

**No. EAC-23660**

Document: 2628100

**ABATEMENT NOTICE UNDER SECTIONS 324 OF THE  
RESOURCE MANAGEMENT ACT 1991**

**To:** Maia Properties Limited  
577 Mangorei Road  
New Plymouth 4371

- 1. Taranaki Regional Council gives notice that you must cease and do not recommence earthworks until such time as Rule 27 of the Regional Fresh Water Plan for Taranaki can be complied with.**

- 2. The location to which this abatement notice applies is:**

448 Mangorei Road, New Plymouth (Lot 4 DP 475469 & Lots 1, 5 & 7 DP 360878 Lot 149 DP 12806 (Discharge sources and sites)

- 3. You must comply with this abatement notice within the following period:**

You must comply with this notice immediately upon receipt of this notice.

You must continue to comply with this abatement notice after that date.

- 4. This notice is issued under:**

Section 322(1)(a)(ii) of the Resource Management Act 1991, which states that:

- (1) An abatement notice may be served on any person by an enforcement officer—
  - (a) Requiring that person to cease, or prohibiting that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—
  - (ii) 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.

**5. The reasons for this notice are:**

1. Enforcement Officers, Tim Buchanan and Dean Davidson, visited the property on 27 October 2020 and found that:
  - There was an area of approximately 3 hectares of exposed soil on the subdivision site.
  - Officers met with Brian Marsden on site and it was ascertained that further earthworks were required to complete the first stage of the subdivision.
  - The Mr Marsden was advised that no further earthworks should be undertaken as works were not permitted under the Regional Fresh Water Plan for Taranaki and no current resource consent was held for the purpose.
  - A small three pond sediment retention pond and some earth bunding had been installed to captured sediment, the ponds appeared undersize and there was evidence that sediment was bypassing this system and reaching water at several points on the boundary.
  - Loose soil was sitting near stormwater outlets further facilitating sediment mobilisation.
  - Photographs were taken.
2. Resource Consent 9901-1.1, was issued to Maia Properties Limited on 12 May 2014 for the purpose of:

*To discharge stormwater and sediment from earthworks associated with the development of a residential subdivision, onto land and into an unnamed tributary of the Te Henui.*
3. Resource Consent 9901-1.1 expired on 15 November 2019.
4. Rule 27 of the Regional Fresh Water Plan for Taranaki permits the discharge of stormwater and sediment into surface water (excluding those wetland listed in Appendix II), or onto or into land in circumstances where sediment from soil disturbances may enter water, from soil disturbance activities that do not come within or comply with the conditions of Rules 25 or 26, so long as a resource consent is held for the purpose (which also requires a site erosion and sediment control management plan to be submitted to the Taranaki Regional Council).
5. At the time of inspection on 27 October 2020 Rule 27 Regional Fresh Water Plan for Taranaki was not being complied with as no current resource consent was held for this purpose.
6. Section 15(1)(b) of the Resource Management Act 1991 prohibits the discharge of contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water, 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.

7. The discharge on 27 October 2020 contravened Rule 27, and section 15(1)(b) of the Resource Management Act 1991.
8. Contravention of section 15(1)(b) of the Resource Management Act 1991 is an offence under section 338(1)(a) of the Resource Management Act 1991.
9. This notice has been issued to you to require you to cease [not undertake] the action as set out in this notice because in the opinion of the enforcement officer that issued this notice, this action is offensive to such an extent that it has or is likely to have an adverse effect on the environment, namely from the discharge of sediment to land and water.

**6 If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below), or an infringement notice may be served on you under section 343C of the Resource Management Act 1991.**

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

Lodging an appeal will automatically stay this notice as long as you are complying with the Resource Management Act 1991, any regulations made under that Act, a rule in a plan, or a resource consent.

You also have the right to apply in writing to Taranaki Regional Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

**7 The Taranaki Regional Council authorised the enforcement officer who issued this notice. Its address is:**

Taranaki Regional Council  
Private Bag 713  
Stratford 4352

Phone: (06) 765 7127  
Facsimile: (06) 765 5097

**8 The enforcement officer is acting under the following authorisation:**

A warrant of authority issued by the Taranaki Regional Council, pursuant to section 38 of the Resource Management Act 1991, authorising the officer to carry out specified functions and powers as an enforcement officer under the Resource Management Act 1991 including issue of abatement notices.

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Tim Buchanan  
Enforcement Officer  
Taranaki Regional Council  
Warrant No. 318  
2 November 2020

**No. EAC-23661**

Document: 2628389

## **ABATEMENT NOTICE UNDER SECTIONS 324 OF THE RESOURCE MANAGEMENT ACT 1991**

**To:** Maia Properties Limited  
577 Mangorei Road  
New Plymouth 4371

**1. Taranaki Regional Council gives notice that you must take the following action:**

Action 1. Undertake works to install erosion and sediment control in accordance with Waikato Regional Council's erosion and sediment control: Guidelines for soil disturbing activities, to ensure all stormwater from exposed surfaces processes through the treatment systems.

Action 2. Undertake works to comply with Rule 27 of the Regional Fresh Water Plan for Taranaki

**2. The location to which this abatement notice applies is:**

458 Mangorei Road, New Plymouth (Lot 4 DP 475469 & Lots 1, 5 & 7 DP 360878 Lot 149 DP 12806 (Discharge sources and sites)

**3. You must comply with this abatement notice within the following period:**

You must comply with Action 1 by 04 November 2020

You must comply with Action 2 by 23 November 2020

You must continue to comply with this abatement notice after that date.

**4. This notice is issued under:**

Section 322(1)(b)(ii) of the Resource Management Act 1991, which states that:

- (1) An abatement notice may be served on any person by an enforcement officer—
  - (b) Requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure compliance by or on behalf of that person with this Act, any regulations, a rule in a plan or a proposed plan, or a resource consent, and also necessary to avoid, remedy, or mitigate any actual or likely adverse effect on the

environment—

- (ii) Relating to any land of which the person is the owner or occupier.

**5. The reasons for this notice are:**

1. Enforcement Officers, Tim Buchanan and Dean Davidson, visited the property on 27 October 2020 and found that:
  - There was an area of approximately 3 hectares of exposed soil on the subdivision site.
  - Officers met with Brian Marsden on site and it was ascertained that further earthworks were required to complete the first stage of the subdivision.
  - The Mr Marsden was advised that no further earthworks should be undertaken as works were not permitted under the Regional Fresh Water Plan for Taranaki and no current resource consent was held for the purpose.
  - A small three pond sediment retention pond and some earth bunding had been installed to capture sediment, the ponds appeared undersize and there was evidence that sediment was bypassing this system and reaching water at several points on the boundary.
  - Loose soil was sitting near stormwater outlets further facilitating sediment mobilisation.
  - Photographs were taken.
2. Resource Consent 9901-1.1, was issued to Maia Properties Limited on 12 May 2014 for the purpose of:

*To discharge stormwater and sediment from earthworks associated with the development of a residential subdivision, onto land and into an unnamed tributary of the Te Henui.*
3. Resource Consent 9901-1.1 expired on 15 November 2019.
4. Rule 27 of the Regional Fresh Water Plan for Taranaki permits the discharge of stormwater and sediment into surface water (excluding those wetland listed in Appendix II), or onto or into land in circumstances where sediment from soil disturbances may enter water, from soil disturbance activities that do not come within or comply with the conditions of Rules 25 or 26, so long as a resource consent is held for the purpose (which also requires a site erosion and sediment control management plan to be submitted to the Taranaki Regional Council).
5. At the time of inspection on 27 October 2020 Rule 27 Regional Fresh Water Plan for Taranaki was not being complied with as no current resource consent was held for this purpose.
6. Section 15(1)(b) of the Resource Management Act 1991 prohibits the discharge of contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a

result of natural processes from that contaminant) entering water, 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.

7. The discharge on 27 October 2020 contravened Rule 27, and section 15(1)(b) of the Resource Management Act 1991.
8. Contravention of section 15(1)(b) of the Resource Management Act 1991 is an offence under section 338(1)(a) of the Resource Management Act 1991.
9. This notice has been issued to you to require you to take the action as set out in Actions 1 and 2 of this notice because in the opinion of the enforcement officer that issued this notice, this action is necessary to ensure compliance by you with section 15(1)(b) of the Resource Management Act 1991 and Rule 27 of the Fresh Water Plan for Taranaki and also necessary to avoid any actual adverse effect on the environment, namely from the discharge of sediment to land and water, relating to your land.

**6 If you do not comply with this notice, you may be prosecuted under section 338 of the Resource Management Act 1991 (unless you appeal and the notice is stayed as explained below), or an infringement notice may be served on you under section 343C of the Resource Management Act 1991.**

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

You also have the right to apply in writing to Taranaki Regional Council to change or cancel this notice in accordance with section 325A of the Resource Management Act 1991.

**7 The Taranaki Regional Council authorised the enforcement officer who issued this notice. Its address is:**

Taranaki Regional Council  
Private Bag 713  
Stratford 4352

Phone: (06) 765 7127  
Facsimile: (06) 765 5097

**8     The enforcement officer is acting under the following authorisation:**

A warrant of authority issued by the Taranaki Regional Council, pursuant to section 38 of the Resource Management Act 1991, authorising the officer to carry out specified functions and powers as an enforcement officer under the Resource Management Act 1991 including issue of abatement notices.

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Tim Buchanan  
Enforcement Officer  
Taranaki Regional Council  
Warrant No. 318  
2 November 2020