



Economic Regulation Authority

Section 31

Water Services Act 2012 (WA)

RECTIFICATION NOTICE

To: TMC Witchcliffe Pty Ltd (ABN: 66 632 933 263) (**TMC Witchcliffe**)

GCM Group

563 Hay Street

DAGLISH WA 6008

TAKE NOTICE that, pursuant to section 31(1) of the *Water Services Act 2012 (WA)* (**Act**), you are required to rectify the contraventions of Water Services Licence Number 50 (**WL50**) set out in Schedule A to this notice by the dates set out in Schedule B to this notice.

You are notified that if you do not comply with this Notice, then in accordance with section 31(4) of the Act, the Economic Regulation Authority (**ERA**) may, subject to section 32 of the Act, take one or more of the following actions:

- a) Order TMC Witchcliffe to pay a monetary penalty fixed by the ERA but not exceeding \$150,000.
- b) Remedy the failure to comply that gave rise to this rectification notice and seek to recover the cost of doing so from TMC Witchcliffe.
- c) Amend WL50 in accordance with section 17 of the Act.

The Common Seal of the ERA was hereto duly affixed by the Chairman of the ERA on 17 July 2024:

Stephen Joseph Edwell
Chair

In the presence of:

Michelle Groves
Member



Attached:

Schedule A – Contraventions

Schedule B – Rectification of contraventions



Schedule A – Contraventions

1. Contraventions of condition 4.1.1 of WL50

1.1 Clause 4 of WL50 states:

“4.1.1 Subject to any modification or exemptions granted pursuant to the Act and this *licence*, the *licensee* must comply with any *applicable legislation*.

4.1.2 Subject to the provisions of any *applicable legislation*, the ERA may give the *licensee* a *notice* directing it to do any measure necessary to:

- (a) correct the breach of any *applicable legislation*; or
- (b) prevent the breach of any *applicable legislation* occurring again, and specify a time limit by which such action must be taken.

4.1.3 The *licensee* must comply with the *terms and conditions* of this *licence*.”

1.2 Clause 1.1.1 of WL50 states that *applicable legislation* includes the Act and any code in force from time to time made pursuant to the Act.

1.3 The *Water Services Code of Practice (Family Violence) 2020* is a code of practice made under section 26 of the Act (**Family Violence Code of Practice**) and the *Water Services Code of Conduct (Customer Service Standards) 2018* is a code of conduct made under section 27 of the Act (**Water Services Code of Conduct**).

1.4 The ERA is satisfied that TMC Witchcliffe has contravened condition 4.1.1 of WL50 as follows:

- a. Clause 4.1.1 of WL50 requires the licensee to comply with any *applicable legislation*, including the Act, the Family Violence Code of Practice and the Water Services Code of Conduct.
- b. The report prepared by Quantum Assurance titled “TMC Witchcliffe Pty Ltd - 2023 Operational Audit and Asset Management System Review Report - Water Services Licence WL50” dated May 2024 (**Audit and Review Report 2023**) identified non-compliance with the following *applicable legislation* by TMC Witchcliffe, in contravention of condition 4.1.1 of WL50:
 - i. clauses 5(1), 5(2), 6 and 10 of the Family Violence Code of Practice;
 - ii. clauses 8(1)-(3), 13(6), 20(2)-(4), 20(6), 29(6), 31(4)-(5), 44(1), 44(2), 46(4), 46(5), 49(1), 49(2) and 49(3) of the Water Services Code of Conduct; and
 - iii. sections 24(2) and 70(2) of the Act.¹

Further detail of each contravention is set out in Schedule B.

- c. Particularly, in respect of TMC Witchcliffe’s failure to comply with section 24(2) of the Act in relation to its asset management system, the Audit and Review Report 2023 outlines numerous asset management system deficiencies² and states on page 10:

¹ [Audit and Review Report 2023](#) at Table B in section 3.7.

² *Ibid.*, at Table B in section 4.7.



"The review concluded that TMC Witchcliffe Pty Ltd does not have an effective management system due to the Asset Management Plan developed in 2017 requiring update and the lack of some supporting documentation for the asset management system."

As a result, TMC Witchcliffe did not provide for an asset management system that included the measures to be taken for the proper maintenance of its water service works, and for the provision and operation of its water service works, for the period 4 November 2019 to 30 November 2023, as required by section 24(2) of the Act.

2. Rectification of contraventions

2.1 The ERA requires TMC Witchcliffe to rectify all failures to comply with condition 4.1.1 of WL50 by implementing the actions recommended by the auditor under "Auditor's Recommendation" in:

- a. Table B under section 3.7 of the Audit and Review Report 2023; and
- b. Table B under section 4.7 of the Audit and Review Report 2023 in respect of the identified asset management system deficiencies,

by the rectification due dates set out in Schedule B to this notice.



Schedule B – Rectification of contraventions

Requirements of applicable legislation	Contraventions to rectify	Rectification due date
<p>Water Services Act 2012</p> <p>Clause 24(2)</p> <p>An asset management system must include the measures to be taken by the licensee for –</p> <p>(a) the proper maintenance of the water service works of the licensee; and</p> <p>(b) the provision and operation of the water service works specified in the licence and of other water service works necessary for the provision of the water service or services authorised by the licence.</p>	<p>Due to the deficiencies specified in Table B under 4.7 of the Audit and Review Report 2023, TMC Witchcliffe did not provide for an asset management system that included the measures to be taken for:</p> <ul style="list-style-type: none">• the proper maintenance of its water service works; and• the provision and operation of its water service works.	31 January 2025
<p>Water Services Act 2012</p> <p>Section 70(2)</p> <p>The licensee must not supply water services to customers unless the licensee:</p> <p>a. is a member of the water services ombudsman scheme;</p> <p>b. is bound by the water services ombudsman scheme; and</p> <p>c. will be compliant with any decision or direction of the water services ombudsman under the water services ombudsman scheme.</p>	<p>TMC Witchcliffe was not a member of the water services ombudsman scheme.</p>	31 August 2024



Requirements of applicable legislation	Contraventions to rectify	Rectification due date
<p><i>Family Violence Code of Practice</i></p> <p>Clause 5(1)</p> <p>A licensee must have a family violence policy that sets out the matters specified in clause 5(1) of the Family Violence Code of Practice.</p>	<p>TMC Witchcliffe did not have a family violence policy that sets out the matters in clause 5(1) of the Family Violence Code of Practice.</p>	<p>31 October 2024</p>
<p><i>Family Violence Code of Practice</i></p> <p>Clause 5(2)</p> <p>The licensee must have a family violence policy before the end of the 6-month period starting on the 9 December 2020</p>	<p>TMC Witchcliffe did not have a family violence policy that sets out the matters in clause 5(1) of the Family Violence Code of Practice.</p>	<p>31 October 2024</p>
<p><i>Family Violence Code of Practice</i></p> <p>Clause (6)</p> <p>A licensee must publish its family violence policy on its website and provide a hard copy of the policy to a customer on request and at no charge.</p>	<p>TMC Witchcliffe did not publish a family violence policy on its website.</p>	<p>31 October 2024</p>
<p><i>Family Violence Code of Practice</i></p> <p>Clause 10</p> <p>A licensee must ensure that its website contains a link that provides access to the current version of the Code of Practice as it appears on the website that is maintained by or on behalf of the Western Australian Government and that provides public access to electronic versions of Western Australian legislation.</p>	<p>TMC Witchcliffe did not have a link on its website that provides access to the current version of the Family Violence Code of Practice as it appears on the website that is maintained by or on behalf of the Western Australian Government.</p>	<p>31 October 2024</p>



Requirements of applicable legislation	Contraventions to rectify	Rectification due date
<p>Water Services Code of Conduct</p> <p>Clause 8(1)-(3)</p> <p>A licensee must have the prescribed written information for customers about connections, the information must be on the licensee's website and ensure a hard copy of the information is provided to a customer on request and at no charge.</p>	<p>TMC Witchcliffe did not publish the prescribed information under clause 8(2) on its website.</p>	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clause 13(6)</p> <p>Each bill must have the prescribed information under clause 13(6).</p>	<p>The following information, as detailed in clause 13(6), was missing from TMC Witchcliffe's bills:</p> <ul style="list-style-type: none">• A telephone number for complaints.• A Freecall telephone number for the office of the water services ombudsman.• A statement that the licensee's website contains information about estimates, meter reading and testing, complaints and review.• A statement that the bill can be reviewed in accordance with the licensee's review procedure.	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clauses 20(2)-(4) and (6)</p> <p>The licensee must have a written procedure for the review of a bill on the customer's request, the procedure must:</p> <ul style="list-style-type: none">• be available in writing under clause 20(2)• contain the prescribed information under clause 20(3) and 20(4)• be on the licensee's website pursuant to clause 20(6).	<p>TMC Witchcliffe did not have a written procedure for the review of a bill on the customer's request or published on its website.</p>	<p>31 October 2024</p>



Requirements of applicable legislation	Contraventions to rectify	Rectification due date
<p>Water Services Code of Conduct</p> <p>Clause 29(6)</p> <p>A licensee's financial hardship policy must be on its website and available in hard copy, upon a customer's request, at no charge.</p>	<p>TMC Witchcliffe's financial hardship policy was not available on its website.</p>	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clauses 31(4) and (5)</p> <p>A licensee must have written information about the payment scheme or other assistance that is available to customers and the information is published on its website and available in hard copy upon a customer's request at no charge.</p>	<p>TMC Witchcliffe's financial hardship policy includes information payment schemes and assistance available to customers, however the financial hardship policy was not on its website.</p>	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clause 44(1)</p> <p>A licensee must have policies, practices and procedures for dealing with and minimising the impact of a burst, leak or blockage in its water supply works or sewerage works.</p>	<p>TMC Witchcliffe had relevant practices in operation but did not have any policies and procedures for dealing with and minimising the impact of a burst, leak or blockage in its water supply works or sewerage works.</p>	<p>31 October 2024</p>
<p>Water Services Code of Conduct</p> <p>Clause 44(2)</p> <p>The policies, practices and procedures mentioned in subclause 44(1) must include the prescribed information.</p>	<p>TMC Witchcliffe had relevant practices in operation but did not have any policies and procedures for dealing with and minimising the impact of a burst, leak or blockage in its water supply works or sewerage works.</p>	<p>31 October 2024</p>



Requirements of applicable legislation	Contraventions to rectify	Rectification due date
<p>Water Services Code of Conduct</p> <p>Clause 46(4)</p> <p>The licensee's written complaints procedure must list the procedures available to the customer under the Act as to:</p> <ol style="list-style-type: none">Applying to the water services ombudsman under the scheme approved under section 65 in respect of a complaint, orMaking an appeal from, or applying for a review of, the decision that gave rise to the complaint, if an appeal or review is available under regulations mentioned in section 222(2)(k).	<p>TMC Witchcliffe's customer complaints procedure did not include application to the State Administrative Tribunal for review of decisions as specified in the Act.</p>	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clause 46(5)</p> <p>The licensee's customer complaints procedure must be published on its website and available in hard copy upon a customer's request at no charge.</p>	<p>TMC Witchcliffe did not publish its customer complaints procedure on its website.</p>	<p>30 September 2024</p>
<p>Water Services Code of Conduct</p> <p>Clause 49(1)</p> <p>A licensee must have the information prescribed under clause 49(1) on its website and ensure a hard copy of the information is provided to a customer on request and at no charge.</p>	<p>TMC Witchcliffe did not publish the following information on its website:</p> <ul style="list-style-type: none">Fees and charges imposed by TMC Witchcliffe.Bill payment methods offered and the applicable fees and charges.Concessions available to customers.	<p>30 September 2024</p>



Requirements of applicable legislation	Contraventions to rectify	Rectification due date
	<ul style="list-style-type: none">Services offered by the TMC Witchcliffe, upon request and at no charge including, large print versions of publicly available documents, speech or hearing impairment services, interpreter services and the provision of the customer's personal account information.	
<p>Water Services Code of Conduct</p> <p>Clause 49(2)</p> <p>A licensee must ensure the information prescribed under clause 49(2) may be obtained from its website.</p>	<p>TMC Witchcliffe did not publish the following information about bills on its website:</p> <ul style="list-style-type: none">That a bill can be reviewed in accordance with TMC Witchcliffe's bill review procedure upon a customer's request.That a customer complaint about the provision of a water service by TMC Witchcliffe can be made in accordance with its complaints' procedure.	30 September 2024
<p>Water Services Code of Conduct</p> <p>Clause 49(3)</p> <p>The licensee must ensure its website contains a link that provides access to the current version of the Water Services Code of Conduct appearing on the website that is maintained by or on behalf of the Western Australian Government and that provides public access to electronic versions of Western Australian legislation.</p>	<p>TMC Witchcliffe's website did not contain a link to the current version of the Water Services Code of Conduct.</p>	30 September 2024