
Memorandum

To: His Worship the Mayor, Dr Jason Smith; Deputy Mayor Anna Curnow;
Chief Executive Louise Miller,

CC: Michael Day, Strategy, Policy and Governance Manager

From: District Planner, Paul Waanders

Date: 13 July 2021

Subject: Dome Valley Auckland Regional Landfill Resource Consent Appeal

1. Resource Consent BUN60339589 at 1232 State Highway 1 Wayby Valley for the development of a Regional Landfill was notified on 26 March 2020 for submissions on which Kaipara District Council making a limited submission.

2. Kaipara District Council's submissions reads as follows:

This submission: opposes the application in whole or in part.

Specify the aspects of the application you are submitting on:

- a) Possible sedimentation and leaching to the Kaipara Harbour via the Hoteo River and
- b) Traffic issues on SH1 as gateway to the North during construction and after construction if the SH is not upgraded to accommodate the additional traffic

What decisions and amendments would you like the council to make?

- a) Ensure that a strict monitoring regime is maintained to deal with any leachate or sediment discharge into the Kaipara Harbour. Ensure that the Conditions of Consent as suggested in Appendix G par 165+ Stormwater, par 172+ Groundwater monitoring and par 175 Leachate monitoring is adhered to and enforced.
 - b) Ensure that the traffic management systems are robust enough not to cause delays to traffic moving to the North.
3. The Commissioners conducted a hearing during which the Mayor presented the Kaipara District Council's views. The Auckland Council made their decision (on 11 June 2021) to approve the Dome Valley Landfill, which then was open for appeals to the Environment Court.

Nine appeals were lodged with the Environment Court and submitters have the right to join these appeals as a party.

4. Under item 4.1 of the Council meeting dated 30 June 2021 Council resolved inter alia as follows:

That Kaipara District Council:

- a) Opposes, in principle, the Auckland Regional Landfill at Dome Valley.
- b) Agrees NOT to initiate a direct appeal to the Environment Court against the

Auckland Council Resource Consent decision about the Auckland Regional Landfill at Dome Valley.

- c) Agrees, in principle, to become a s. 274 (1)(e) party (as defined in the Resource Management Act 1991) to proceedings before the Environment Court in the event of there being a suitable Appellant to the Resource Consent decision about the proposed Auckland Regional Landfill at Dome Valley.
- d) Delegates to the Mayor, Deputy Mayor and Chief Executive the authority to progress this matter and in the first instance decide which (if any) Appellant Kaipara District Council will follow, and report progress on this to the August 2021 Council meeting following any decision.

5. Council received the following notices of appeal:

ENV-2021-AKL-000074	Ngati Rango v Auckland Council
ENV-2021-AKL-000076	Te Rūnanga O Ngāti Whātua v Auckland Council
ENV-2021-AKL-000078	Royal Forest and Bird Protection Society of New Zealand Incorporated v Auckland Council
ENV-2021-AKL-000079	Director-General of Conservation v Auckland Council
ENV-2021-AKL-000080	Manuhiri Kaitiaki Charitable Trust v Auckland Council
ENV-2021-AKL-000082	Fight the Tip: Tiaki Te Whenua Incorporated v Auckland Council
ENV-2021-AKL-000083	Trustees of Ngā Maunga Whakahii o Kaipara Development Trust v Auckland Council
ENV-2021-AKL-000084	The New Zealand Refining Company Limited v Auckland Council
ENV-2021-AKL-000085	Ngāti Whātua Ōrākei & Environs Holdings Limited v Auckland Council

6. The appeals have been summarised in accordance with the Kaipara District Council submission content – by no means full summary. The yellow highlighted phrases are related to the Kaipara District Council submission

ENV 021 AKL-000074 William and Te Arahi Kapea

- a) Par 2 Monitoring in a holistic manner with reference to Maori values and cultural Landscapes.
- b) Mana Whenua should be better represented in the monitoring structure.
- c) Long term after-closure monitoring required.

ENV 021 AKL 000076 Te Rūnanga o Ngāti Whātua

- a) Par 8 Appeals the whole decision but agree with the Minority report sighting the effects that cannot be avoided nor mitigated.
- b) Par 9.5 Appeals on Cultural grounds and opined that the offsetting of effects is unrealistic.
- c) Par 9.8 Identify the long-term effects on the Hoteo river and Kaipara Harbour.
- d) Par 9.15 Identify that transporting wate from one rohe to another is abhorrent (9.15)

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- e) Par 10 Relief sought 10.1 (2) (b) impose resource consent conditions or apply methods on the land and the Kaipara Harbour.

ENV021 AKL 000078 Royal Forest and Bird

- a) Par 9 The landfill will have an adverse effect on ecological values.... Streams and wetlands
- b) Par 12 Assert that commissioners did not apply correct tests and did not assess the effects correctly.
- c) Par 18 Did not meet one or both of the limbs set out in sec 104D.

ENV 021 AKL 000079 Department of Conservation

- a) Par 10 Does not recognise and provide for matters of national importance such as rivers and wetlands.
- b) Does not give effect to National Policy Statements.
- c) Par 10 n Goes into the details of the Unitary Plan.
- d) Par 10 r questioned the conditions imposed.

ENV 021 AKL 000080 Manuihiri Katiaki Charitable Trust

- a) Par 11 Does not meet the threshold in sec 104D.
- b) Par 15 Adverse ecological effects.
- c) Par 26 Nature of discharge may create issues.

ENV 021 AKL 000082 Fight the Tip Tiaki Te Whenua Inc

1. General Appeal on the whole application.
2. Par 2. 9.4 assert that the interpretation of sec 104D is incorrect and the application does not pass the gates set by sec 104.
3. Par 9.8 referenced consent conditions to be inadequate to address the environmental effects.
4. Par 9.14-9.16 Effects on streams
5. Par 9.17-18 Sediment discharges into Kaipara Moans via Hoteo river will compromise aspirations to improve ecological health of the harbour.
6. Par 9.20 Traffic effects are significant with uncertainties of the future built roading.

ENV 021 AKL 000083 Trustees of Ngā Maunga Whakahii o Kaipara Development Trust.

- a) Par 10 Post settlement entity representing Ngati Whatua o Kaipara. – specific interest in the Hoteo river.
- b) Par 11 assert that the interpretation of sec 104D is incorrect and the application does not pass the gates set by sec 104.
- c) Par 12(b) Environmental effects and irreversible damage along the Hoteo river and Kaipara Moana.
- d) Relief sought-- decline – in the alternative that decisions are made to address the matters identified specifically (a) avoid ecological effects on the Hoteo River and Kaipara Moana. (c) provide strong and meaningful involvement in the management, monitoring, compliance, and enforcement of conditions in a more specific and

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empowering manner than provided for in the decision.

ENV 021 AKL 000084 New Zealand Refining Company Ltd

- a) Appeals one condition in relation to the petroleum pipeline not provided for in the conditions.

ENV 021 ALK 000085 Ngāti Whātua Ōrākei & Environs Holding Ltd (Te Uri O Hau)

- a) Par 14 Adverse effects to fresh water and ecology downstream which can not appropriately be offset.
- b) Par 15 proposed consent conditions imposed fail to adequately address adverse effects and do not provide certainty of positive and/or effective environmental outcomes.
- c) Par 22 The decision is wrong regarding effects from the permanent loss of stream, wetland, and ecology from sedimentation.
- d) Par 23 The decision inadequately assesses the effects to improve the ecological health of Te Awa Hotoe and the Kaipara Moana.
- e) Par 37 Relief sought is to decline or the alternate to amend the decision and related conditions to avoid effects and impose resource consent conditions or apply methods which avoid effects generated by the proposal.

7. Joining as a party to the proceedings

In terms of section 274, parties can join the proceedings before the Environment Court and in the Kaipara District Councils case, sec 274(1)(b) refers to “a local authority” and sec 274 (1) (f) a person who made a submission to which the following apply

- (i) it was made about the subject matter of the proceedings;

Council made a submission and is therefore entitled to join one or more of the appeals mentioned above by giving the Environment Court notice of such joining action using Form 33 for each appeal it wants to join, and payment of \$100 for each application to join one of the parties. Additional scheduling and appearance fees may also be charged although the appellant normally pays those fees.

It is suggested that Kaipara District Council only joins one of the appeals, namely that of Ngāti Whātua Ōrākei & Environs Holding Ltd (Te Uri O Hau). This is because this appeal is the closest to the views of the Kaipara submission and their Rohe covers much of the Kaipara District. Te Uri o Hau is also one of the Kaipara District Treaty Partners. As the appellant’s appeal is quite broad, Council will be able to ‘be at the table’ for all mediation that the appellant is involved with.

Joining multiple appeals require separate applications and separate fees. However, should the substantive appeal be withdrawn, the further submission and 274 party joining may lapse—that is the risk to be taken.

8. Recommendation:

- a) That Kaipara District Council join the Appeal ENV 021 ALK 000085 Ngāti Whātua

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Ōrākei & Environs Holding Ltd (Te Uri O Hau) as a section 274 party, taking into account that Kaipara District Council's submission aligns with the relief sought by the appellant.

- b) That the details of Form 33 be filled out and signed by the Mayor and that the payment of \$100 lodging fee be paid out of unbudgeted fund from the Planning Services Budget 208 2028 using the Project Number 1179 (opened for these proceedings).



Paul Waanders
District Planner
Date: 15 July 2021

Recommendation is supported.



Michael Day
Strategy, Policy and Governance Manager
Date: 15 July 2021

Recommendation is supported.



Louise Miller
Chief Executive
Date 15 July 2021
Recommendation is supported.



Anna Curnow
Deputy Mayor
Date 20 July 2021

Recommendation is supported.

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Mayor
Dr Jason Smith
Date: 20 July 2021

Note:

The following documents are not attached but can be made available if required:

- a) Kaipara District Council submission
- b) ENV-2021-AKL-000074 Ngati Rango v Auckland Council
- c) ENV-2021-AKL-000076 Te Rūnanga O Ngāti Whātua v Auckland Council
- d) ENV-2021-AKL-000078 Royal Forest and Bird Protection Society of New Zealand Incorporated v Auckland Council
- e) ENV-2021-AKL-000079 Director-General of Conservation v Auckland Council
- f) ENV-2021-AKL-000080 Manuhiri Kaitiaki Charitable Trust v Auckland Council
- g) ENV-2021-AKL-000082 Fight the Tip: Tiaki Te Whenua Incorporated v Auckland Council.
- h) ENV-2021-AKL-000083 Trustees of Ngā Maunga Whakahii o Kaipara Development Trust v Auckland Council
- i) ENV-2021-AKL-000084 The New Zealand Refining Company Limited v Auckland Council
- j) ENV-2021-AKL-000085 Ngāti Whātua Ōrākei & Environs Holdings Limited v Auckland Council

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