of the information would prejudice the maintenance of law"* was made by reference to section 6 of the Local Government Official Information and Meetings Act 1987 (See further explanation below).

Part 2 of the Request

This matter, i.e. these wastewater discharges, are the subject of an investigation, under the Resource Management Act 1991, by Greater Wellington officers. We cannot discuss the specifics of what occurred or what the outcomes will be. All documents and correspondence relating to these events which are not already in the public domain may constitute evidence in this investigation; release of this information may prejudice this investigation.

The Resource Management Act 1991 has a limitation period in respect of an offence against the Act to be end on the date that is 12 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the local authority or consent authority.

We are therefore refusing this part 2a of your request under section 17(a) of the Local Government Official Information and Meetings Act 1987 on the basis that, by virtue of section 6 or section 7, there is good reason for withholding the information.

I refer, in particular, to the full wording of section 6(a) of the Local Government Official Information and Meetings Act 1987 - *"To prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial"* and to that which was previously stated – documents, correspondence and other materials held by Greater Wellington in relation to this event may constitute evidence in this investigation. Any alleged breach of the Resource Management Act 1991 may be a criminal offence and, until an investigation is completed and enforcement action determined, protection of that evidence is paramount.

No conclusion about the prosecution under the RMA has yet been reached as the investigation is ongoing and a record of the decision is not made until the investigation is completed. We are therefore refusing Parts 2b and 2c under section 17(e) of the Local Government Official Information and Meetings Act 1987 on the basis that document alleged to contain the information requested does not exist.

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.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'AC' or similar initials, written in a cursive style.

Al Cross
General Manager, Environment Management