

## Otago Regional Council

### Section 42A Staff Recommending Report

Application RM24.143  
Dunedin City Council

***The recommendation in the staff report represents the opinion of the writer and it is not binding on the Hearing Commissioner. The report is evidence and will be considered along with any other evidence that the Hearing Commissioner will hear.***

Shay McDonald  
**Senior Consents Planner**

29 October 2024

## 1. Executive Summary

Dunedin City Council has applied for resource consents under the Otago Regional Plans for Water, Waste, and Air, and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 to authorise the construction and operation of the Resource Recovery Park Precinct located at the Green Island Landfill in Dunedin. A consent duration of 35 years is sought for all consents.

The overall activity status of the application is **non-complying**. I consider that the application passes the section 104D(1)(b) gateway test and can therefore be considered under s104B.

The application was limited notified to the parties listed in Table 1 on 5 August 2024. Six submissions were received, two of which were in opposition, three neutral, and one in support.

After assessing the actual and potential effects of the proposed activities, considering submissions, and considering all of the matters in section 104 of the Resource Management Act 1991, my recommendation is that consent be **granted**, subject to the recommended conditions of consent that are appended to this report.

This report refers frequently to the *RM24.143 s95 Notification Report* dated 19 July 2024 and should be read in conjunction with that report.

## 2. Report Author

My name is Shay Maree McDonald, and I am a Senior Consents Planner at Otago Regional Council. I have three years' experience working in the resource management sector, with all of this time being at Otago Regional Council.

I hold the qualification of Bachelor of Science with Honours in Chemistry from the University of Otago. I am an Associate Member of the New Zealand Planning Institute and am certified as an RMA decision maker through the Making Good Decisions Programme (2023).

I have been processing Consent Application RM24.143 on behalf of Otago Regional Council since it was lodged on 18 March 2024. Prior to lodgement I provided pre-application advice to Dunedin City Council in relation to this proposal. I am currently processing the related application RM23.185 for the ongoing operation and closure of the Green Island Landfill and have previously processed RM23.571 for the construction of the Organics Receptions Building, also located at the Green Island Landfill.

I have visited the site on two occasions, the first being in April 2023 to understand the operation of the Green Island Landfill, and the second being in October 2024 to visit the Resource Recovery Park Precinct site specifically. On 17 January 2024 I visited a Bulk Waste Transfer Station at Wiri, operated by EnviroNZ, as well as the Hampton Downs Organics Processing Facility near Hamilton, also operated by EnviroNZ, as these are currently operating examples of the facilities proposed in this application by Dunedin City Council.



Shay McDonald  
**Senior Consents Planner**

## Abbreviations

BWTS	Bulk Waste Transfer Station
CEMP	Construction Environmental Management Plan
CFMP	Composting Facility Management Plan
CIA	Cultural Impact Assessment
CLMP	Contaminated Land Management Plan
DCC	Dunedin City Council
ESCP	Erosion and Sediment Control Plan
ESI	Environmental Site Investigation
GIWWTP	Green Island Wastewater Treatment Plant
Jacobs	Jacobs New Zealand Limited
MRF	Materials Recovery Facility
NES	National Environmental Standard
NES-AQ	Resource Management (National Environmental Standards for Air Quality) Regulations 2004
NES-F	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
NRMP	Kāi Tahu ki Otago Natural Resource Management Plan 2005
NZCPS	New Zealand Coastal Policy Statement 2010
OPF	Organics Processing Facility
ORB	Organics Receiving Building
ORC	Otago Regional Council
ORPS 2019	Otago Regional Policy Statement 2019
PM <sub>10</sub>	Particulate matter that is less than 10 micrometres in aerodynamic diameter
P-ORPS 2021	Proposed Otago Regional Policy Statement 2021 including Proposed Otago Regional Policy Statement – Freshwater Instrument Components 2021
RMA	Resource Management Act 1991
RPA	Regional Plan: Air for Otago
RPW	Regional Plan: Water for Otago
RPWaste	Regional Plan: Waste for Otago
RRPP	Resource Recovery Park Precinct
SBBG	Southern Black-Backed Gull
SEMP	Site Environmental Management Plan
SLR	SLR Consulting New Zealand Limited
SNA	Significant Natural Area
VMRP	Vegetation Management and Restoration Plan

## OTAGO REGIONAL COUNCIL SECTION 42A REPORT

**ID Ref:** 999859517-19250  
**Application No(s):** RM24.143  
**Prepared For:** Hearing Commissioner  
**Prepared By:** Shay McDonald – Senior Consents Planner  
**Date:** 29 October 2024  
**Subject:** Section 42A Recommending Report – Application RM24.143 by Dunedin City Council to undertake various activities for the purpose of constructing and operating the Resource Recovery Park Precinct, Green Island.

### 1. Purpose

This report has been prepared under Section 42A of the Resource Management Act 1991 (RMA) to assist in the hearing of the application for resource consents made by Dunedin City Council. Section 42A enables local authorities to require the preparation of a report on an application for resource consent and allows the consent authority to consider the report at any hearing. The purpose of the report is to assist the Hearing Commissioner in making a decision on the application.

The report assesses the application in accordance with Sections 104, 104B, and 104D of the Resource Management Act 1991 and makes a recommendation as to whether the application should be granted, and a recommendation on the duration of the consent and appropriate conditions.

This report contains the recommendations of the Senior Consents Planner and is not a decision on the application. The recommendations of the report are not binding on the Hearing Commissioner. The report is evidence and will be considered along with any other evidence that the Hearing Commissioner will hear.

### 2. Summary of the Application

#### 2.1 Overview

**Applicant:** Dunedin City Council

**Applicant's Agent:** Anderson Lloyd Limited

**Site address or location:** Green Island Landfill, located at 9,114, 140, and 170 Brighton Road, Green Island

**Legal descriptions of the landfill site, Record of Title, Owner:**

- 9 Brighton Road
  - Part Section 45-47 Green Island Bush Survey District and Section 54 and 63 Block VII and Section 119 Block VII Dunedin & East Taieri Survey District
  - OT11B/1241
- 9 Brighton Road
  - Part Section 45-47 Green Island Bush Survey District
  - OT368/19
- 9 Brighton Road
  - Section 1 Survey Office Plan 24047
  - OT15C/1016
- 9 Brighton Road
  - Lot 6-7 Deposited Plan 572543 and Section 1 Survey Office Plan 24040
  - 1040235
- 9 Brighton Road
  - Part Section 120 Dunedin & East Taieri Survey District and Part Section 53 Block VII Dunedin & East Taieri Survey District and Closed Road intersecting Sections 86,87,98,102 and 103 Block V Lower Kaikorai Survey District
  - OT16D/1193
- 9 Brighton Road
  - Section 103 Block V Lower Kaikorai Survey District and Part Section 85-87, 98 Block V and Part Section 99-101 Block V and Part Section 102 Block V Lower Kaikorai Survey District
  - OT16D/1194
- 9 Brighton Road
  - Lot 2, 4 Deposited Plan 572543 and Lot I Deposited Plan 20826
  - 1040233
- 114 Brighton Road
  - Part Section 38-40, Part Section 44 and Part Section 156 Green Island Bush Survey District
  - OT7C/934
- 140 Brighton Road
  - Part Lot 4 Deposited Plan 4550
  - OT12C/261
- 170 Brighton Road
  - Lot I Deposited Plan 20582
  - OT12C/262
- 170 Brighton Road
  - Section 81 Block VII Dunedin & East Taieri Survey District
  - OT15A/266

**Property owner:** Dunedin City Council

**Map reference of approximate midpoint of RRPP (NZTM2000):** E1399447 N4913122

**Consents sought:**

- RM24.143.01 Land Use Consent to disturb a contaminated site for construction of the Resource Recovery Park Precinct
- RM24.143.02 Discharge Permit to discharge contaminants to air associated with the disturbance of contaminated land for the construction of the Resource Recovery Park Precinct
- RM24.143.03 Discharge Permit to discharge odour and dust to air from composting activities and from industrial and trade processes directly associated with the operation of facilities at the Resource Recovery Park Precinct
- RM24.143.04 Water Permit to divert stormwater from working and non-working areas of the Resource Recovery Park Precinct within or within 100 metres of a natural inland wetland.
- RM24.143.05 Discharge Permit to discharge treated stormwater from the Resource Recovery Park Precinct to water within Kaikorai Stream within or within 100 metres of a natural inland wetland.

**Consent term sought:** 35 years for all consents.

**Purpose:** Construction and operation of the Resource Recovery Park Precinct

**Information requested:** 9 April 2024

**Notification decision:** The application was limited notified on 5 August 2024.

**Submissions:** Six

**Site visit:** I visited the wider Green Island Landfill site on 4 April 2023 and the RRPP area on the 22 October 2024. I also visited the Wiri Bulk Waste Transfer Station and the Hampton Downs Composting Facility on 17 January 2024.

**Key Issues:** It is considered that the key issues with this application relate to odour.

**Specialist Advice:** SLR (previously 4Sight Consulting) were engaged to audit the groundwater, surface water, ecology, contaminated land, and natural character reports. Jacobs were engaged to audit the air quality report.

Tim Baker (Principal Consultant – Hydrogeology, SLR), Claire Conwell (Principal Consultant – Ecology and Marine Science, SLR), Samantha Iles (Principal Consultant – Environmental, SLR), and Tracy Freeman (Principal

Air Quality Specialist, Jacobs) have prepared evidence and will be available to answer questions at the hearing.

## 2.2 Description of Application

The proposed activities are described in Section 3 of the RM24.143 s95 Notification Report (**s95 Report**) dated 19 July 2024 and in the application documents. In the interest of efficiency and ensuring that this report is easier to read, that information is not repeated here.

## 2.3 Application Documents

The Applicant has provided the following documentation with the application:

- Green Island Resource Recovery Park Precinct Applications for Resource Consent and Assessment of Environmental Effects Prepared for Dunedin City Council, dated 15 March 2024
- Appendix 1: Records of Title
- Appendix 2: Green Island Resource Recovery Park Precinct Design and Operations Report (GHD Feb 2024)
- Appendix 3: Green Island Resource Recovery Precinct Stormwater Management Plan and Assessment of Effects (GHD Feb 2024)
- Appendix 4: Green Island Resource Recovery Park Precinct - Groundwater Technical Assessment (GHD 23 Feb 2024)
- Appendix 5: Green Island Resource Recovery Precinct Draft Construction and Operations Management Plans (GHD 2024)
  - A: Draft Construction Environmental Management Plan (GHD dated 12 January 2024)
  - B: Draft Erosion and Sediment Control Plan (GHD 28 February 2024)
  - C: Green Island Resource Recovery Precinct Draft Contaminated Land Management Plan (GHD 16 February 2024)
  - D: Draft Site Environmental Management Plan (Enviro NZ February 2024)
  - E: Draft Stormwater Management Operation and Maintenance Plan (GHD dated 28 February 2024)
  - F: Draft Composting Facility Management Plan (Enviro NZ dated February 2024)
- Appendix 6: Green Island Resource Recovery Precinct Landscape Effects Assessment (Boffa Miskell Feb 2024)
- Appendix 7: Green Island Landfill Resource Recovery Precinct Ecological Assessment Report (Boffa Miskell 12 February 2024)
- Appendix 8: Green Island Resource Recovery Park Bird Hazard Report (Avisure February 2024)
- Appendix 9: Draft Southern Black Backed Gull (SBBG) Management Plan Dunedin and Environs (Avisure November 2023)
- Appendix 10: Affected Party Approval Letter (Aukaha 14 March 2024)
- Appendix 11: Cultural Impact Assessment Green Island Landfill Operation, Closure and Aftercare (Aukaha March 2023)



- Appendix 12: Green Island Resource Recovery Precinct Air Quality Assessment (Pattle Delamore Partners Jan 2024)
- Appendix 13: Waste Futures - Green Island Resource Recovery Precinct – Integrated Transport Assessment (GHD Feb 2024)
- Appendix 14: Green Island Resource Recovery Precinct Assessment of Acoustic Effects (GHD Feb 2024)
- Appendix 15: Resource Recovery Park Precinct - Interim Social Impact Assessment (GHD March 2024)
- Appendix 16: Consultation and Engagement Collateral
- Appendix 17: Aukaha and Te Runaka o Ōtākou – Presentation/briefing
- Appendix 18: Resource Recovery Processing Precinct Site Options Assessment (GHD Oct 2022)
- Appendix 19: Existing Landfill Consents
- Appendix 20: Draft Conditions of Consent
- Section 92 response received 10 May 2024 – responses to air quality and natural character questions.
- Section 92 response received 1 July 2024 – comments on consent conditions in response to recommendations from Jacobs and clarification of natural character effects.

### 3. Notification and Submissions

#### 3.1 Notification Decision

Council made a decision on 22 July 2024 that the application would be limited notified to the persons identified in Table 1 and in Figure 2. Notice was duly served upon these parties on 5 August 2024. No other persons were considered to be affected by the proposal to a minor or more than minor degree.

**Table 1** List of Affected Parties

Person	Reasons why they are adversely affected
Owners and occupiers of 25 Brighton Road	Adverse odour effects
Owners and occupiers of 27 Brighton Road	Adverse odour effects
Owners and occupiers of 41 Brighton Road	Adverse odour effects
Owners and occupiers of 45 Brighton Road	Adverse odour effects
Owners and occupiers of 2 Taylor Street	Adverse odour effects
Owners and occupiers of 4 Taylor Street	Adverse odour effects
Owners and occupiers of 10 Taylor Street	Adverse odour effects

Owners and occupiers of 2 Clariton Avenue	Adverse odour effects
Owners and occupiers of 3 Clariton Avenue	Adverse odour effects
Owners and occupiers of 4 Clariton Avenue	Adverse odour effects
Owners and occupiers of 5 Clariton Avenue	Adverse odour effects
Owners and occupiers of 6 Clariton Avenue	Adverse odour effects
Owners and occupiers of 7 Clariton Avenue	Adverse odour effects
Owners and occupiers of 8 Clariton Avenue	Adverse odour effects
Owners and occupiers of 10 Clariton Avenue	Adverse odour effects
Owners and occupiers of 11 Clariton Avenue	Adverse odour effects
Owners and occupiers of 12 Clariton Avenue	Adverse odour effects
Owners and occupiers of 13 Clariton Avenue	Adverse odour effects
Owners and occupiers of 14 Clariton Avenue	Adverse odour effects
Owners and occupiers of 15 Clariton Avenue	Adverse odour effects
Owners and occupiers of 16 Clariton Avenue	Adverse odour effects
Owners and occupiers of 17 Clariton Avenue	Adverse odour effects
Owners and occupiers of 18 Clariton Avenue	Adverse odour effects
Owners and occupiers of 19 Clariton Avenue	Adverse odour effects
Owners and occupiers of 20 Clariton Avenue	Adverse odour effects
Owners and occupiers of 21 Clariton Avenue	Adverse odour effects
Owners and occupiers of 22 Clariton Avenue	Adverse odour effects
Owners and occupiers of 23 Clariton Avenue	Adverse odour effects
Owners and occupiers of 24 Clariton Avenue	Adverse odour effects

Owners and occupiers of 25 Clariton Avenue	Adverse odour effects
Owners and occupiers of 26 Clariton Avenue	Adverse odour effects
Owners and occupiers of 27 Clariton Avenue	Adverse odour effects
Owners and occupiers of 28 Clariton Avenue	Adverse odour effects
Owners and occupiers of 29 Clariton Avenue	Adverse odour effects
Owners and occupiers of 31 Clariton Avenue	Adverse odour effects
Owners and occupiers of 33 Clariton Avenue	Adverse odour effects
Owners and occupiers of 35 Clariton Avenue	Adverse odour effects
Owners and occupiers of 37 Clariton Avenue	Adverse odour effects
Owners and occupiers of 39 Clariton Avenue	Adverse odour effects
Owners and occupiers of 47 Brighton Road	Adverse odour effects
Owners and occupiers of 49 Brighton Road	Adverse odour effects
Owners and occupiers of 51 Brighton Road	Adverse odour effects
Owners and occupiers of 53 Brighton Road	Adverse odour effects
Owners and occupiers of 55 Brighton Road	Adverse odour effects
Owners and occupiers of 57 Brighton Road	Adverse odour effects
Owners and occupiers of 59 Brighton Road	Adverse odour effects
Owners and occupiers of 61 Brighton Road	Adverse odour effects
Owners and occupiers of 63 Brighton Road	Adverse odour effects
Owners and occupiers of 65 Brighton Road	Adverse odour effects
Owners and occupiers of 67 Brighton Road	Adverse odour effects

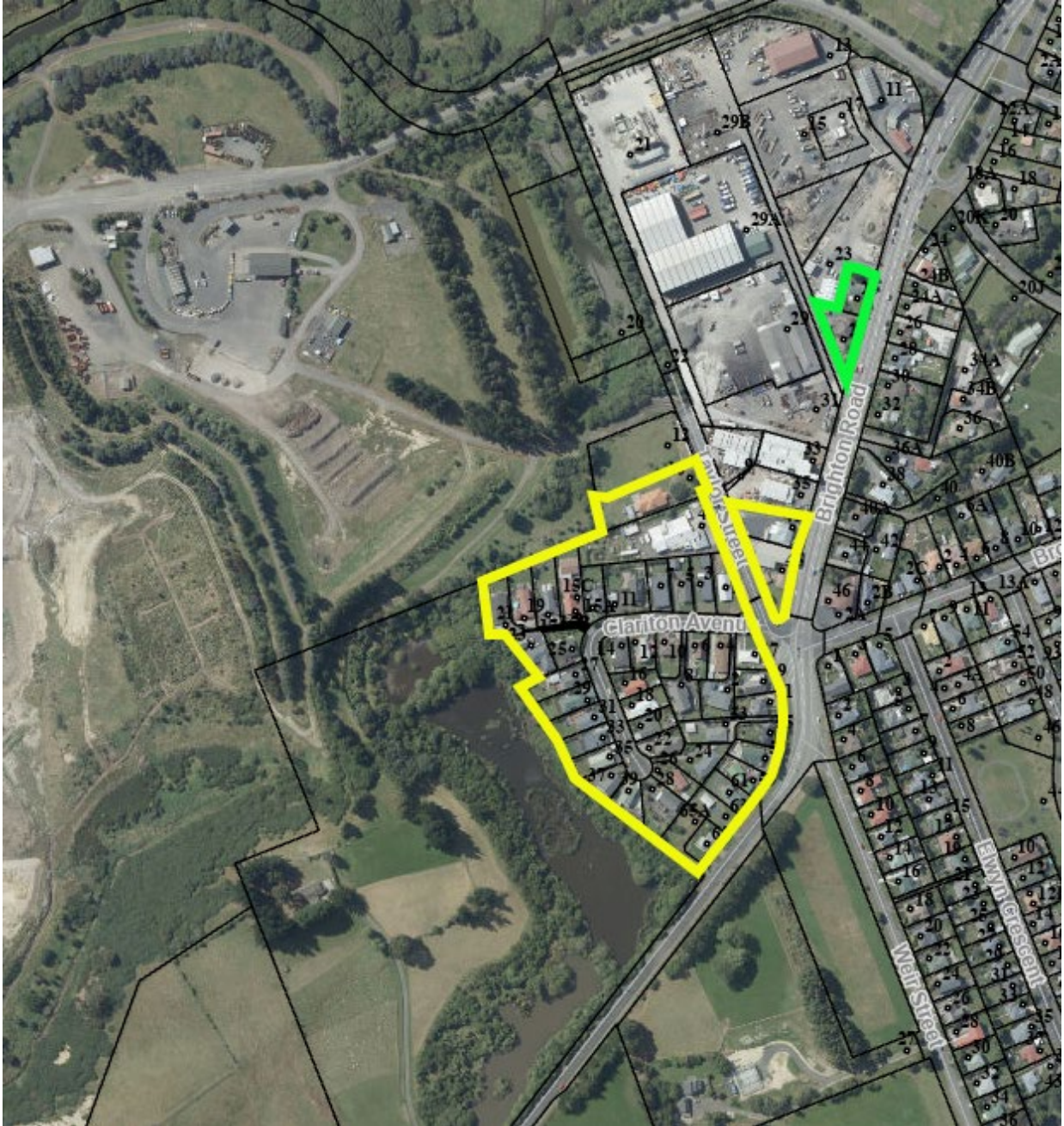


Figure 1 Affected parties are those owners and occupiers of properties inside the yellow and green shapes. Source: s95 Report.

Written approval was received from Aukaha on behalf of Te Rūnanga o Ōtākou, and therefore any adverse effects on them were disregarded.

### 3.2 Submissions Received

Submissions were received from the following persons:

**Table 2** Summary of Submissions

Submitter	Submission Points	To be heard?
Peter Stuart Adams	<b>Opposes</b> the air discharge permit based on concerns about odour from the composting operation. Is concerned that the odour will be similar to that experienced in Christchurch. Particularly concerned that commercial loads of meat and fish waste will be received and composted. Seeks that consent is not granted for this composting activity in such a populated area. Neutral with respect to the other RRPP activities.	No
Hayden Murray	<b>Mostly supportive</b> of the proposal. Would like reassurance that management of pests and odour will be given priority by DCC. Would like specific contact details for a representative who would be able to respond when there are issues. Raises concerns about noise and roading infrastructure that are not within scope of this application.	No
John and Helen Neill	<b>Neutral</b> submission. Requests that odour, dust, and other contaminants are monitored at the site boundary and that there is no increase in effects as compared to the current situation (existing landfill pre-RRPP). Requests that the construction works are minimised and limited to works required for the specific stage of development. Requests that an effective pest control system is used. Submitter also raises issues with noise and visual impacts which are out of scope of this application.	Yes
June Aerakis	<b>Neutral</b> submission. Requests that an effective vermin control trapping and eradication plan be developed and implemented.	No
Catherine Bignell	<b>Neutral</b> submission. States that better control of vermin is needed.	No
Heather and Grant Helm	<b>Opposing</b> submission. Submitter raises concerns about vermin control and dust and the location of the RRPP within the landfill. The submitter also raises concerns about building heights, loss of sunlight, noise from buildings and trucks, and the planting of trees which will block sunlight, all of which are outside the scope of this application.	Yes

#### 4. Description of the Environment

A detailed description of the site and the receiving environment is provided in Section 4 of the s95 Report and in the application documents. In the interest of efficiency this description is not duplicated here.

I remind readers of the following key points:

- The RRPP will be located entirely within the area designated as the Green Island Landfill. Although the RRPP and the landfill will share some leachate and stormwater infrastructure, the landfill and RRPP will operate independently of each other.
- The odour effects attributable to the Green Island Landfill are not assessed in the application or in this report.<sup>1</sup> Rather, the air quality effects of the landfill are treated as the baseline air quality upon which the RRPP odour effects will be considered as they are part of the existing environment i.e. odour effects are considered cumulatively with the landfill.

#### 5. Status of the Application

The following consents are required under the Regional Plan: Water for Otago (**RPW**), the Regional Plan: Waste for Otago (**RPWaste**), the Regional Plan: Air for Otago (**RPA**), and the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (**NES-F**).

**Table 3:** *Relevant Rules*

Planning Instrument	Rule	Purpose	Activity Status
RPW	12.3.4.1(i)	Divert stormwater from working and non-working parts of the RRPP into swales and pipes ( <i>water permit</i> ).	Discretionary
	12.B.3.1	Discharge stormwater from the eastern sedimentation pond and the eastern constructed wetland into Kaikorai Stream and ultimately to the Kaikorai Lagoon Swamp ( <i>discharge permit</i> ).	Restricted discretionary

<sup>1</sup> The landfill includes the operation of the Organics Receptacles Building, the odour effects of which have not yet been assessed but will persist beyond the closure of the landfill.

RPWaste	5.6.1(1)	Disturb a contaminated site ( <i>land use consent</i> ).	Discretionary
	5.6.1(5)	Discharge hazardous waste (landfill gas and dust) to air during the disturbance of a contaminated site ( <i>discharge permit</i> )	Discretionary
	7.6.13(3)	Discharge contaminants (odour, dust) to air during composting of organic material ( <i>discharge permit</i> ).	Discretionary
RPA	16.3.5.9	Discharge contaminants (odour and dust) to air from industrial or trade processes (being the RRPP excluding the composting operations) ( <i>discharge permit</i> ).	Discretionary
NES-F	Regulation 54	Diversion of water from working and non-working areas of the RRPP within 100 m of a natural inland wetland ( <i>water permit</i> ).	Non-complying
		Discharge water from the eastern sedimentation pond, the eastern constructed wetland, and the northern leachate pond into the Kaikorai Stream and ultimately the Kaikorai Lagoon Swamp parts of which are natural inland wetland ( <i>discharge permit</i> ).	Non-complying

Applications involving a number of different activity statuses can be bundled together, so that the most restrictive activity classification is applied to the overall proposal. The bundling approach developed from case law is to enable appropriate consideration of the effects of an activity, or group of activities. Overall, the application has a **non-complying** activity status.

## 6. Section 104 Evaluation

Section 104 of the Act sets out the matters to be considered when assessing an application for a resource consent. These matters are subject to Part 2, the purpose and principles, which are set out in Sections 5 to 8 of the Act.

The remaining matters of Section 104 to have regard to when assessing an application for a resource consent are:

- (a) the actual and potential effects on the environment of allowing the activity;
- (ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;
- (b) any relevant provisions of a national environmental standard, other regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy Statement or proposed regional policy statement, a plan or proposed plan; and
- (c) any other matter the Council considers relevant and reasonably necessary to determine the application.

### 6.1 S104(1)(a) – Actual and potential effects on the environment of allowing the activity

Section 104(1)(a) of the RMA requires the council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.

#### 6.1.1 Positive Effects

The application states that the proposal will have the following positive effects:

- The stormwater treatment and attenuation systems for the RRPP will improve the quality of stormwater discharged to Kaikorai Stream, as compared to the current stormwater quality, due to treatment prior to pond entry.
- The direct disposal of leachate to pumping stations within the leachate collection system is an improvement on the existing situation where leachate from the uncapped areas of the RRPP site reaches the system via percolation into groundwater.
- The RRPP will improve internal amenity for the site in the form of planting.
- The RRPP will improve external amenity for the site in the form of additional screen planting.
- Construction and operation of the RRPP will benefit the economic and social well-being of the Dunedin community by providing for continued use of an existing asset for resource recovery and transfer purposes instead of the expense and new potential adverse environmental effects of relocating all facilities to an alternate location.
- Construction and operation of the RRPP will enable the processing and recycling of all recoverable waste in accordance with the Waste Minimisation Act 2008 and internal DCC policy.

I agree that these positive effects will result from the proposed activities and/or as a result of the conditions volunteered by the Applicant.



### 6.1.2 Adverse Effects

A detailed assessment of adverse effects undertaken for notification can be found in Section 6 of the s95 Report. After taking into account the matters raised in submissions, the assessment as to adverse effects of the proposal remains largely unchanged. Nonetheless, a summary of the adverse effects assessment is provided below, utilising the same headers that were used in the s95 Report. This summary specifically addresses matters raised in submissions, and also includes a new section addressing adverse effects on human health, which were not explicitly assessed in the s95 report, as well as a new section addressing pests/vermin which was an area of particular concern for submitters.

Issues and adverse effects identified by submitters that are considered to sit outside the scope of this application include:

- Noise effects, because these are regulated by Territorial Authorities, except in the coastal marine area.
- Visual effects associated with the proposed RRPP buildings, because these are not an effect of any activity that is regulated by ORC.

These matters are not discussed further in this report. The Applicant may choose to volunteer consent conditions to assuage the concerns of submitters.

#### 6.1.2.1 General Matters

##### The Permitted Baseline

The Consent Authority may disregard an adverse effect if a rule in a plan or national environmental standard permits an activity with that effect. In this case:

- There is no permitted activity rule for the diversion of water where that diversion would affect the hydrological function of a Regionally Significant Wetland, nor is there any rule permitting the discharge of stormwater from a reticulated system into such a wetland. Further, the NES-F does not provide a permitted activity pathway for diversions and discharges water associated with 'other activities' which occur in proximity to natural inland wetlands.
- There are no permitted activity rules within the RPWaste that provide for the disturbance of a contaminated site or the discharge of hazardous waste to air on a contaminated site, nor is there any permitted activity rule within the RPA for the discharge of contaminants to air from trade and industrial premises of this type.
- The RPWaste provides for discharges of contaminants to air from composting as a permitted activity, but not in situations where the material to be composted predominantly comes from offsite locations. In this case, all material will be imported to site.

For the reasons outlined above, the permitted baseline is not considered relevant to this proposal.

##### The Receiving Environment

The receiving environment is the environment upon which a proposed activity may have effects. The receiving environment includes the current and reasonably foreseeable future state of the environment

as it may be modified by permitted activities and by the implementation of resource consents that have been granted at the time the application is being considered. It does not include the environment as it might be modified by the implementation of future resource consents yet to be granted, nor does it include unlawful activities, even if these are already occurring.

In this case, the receiving environment is the wider landfill site, including its designation and implemented resource consents; groundwater; surface water, including artificial and natural watercourses and wetlands as well as their natural, physical, and cultural values; ambient air quality beyond the RRPP site and the receptors beyond the RRPP site that are sensitive to changes in ambient air quality.

#### Written Approvals

Adverse effects on Te Rūnanga o Ōtākou have been disregarded because this party provided written approval to the application via Aukaha.

#### Consent Conditions

A set of draft consent conditions is provided in Appendix A. The suite of conditions includes conditions proposed by the Applicant and other conditions considered necessary to ensure that adverse effects are appropriately avoided, remedied, mitigated, or monitored.

#### **6.1.2.2 Effects on Groundwater**

Adverse effects on groundwater quantity and quality were considered for both the construction and operation of the RRPP. My assessment in the s95 Report relied on the expert comment of Tim Baker of SLR. Expert evidence from Mr Baker, provided after the close of submissions and for the purpose of this hearing is appended to this report as Appendix B.

No issues relating to groundwater quality or quantity were raised in submissions.

No new information or issues were raised in the evidence of Mr Baker; therefore, the assessment in Section 6.1 of the s95 report that there will be no adverse effects on groundwater quality or quantity that result from the construction or operation of the RRPP remains unchanged. No specific consent conditions relating to groundwater monitoring or dewatering have been proposed by the Applicant, nor are any considered necessary. Conditions do require adherence to a Construction Environmental Management Plan (**CEMP**), which sets out details on the management of dewatering activities. Mr Baker considers that these measures are adequate, and I accept this expert opinion.

#### **6.1.2.3 Effects on Surface Water and Aquatic Ecology**

Adverse effects on surface water quantity and quality and aquatic ecology were considered for both the construction and operation of the RRPP. My assessment in the s95 Report relied on the expert comments of Samantha Iles, Claire Conwell, and Elizabeth Morrison of SLR. Expert evidence from Ms Iles and Dr Conwell, provided after the close of submissions and for the purpose of this hearing are appended to this report as Appendix C and Appendix D, respectively. The original technical audit memo from Ms Morrison is appended as Appendix E.

No issues specifically relating to surface water quality or quantity, or aquatic ecology were raised in submissions.

No new information or issues were raised in the evidence of Dr Conwell or Ms Iles. The assessment in Section 6.2 of the s95 report that there will be less than minor adverse effects on surface water quality and quantity and less than minor adverse effects on aquatic ecology resulting from the construction or operation of the RRPP remains unchanged. The Applicant has proposed conditions of consent relating to stormwater management, erosion and sediment controls, and surface water quality monitoring. Dr Conwell and Ms Iles consider that these are appropriate, and I accept these expert opinions.

#### **6.1.2.4 Effects relating to Birds**

Birds may be attracted to certain components of the RRPP, particularly the BWTS and the OPF.

Any bird hazard effects will be addressed primarily via the SBBG Management Plan which was commissioned by DCC as required by conditions of Discharge Permit RM20.280.01 relating to the operation of the proposed Smooth Hill landfill. This management plan also considers the impact of the construction and operation of the RRPP. Therefore, any adverse effects relating bird hazard that are attributable to the RRPP are considered to be adequately addressed elsewhere. I do not consider that it is appropriate to reassess these here.

Consent conditions proposed by the Applicant require the RRPP activities to be undertaken in accordance with the Avisure Hazard Report and the SBBG Management Plan.

No issues relating to birds were raised in submissions.

#### **6.1.2.5 Effects on Natural Character**

Adverse natural character effects of the proposal were considered insofar as they relate to freshwater bodies and their margins. My assessment in the s95 Report relied on the expert comment of Rachael Annan of SLR. The original technical audit memo from Ms Annan is appended as Appendix F.

No issues relating to natural character were raised in submission.

The assessment in Section 6.4 of the s95 report that there will be minor adverse effects on natural character during the construction phase and less than minor adverse effects on natural character thereafter remains unchanged.

#### **6.1.2.6 Effects on Air Quality**

Adverse effects on air quality were considered for both the construction and operation of the RRPP. In my opinion, the adverse effects relating to odour are the primary issue of concern for this application. My assessment in the s95 Report relied on the expert comment of Tracy Freeman of Jacobs. Expert evidence from Ms Freeman, provided after the close of submissions and for the purpose of this hearing is appended to this report as Appendix G.

Four submissions raised concerns about dust or odour.

- Peter Adams opposes the composting operation due to concerns that commercial loads of meat and fish waste will be received and composted and that this will lead to unacceptable odour issues, such as were experienced in Christchurch. It is my understanding, based on the information provided in the application, that commercial loads of animal waste from facilities that exclusively process meat and fish products will not be received or composted at the RRPP. Rather, organic waste from kerbside collection and commercial businesses such as restaurants will be received and composted, and these may contain quantities of meat, fish, and dairy products. Various conditions about the amount and type of waste that may be composted on site have been proposed by the Applicant, but I note that there is no condition explicitly excluding commercial loads of meat and fish waste. I have assumed that the Christchurch operation that Mr Adams references is the Bromley composting plant, which has had significant odour issues that have been well publicised. The reasons that similar odour issues are not anticipated at the RRPP is thoroughly discussed at Section 5.5 of the PDP *Green Island Resource Recovery Park – Air Quality Assessment*. Ms Freeman agrees with the rationale for concluding that the RRPP will not result in the same level of odour effects as at Bromley. Mr Adams does not want to be heard in support of his submission; however, it would be helpful if the Applicant could indicate whether any additional consent conditions are being proposed to address the concerns raised.
- John and Helen Neill raised concerns in their neutral submission about the potential for odour and dust discharges during construction earthworks and seeks that these are minimised through staging of the works, wetting down of worked areas, halting works in times of strong winds, and halting works if excessive odour is generated with subsequent investigation and remediation to follow. The Neills also expressed that odour impacts should be no worse than previously experienced. Prior to notification, the Applicant had already proposed conditions of consent that address these issues; however, it appears that these may not be to the satisfaction of the Neills. It would therefore be helpful to understand in more detail the concerns of the submitter, in particular whether there are any specific consent conditions or modifications to the proposal that would more fully address their concerns. It is noted that the submission requests installation of air quality monitoring stations at the four boundaries of the RRPP to quantify air quality effects. In her evidence, attached as Appendix G, Ms Freeman states that she does not consider that the risk of adverse impacts from dust emissions is sufficient to warrant the instrumental monitoring of dust at or near the site boundaries.
- Heather and Grant Helm indicated in their opposing submission that dust was an area of concern. Beyond listing ‘dust’ as a concern, no further elaboration was provided. It would therefore be helpful to understand in more detail the concerns of the submitter, in particular whether there are any specific consent conditions or modifications to the proposal that would more fully address their concerns.
- Hayden Murray is mostly supportive of the proposal, but nonetheless indicated in his submission that he would like reassurances that odour control will be given priority by the Applicant. In particular, Mr Murray would like to be provided with contact details for a person who is able to respond to issues. Mr Murray does not want to be heard in support of his submission. I note that none of the draft management plans provided with the application state

whether or not contact details will be made available to adjacent landowners. It would be helpful if the Applicant could indicate whether these details will be provided.

The Applicant has proposed consent conditions intended to minimise the offsite effects relating to dust and odour. In particular, a comprehensive suite of conditions has been proposed to manage the potential odour effects of the composting operation. These have been reviewed by Ms Freeman who agrees that they are generally appropriate but suggests some additional conditions as well as some modifications to the conditions proposed by the Applicant. The purpose of these additional/modified conditions is to ensure that key design features of the OPF are reflected in conditions and to ensure that key management practices/mitigation measures are not inadvertently overlooked when producing final versions of management plans.

Overall, the assessment in Section 6.5 of the s95 Report that there could be at least minor adverse (cumulative) odour effects on specific sensitive receptors, less than minor odour effects on the wider environment and other persons, and less than minor (negligible) dust effects remains unchanged. It is considered that these effects can be adequately avoided, remedied, or mitigated through imposition of the consent conditions set out in Appendix A.

#### **6.1.2.7 Effects on Mana Whenua Values**

A letter prepared by Aukaha, written on behalf of Te Rūnanga o Ōtākou, was submitted with the application. This letter outlines that Te Rūnanga o Ōtākou are the kaitiaki Rūnanga whose takiwā includes the Kaikarae Estuary, and that Te Rūnanga o Ōtākou represents the raketira and are kaitiaki of all natural resources within the Kaikarae Estuary.

Aukaha on behalf of Te Rūnanga o Ōtākou refer to the recommendations made in the CIA that was prepared for the Green Island Landfill application.

Only mana whenua have the expertise to identify values, sites, histories, and processes of cultural significance. Te Rūnanga o Ōtākou are the “suitably qualified persons” able to speak to the impacts of the proposal on cultural values in this location. The Applicant has incorporated all relevant recommendations of the CIA into their application.

Te Rūnanga o Ōtākou have provided affected party approval for the proposal. Adverse effects on this party are therefore disregarded.

No issues relating to effects on mana whenua values were raised in submissions.

The assessment in Section 6.6 of the s95 Report that there will be less than minor adverse effects on mana whenua values during the construction and operation of the RRPP remains unchanged.

#### **6.1.2.8 Effects on Human Health**

While the s95 Report considered the relevant adverse effects on the environment, which includes persons, it did not contain an explicit assessment of effects on human health. Human health may be impacted if there is contact between a person and a contaminant. Contact may occur by various pathways, which include inhalation, ingestion, or dermal contact.

There is a potential for persons to come into contact with contaminants during construction and operation of the RRPP. Potential sources of contaminants include contaminated soils and excavated waste, waste delivered to site, and contaminants (such as dust and landfill gas) that may be discharged into air during construction and operation of the RRPP. Potential receptors include site workers during construction works, current and future users of the site, future workers at the site, and offsite receptors in the event that dust travels offsite.

The site has been investigated to identify contamination and has been reported on in an Environmental Site Investigation (**ESI**). The application contains draft versions of a Contaminated Land Management Plan (**CLMP**), Construction Environmental Management Plan (**CEMP**), Erosion and Sediment Control Plan (**ESCP**), Site Environmental Management Plan (**SEMP**), and a Composting Facility Management Plan (**CFMP**) which together set out management processes and measures to avoid or mitigate adverse effects on the environment and on persons during construction and operation of the RRPP. These include industry standard controls for preventing erosion and subsequent sedimentation, procedures for dealing with unexpected contamination and asbestos, monitoring and subsequent actions for landfill gas, as well as operational procedures, controls, and monitoring for preventing generation of dust.

As explained in the s95 Report and in the sections above, the application and supporting technical information was audited by independent experts. These audits found that the information provided with the application and in further information requests was sufficient to understand the proposal and its effects, and that the proposed measures to avoid or mitigate adverse effects were appropriate and would be effective to prevent adverse effects on the environment and on persons. Adverse effects are expected to be less than minor upon the environment and persons, the only exception being adverse odour effects on specific offsite receptors (persons). However, the odour is considered to primarily impact upon amenity, rather than human health. Therefore, adverse effects on human health are expected to be less than minor, both onsite and offsite, during both construction and operation of the RRPP.

#### **6.1.2.9 Effects Relating to Pests/Vermin**

Three submitters raised concerns about vermin, and two submitters raised concerns about pests. All wanted reassurance that these would be effectively controlled/managed. While it is difficult to link an increase in pests/vermin to any of the activities for which consent is sought, it is feasible that the pests/vermin could be attracted to elements of the RRPP such as the OPF and the BWTS. For the purpose of this report, I consider that ‘pests’ could include any pest animal, which at this site may include vermin (rats, mice, flies, etc.) and birds (gulls, pūkeko).

The application states that:

*“The best practice operational procedures of the site aim for fast turn-around of incoming organic waste streams for processing. Nuisance caused by vermin (such as flies or rodents) is not expected.*

*An accredited pest control contractor will be engaged to put in place and service an ongoing pest control programme. Buildings will be designed in a way that minimises opportunities for vermin entry.”*

The SEMP includes a section on the management of vermin and birds. Vermin control is as per the above statement taken from the application, and the management of birds is likely to focus on the exclusion of birds from buildings and on roosting/loafing sites within the property.

The CFMP also includes similar statements about pests, noting also that the same contractor who is engaged to monitor and take action on vermin at the wider landfill will be used to monitor for pests at the OPF. Further, all mixed organics will be shredded and placed in bunkers as soon as practicable, which will usually be the day of arrival at the facility.

I consider that the measures (building design, fast turn-around of waste streams, and use of a professional pest control contractor) proposed by the Applicant to monitor and control pests are reasonable. However, these measures do not appear to be to the satisfaction of submitters, who will have read the application and supporting material prior to making their submission. I would therefore invite the Applicant to consider whether any additional mitigation measures can be proposed to address the concerns of submitters. I would also note that vermin/pests will be attracted to the wider landfill and will need to be managed as part of the landfill operation.

#### **6.1.2.10 Other Matters Raised by Submitters**

In a submission, Heather and Grant Helm raised a concern (amongst other concerns) about the planting of trees on the perimeter bund blocking sunlight to their property, particularly during winter months. I note that landscape effects, in particular landscape effects associated with the proposed changes in built form at the RRPP site, and the visual effects that manifest from these, are not assessed in the application, nor were they assessed in the s95 Report. This is because these effects do not relate to any resource consent sought from ORC. However, the concern about loss of sunlight as raised by the Helms appears to be a direct consequence of the Vegetation Management and Restoration Plan (**VMRP**) that is proposed, at least in part, to address adverse natural character effects associated with the Kaikorai Stream and areas of wetland. It would therefore be helpful to understand in more detail the concerns of the submitter, in particular whether it is the planting on the southeast side or the northern side of the RRPP that is of most concern, as the natural character effects are primarily mitigated by the existing vegetation and succession planting on the northern side.

#### **6.1.2.11 Summary – Actual and Potential Effects**

Taking into consideration the positive environmental effects identified above and the assessment of adverse effects set out in the s95 Report and addressed above, the actual and potential adverse effects on the environment are considered on balance to be acceptable.

### **6.2 S104(1)(ab)**

At the time of writing this report, the Applicant has not proposed to offset or compensate for any adverse effects on the environment.

### **6.3 S104(1)(b) Relevant Planning Documents**

The relevant planning documents in respect of this application are:

- National Policy Statement for Freshwater Management 2020
- New Zealand Coastal Policy Statement
- National Policy Statement for Indigenous Biodiversity 2023
- Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020
- Resource Management (National Environmental Standards for Air Quality) Regulations 2004
- Operative Otago Regional Policy Statement
- Proposed Otago Regional Policy Statement
- Regional Plan: Water for Otago
- Regional Plan: Waste for Otago
- Regional Plan: Air for Otago

The following planning documents are not considered to be relevant to this application and are not discussed any further in this report:

- National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat
- National Policy Statement for Highly Productive Land
- National Policy Statement for Renewable Electricity Generation
- National Policy Statement on Electricity Transmission
- National Policy Statement on Urban Development
- Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023
- Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016
- Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009
- Resource Management (National Environmental Standard for Marine Aquaculture) Regulations 2020
- Resource Management (National Environmental Standard for Storing Tyres Outdoors) Regulations 2021

### **6.3.1 National Policy Statement for Freshwater Management 2020**

The National Policy Statement for Fresh Water Management 2020 (**NPS-FM**) provides direction to local authorities and resource users regarding activities that affect the health of freshwater and sets out the national objective and policies for freshwater management under the RMA.

The NPS-FM came into force on 3 September 2020, replacing the previous NPS-FM 2014. Part 2 of the NPS-FM sets out the national objective for future freshwater management and 15 separate policies that support this objective.



Section 104 of the RMA has been amended to include section 104(2F) which provides that when considering an application and any submissions received, a consent authority must not have regard to clause 1.3(5) or 2.1 of the NPSFM 2020 (which relates to the hierarchy of obligations in the NPSFM 2020). Subsection (2F) applies despite subsection (1)(b)(iii) and any other provision of the RMA.

The amendment to section 104 applies to applications for a resource consent that is lodged with a consent authority before commencement of the amendments if the consent authority has not served notice of its decision on the application.

As a result, clause 1.3(5) and clause 2.1 (the objective) of the NPSFM 2020 has not been assessed.

The policies in the NPS-FM are relevant when considering an application for an activity which may adversely affect freshwater. The NPS-FM applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments. In this case, the proposed activities occur within a freshwater environment, specifically the Kaikorai Stream and Kaikorai Lagoon Swamp.

The application is assessed against the relevant policies as presented below.

## **Policies**

*Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.*

The NPS-FM defines the concept of Te Mana o Wai as:

*“Te Mana o te Wai is a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment, and the community.”*

Watercourses must reflect their natural characteristics and behaviours to give effect to Te Mana o te Wai and to sustain the relationship that Kāi Tahu have with the watercourse. This proposal involves the discharge of treated stormwater into Kaikorai Stream and the hydrologically connected Kaikorai Lagoon Swamp. The increased area of impermeable surfaces created by the RRPP development will result in a greater volume of stormwater runoff from the site. Flows will be attenuated in ponds and constructed wetlands prior to discharge into the stream. The increased volumes have been modelled, and assessment finds that the increased stormwater running off from the RRPP site will be attenuated sufficiently and is insignificant in comparison to the overall contributing flows in the Kaikorai Stream. Stormwater will be treated prior to discharge and will not lead to any negative change to receiving water quality. Overall, stormwater discharges will be managed such there not be any change to the form, function, or character of the receiving Kaikorai Stream or the Kaikorai Lagoon Swamp as a result of this proposal. Groundwater will not be impacted by the RRPP proposal due to the collection of all leachate and the direct pumping of this to the Green Island Wastewater Treatment Plant (**GIWWTP**). The mauri of the wai will be protected. The proposal is consistent with Policy 1.

*Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for.*

Takaka whenua have been actively involved in freshwater management as it relates to this application. Affected party approval was provided by Aukaha on behalf of Te Rūnanga o Ōtākou, the kaitiaki Rūnanga whose takiwā includes the Kaikarae Estuary. This approval was subject to the Applicant adopting the conditions appended to the approval letter as well as the applicable recommendations of the cultural impact statement that was prepared for related application RM23.185.<sup>2</sup> The Applicant has adopted these conditions and recommendations. Overall, I consider that the proposal is consistent with Policy 2.

*Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.*

The proposal has been designed and will be undertaken in a way that considers the effects of land-based activities on the freshwater receiving environment. Adverse effects on groundwater will be avoided, while adverse effects on the surface water environment will be minimal, with no change to the form, function, or character of any surface waterbody. I consider that the proposal is consistent with Policy 3.

*Policy 6: There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*

*Policy 7: The loss of river values and extent is avoided to the extent practicable.*

*Policy 9: The habitats of indigenous freshwater species are protected.*

There will be no loss of extent of either Kaikorai Stream or the Kaikorai Stream Lagoon. There will be no loss of any value of the river or wetland, nor any adverse impact on the habitat of any indigenous freshwater species. River and wetland values will be protected. I consider that the proposal is consistent with Policies 6, 7, and 9.

*Policy 12: The national target (as set out in Appendix 3) for water quality improvement is achieved.*

*Policy 13: The condition of waterbodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.*

The discharge of stormwater into Kaikorai Stream will not impede any national target being achieved. Stormwater will be treated prior to discharge and will not lead to any negative change to receiving water quality. It is noted that the points of discharge of stormwater into Kaikorai Stream are the same points of discharge that apply to the discharge of stormwater from the wider landfill beyond the RRPP.

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<sup>2</sup> RM23.185 is the application for the operation, closure, and aftercare of the Green Island Landfill.

That is to say, the stormwater runoff from the landfill combines with stormwater runoff from the RRPP in the retention ponds and constructed wetland such that they are inseparable and indistinguishable. Surface water quality monitoring is currently undertaken in accordance with the consent conditions that authorise the discharge of stormwater from the wider landfill. For this application for the RRPP, the Applicant proposes that consent conditions reflect the existing landfill monitoring requirements as well as any requirements of any subsequent replacements of those landfill consents. These conditions will ensure that the stormwater quality is acceptable and will enable the condition of the Kaikorai Stream to be monitored consistently over time to ensure that action could be taken to identify and reverse any deteriorating trends, should any such trends become apparent and are attributable to the RRPP (or landfill) activities. I consider that the proposal is consistent with Policies 12 and 13.

*Policy 15: Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.*

The proposal represents a critical development in the city's waste management infrastructure to enable the processing and recycling of all recoverable waste in accordance with the Waste Minimisation Act 2008 and internal DCC policy. The development and ongoing operation of the RRPP will result in large volumes of putrescible waste and recyclable materials being diverted from landfill and will provide ongoing employment opportunities within the community, which will contribute to the social, economic, and cultural wellbeing of the community. I consider that the proposal is consistent with Policy 15.

### **6.3.2 New Zealand Coastal Policy Statement**

The New Zealand Coastal Policy Statement (**NZCPS**) sets out objectives and policies written to achieve the purpose of the Resource Management Act 1991 in relation to the coastal environment of New Zealand. The Kaikorai Lagoon Swamp is a Regionally Significant Wetland with hydrological connection to Kaikorai Stream and the downstream Kaikorai Estuary, which is a tidally influenced lagoon. The RRPP site is terrestrially located, and there is no occupation of, or direct discharges of contaminants into, any coastal waters; however, given the proximity and hydrological connection to coastal waters, and the proposed discharge of stormwater to connected freshwater, it is appropriate to have regard to the NZCPS. The objectives and policies of relevance are set out and assessed below.

*Objective 1: To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:*

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*
- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

*Objective 2: To preserve the natural character of the coastal environment and protect natural features and landscape values through:*

- *recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;*
- *identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and*
- *encouraging restoration of the coastal environment.*

*Policy 1: Extent and characteristics of the coastal environment*

- 1) *Recognise that the extent and characteristics of the coastal environment vary from region to region and locality to locality; and the issues that arise may have different effects in different localities.*
- 2) *Recognise that the coastal environment includes:*
  - a) *the coastal marine area;*
  - b) *islands within the coastal marine area;*
  - c) *areas where coastal processes, influences or qualities are significant, including coastal lakes, lagoons, tidal estuaries, saltmarshes, coastal wetlands, and the margins of these;*
  - d) *areas at risk from coastal hazards;*
  - e) *coastal vegetation and the habitat of indigenous coastal species including migratory birds;*
  - f) *elements and features that contribute to the natural character, landscape, visual qualities or amenity values;*
  - g) *items of cultural and historic heritage in the coastal marine area or on the coast;*
  - h) *inter-related coastal marine and terrestrial systems, including the intertidal zone; and*
  - i) *physical resources and built facilities, including infrastructure, that have modified the coastal environment.*

*Policy 11: Indigenous biological diversity (biodiversity)*

*To protect indigenous biological diversity in the coastal environment:*

- a) *avoid adverse effects of activities on:*
  - i. *indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
  - ii. *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
  - iii. *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
  - iv. *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
  - v. *areas containing nationally significant examples of indigenous community types; and*
  - vi. *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
  - i. *areas of predominantly indigenous vegetation in the coastal environment;*
  - ii. *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*

- iii. *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
- iv. *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
- v. *habitats, including areas and routes, important to migratory species; and*
- vi. *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

**Policy 13: Preservation of natural character**

- 1) *To preserve the natural character of the coastal environment and to protect it from inappropriate subdivision, use, and development:*
  - a) *avoid adverse effects of activities on natural character in areas of the coastal environment with outstanding natural character; and*
  - b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on natural character in all other areas of the coastal environment;*
  - c) *including by:*
  - d) *assessing the natural character of the coastal environment of the region or district, by mapping or otherwise identifying at least areas of high natural character; and*
  - e) *ensuring that regional policy statements, and plans, identify areas where preserving natural character requires objectives, policies and rules, and include those provisions.*
- 2) *Recognise that natural character is not the same as natural features and landscapes or amenity values and may include matters such as:*
  - a) *natural elements, processes and patterns;*
  - b) *biophysical, ecological, geological and geomorphological aspects;*
  - c) *natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;*
  - d) *the natural movement of water and sediment;*
  - e) *the natural darkness of the night sky;*
  - f) *places or areas that are wild or scenic;*
  - g) *a range of natural character from pristine to modified; and*
  - h) *experiential attributes, including the sounds and smell of the sea; and their context or setting.*

**Policy 22: Sedimentation**

- 1) *Assess and monitor sedimentation levels and impacts on the coastal environment.*
- 2) *Require that subdivision, use, or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water.*
- 3) *Control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry.*
- 4) *Reduce sediment loadings in runoff and in stormwater systems through controls on land use activities.*

**Policy 23: Discharge of contaminants**

- 1) *In managing discharges to water in the coastal environment, have particular regard to:*
  - a) *the sensitivity of the receiving environment;*

- b) *the nature of the contaminants to be discharged, the particular concentration of contaminants needed to achieve the required water quality in the receiving environment, and the risks if that concentration of contaminants is exceeded; and*
  - c) *the capacity of the receiving environment to assimilate the contaminants; and:*
  - d) *avoid significant adverse effects on ecosystems and habitats after reasonable mixing;*
  - e) *use the smallest mixing zone necessary to achieve the required water quality in the receiving environment; and*
  - f) *minimise adverse effects on the life-supporting capacity of water within a mixing zone.*
- 2) *In managing discharge of human sewage, do not allow:*
- a) *discharge of human sewage directly to water in the coastal environment without treatment; and*
  - b) *the discharge of treated human sewage to water in the coastal environment, unless:*
    - i. *there has been adequate consideration of alternative methods, sites and routes for undertaking the discharge; and*
    - ii. *informed by an understanding of tangata whenua values and the effects on them.*
- 3) *Objectives, policies and rules in plans which provide for the discharge of treated human sewage into waters of the coastal environment must have been subject to early and meaningful consultation with tangata whenua.*
- 4) *In managing discharges of stormwater take steps to avoid adverse effects of stormwater discharge to water in the coastal environment, on a catchment by catchment basis, by:*
- a) *avoiding where practicable and otherwise remedying cross contamination of sewage and stormwater systems;*
  - b) *reducing contaminant and sediment loadings in stormwater at source, through contaminant treatment and by controls on land use activities;*
  - c) *promoting integrated management of catchments and stormwater networks; and*
  - d) *promoting design options that reduce flows to stormwater reticulation systems at source.*
- 5) *In managing discharges from ports and other marine facilities:*
- a) *require operators of ports and other marine facilities to take all practicable steps to avoid contamination of coastal waters, substrate, ecosystems and habitats that is more than minor;*
  - b) *require that the disturbance or relocation of contaminated seabed material, other than by the movement of vessels, and the dumping or storage of dredged material does not result in significant adverse effects on water quality or the seabed, substrate, ecosystems or habitats;*
  - c) *require operators of ports, marinas and other relevant marine facilities to provide for the collection of sewage and waste from vessels, and for residues from vessel maintenance to be safely contained and disposed of; and*
  - d) *consider the need for facilities for the collection of sewage and other wastes for recreational and commercial boating.*

The site is not within the coastal environment, nor part of any outstanding natural feature or landscape. Any impacts on natural character within the context of the site or the margins of the Kaikorai Stream will not extend into the coastal environment. Therefore, natural character, natural features, and landscape values will be preserved. The stormwater that will be discharged into the Kaikorai Stream will ultimately enter the coastal environment via the Kaikorai Lagoon Swamp and Kaikorai Estuary. However, this discharge will not negatively impact the integrity, form, functioning, or resilience of the coastal environment or its ecosystems. This is because the stormwater will be treated to remove

sediment and other incidental contaminants from roads/hard stand surfaces and flows will be attenuated such that there will not be any change to receiving water quality nor any measurable change to flood levels. No effects on indigenous biodiversity are expected in the freshwater or coastal environment. In my opinion, the proposal is consistent with the NZCPS, to the extent that it is relevant.

### **6.3.3 National Policy Statement for Indigenous Biodiversity (NPS-IB)**

The NPSIB came into force on 4 August 2023 and applies to Aotearoa's indigenous biodiversity in the terrestrial environment. Indigenous Biodiversity is defined in the NPSIB as the living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of indigenous flora, fauna, and fungi, and their habitats.

The NPSIB sets out a single objective: to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date. It is applicable to Significant Natural Areas (**SNA**), which are yet to be identified in Otago, but it also applies outside of SNAs.

The objective is followed by 17 policies. Policies of relevance to this proposal are policy 1, 2, 8, 13, 14, and 15.

If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy. Other adverse effects must be managed to give effect to the objective and policies of this NPSIB.

In this case, no areas subject to this application have been identified as a SNA. The Applicant has not applied the effects management hierarchy; however, this is considered to be appropriate because the proposal is not expected to result in any significant adverse effects on indigenous biodiversity. The proposal is consistent with the objective and relevant policies of this NPS-IB.

### **6.3.4 Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007**

Regulations 7 and 8 of the National Environmental Standard for Sources of Human Drinking Water need to be considered when assessing discharge permits or water permits that have the potential to affect registered drinking water supplies that provide 501 or more people with drinking water for 60 or more calendar days each year.

Regulations 11 and 12 of the NES require the Consent Authority to place an emergency notification condition on relevant consent holders if it is assessed that the activity could pose a risk to the drinking water supply in the case of an unintended event (e.g. a spill or other accident). If the Consent Authority considers that such a risk exists, a condition must be placed on the consents that requires the consent holder to notify the drinking water supplier if such an event occurs. Regulation 11 states that Regulation 12 applies to activities with the potential to affect registered drinking water supplies that supply 25 or more people with drinking water for 60 or more days of a calendar year.

This application involves the discharge of stormwater to water. There are two registered drinking water supplies within the Kaikorai Stream catchment supplying more than 501 people with drinking water. However, these surface water supplies are located several kilometres upstream of the RRPP site and as such the proposal does not have the potential to affect these water supplies. There are no registered groundwater supply points within a ten-kilometre radius of the RRPP site. In summary, neither regulation 7 nor 8 preclude the granting of consent and there is no requirement to place an emergency notification condition upon the discharge permit.

### **6.3.5 Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F)**

The NES-F 2020 regulations came into force on 3 September 2020 and were amended in December 2022. The NES-F sets requirements for a range of farming activities and other activities relating to freshwater and natural inland wetlands.

This proposal includes diversions and discharges of water within and within 100 m of natural inland wetlands. More information on these activities can be found in s95 Report. These activities are regulated by regulation 54 of this NES-F which does not specify any conditions which must be imposed upon resource consents granted for activities under this regulation.

### **6.3.6 Resource Management (National Environmental Standards for Air Quality) Regulations 2004**

In October 2004 the New Zealand Government introduced a set of National Environmental Standards for Ambient Air Quality (**NES-AQ**). This NES was subsequently amended in 2005 and 2011. These standards replace the previous Ambient Air Quality Guidelines (NZAAQG) for PM<sub>10</sub>, SO<sub>2</sub>, NO<sub>2</sub>, O<sub>2</sub> and CO. In effect, the new standards convert the ambient air quality guidelines into standards and stipulate a maximum number of allowable exceedances of the concentration limits. For sulphur dioxide, the standards stipulate an absolute maximum concentration limit.

The proposal includes the discharge of contaminants (dust and odour) to air within an airshed that is deemed – in accordance with Regulation 17(4) of this NES-AQ – to be polluted. Regulation 17 requires Council to decline a resource consent to discharge PM<sub>10</sub> where the discharge would at any time increase the concentration of PM<sub>10</sub> (calculated as a 24-hour mean under Schedule 1) by more than 2.5 micrograms per cubic metre in any part of a polluted airshed other than the site on which the consent would be exercised. The relevant site boundary is the wider landfill boundary. While the Applicant has not provided an assessment against this NES-AQ or this regulation specifically, the discharge of dust to air has been assessed in qualitative terms. Dust generated from the construction and operation of the RRPP is not expected to be discharged beyond the site boundary; therefore, the proposal will not contribute to any increase in PM<sub>10</sub> concentrations beyond the site boundary, and the granting of consent is not precluded by this NES-AQ.

### **6.3.7 Otago Regional Policy Statements and Regional Plans**

The RPSs provide an overview of the resource management issues for the Otago Region and the ways of achieving integrated management of its natural and physical resources. There are currently two regional policy statements in play in the Otago Region:



- Otago Regional Policy Statement 2019 (**ORPS 2019**) fully operative; and
- Proposed Otago Regional Policy Statement (**P-ORPS 2021**), which was first notified on the 26th of June 2021 and on 30 September 2022 for the freshwater instrument components. On 30 March 2024 the ORC notified its decisions on the submissions on P-ORPS 2021. There are several appeals that relate to the P-ORPS 2021. Freshwater planning provisions are appealed to the High Court; non-freshwater planning instruments are appealed to the Environment Court. Where a provision is under appeal, it is shaded blue in Appendix H.

The relevant regional plans are the:

- Regional Plan: Water for Otago (**RPW**)
- Regional Plan: Waste for Otago (**RPWaste**)
- Regional Plan: Air for Otago (**RPA**)

The current regional plans pre-date and do not yet fully give effect to the higher order documents, being the ORPS 2019, P-ORPS 2021, and the NPS-FM.

In the interest of ensuring this report is easier to read, the detailed assessment against the relevant provisions of the ORPS 2019, the P-ORPS 2021, and the RPW, RPWaste, and RPA, and the Kāi Tahu ki Otago Natural Resource Management Plan 2005 (see Section 6.4 below) is provided in Appendix H. Key findings are summarised below:

**Table 4** Summary of the findings of the policy assessment.

Provision	Finding
<b>Otago Regional Policy Statement 2019 (ORPS 2019)</b>	
Objective 3.1 and Policy 3.1.6	Partially consistent
All other relevant provisions	Consistent
<b>Proposed Otago Regional Policy Statement (P-ORPS 2021) and Proposed Otago Regional Policy Statement – Freshwater Instrument Components 2021</b>	
AIR-O1, AIR-O2, AIR-P3, AIR-P4, AIR-P6	Partially consistent
AIR-P1	Inconsistent, but not contrary to
All other relevant provisions	Consistent
<b>Regional Plan: Water for Otago (RPW)</b>	
All relevant provisions	Consistent
<b>Regional Plan: Waste for Otago (RPWaste)</b>	
All relevant provisions	Consistent
<b>Regional Plan: Air for Otago (RPA)</b>	
Objective 6.1.2, Policy 8.2.8	Partially consistent
All other relevant provisions	Consistent
<b>Kāi Tahu ki Otago Natural Resource Management Plan 2005</b>	
All relevant provisions	Consistent

#### 6.4 Section 104(1)(c) - Any other matters

### **Kāi Tahu ki Otago Natural Resource Management Plan 2005**

The Kāi Tahu ki Otago Natural Resource Management Plan 2005 (**NRMP**) is considered to be a relevant other matter for the consideration of this application. This is because the RPW is yet to be amended to take into account this Plan and this Plan expresses the attitudes and values of the four Papatipu Rūnaka: Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga.

An assessment of the application in the context of the objectives and policies of the NRMP is provided in the CIA which was prepared for related application RM23.185 and in the written approval to this application. Assessment against the most relevant policies is provided in Appendix H. A summary of the findings is included in Table 4.

There are no other matters of concern that I consider relevant to this application.

## **7. Section 104D Particular restrictions for non-complying activities**

Section 104D places particular restrictions on the granting of applications for non-complying activities; consent can only be granted if council is satisfied that either the adverse effects of the activity on the environment will be minor (s104D(1)(a)), or the application is for an activity that will not be contrary to the objectives and policies of the regional plan (or any proposed regional plan) in respect of the activity (s104D(1)(b)). If both tests are failed, the application cannot be granted.

### **S104A(1)(a) – fail**

- The proposal will have adverse cumulative odour effects on specific persons that could be more than minor.

### **S104D(1)(b) – pass**

- The proposal is not contrary to the objectives or policies in any relevant plan, being the operative RPW, RPWaste, and RPA.

The granting of consent is not precluded by s104D.

## **8. Sections 105 and 107**

Section 105(1) states that for a discharge permit that the Consent Authority shall have regard to:

- a) the nature of the discharge, the sensitivity of the receiving environment, and
- b) the applicant's reasons for the proposed choice; and
- c) any possible alternative methods of discharge including discharge into any other receiving environment.

The nature of each discharge of relevance to this application is described, as is the sensitivity of the receiving environment. The application details the reasons for siting the RRPP at the Green Island

Landfill, and the possible alternative locations for the RRPP that were considered. Given the location is considered the most appropriate of the available options, there are no other practicable alternative receiving environments for the stormwater, and the selected method of discharge is an efficient use of the existing landfill stormwater infrastructure. Alternative methods of discharge of odour were considered, particularly with respect to the composting operation. The open-air static pile system was deemed more effective at managing odour effects than composting within an enclosed building.

Section 107(1) of the Act states that a discharge permit shall not be granted if, after reasonable mixing, the contaminant or water discharged is likely to give rise to all or any of the following effects in the receiving waters:

- The production of any conspicuous oil or grease films, scums or foams, or floatable or suspended material; or
- Any conspicuous change in the colour or visual clarity; or
- Any emission of objectionable odour; or
- The rendering of fresh water unsuitable for consumption by farm animals; or
- Any significant adverse effects on aquatic life.

As discussed elsewhere in this report and in the s95 Report, the proposal is not expected to result in all or any of the above effects in receiving waters.

For the sake of completeness, I note that a recent (in force from 25 October 2024) amendment to s107 (insertion of subsection 2A) has been made which provides that:

*(2A)*

*A consent authority may grant a discharge permit or a coastal permit to do something that would otherwise contravene section 15 or 15A that may allow the effects described in subsection (1)(g) if the consent authority—*

*(a) is satisfied that, at the time of granting, there are already effects described in subsection (1)(g) in the receiving waters; and*

*(b) imposes conditions on the permit; and*

*(c) is satisfied that those conditions will contribute to a reduction of the effects described in subsection (1)(g) over the duration of the permit.*

This amendment does not change my assessment because s107 was not a barrier to the granting of consent.

In summary, s105(1) and s107(1) do not preclude the granting of consent.

## **9. Part 2 of the RMA**

Under Section 104(1) of the RMA, a consent authority must consider resource consent applications "subject to Part 2" of the RMA, specifically, sections 5, 6, 7 and 8.

Section 5 identifies the purpose of the RMA as the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Sections 6, 7 and 8 outline the principles of the Act. Section 6 sets out a number of matters of national importance which need to be recognised and provided for, section 7 identifies a number of “other matters” to be given particular regard by the council, and section 8 requires the council to take into account the principles of the Treaty of Waitangi.

The Court of Appeal has clarified how to approach the assessment of “subject to Part 2” in section 104(1). In *R J Davidson* the Court of Appeal found that decision makers must consider Part 2 when making decisions on resource consent applications, where it is appropriate to do so. The extent to which Part 2 of the RMA should be referred to depends on the nature and content of the planning documents being considered.

Where the relevant planning documents have been prepared having regard to Part 2 of the RMA, and with a coherent set of policies designed to achieve clear environmental outcomes, consideration of Part 2 is not ultimately required. In this situation, the policies of these planning documents should be implemented by the consent authority. The consideration of Part 2 "would not add anything to the evaluative exercise" as "genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome". However, the consideration of Part 2 is not prevented, but Part 2 cannot be used to subvert a clearly relevant restriction or directive policy in a planning document.

Where it is unclear from the planning documents whether consent should be granted or refused, and the consent authority has to exercise a judgment, Part 2 should be considered. In this case there is no need to look to Part 2 of the RMA in making this decision as it is clear from the planning documents that consents should be granted.

## 10. Section 108 and 108AA of the RMA

Should the decision maker wish to grant the application, the attached conditions (Appendix A) are recommended in accordance with Sections 108 and 108AA of the Act. These conditions are largely those that were originally proposed by the Applicant, but the recommended conditions include modifications agreed through the s92 process as well as additional recommendations made by Ms Freeman, mostly in relation to the air discharge conditions.

## 11. Recommendation

Under section 104B it is recommended that this consent application is **granted** subject to conditions.

## 12. Term of Consent (s123)

The application seeks a term of 35 years all consents.

***For RM24.143.03, RM24.143.04, and RM24.143.05, which will authorise the ongoing operation of the RRPP, I recommend a 35-year term*** for the following reasons:

- The RRPP facilities require significant capital investment and are designed for long-term operation.
- The RRPP will provide waste transfer facilities to the Smooth Hill Landfill which has been granted resource consents for a 35-year term.
- The adverse effects of the activities will be adequately avoided, remedied, or mitigated, and appropriately monitored, through the imposition of the consent conditions attached as Appendix A.
- There is no policy direction, including in any relevant iwi management plan, requiring a shorter consent term for the discharge permits or the water permit.

***For RM24.143.01 and RM24.143.02 which authorise the construction of the RRPP, I recommend a ten-year term*** for the following reasons:

- With the exception of the BWTS, the RRPP facilities will be constructed by mid-2025.
- The construction of the BWTS will depend on the closure of the Green Island Landfill (estimated to be 2030) and the need to transport waste to Smooth Hill landfill or another facility.
- A ten-year term will enable construction of all RRPP facilities in line with planned timelines, with a buffer to account for unforeseen delays.
- Once the RRPP facilities are established, there will be no ongoing need for RM24.143.01 or RM24.143.02.

In reaching the above recommendations, the following relevant factors as distilled from case law were also considered:

- The duration of a resource consent should be decided in a manner which meets the RMA's purpose of sustainable management;
- Whether adverse effects would be likely to increase or vary during the term of the consent;
- Whether there is an expectation that new information regarding mitigation would become available during the term of the consent;
- Whether the impact of the duration could hinder implementation of an integrated management plan (including a new plan);
- That conditions may be imposed requiring adoption of the best practicable option, requiring supply of information relating to the exercise of the consent, and requiring observance of minimum standards of quality in the receiving environment;
- Whether review conditions are able to control adverse effects;
- Whether the relevant plan addresses the question of the duration of a consent;
- The life expectancy of the asset for which consents are sought;
- Whether there was significant capital investment in the activity/asset; and
- Whether a particular period of duration would better achieve administrative efficiency.

## Appendix A: Recommended Conditions of Consent

- A1: Land Use Consent RM24.143.01
- A2: Discharge Permit RM24.143.02
- A3: Discharge Permit RM24.143.03
- A4: Water Permit RM24.143.04
- A5: Discharge Permit RM24.143.05

## Appendix B: Evidence of Tim Baker (Groundwater)

## **Appendix C: Evidence of Samantha Iles (Contaminated Land)**



**Appendix D: Evidence of Claire Conwell (Surface Water)**

**Appendix E: Technical Audit Elizabeth Morrison (Ecology)**

**Appendix F: Technical Audit Rachael Annan (Natural Character)**

**Appendix G: Evidence of Tracy Freeman (Air Quality)**

## Appendix H: Policy Assessment