

IN THE MATTER OF:

Sections 104, 104B and 108 of the Resource Management Act 1991

AND

IN THE MATTER OF:

A resource consent application made by Tonkin & Taylor Ltd on behalf of Hutt City Council for the expansion of the existing cleanfill at 130 Coast Road, Wainuiomata (legally described as Lot 3 DP 393261, CT 373441)

Council Reference: RM190050

DECISION BY INDEPENDENT COMMISSIONER MR ROBERT SCHOFIELD

Following a Hearing on the above matter, held in the Council Chambers, Hutt City Council, Lower Hutt on 5 November 2019.

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1 Decision

1.1 In accordance with a delegation by Hutt City Council (HCC), pursuant to the provisions of section 34 of the Resource Management Act 1991 (the RMA), the Commissioner had power to act in determination of the following proceedings.

1.2 The following resolution represents Council's decision on the resource consent application:

*That the Commissioner, acting under delegated authority from Council and pursuant to sections 104, 104B, 105, 107 and 108 of the Resource Management Act 1991, **GRANTS CONSENT**, subject to conditions, to the discretionary activity resource consent application made by Tonkin and Taylor Ltd on behalf of Hutt City Council for the expansion of the Wainuiomata Cleanfill at 130 Coast Road, Wainuiomata.*

1.3 The resource consent conditions are set out in **Appendix 1**. The reasons for the decision are discussed more fully below.

1.4 In preparing this decision, I have had regard to Section 113 of the RMA. In particular, I note and have acted in accordance with Section 113(3) which states that:

A decision prepared under subsection (1) may, -

(a) instead of repeating material, cross-refer to all or a part of -

(i) the assessment of environmental effects provided by the applicant concerned:

(ii) any report prepared under section 41 C, 42A, or 92; or

(b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly.

1.5 For the sake of brevity, therefore, in this decision, I have cross-referenced and/or adopted part of the application assessment and Council's report where I concur or accept that information or assessment.

2 The Site and Locality

The Site

2.1 The application site is located at 130 Coast Road, to the south of the urban part of Wainuiomata. An irregularly shaped site, the property is 6.4738ha in area, and surrounds a small lot at 126 Coast Road, which contains a sewage pumping station. The location of the site is shown in the aerial photograph in **Error! Reference source not found.** below.

2.2 Originally both 126 and 130 Coast Road were part of a site that contained a wastewater treatment plant, treating the sewage from Wainuiomata; the plant was decommissioned in 2008. A consent notice is registered on the certificate of title which identifies that contamination is present from the previous use of the site and that remedial works have occurred (capping layer). The consent notice also refers to the potential for objectionable discharges to air from the sewage pumping station at 126 Coast Road, to the lack of services on site and to the potential for flooding to occur.

- 2.3 Part of the site (the north portion and around the pumping station) is registered in the GWRC's Selected Land Use Register (SLUR) as a Category 1: Verified History of Hazardous Activity or Industry, specifically relating to water recycling or waste or wastewater treatment activities undertaken at the site.
- 2.4 The main access to the site comes off Coast Road to the north of the site, with an angled entrance. The top part of the access road, near the entrance, is sealed, while the remainder of the access road is unsealed. A wheel-wash facility is located near the site kiosk, comprising an excavated dip into which trucks can drive into. The site is relatively well screened from Coast Road by a belt of trees and shrubs along the boundary.
- 2.5 GWRC have confirmed that its revised flood modelling shows the 1 in 100-year flood event from the Wainuiomata River is likely to inundate some western areas of the subject site, but that a large portion of the subject site is no longer subject to flooding.

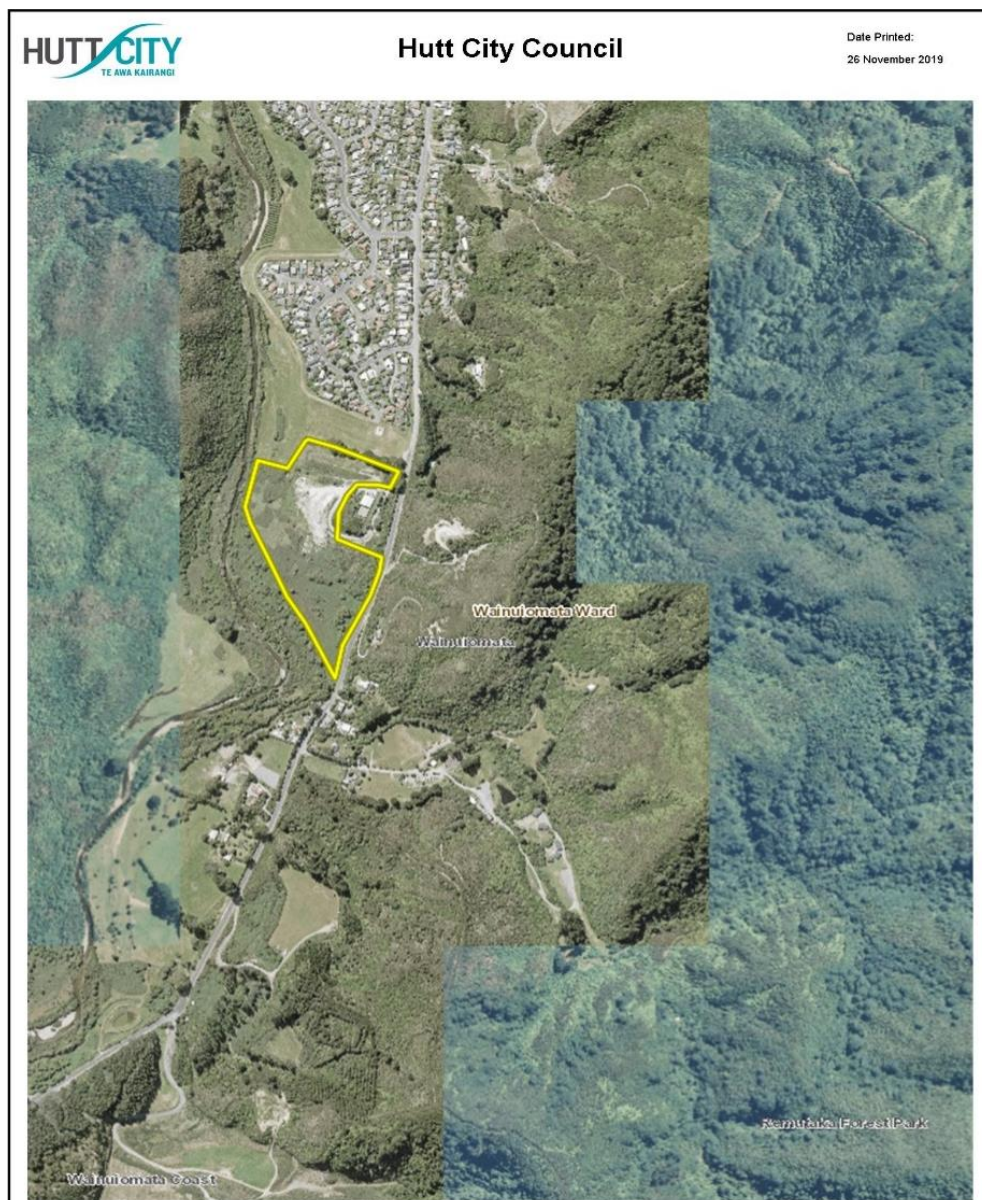


Figure 1: Aerial photograph of the site and its location

The Environs

- 2.6 The site is separated from the suburban edge of Wainuiomata to the north by Ngāturi Park, a largely open grassed reserve, containing a small playground. An 8m high noise attenuation bund, created as Stage I cleanfill, is located on the northern part of the site where it borders Ngāturi Park. The bund is bordered by a row of mature trees and a fence along the northern boundary, and has been grassed and revegetated with native shrubs.
- 2.7 To the west is the Wainuiomata River and its floodway. The River margins are largely planted in willow, while weedy species such as blackberry fill the floodway. To the west of the River are hills covered with regenerating bush, located within the East Harbour Regional Park.
- 2.8 To the east, the site adjoins Coast Road, which has been cut along the base of the hills that mark the eastern edge of the Wainuiomata valley. The road in this location is elevated above the valley floor, rising up from the south where it crosses a small stream (Scholes Creek) up to 12 metres above the valley floor. There are a number of large lot residential properties located on the eastern hillslopes, with building platforms elevated well above the valley floor.
- 2.9 South of the site are a cluster of residential properties and a camp. While this area is relatively well vegetated, some of the properties have line-of-sight of the application site.

Cleanfill History

- 2.10 The site is owned by the Hutt City Council, and was previously part of a large lot that was used as a wastewater treatment site until it was decommissioned. In September 2008, the land on which it was sited was subdivided into 8 lots, including the site that is the subject of this resource consent application.
- 2.11 The majority of the site has been used for a cleanfill activity for the last eight years. Resource consent for the initial Cleanfill operation on the site was lodged jointly to the Hutt City Council (HCC) and the Greater Wellington Regional Council (GWRC) in August 2009, for a proposal to deposit approximately 165,000m³ of Cleanfill over a 10-year period. The application was limited notified to adjoining property-owners, with resource consent granted in April 2011, which provided for a two-staged fill occurring over 6 years (that is, until 27 April 2017).
- 2.12 Stage I of the operation (28,000m³) was to create a large bund along the northern side of the site, alongside Ngāturi Park. This stage has since been completed and planted.
- 2.13 Stage 2 (137,000m³) was to create a crescent shaped bund around to the west and south of the pumping station. This stage was not completed by the end of the six year consent period, and a non-notified replacement consent was sought and obtained in 2017 to extend the period of fill to 2027. However, the amount of fill being received at the site has significantly increased since 2017, and Stage 2 had nearly reached full capacity by the time of the Hearing in early November.

- 2.14 These consents set the maximum finished fill of the cleanfill at a height of up to 12m above the existing ground level, which would result in a finished ground level broadly level with that of Coast Road. The footprints of Stages 1 and 2 are shown in Figure 2 below.
- 2.15 The consented capacity and footprint of Stage 2 was determined by on-site limitations; in particular, the identification of the western part of the site coming within the 1-in-100 year Wainuiomata River flood zone as modelled by GWRC, and the need to keep cleanfill out of deeper areas of predicted flooding. Stage 2 was also designed to protect the base from any potential flooding by installing concrete anchor blocks, with a geotextile lining.
- 2.16 A subsequent review of flooding risks by GWRC shifted the modelled flood lines, reducing the extent and depth of predicted inundation on the site, particularly to the south of the Stage 2 cleanfill. It is in this area in which the proposed third stage of cleanfill is proposed.
- 2.17 I was informed that the existing cleanfill operation is an important infrastructural asset for HCC. It provides for a managed cleanfill facility that accommodates excess fill material associated with the continued growth and development of both Wainuiomata and the wider Hutt City. I was also informed that the Council expects an ongoing demand for cleanfill for the foreseeable future, with a range of current and anticipated developments in Wainuiomata and elsewhere in the Hutt Valley. Accordingly, HCC proposes to expand the existing cleanfill into an area of land located adjacent to the existing cleanfill. Over the period of this extension (Stage 3), the Council will identify and consent a longer term cleanfill site elsewhere in the Hutt Valley.

The Proposal

- 2.18 Full details of the proposal are contained in the application and in the Council Planner's s.42A report.
- 2.19 In summary, the applicant seeks resource consent for the southward expansion of the Wainuiomata Cleanfill at 130 Coast Road. This would represent Stage 3 of the Cleanfill operation at the site. The applicant stated that the proposed expansion would provide for an approximately additional 117,000m³ of clean fill being deposited. This fill would have a maximum height above existing ground level of up to approximately 12m.
- 2.20 The application is for a time period of 2½ years from date of being granted, based on a commitment made by the Mayor and Chief Executive of HCC.
- 2.21 Details of the proposed operation of the Stage 3 cleanfill were set out in the application. Some key aspects are that:
- It is proposed to operate between Monday to Friday 7.30am – 5.00pm and Saturday 7.30am – 12.00pm (noon)
 - A staff member is to be based on site during these hours to manage customer arrivals and material being deposited
 - The entrance gate is to be closed and locked outside working hours to prevent fly-tipping.
- 2.22 Other aspects of the proposed operation of Stage 3 are discussed in my evaluation of effects below.

2.23 I note that, arising from the applicant's right-of-reply, in response to feedback received before and during the hearing, it is not intended to construct the access road around the base of the proposed cleanfill as shown below.

2.24 The Plan showing the location and proposed fill contours is shown in Figure 2 below.

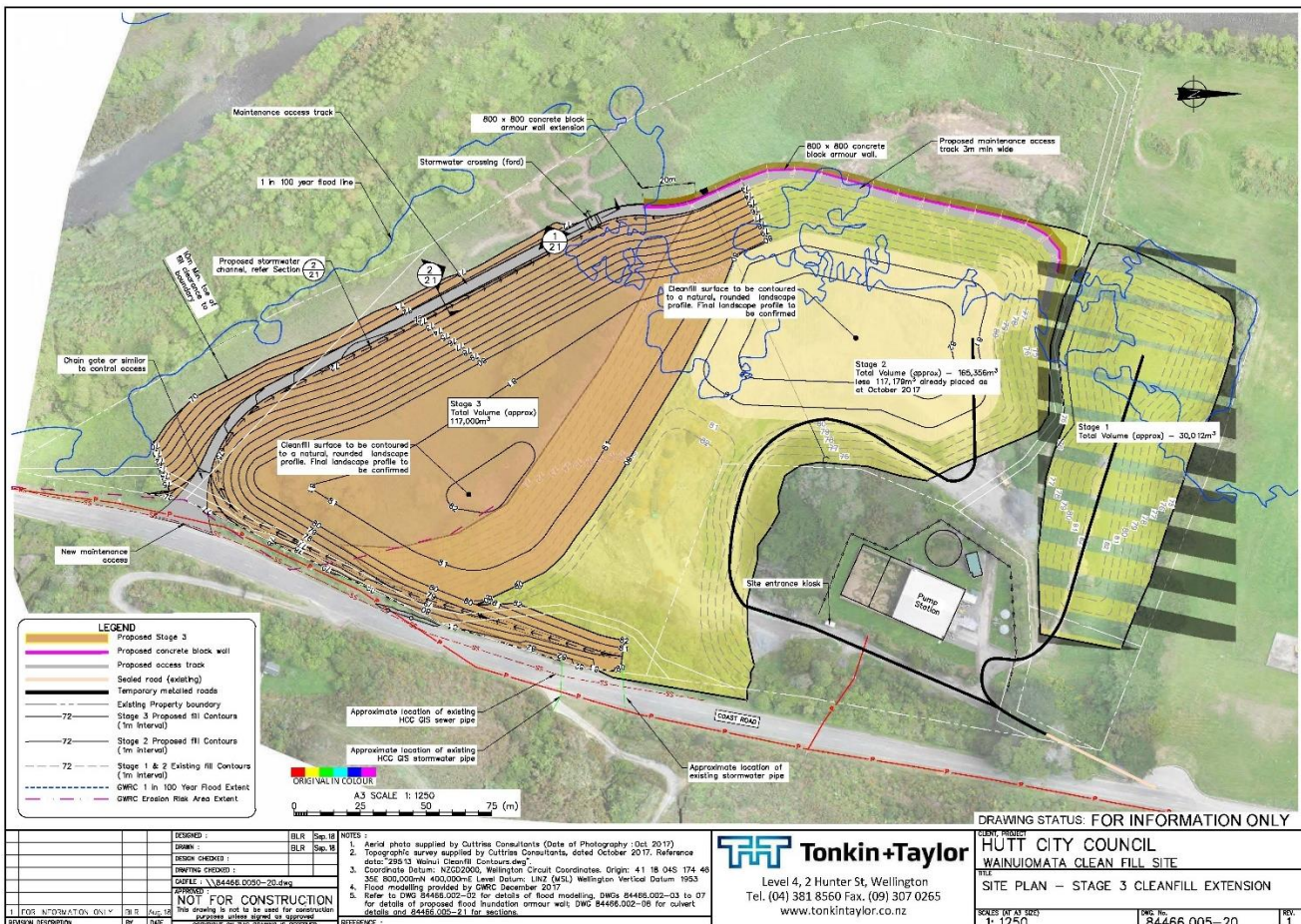


Figure 2: Plan of proposed cleanfill extension (orange)

3 The Application

3.1 The HCC (City and Community Services) applied jointly to Greater Wellington Regional Council (GWRC) for discharge permits and to HCC (Regulatory) for land use consents. The Assessment of Effects on the Environment (AEE) that accompanied the resource consent applications addressed the actual and potential adverse effects of both the land use and the discharges.

Regional Consents

3.2 GWRC granted non-notified consent in May 2019 to the regional consents that were sought: namely –

Under the Proposed Natural Resources Plan for Wellington

- The discharge of contaminants to air (dust) from cleanfilling activities, as a discretionary activity under Rule R41
- The discharge of sediment laden water from cleanfilling activities, as a discretionary activity under Rule R53
- The discharge of cleanfill material to land, as a discretionary activity under Rule R93

Under the Regional Freshwater Plan for Wellington

- The discharge of sediment laden water from cleanfill activities, as a discretionary activity under Rule 5, and

Under the Regional Air Quality Management Plan for Wellington

- The discharge of contaminants to air (dust) from cleanfilling activities, as a discretionary activity under Rule 23.

National Environmental Standards

- 3.3 It is noted the application states that no further cleanfill activities or ground disturbances are proposed on that part of the site identified as a SLUR area.
- 3.4 Both Council and Applicant's planners agreed that an assessment under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 was not required, despite the site being identified as being contaminated. Their conclusion was based on the fact that the proposal will not disturb any underlying soil as it involves the deposition of clean fill on top of the land, and that the proposed area for Stage 3 is to the south of where treatment plant activities occurred, beyond the capped layer of fill that was deposited after the plant was decommissioned. I accept this interpretation.

District Plan Site Zoning

- 3.5 Under the operative City of Lower Hutt District Plan ('District Plan'), the site is predominantly located within the General Rural Activity Area. This zoning aims to provide for a wide variety of rural-based activities, while managing rural character and amenity.
- 3.6 A small portion of the property to the northwest (part of Ngāturi Park) is within the General Recreation Activity Area. The entirety of the proposed Stage 3 expansion is located within the General Rural Activity Area.
- 3.7 Two small portions of the eastern side of the site is located within the Primary River Corridor, which is an overlay on top of the underlying Rural zoning.
- 3.8 The site is designated under the District Plan as HCC11 – Bulk Waste Water Treatment Plant. However, the application site is no longer used for wastewater treatment and the proposed cleanfill activity is not provided for by this designation.
- 3.9 The zoning of the site and its environs is shown in Figure 3 below.

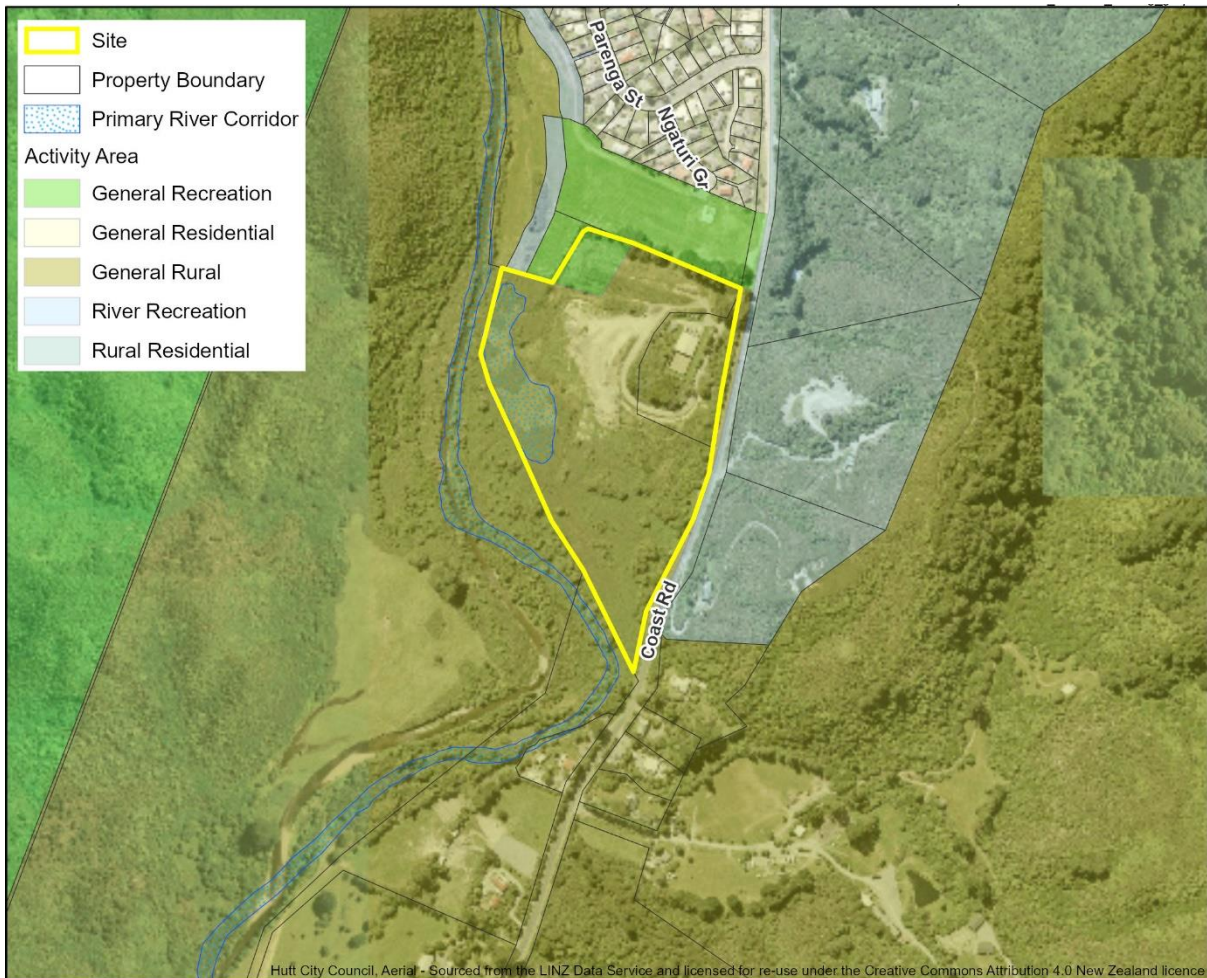


Figure 3: Zoning of site and environs

Consents Sought

- 3.10 The relevant rules are contained within Chapters 8 (General Rural Activity Area), and the City-wide rules under Chapters 14C (Noise), 14H (Natural Hazards) and 14I (Earthworks).
- 3.11 The deposition of clean fill is included in the definition of “earthworks”, which is a permitted activity if it complies with the permitted activity conditions of the District Plan.
- 3.12 The proposed cleanfill does not meet the following City-wide general conditions:
- Noise – the activity is anticipated to generate noise in the General Rural Activity Area that would exceed the limit of 50 dBA between 7am and 10pm (Rule 14C 2.1.10); and
 - Earthworks – defined as a type of ‘earthwork’, the cleanfill would be unable to comply with the permitted activity standards for earthworks in that it would alter the natural ground level by more than 1.2 vertical metres and deposit more than 50m³ on site (Rule 14I 2.2).
- 3.13 The non-compliance with noise standards requires resource consent as a **discretionary activity**, while the earthworks non-compliance requires resource consent as a **restricted discretionary activity**.

- 3.14 Under Rule 8B 2.3(a) for the General Rural Activity Area, the undertaking of earthworks that is unable to comply with the general requirements identified in Chapter 14 – General Rules requires resource consent as a **discretionary activity**.
- 3.15 Overall, the land use consent is as a **discretionary activity**.

4 Notification and Submissions

Notification

- 4.1 The application was limited notified to all adjoining the owners and occupiers of land in the immediate area on 16 July 2019. After an extension of time was granted for the submission period, submissions finally closed on 19 August 2019.

Submissions

- 4.2 In total, 8 submissions in opposition to the application were received within the extended timeframe, and one additional late submission was accepted by the Council under s37 of the Resource Management Act (the Act).
- 4.3 Submissions were received from:
- Ms Miria O'Regan, 203 Coast Road
 - Ms Miria O'Regan as manager of Camp Wainuiomata, 204 Coast Road
 - Mr John Gray, 204 Coast Road
 - Mr Jed Bircham and Ms Kourtney Ross, 119 Coast Road
 - Ms Sally-Ann Moffat, 202 Coast Road
 - Ms Alicia Martin, 199 Coast Road
 - Ms Patricia Ranstead and Mr Jim Sutton, 205 Coast Road
 - Mr Grant Birkinshaw, on behalf of Mr John Tamasese and Ms Ariana Solomon, 202 Coast Road and
 - Mr Gary and Mrs Denise O'Meara, 200 Coast Road (late submission).
- 4.4 The s42A report identified the issues from the submissions as follows:
- Process issues
 - Concerns with consultation and undertakings given on behalf of the applicant
 - Natural environment, ecology, habitat effects
 - Deposition of hazardous not unacceptable material
 - Floodplain Effects or Risks
 - Water Quality in Wainuiomata River
 - Visual effects during and post expansion
 - Noise, Vibration, Dust

- Erosion effects, Sediment Control
- Traffic
- Material on Road
- Concerns about management of the site
- Fly tipping
- Planting and Remediation works
- Concerns with monitoring of the existing Cleanfill
- Consultation with iwi, lack of recognition of statutory obligations
- Community Social Impacts
- Cumulative Effects
- Site Security, and
- Historical contamination from sewage sludge.

4.5 I record that I have read all the submissions in full prior to the Hearing and had regard to them all as part of my evaluation of the application.

5 The Hearing

5.1 The resource consent application was heard by an Independent Commissioner, Mr Robert Schofield.

Site Visit

5.2 I undertook a site visit 4 October 2019. I record that I was not accompanied on the site visit by the applicant, submitter or officers. For my safety, given the cleanfill was in full operation, I was accompanied by a senior Civil Engineer from Tonkin and Taylor who was not involved with the land use consent application.

Hearing

5.3 The Hearing was held in the Hutt City Council Chambers, Laings Road, Lower Hutt on Tuesday 5 November 2019, commencing at 9.00am. I closed the Hearing on 27 November 2019, after the circulation of revised recommended resource consent conditions and the written right-of-reply from the applicant, and confirmation that I had sufficient information on which to make a decision.

5.4 The following people presented submissions and evidence to the hearing:

For the applicant: Mr Ian Gordon, Counsel
 Mr Bruce Sherlock, retired HCC Contracts Manager – Solid Waste, representing the applicant
 Mr Alastair Meehan, Consultant Resource Management Planner, Tonkin & Taylor Ltd

Mr William Rodenburg, Consultant Civil and Transport Engineer,
Tonkin & Taylor Ltd

Mr Darran Humpheson, Consultant Senior Acoustics Specialist,
Tonkin & Taylor Ltd

Mr Edryd Breese, Consultant Environmental Management
Specialist, Tonkin & Taylor Ltd

Mr Rueben Ferguson, Consultant Water Resources Engineer

Submitters:

Mr Craig Innes

Ms Trish Ranstead

Mr Gary O'Meara

Mr Jed Bircham (Sally-Anne Moffit speaking on his behalf)

Ms Sally-Anne Moffitt

Ms Miria O'Regan on behalf of Mr John Gray and herself

Mr Finlayson, Counsel on behalf of Ms Moffitt, Ms O'Regan and Mr
Gray

Mr Grant Birkinshaw

For Council:

Mr Stephen Dennis, Principal Consents Planner

Mr Lindsay Daysh, Consultant Planner, Incite (Reporting Planner)

Mr Steve Arden, Consultant Acoustics Engineer, Marshall Day

Mr Mark Georgeson, Consultant Traffic Engineer, Stantec

Ms Emma Manohar, HCC Legal Advisor, DLA Piper

- 5.5 I was assisted in an administrative capacity by Mrs Heather Clegg, Hearings Administrator for HCC.
- 5.6 All of the written material presented by the above parties is held on file at Hutt City Council, as well as the photographs and video footage that were submitted as part of the submission by Ms Moffat.
- 5.7 For the sake of brevity, rather than summarising the points raised in submissions and evidence, I have focused on the key issues in contention and refer to any relevant matters raised in the submissions and evidence under those topics.

Procedural Matters

- 5.8 At the hearing, Mrs J Wootton, a resident of Moores Valley Road, Wainuiomata asked to be heard. She was not notified of the application, and I advised her that she had no legal rights as a submitter to the resource consent application. With the agreement of the applicant, however, I agreed to hear Ms Wotton, who briefly spoke to share her concerns about the proposed cleanfill, stating that she thought that the whole of Wainuiomata should have been notified of the application due to its wide reaching effects on the whole community. She expressed concern about the many trucks passing daily through the community, adding to safety concerns for traffic and pedestrians especially from schools,

churches and shopping areas. She further added that the large trucks driving along the road cause buildings to shake.

5.9 While I acknowledge her concerns, I am unable to place much weight on her submission.

5.10 It was also contended by Mr Birkinshaw, speaking on behalf of Mr John Tamasese and Ms Ariana Solomon, that Ngāti Toa Rangatira should also have been notified, as that iwi had a statutory acknowledgement over Cook Strait as part of its Treaty settlement, into which the Wainuiomata River flows. In the right-of-reply, applicant's legal counsel observed that it was outside my ambit of delegated authority to make any determination about which parties should have been notified. I agree: I only have authority to make a substantive decision on the application. The decisions on notification were made by the Council in its decision to limit notification to those nearest residential neighbouring properties. I shall return to the question of effects on Cook Strait later in my decision (paragraphs 10.1-10.4).

6 Statutory Requirements for Assessment

Relevant Statutory Provisions

6.1 As a discretionary activity, the application must be assessed in accordance with the provisions of sections 104 and 104B of the Resource Management Act 1991 (the Act). The process for considering a discretionary activity is as follows:

- To identify the relevant section 104 matters, and
- As part of the overall discretion in section 104B, weigh the relevant matters under section 104.

6.2 The relevant section 104 matters to consider are as follows:

- any actual and potential effects on the environment of allowing the activity
- the relevant provisions of the District Plan
- the relevant provisions of the Regional Policy Statement
- the provisions of any relevant National Environmental Standard
- Part 2 of the Act, and
- Any other relevant matter as necessary to determine the application.

6.3 Under section 104B in determining an application for a discretionary activity, a consent authority—

- (a) may grant or refuse the application; and
- (b) if it grants the application, may impose conditions under section 108.

6.4 Section 108 sets out the requirements for imposing conditions of consent and the types of conditions that may be imposed.

6.5 Drawing in the evidence before me, I have undertaken an assessment of the effects of the proposal in section 7 below, focusing on the issues in contention. I then address the alignment of the proposal with the relevant objectives and policies of the District Plan and

Regional Policy Statement (section 8), and turn to the question of whether the proposal is consistent with the purpose and principles of the RMA contained in Part 2 of the Act (Section 9). Lastly, in section 10, I review whether there are any other matters that I should take into consideration. My conclusions are set out in section 11 of this decision.

Permitted Baseline

6.6 Section 104(2) states that:

when forming an opinion for the purpose of subsection 1(a) [in regard to any actual and potential effects on the environment of allowing the activity], a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

6.7 The District Plan would permit earthworks in the General Rural Activity Area insofar as it did not alter the natural ground level by more than 1.2 vertical metres and deposit more than 50m³ on site (Rule 14I 2.2). The application is to alter the ground level by the deposition of fill by up to 12m in vertical metres, involving a total volume of 117,000m³. These metrics are substantially greater than the permitted activity standards.

6.8 As such, I find the permitted baseline for earthworks to be of limited relevance for this application. I would note that neither the applicant's planner nor the Council's reporting planner contended that there was a permitted baseline for assessing the effects of the proposal.

7 Assessment of Environmental Effects

Scope of Assessment

7.1 Based on the material provided in the application, the submission, the s42A report and evidence presented to the Hearing, I consider that the principal issues in contention are:

- Positive effects
- Effects on water quality
- Effects from hazardous/unacceptable material
- Effects on visual amenity
- Flooding and hazard effects
- Effects on ecology
- Effects from dust and odour
- Effects from traffic
- Effects from noise and vibration

7.2 Before I consider the effects from the proposed cleanfill, I note that I was asked by some submitters to consider the potential effects arising from actual or potential discharges into the air, land and water. In reviewing the resource consent applications (including the Assessment of Effects on the Environment) and the decision reports from GWRC, I am satisfied that the effects from the discharges to air, land and groundwater have been adequately addressed by the Regional Council which has consented those discharges, with the effects from any of these discharges will be managed under the conditions to those resource consents. The decision report by the Regional Council considered that the effects of any discharges would be no more than minor. Accordingly, the only effects from discharges that I have determined to be relevant for the consideration of the land use consent application are those that given rise to effects on amenity values, such as from dust and odour.

Positive Effects

- 7.3 The application set out the necessity for the cleanfill extension, and the positive benefits it would create. These benefits were expanded in the written evidence of Mr Bruce Sherlock, the former Contracts Manager for Solid Waste for the Council.
- 7.4 Mr Sherlock stated that the current cleanfill receives approximately 50% of the fill from local development in Wainuiomata, 45% from within the wider Hutt Valley and the remaining 5% from elsewhere in the Region. He stated that, following the closure of the Waiu Street cleanfill and the near closure of the Dry Creek cleanfill, the cleanfill on Coast Road, if consented, will be the only cleanfill facility in the Hutt Valley. Alternatively, local contractors will have to bear the costs of cartage to a cleanfill site in Wellington or to the Silverstream landfill, increasing the costs of development. Mr Sherlock contended that having a specific cleanfill facility in the Hutt Valley will reduce the possibility of fly tipping or the use of unconsented private cleanfill sites.
- 7.5 The application stated that the cleanfill provides a cost-effective and viable alternative to depositing clean material into the Silverstream landfill, which has limited available space that should be more effectively set aside for those materials which specifically require deposition at a landfill. The application stated that reducing the amount of cleanfill deposited at Silverstream will extend the life of that landfill. The application stated that, given the financial and environmental costs associated with creating new or extending existing landfills, the expansion of the cleanfill at Coast Road will provide strong positive benefits for the wider community.
- 7.6 Mr Sherlock noted that Hutt City Council does not expect the generation of cleanfill to subside in the near future, and consequently there will be an ongoing demand for a cleanfill disposal site.
- 7.7 At the hearing, Mr Sherlock confirmed the Council is committed to working within the 2½ year (30-month) consent duration for the proposed cleanfill extension. He stated that the Council is actively looking for alternative sites to provide long-term asset security, and that the Council requires the cleanfill extension as a short-term solution while it completes its process of finding and consenting an alternative cleanfill facility, as well as finding methods for increasing levels of material re-use and recycling that can be incorporated into a long-term cleanfill facility.
- 7.8 The application also identified the cleanfill site at Coast Road as providing an important local facility for Council asset maintenance and upgrade works, as well as for responses to emergency events, such as landslips along Coast Road.
- 7.9 The application also cited that another benefit of the cleanfill is that the site will be created as a reserve after the cleanfill operation, and planted according to an environmental restoration plan that would be required as a resource consent condition. This plan would identify measures to grass, revegetate or landscape any exposed areas, and ensure that the site is left in a suitable condition for future use as a reserve. The applicant contended that this will protect and enhance the long-term amenity of the immediate environment, particularly when considering the nature of the existing vegetation on-site, which currently consists largely of exotic species, including invasive blackberry bushes.

Finding

- 7.10 I accept that the extension of the cleanfill at 130 Coast Road would provide a range of benefits for the wider community as identified. In particular, I acknowledge that the extension would provide the Council with a period of time in which to find a long-term alternative cleanfill site. I also accept that the cleanfill extension would support local development during a time of rapid growth. I would, however, note that the site could be developed as a reserve without the need for cleanfill or at least a substantially lesser amount of cleanfill.

Effects on Ecology

- 7.11 Four submitters expressed concern about the adverse effects that the cleanfill extension would have on the ecology of area and loss of habitats: Ms O'Regan, Ms O'Regan for Camp Wainui, Mr Gray and Ms Moffat.
- 7.12 In response to these concerns, the Council sought further information from the applicant and consequently an assessment of the local vegetation and habitats was provided by Tonkin and Taylor. The assessment stated that the application site is dominated by exotic weed species, primarily blackberry, as well as gorse, pampas grass, cracked willow and other species. The assessment noted that the vegetation is not identified as having any value within the District Plan.
- 7.13 My site visit confirmed that much of the vegetation on-site is exotic scrub or weeds, dominated by blackberry. While I accept that this vegetation is likely to provide a habitat for some species, the vegetation itself has low value and its loss would, in relation to the amount of similar vegetation in the area, be minor.
- 7.14 The only stand of indigenous vegetation is the roadside belt of vegetation, which would largely be untouched by the proposed cleanfill extension, and could be, as proposed by the applicant, protected by way of a resource consent condition.
- 7.15 In the long-term, if the site were restored through planting of appropriate indigenous vegetation, the habitat values of the site would be enhanced.

Finding

- 7.16 Based on the evidence before me, I find that the proposed cleanfill extension would have less than minor effects on habitats and ecological values, and, through restoration planting following cleanfill operations, could provide long-term enhancement to the local ecology.

Effects on Water Quality

- 7.17 The potential impact on water quality was specifically raised in the submissions of Mr Gray and by Mr Bircham and Ms Ross, while other submitters expressed broader concerns about the potential impact that runoff from the proposed cleanfill extension would have on the natural environment.
- 7.18 The application sets out the proposed measures for managing stormwater and sediment runoff, based on the Regional Council guidelines. These measures include prompt revegetation of slope where fill has finished, using perimeter bunds and directing any

overland flows to a grit trap. The fill site is located at some distance from the River, and during my site visit I saw no sign of any sediment runoff from the current fill towards the river.

7.19 Mr Breese, an environmental management specialist engaged by the applicant, provided evidence on water quality. He noted that Hutt City Council has a water quality monitoring site about 1km downstream of the cleanfill site, established as a control mechanism for assessing potential discharges from the former wastewater treatment plant. Mr Breese had compared monitoring data gathered before and after the current cleanfill operation commenced, and could find no evidence that the cleanfill was having an adverse effect on water quality in the Wainuiomata River. He considered the likelihood of the cleanfill operation to impact on water quality to be unlikely for several reasons:

- (a) The material deposited at the cleanfill contains no combustible or putrescible components or hazardous substance that could leach as runoff
- (b) The potential for overland flow is managed by the sediment control measures used on-site
- (c) There are no watercourses linking the cleanfill site with the River, and
- (d) The ground between the site and River comprises unconsolidated river gravels with very high infiltration rates.

7.20 The effects of the discharges from the cleanfill extension were addressed by GWRC in its evaluation of the resource consent applications for discharges into ground and into land where it may enter water. The principal potential adverse effects on water was identified as possible sediment entering the river, and the GWRC report concluded that any sediment-laden water that may be discharged to the River will be first treated by on-site erosion and sediment control measures. The Council concluded that the proposed activity will have no more than a minor effect on the aquatic life of the River.

7.21 The Regional Council granted consent to the various discharges on an integrated basis, with a comprehensive suite of resource consent conditions that set standards, monitoring requirements and review procedures. The conditions include the development of an Erosion and Sediment Control Plan that must be approved by the Regional Council prior to any works commencing.

7.22 I note the duration of these discharge permits is for 2½ years, to correspond with that proposed for the land use consent.

Finding

7.23 Overall, I am satisfied that any effects from the proposed cleanfill on water quality, both that of the river as well as groundwater, will be less than minor.

Effects from Dust and Odour

7.24 Submitters were concerned about the dust that could be generated by the proposed cleanfill extension, citing previous examples of dust being blown off the fill and creating a nuisance to neighbouring residential properties. Submitters observed that the site was

exposed to the prevailing northwesterly wind, with the wind being channelled down the valley, from the cleanfill site towards the residential properties to the east and south.

7.25 Given that proposed Stage 3 would be sited closer to the residential properties than the current cleanfill operations, there is potential for dust to create a nuisance for local residents.

7.26 The applicant proposed to have a specific resource consent condition to require the consent holder to manage the cleanfill operation in a manner to ensure that no dust nuisance occurs beyond the boundary of the site. The applicant also proposed that dust management be addressed as part of the proposed Site Management Plan (SMP), to be required under the resource consent conditions. Dust control measures include:

- Having a staff member on site to monitor the potential for dust generation
- Enforcing low speed limits for vehicles on-site
- Using a wheel-wash, and
- Sweeping or watering tracks
- Dampening areas of deposited cleanfill as required, and
- Ceasing work if dust is being blown beyond the site.

7.27 On questioning, I was informed during the hearing by the applicant's civil and transportation engineer, Mr Rodenburg, that currently the potential for dust is monitored by the cleanfill operator on a day-to-day basis, and if required watering equipment is used to mitigate the generation of dust. I was informed that such equipment is not kept on site, but is brought on site when needed.

7.28 In response to my questions, the applicant has subsequently proposed that the condition on dust be amended to require that "the presence of a watercart (or similar water source suitable for managing the generation of dust) on-site at all times that filling occurs".

7.29 I note that GWRC assessed the potential for dust generation as part of its evaluation of the discharges to air application. The Council concluded that the proposed mitigation measures should be adequate in controlling dust emissions from the site. The regional consents that have been issued for the proposed Stage 3 cleanfill include conditions for dust control, a requirement to seal the access road into the site, and a general overarching requirement that there shall be no discharges to air that would be noxious, dangerous, offensive or objectionable at or beyond the site boundary.

Finding

7.30 The potential for dust nuisance is one of the principal adverse effects that can be generated by cleanfill operations as with any earthworks. Given that the Stage 3 site would be located closer to neighbouring properties, effective dust management will be an important facet of the proposed cleanfill operation: this includes having watering equipment on-site during cleanfill operations.

- 7.31 Given the wide suite of measures that are proposed to be used to mitigate this effect, I am satisfied that the effect from potential dust nuisance can be managed to be no more than minor.

Effects from Hazardous or Unacceptable Material

- 7.32 The nature of the material to be deposited on the site was a key issue for submitters. They drew on their own observations of material being deposited at the current cleanfill operations (Stage 2). Material seen to be deposited include plastic bottles, paper and hydrovac material (discussed below). Ms Moffat tabled photographs of a private individual depositing material at the site. She also tabled photographs of hydrovac material being tipped directly onto the fill slope.
- 7.33 The submission from Ms Moffat helpfully included a copy of the Ministry for the Environment Guidelines for Cleanfill (2002). The Guideline notes that cleanfills are intended to accept only inert wastes, and identifies two principal types of fills that can be deposited in a 'cleanfill':
- (a) Acceptable materials, and
 - (b) Conditionally acceptable materials.
- 7.34 Acceptable material is generally inert material that includes bricks, concrete, road sub-base, glass, soils, rock, gravel, clay. Steel reinforced concrete is acceptable, provided protruding reinforcing steel is cut off at the concrete face. Certain types of other material are defined as 'conditionally acceptable', subject to controls on their nature and restrictions on their deposition. For example, the Guidelines state that plastics are typically inert, and small quantities of building plastics such as pipes and plastic sheeting amongst a matrix of cleanfill material are acceptable. However, the Guidelines note that a large quantity of plastic on its own or with other combustible material may present a fire hazard.
- 7.35 The Guidelines clearly distinguish the differences between a 'landfill' and a 'cleanfill', stating that:
- Municipal solid waste accepted at landfills comprises any non-hazardous, solid and degradable waste from a combination of residential, commercial and industrial sources. It includes putrescible waste and garden waste. This type of material placed in a landfill will degrade, producing leachate and landfill gas over an extended period.*
- In contrast, cleanfills are promoted as low-cost alternatives to landfills for "inert" waste that will have potentially no adverse environmental effect, or only minor effects. (pages 5-6)*
- 7.36 In response to my questions of the former Site Contract Manager, Mr Sherlock, stated that a small amount of plastic or organic material is acceptable and permitted within the conditions. He stated that incoming material is closely monitored, and where the operator identifies non-acceptable material, it is put aside for removal at the contractor's expense.

- 7.37 In response to submitters' concerns, the applicant accepted a condition that would limit cleanfill material to only those deemed 'acceptable' under the MfE Guidelines, and exclude 'conditionally acceptable material' such as plastic and timber. That limitation would read:
- Only material such as clay, soil, rock, concrete, dry asphaltic concrete, glass, ceramics, tiles or brick that are free of combustible or putrescible components or hazardous substances or materials likely to create a hazardous leachate by means of biological breakdown, shall be deposited within the cleanfill site.*
- 7.38 This limitation would preclude the discretion for the cleanfill operator to accept 'conditionally acceptable' material, such as the example I was given of a Wainui local who was undertaking home renovations, and was allowed to deposit waste that fell within the acceptance criteria.
- 7.39 In regard to the management of the current cleanfill, Mr Sherlock expressed confidence in the current operator that the Council has contracted to run the cleanfill. Mr Sherlock noted that the contractor is well aware that breaching the requirements would result in him losing this contract. Mr Sherlock also explained the monitoring processes that currently operate, with Tonkin and Taylor contracted as environmental consultants to monitor the operations and report to GWRC. He also referred to the audits that both GWRC and Hutt City Council as regulators undertake themselves. Mr Sherlock explained how the operator scrutinises customers wishing to use the cleanfill, which includes their on-site behaviour and safety performance, as well as the source and types of material they proposed to deposit.
- 7.40 The decision report of the GWRC in respect of the discharge application considered that, due to the number of complaints from members of the public in the past with regard to potential unacceptable material, strict acceptance criteria needs to be applied. I agree, and consider that the recommended limitation of acceptable material as outlined in paragraph 7.37 above will prevent the degree of discretion that has apparently led to the instances of tipping that have been observed by submitters.
- 7.41 Another issue in relation to the types of material being deposited at the current cleanfill was hydrovac material: hydrovac material comprises rock, soil and other ground material excavated using water jets during trenching or site investigations. At the hearing, Ms Moffat outlined her observations of hydrovac material being disposed directly onto the cleanfill face which flowed down to the base.
- 7.42 In response to Ms Moffat's observations, I was informed by Mr Rodenburg, civil engineer for the applicant, that the process for containing and treating this semi-liquid material has been upgraded since the Council received complaints. He outlined the new two-stage separation system that has been established in which the water within the hydrovac material can be removed and the solid material, making this type of material acceptable for a cleanfill. I observed this treatment system on my site visit.
- 7.43 Mr Rodenburg, upon questioning, noted that the MfE Guidelines state that high water content material should not be accepted, and hence the need for a separation process on-site. He also stated that only uncontaminated hydrovac material is accepted at the site.

- 7.44 Another issue raised by submitters concerning current cleanfill operations was flytipping, the illegal dumping of waste on the site. To this end, one of the recommended consent conditions was that the SMP should include measures undertaken to prevent members of the public from dumping rubbish at the site. However, submitters also expressed concerns that the proposed access track around to the south of the proposed cleanfill could encourage flytipping. To address this concern, the applicant confirmed, through the right-of-reply, that the Council no longer wishes to pursue this aspect of the proposed cleanfill.

Finding

- 7.45 The applicant acknowledges that some past practices have occurred that require improved processes. In response to concerns raised about the types of material being deposited at the cleanfill, the applicant has recommended tightening the consent conditions to address these matters and site management in general, including the level of monitoring that would be required.
- 7.46 I am satisfied that, under these conditions, site operations can be managed to prevent or minimise adverse effects from the material being deposited at the site. Accordingly, I find that, with appropriate management and regular monitoring, the effects of the material being deposited at proposed cleanfill extension would be no more than minor.

Effects from Traffic

- 7.47 Submitters expressed concern about the effects of traffic generated by the proposed cleanfill extension. Submissions from Mr and Mrs O’Meara, Ms O’Regan, Mr Bircham and Ms Ross, and Ms Moffat raised concerns about the tracking of mud and debris onto Coast Road by trucks leaving the current cleanfill site. Ms Moffat produced photographs showing the amount of material being tracked on to Coast Road, including rocks and gravel. She also tabled a stone that had been tracked onto the Road.
- 7.48 As outlined in the evidence of Mr Rodenburg, a truck wheel-wash was installed in 2018 in response to ongoing issues with material being tracked onto the road. In Mr Rosenberg’s opinion, the incidence of material being tracked onto Coast Road has since been reduced, but noted that it is still an ongoing issue. As I noted at the hearing, given the wheel-wash is to one side of the access road, trucks are not compelled to use the wheel-wash although the site operator is able to monitor its use.
- 7.49 In his civil and transportation engineering evidence, Mr Rodenburg considered that a truck-wash combined with a stabilised site entrance represents best practice. Mr Rodenburg stated that a portable truck-wash would be a more mechanical, targeted cleaning process, and would replace the current facility. He said that water would come from the public water supply network.
- 7.50 On this matter, Mr Sherlock confirmed the Council would accept a consent condition that would require the use of the portable wheel-wash on-site.
- 7.51 The applicant also proposed a condition that would limit the number of trucks visiting the site to no more than 75 per day.

- 7.52 I note that issues such as tracking could be addressed through the proposed Community Liaison Group that the applicant recommends being established by way of a resource consent condition.
- 7.53 In terms of traffic safety, through the right-of-reply, the applicant has confirmed that it would not construct a secondary access road along the south of the site. Therefore, the safety of this intersection with Coast Road is no longer a relevant effect to consider. In regard to the existing entrance, in his evidence, Mr Rodenburg recommended that a vegetation maintenance programme be carried out to ensure sightlines are maintained at the existing entranceway, and that the current turning restrictions at the entrance continue to be enforced. On these latter two points, the revised recommended consent conditions did not specifically address the safety of the existing entranceway, but this is a matter that the SMP could address.
- 7.54 The applicant has agreed to a condition that would require the access road internal to the site between the site gate and the site entrance kiosk to be sealed.

Finding

- 7.55 In considering the evidence, I am satisfied that the adverse effects of traffic generated by the proposed cleanfill extension would have no more than minor effects on the environment. There was no evidence that the historic and current cleanfill operations had created any significant safety or capacity issues on Coast Road.
- 7.56 In terms of the potential for trucks to track material onto Coast Road, based on the evidence before me, I find that, with the use of mechanical truck washing combined with sealing the access road into the site should minimise the potential for mud and other material being tracked onto Coast Road. Tighter monitoring requirements along with the establishment of a Community Liaison Group should also contribute to ensuring that this effect will be no more than minor.

Effects on Visual Amenity

- 7.57 Ms O'Regan, Mr Bircham, Ms Ross and Ms Moffat expressed concern about the adverse effects on visual amenity that extending the cleanfill would have, particularly in altering the local landform by up to 12m, and bringing the cleanfill to closer proximity to their properties from which they will have a perspective of the site.
- 7.58 These changes were acknowledged by the applicant's planner, Mr Meehan, in his evidence. Mr Meehan addressed this effect from two perspectives: the short and long term.
- 7.59 In the short-term, he accepted there will be some visual effects during its operation. However, he considered this to be mitigated by the short duration of the activity – 2½ years until cleanfill operations had to cease. Mr Meehan also expected the sequencing of the fill under the SMP would reduce the area of exposed earth visible at any one time.
- 7.60 In terms of public views, in my site visit, I observed that there is only a short section of Coast Road from which a clear line-of-sight would be had of the proposed cleanfill extension, from just north of the bridge over Scholes Creek. To the south of the Creek,

existing vegetation will obscure the site, while alongside the site and from the north, the existing roadside planting provides an effective screen.

- 7.61 In the longer-term, Mr Meehan was of the opinion that the applicant has proposed to undertake all reasonable steps to mitigate visual effects, listing four reasons for his opinion:
- (a) Site remediation will include recontouring and replanting to resemble a vegetated natural landform which he considers will, in the long-term, represent an improvement in the local visual amenity
 - (b) The proposed fill would have a finished slope of 1H:3V and a top profile of 1H:6V, that he considers would soften the visual impact
 - (c) Much of the finished fill will be below the level of Coast Road and will not be visually imposing when viewed from that road, and
 - (d) The retention of the roadside vegetation will mitigate the effects for Coast Road users to the extent practicable.

Finding

- 7.62 Based on the evidence before me, I acknowledge that the cleanfill extension will have an adverse impact on the visual amenity of the vicinity. However, this effect will be short-term, given the short duration proposed (2½ years) and the proposed sequencing of fill, allowing non-active sections to be vegetated. In the long term, the finished contours will soften its appearance within the landscape, further mitigated by restoration planting that, in the longer-term, will provide an enhanced view. Accordingly, I find that the effects of the proposed cleanfill extension will be no more than minor.

Effects from Noise and Vibration

- 7.63 Submitters expressed concerns about the adverse noise and vibration effects that the proposed cleanfill extension would have on their health and amenity. They cited many instances of situation where they could hear loud noises from cleanfill operations to date: these noises include the noise of vehicle reversing alarms, clanging tailgates, the noise from the pad foot roller, and general truck movements. During my site visit, I experienced the noise from some of these sources.
- 7.64 The applicant engaged Mr Darran Humpheson, an experienced acoustic consultant, to assess potential noise levels from the proposed cleanfill extension, and provide advice on noise management measures. The Council engaged Mr Steve Arden from Marshall Day to peer review the applicant's noise assessment.
- 7.65 The evidence of the applicant's acoustic expert, Mr Humpheson, was that the magnitude and character of the noise that can be anticipated will be similar to that currently experienced, given that the hours of operation are proposed to be the same, the number of visiting vehicles is expected to be similar, and no new noise sources will be on-site. He assessed that noise levels will be within the District Plan's daytime noise limit of 50 dB LA10 for all but one location, that being at 199 Coast Road when work takes place within 60m of the eastern boundary. In his opinion, Mr Humpheson considers that a 2 decibel

exceedance of the District Plan limit would not be perceptible or be significant, given that the location of the site work would vary across the site.

- 7.66 I questioned Mr Humpheson whether creating a noise bund would be feasible, such as the northern one. He considered that a noise bund would not be effective due to topography. He considered that the sensitive times for noise are in the morning and evening, and could be easily managed within a Noise Management Plan (NMP). He stated that the operation of heavy machinery could be limited to times of between 9AM-4PM. In terms of the proposed truck wash, he stated that this type of equipment could be noisy, but could be specifically addressed in the NMP.
- 7.67 In terms of monitoring noise, I pointed out that the recommended consent conditions required an annual monitoring review, and questioned the effectiveness of this timeframe given the short 2½ year cleanfill duration proposed. Mr Humpheson agreed, and considered that monitoring should be undertaken either every 6-months or quarterly.
- 7.68 In terms of the Dyna pad foot roller that Marshall Day, the Councils' acoustic peer reviewer, had considered to be 'construction machinery' for the purpose of noise assessment, Mr Humpheson had since undertaken a realistic worse-case scenario and assumed it working on the site boundary, from which point it would slowly traverse the site. In his assessment, Mr Humpheson calculated noise levels would exceed the 50 dB LA10 limit at 199, 200 and 201 Coast Road. However, he considered that as the use of this machinery would be infrequent, and consequently the approach he used in his acoustic report was appropriate. Notwithstanding, Mr Humpheson recommended limiting its use to between 9am-4pm.
- 7.69 The submitters from 119 Coast Road, Mr Bircham and Ms Ross, described the current noise as 'overwhelming' and expressed concern about the loss of sleep. In response, the applicant's acoustic adviser acknowledged that noise from the cleanfill operation will be audible from their property, but that the level of noise near their property will be significantly less than the District Plan noise limits: he predicted a noise level of 39 dB LA10 at the façade of their residence. He stated that this is less than the night-time limit of 40 dB LA10 which has been set to preserve sleep conditions.
- 7.70 In regard to the concerns of Ms O'Regan, Mr Humpheson had recalculated the predicted noise level at her property boundary, and adjusted the level from 43 to 46 dB LA10, which he noted is still less than the daytime noise limit of 50 dB LA10 in the District Plan. In terms of concerns about vibration, Mr Humpheson considered that there would be no significant sources of vibration, and that the magnitude of ground-borne vibration at the nearest residential properties would be negligible.
- 7.71 Addressing the concerns of Ms Moffat, Mr Humpheson stated he has predicted a noise level at her property of 42 dB LA10, less than the daytime noise limit of 50 dB LA10.
- 7.72 In terms of those types of noises that Ms Moffat and other submitters have raised – such as tailgate banging, reversing alarms and pumps from vac trucks, Mr Humpheson described these types of noises as having 'special audible characteristics' (SAC), and would be addressed specifically in the proposed NMP. He stated that the new NMP that would be drafted would be based on good practice guidance in managing noise with SAC.

- 7.73 In conclusion, Mr Humpheson said the acoustic assessment had concluded that the level of noise effects is minor, and that the recommended consent conditions together with the implementation of the NMP will ensure that any adverse effects are avoided or mitigated.
- 7.74 While I acknowledge that, in a General Rural zoned environment, there may be a general expectation of a greater level of noise than would be expected in a residential or rural-residential environment, such noise would be normally intermittent or seasonal. The proposal would bring the cleanfill operation closer to nearby residential properties, which have had a cleanfill operating in the vicinity since 2011. While the expert advisers predict that noise levels at nearby residences will meet the District Plan limit for daytime noise levels, nevertheless, the cleanfill extension will result in local residents continuing to experience on an ongoing basis for five and half days a week the background noise emanating from cleanfill operations, as well as those noises that have special audible characteristics, such as tailgate banging and reversing alarms.
- 7.75 I acknowledge the proposed NMP will address all noise sources from the proposed cleanfill operation, including those with SAC, and set out procedures and processes for avoiding or mitigating adverse noise effects outside the site. These measures may include mechanical or physical methods, or behavioural or good practice measures. The draft NMP, as part of the proposed SMP, will be provided to members of the proposed Community Liaison Group (CLG) to provide them with an opportunity to comment. In addition, over the duration of the cleanfill operations, the CLG will act as a conduit for local residents to provide feedback on cleanfill operations, including noise. Ultimately, the Council will have the ability to review the recommended consent conditions pursuant to section 128 of the Act, in order:
- To review the adequacy of any plan and/or monitoring requirements, and if necessary, amend these requirements outlined in this consent.
 - To deal with any adverse effects on the environment that may arise from the exercise of this consent; and which are appropriate to deal with at a later stage.
 - To enable consistency with any relevant District Plan(s) or any National Environmental Standards or Regulations.
 - To delete or amend conditions of this consent; and the addition of such new conditions as are shown to be necessary to avoid, remedy or mitigate any significant adverse effects on the environment.
- 7.76 Another important factor in my consideration of noise effects is the proposed short duration of the consent – 2½ years – a period in which the Council has committed to finding and consenting an alternative and long-term cleanfill site. I have also taken into account the need for a cleanfill site within Wainuiomata and the wider Hutt Valley during a period of significant development.

Finding

- 7.77 For these reasons, I find that the noise from the proposed cleanfill extension would be managed to be within acceptable levels and to be no more than minor.

Flooding and Hazard Effects

- 7.78 Several submitters (Ms Moffat, Ms O'Regan, Mr Ranstead, Mr Birkinshaw, and Mr and Mrs O'Meara) expressed concern about establishing a cleanfill within an area identified at risk from a 1:100 year flood event from the Wainuiomata River. Ms Moffat cited recent examples in the South Island where former landfills had been exposed by river or coastal erosion, creating a significant amount of waste to litter coastlines. Submitters were concerned that flooding would risk significant pollution into the River that could affect fish life.
- 7.79 In addition, a statement of evidence by Mr Craig Innes, a submitter, was circulated. Drawing on his knowledge of GIS, Mr Innes' raised questions around the assumptions used in the GWRC's flood modelling and, in particular, the assumptions used in the GIS spatial analysis and the effects of vegetation on determining elevations in the floodplain.
- 7.80 In response to Mr Innes' evidence, Mr Rueben Ferguson, a water resources engineer, presented evidence for the applicant at the Hearing. Mr Ferguson stated that there is a considerable amount of conservatism built into flood modelling. Mr Ferguson was satisfied that the proposed concrete block wall built at the base of the proposed cleanfill extension would act as an effective bund to protect it from potential erosion from a major flood event.
- 7.81 In response to a question, Mr Ferguson stated that the intervening blackberry and other vegetation that separated the cleanfill site from the River would act to increase channel roughness and lower velocities as water travels that area.
- 7.82 Mr Rodenburg also gave evidence on flooding, stating that the armour wall design takes into account the velocities and depth of a 1:100-year flood, with the modelling results showing that water will come partly up the base of the wall, but no closer than 0.5m from the top. This he stated provides some allowance for a flood event greater than 1:100-year.
- 7.83 In considering this matter, I firstly observe that flood protection is a primary function of GWRC, which has considered the risks from flooding and granted consent. I accept that the updated flood modelling has reduced the anticipated extent of flooding on the site, and that the design of the proposed cleanfill extension takes a conservative approach, and has built in a level of contingency into the design height of the concrete block wall that would protect the base of the cleanfill in the case a major flood event.
- 7.84 While I acknowledge that there have been recent examples of where former landfills have recently been exposed by river or coastal erosion, creating significant adverse effects, the nature of the material within the cleanfill is different from that deposited in landfills.

Finding

- 7.85 Overall, in considering the evidence before me, I find that the effects of the proposed cleanfill extension on the risks from flooding to be no more than minor.

Conditions

- 7.86 Considerable focus was placed during the Hearing on the nature and effectiveness of potential resource consent conditions, having regard to the efficacy of resource consent

conditions under the previous resource consent, given the observations of local residents on the operation of the current cleanfill, and the nature and scale of adverse effects that have occurred to date.

- 7.87 Given the issues raised by submitters, I had to be satisfied that the recommended consent conditions would adequately address the actual or potential adverse effects that extending the cleanfill operation further south would have on the local environment and local residents before I could grant consent. In particular, the conditions had to:
- (a) Effectively manage the potential for dust nuisance to be generated
 - (b) Limit the amount of tracking of material onto Coast Road
 - (c) Provide an adequate mechanism for residents to have an input into the development of the management plans, and provide a two-way process for feedback during the operation of the cleanfill, and
 - (d) Effectively manage the noise emissions from the cleanfill operation to protect local amenity values, including regular monitoring and a management regime that can adapt if new issues arise or existing mitigation measures need improving.
- 7.88 During the Hearing, a number of changes to the recommended consent conditions or additional conditions arose from the questioning of expert witnesses. To allow sufficient time for the applicant and Council's officers to properly consider and refine the set of recommended consent conditions, I established an agreed timeline for the conditions to be revised and circulated among the parties and adjourned the hearing. The timeline allowed submitters an opportunity to review and comment on the amended conditions: I would like to express my appreciation for the time and effort submitters took to respond, notwithstanding their opposition in principle to consent being granted.
- 7.89 A revised set of recommended consent conditions were duly circulated by the applicant through the Council, including a commentary on which conditions were amended in light of submitters' comments, and the reasons why other suggested changes were not adopted by the applicant.
- 7.90 I have subsequently considered the recommended consent conditions, and am satisfied that they would manage the adverse effects on the environment to be no more than minor. In particular, the consent conditions would require –
- (a) A greater restriction on the types of material to be accepted: this would prevent the repetition of the deposition of material like plastic which were formerly deemed acceptable in small amounts
 - (b) The establishment of a Community Liaison Group to provide a mechanism through which local residents can be informed of cleanfill operations and provide feedback to the Council on any issues arising and to review and comment on management plans
 - (c) More frequent monitoring, particularly of operational noise levels
 - (d) An independent audit process every six months, the findings of which will be reported to the CLG
 - (e) A short duration of cleanfill activity of 30 months (2½ years)

- (f) The preparation and approval of a Site Management Plan that includes –
- A Noise Management Plan, which will include specific focus on machinery or activities with special audible characteristics
 - A Fill Sequencing Plan that will seek to reduce the amount of ‘active’ cleanfill at any one time
 - An Erosion and Sediment Control Plan to ensure measures are in place to minimise the risks of erosion and sediment runoff, including the potential for a major flooding event in the Wainuiomata River to erode the base of the fill, and
 - An Environmental Restoration Plan to be implemented in the planting season following the closure of the cleanfill, combined with a requirement to maintain plants for a period of no less than three years
- (g) A requirement to notify residents five days in advance of any ‘construction activities’ (which will be defined in the NMP), and
- (h) A review condition that would enable, among other reasons, a review of conditions to address any adverse effects that are not being adequately managed.

7.91 I have considered the applicant’s responses to the amendments suggested by submitters, and generally accept the reasoning for the applicant to accept or reject the suggested amendments. There are a few matters, however, I wish to address, as I outline below.

7.92 First, however, in regard to the submitters’ suggestion that the conditions include a requirement for a site closure plan, I consider the intention of such a plan will be suitably achieved by the Environmental Restoration Plan that would be required under the recommended consent conditions. The proposed conditions require the Environmental Restoration Plan to “ensure the site is left in a suitable condition to enable the use of the site as a reserve in future”. Such a condition would include being in a safe and non-hazardous state. I also note that the Environmental Restoration Plan is also a requirement under the conditions for the regional discharge permits, and will be subject to approval of the Environmental Regulation section of GWRC. Therefore, I am satisfied that there is no necessity for a separate Closure Management Plan.

7.93 In terms of the condition requiring the establishment of a Community Liaison Group, submitters suggested the purpose of the Group be listed in the condition. The applicant accepted the suggestion in part, but preferred a short statement of its purpose as an advice note to the condition. With respect, I agree with the submitters that the purpose of the Group should be specified as part of the condition, as this is best practice.

7.94 In terms of the question as to whether the CLG should have an independent facilitator, which the applicant has rejected, I am aware of situations in which CLG have had independent facilitators and others where they do not. Based on the good faith undertaken by the applicant in proposing a CLG, I accept that a facilitator should not be required under the consent conditions. However, I would urge the applicant to consider the use of an independent facilitator if it becomes apparent that such a person would improve the process.

- 7.95 In reviewing the consent conditions, I have made a number of minor changes as follows:
- (a) I have amended the note to condition #3 to clarify that if new Ministry for the Environment Guidance on cleanfills is issued, the obligation under this condition to limit material accepted as cleanfill as specified remains in place;
 - (b) I have amended condition #17 to exclude public holidays from the hours of operation of the cleanfill; and
 - (c) I have added, given the apparent aggressiveness of the weeds in this area, the control of weeds to the obligation to maintain plants for a period of three years following site restoration to assist in ensuring the planting is successful.

Summary

- 7.96 Overall, I find that, with the imposition of the recommended consent conditions, the adverse effects of the proposed cleanfill extension will be minor or less than minor.

8 Assessment against Relevant Planning Instruments

- 8.1 Section 104 of the RMA sets out the matters to which a consent authority must have regard to, subject to Part 2 of the RMA, when considering an application for resource consent. These are:

- Any actual and potential effects on the environment of allowing the activity (which I have considered in Section 7 above)
- 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
- Any relevant provisions of:
 - a national environmental standard
 - other regulations
 - a national policy statement
 - the New Zealand Coastal Policy Statement
 - a regional policy statement or proposed regional policy statement
 - a plan or proposed plan; and
- Any other matter the consent authority considers relevant and reasonably necessary to determine the application.

- 8.2 Accordingly, I now turn to assessing the proposal against the relevant provisions of relevant planning instruments. There was agreement between the planners that –

- (a) the New Zealand Coastal Policy Statement is not relevant to this resource consent application
- (b) the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 does not apply, and
- (c) there are no regulations of relevance.

8.3 Collectively, the application and the s42A report provided comprehensive assessments of the proposed cleanfill extension against the relevant statutory provisions. The applicant's planner, Mr Meehan, provided evidence on the consistency of the proposed cleanfill extension with the relevant statutory instruments. Mr Daysh also provided a comprehensive statutory assessment, particularly in relation to the Wellington Regional Policy Statement and the City of Lower Hutt District Plan. There was a large measure of agreement between the planners' assessments, and accordingly I adopt the assessment of the two planners to avoid repetition. I shall only focus on the key points, and any areas of disagreement.

The Operative City of Lower Hutt District Plan

8.4 Both the application and the s42A report provided a comprehensive assessment of the proposed cleanfill extension against the relevant provisions of the District Plan. There was a large measure of agreement between the two assessments. In relation to the key policy direction of the District Plan, and taking into consideration my findings in respect of the effects of the proposed cleanfill extension, I find as follows:

- (a) **Rural amenity** – the management of the proposed cleanfill extension will be subject to a range of conditions that include the implementation of management plans to maintain rural amenity, with the nature of the proposal and its end use as a reserve aligned with maintaining the open character of the rural environment.
- (b) **Noise** – the implementation of a Noise Management Plan will maintain the amenity value of the area by ensuring that the adverse effects associated with excessive noise are avoided or mitigated.
- (c) **Natural hazards** – the proposal is consistent with the policy to avoid or reduce risk to people and their property from natural hazards, and to adopt suitable engineering to reduce the vulnerability of people and property to flood hazards.
- (d) **Earthworks** – the proposed cleanfill extension would implement rehabilitation measures to mitigate and in the long term enhance visual amenity values

8.5 In conclusion, I find that the proposed cleanfill extension is generally consistent with, and not contrary to, the City of Lower Hutt District Plan.

Wellington Regional Policy Statement

8.6 The WRPS sets the high level strategic policy direction for managing the Wellington Region's natural and physical resources. Many of its objectives and policies focus on managing the effects of activities and development on the natural environment, and based on my findings outlined in Section 7 above, I find that the proposal is generally consistent with the WRPS.

8.7 The only apparent area of disagreement between the planners was in regard to whether Objective 11 and accompanying Policy 65 of the RPS provides specific policy direction to support the proposed cleanfill extension. These provisions seek to reduce the quantity of waste disposed. Mr Meehan asserted that the cleanfill extension would assist in preventing cleanfill material being deposited at a landfill, thereby extending the life of the

local landfills. To this end, I note the explanatory section in the WRPS regarding waste includes the following statement:

The amount of waste needs to be reduced to ensure potentially valuable resources are used efficiently, reduce the need to develop new landfills and extend the life of existing landfills. Cleanfills are one way to extend the life of landfills by diverting clean inert waste from the landfill waste stream.(page 34)

- 8.8 While I was not convinced that the proposed cleanfill extension would, in itself, act to reduce waste per se, it would not be contrary to that policy direction and I would agree that the proposed cleanfill extension is consistent with the WRPS statement about cleanfills.

Regional Plans

- 8.9 The resource consent application provided an assessment of the proposed cleanfill extension against the objectives and policies of the Proposed Natural Resources Plan (PNRP), and concluded that the proposal is consistent with the relevant provisions. The decision report of the GWRC, in granting the discharge permits, also considered the proposal to be consistent with the policy direction of the PNRP. I concur and adopt the findings of these assessments.

National Policy Statements

- 8.10 **The National Policy Statement on Urban Development Capacity** (2016) requires local authorities to monitor and plan for housing development, particularly in areas identified as high growth. Wellington is an identified high growth area, and it is evident that there a strong level of development in the Hutt Valley, including Wainuiomata. The development of housing often generates a certain level of cleanfill waste. The proposed cleanfill extension is therefore generally consistent with the policy direction of the NPSUDC to support urban development in the Region.
- 8.11 **The National Policy Statement on Freshwater Management** (2014, amended 2017) sets out the objectives and policies for freshwater management under the Resource Management Act 1991. The resource consent applications for the proposed cleanfill extension were assessed against this NPS by the reporting officers for GWRC, who concluded that the applications to be generally consistent with its objectives and policies. This conclusion was endorsed by the Council's reporting planner, Mr Daysh.
- 8.12 I find that the proposal is generally consistent with the relevant National Policy Statements.

9 Part 2 of the Act

- 9.1 When considering an application for a resource consent and any submissions received, my assessment is subject to Part 2 of the Act, which includes:
- (a) The purpose of the Act (section 5)
 - (b) Matters of national importance that the consent authority must recognise and provide for when determining a resource consent (section 6)

- (c) Other matters the consent authority must have particular regard to (section 7), and
 - (d) The principles of the Treaty of Waitangi that must be taken into account (section 8).
- 9.2 The purpose of the Act as set out in section 5 is to promote the sustainable management of natural and physical resources while managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while avoiding, remedying, or mitigating any adverse effects of activities on the environment.
- 9.3 The Council's reporting planner, Mr Daysh, considers that, while cleanfill activities are not specifically provided for under the District Plan, they are managed as a discretionary activities for which there is clear and coherent guidance provided by the objectives and policies of the District Plan. He also considered that the objectives and policies were prepared having regard to giving effect to Part 2 of the Act. Accordingly, he considered that a detailed evaluation of Part 2 matters would not add anything to his evaluative exercise and his final recommendation to grant consent. However, for completeness he undertook a brief assessment of the proposal against Part 2.
- 9.4 I concur with Mr Daysh's analysis, noting that the objectives and policies of the District Plan provide an overarching and coherent set of direction to guide the consideration of discretionary activities in respect of the range of environmental effects that the activity may generate.
- 9.5 Nevertheless, for the sake of completeness, based on my findings in relation to the assessment of effects on the environment, I find that –
- (a) the proposal promotes the sustainable management of natural and physical resources as it is a sustainable use of resources on site already established as a cleanfill, with the effects of the activity on the environment avoided or mitigated to the extent that it can (s5)
 - (b) the proposed cleanfill extension would avoid exacerbating risks from natural hazards (s6h)
 - (c) the proposed cleanfill extension represents an efficient use of a site already used for cleanfill (s7b)
 - (d) amenity values would be maintained (s7c)
 - (e) in the longer term, the proposed activity would maintain and enhance the quality of the environment and amenity values (s7f)
- 9.6 In terms of taking into account the principles of the Treaty of Waitangi, I am satisfied that the proposal is not contrary to section 8 of the Act. The subject site is not adjacent to any land or water that is subject to a Statutory Acknowledgement under a Treaty Settlement Act that would warrant notification of the application to the Port Nicholson Settlement Trust or Ngāti Toa. The site is not identified in the District Plan as containing any wāhi tapu or sites of significance to Māori.
- 9.7 Overall, I find that the proposal to be consistent with Part 2 of the Act.

10 Other Matters

10.1 At the time the applicant's right-of-reply was circulated, the Council circulated legal submissions concerning the effect of the Ngāti Toa Rangatira Statutory Acknowledgement on the application. This submission, prepared by Ms Emma Manohar as Counsel for the Hutt City Council in its regulatory role, was in response to the submission made by Mr Birkinshaw on behalf of Mr Tamasese and Ms Solomon, as well as the legal submission of Mr Finlayson (on behalf of submitters) who referred to the Ngāti Toa Rangatira Statutory Acknowledgement in relation to Cook Strait. At the Hearing, I had sought written legal submissions addressing how this Statutory Acknowledgement may affect the substantive decision in this matter.

10.2 Counsel's legal submissions outlined the statutory context and Council obligations under the Ngāti Toa Rangatira Claims Settlement Act 2014 in regard to statutory acknowledgements. Ms Manohar evaluated whether the application site could be deemed to be 'within' or 'adjacent' to the area of Cook Strait identified as a statutory area. She submitted that it is neither 'within' nor 'adjacent to' Cook Strait, drawing on case law in regard to the meaning of adjacent:

In the present case, it is submitted that Cook Strait is not 'adjacent to' the application site. It is approximately 20 kilometres from the site to Cook Strait, as the crow flies, and so is not 'near' or 'close' or 'neighbouring' when comparing it to the application site. [paragraph 18]

10.3 Ms Manohar also submitted that the proposed cleanfill extension would not 'directly affect' Cook Strait, noting that:

A purposive reading of the words 'directly affected' in context suggests that for the Cook Strait to be considered directly affected by the cleanfill, there must be effects on it and those effects must be sufficiently proximate and appreciable. It is submitted that there is no evidence before the Council that suggests there are effects on Cook Strait, let alone evidence that they are proximate and appreciable.[paragraph 20]

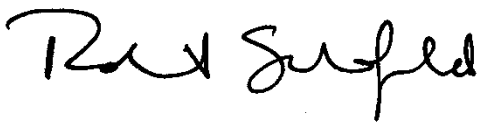
10.4 I concur with Ms Manohar's submission, and find that the Ngāti Toa Statutory Acknowledgement for Cook Strait is not relevant to the substantive decision on this resource consent application.

10.5 No other matters were identified to me.

11 Conclusion and Decision

11.1 That, as an Independent Commissioner, acting under delegated authority from Council and pursuant to sections 104, 104B and 108 of the Resource Management Act 1991, **CONSENT IS GRANTED** to resource consent application RM190050, subject to the conditions contained in Appendix 1 to the Discretionary Activity resource consent application made by Tonkin and Taylor Ltd on behalf of Hutt City Council for the expansion of the Wainuiomata Cleanfill at 130 Coast Road, Wainuiomata.

- 11.2 This decision is made for the reasons discussed above and, in summary, because:
- (a) The activity that is granted is unlikely to have any significant adverse effects on the environment provided the conditions imposed are fully implemented;
 - (b) Subject to the imposition of appropriate conditions, the activity is consistent with the provisions of the operative City of Lower Hutt District Plan; and
 - (c) The activity will promote the sustainable management purpose and principles of the Resource Management Act 1991.
- 11.3 The resource consent conditions are set out in **Appendix 1**.



Robert Schofield
Independent Hearing Commissioner

Dated this 18th day of December 2019

Appendix 1 – Conditions Of Consent

1. That the proposal is carried out substantially in accordance with the information and approved plans submitted with the application and held on file at the council.
2. That the consent holder keeps a copy of this decision on site when work starts and makes it available on request to council staff.
3. The consent holder shall ensure that cleanfilling is undertaken in accordance with the publication *A Guide to the Management of Cleanfills* by the Ministry for the Environment (2002), or any superseding guidance document released and ratified by the Ministry for the Environment.
 - a) Only material such as clay, soil, rock, concrete, dry asphaltic concrete, glass, ceramics, tiles or brick that are free of combustible or putrescible components or hazardous substances or materials likely to create a hazardous leachate by means of biological breakdown, shall be deposited within the cleanfill site.
 - b) Materials considered to meet the above definition are outlined in Table 4.1 of the publication *A Guide to the Management of Cleanfills* by Ministry for the Environment (2002).

Note:

It is advised that the consent holder should be aware of the new Waste Management Institute New Zealand Guidelines which are in the stages of being finalised and which Ministry for the Environment are involved with. These guidelines may replace the Ministry for the Environment Guidelines for the management of cleanfills. This would not affect the obligation under Condition 3(a) and (b).

4. Prior to accepting cleanfill material from off-site, the consent holder shall submit for approval to the Team Leader Resource Consents, Hutt City Council, a Site Management Plan (SMP) in accordance with Ministry for the Environment's '*A Guide to Management of Cleanfills*' dated January 2002 or superseding guidance documents. The SMP shall outline the proposed operation of the cleanfill, including the procedures and controls to manage the site, and at a minimum shall include descriptions of:
 - Identification of responsible persons;
 - Material acceptance criteria in accordance with the Ministry for the Environment's guidelines;
 - Cleanfill acceptance and rejection procedures to ensure that only acceptable material is accepted to site (including identification of any electronic procedures for the assessment of sites that may contain contaminated material, and procedures relating to visual inspections of loads);
 - Procedures to record the nature and volume of material received on-site;
 - Procedures to record the nature and origin of material rejected from the site;
 - Operational procedures to manage the staging of cleanfill deposition (including the preparation of a Fill Sequencing and Progressive Stabilisation Plan);

- Locations of and procedures for controlling the acceptance, drying process and subsequent placement of hydrovac material¹;
- Procedures for managing the generation of dust on-site;
- A description of activities which are considered to be construction rather than operational;
- An Erosion and Sediment Control Plan;
- Measures taken to avoid vehicles and machinery dropping dirt on the road as they leave the site, including the procedures required to ensure trucks appropriately utilise the wheel-wash on-site;
- Measures to maintain traffic safety at the entrance;
- Measures undertaken to prevent members of the public from dumping rubbish at the site;
- The contents of the Noise Management Plan (NMP) prepared under Condition [15], which identifies procedures and practices to mitigate and monitor operational and construction noise;
- Details of monitoring proposed to ensure compliance with consent conditions; and
- Procedures relating to the receipt of complaints from the public or regulator on any matter relating to operations.

All works on site must be in accordance with the SMP and any subsequent amendments to the SMP must be to the satisfaction of the Team Leader Resource Consents, Hutt City Council.

Note:

It is understood that the consent holder will submit a Site Management Plan which will also incorporate an Erosion and Sediment Control Plan and a Fill Sequencing and Progressive Stabilisation Plan (both required under this condition and under the conditions for the discharge permits), Noise Management Plan (required under condition 15) and an Environmental Restoration Plan (required under condition 23).

5. Prior to accepting cleanfill material from off-site the consent holder shall invite local residents and any other interested members of the community to participate in a Community Liaison Group (CLG). This group will thereafter meet on a three-monthly basis following the commencement of the consent (or at a timeframe otherwise agreed by the parties involved) and shall give the opportunity for residents and Council representatives to discuss operations and environmental remediation at the Cleanfill. Invitations will be sent to CLG members at least 4 weeks prior to suggested meeting days. The minutes from these meetings shall be provided to the Team Leader, Resource Consents within three (3) working days of the meeting occurring. The primary purpose of the CLG is to provide a mechanism for the consent holder and community members to meet in person and discuss operations at the site. This includes, but is not limited to:

¹ *Hydrovac material* refers to material excavated during hydrovac excavation. This involves the use of pressurised water to loosen material, which is then vacuumed into a holding tank onboard the hydrovac truck

- Providing comment on the draft SMP as specified under condition 6 below
 - Informing CLG participants of construction activities, as required under condition 14
 - Consultation on the draft Environmental Restoration Plan, as required under condition 23
 - Review of the findings of the independent audit as required under condition 25
 - Informing CLG participants of any operational changes at the site, and
 - Providing feedback to the consent holder about the operation of the cleanfill.
6. Prior to submitting the SMP to Hutt City Council for approval, the consent holder shall provide a draft copy of the SMP to members of the CLG and submitters to the Stage 3 consent, and provide them with the opportunity to provide comment upon the document. Where comments have not been accepted the reasons why shall be included with the submission of the SMP to HCC. CLG members and submitters shall be provided a minimum period of five (5) working days to review and provide comments.
 7. Prior to accepting cleanfill material from off-site the consent holder shall seal the access road internal to the site between the site gate and the site entrance kiosk shown in Drawing 84466.005-20 attached in Appendix D of the AEE.
 8. Within three (3) months of the Stage 3 operation commencing the consent holder shall install a portable wheel-wash on-site. This wash should be appropriately sized to cater for the heavy vehicles visiting site, should be of a pressure washing variety and should be designed to recycle washwater. Prior to the installation all practicable measures shall be undertaken to avoid unreasonable material from being tracked onto Coast Road. In the event material tracks onto Coast Road, it must be swept clear within 12 hours of being deposited.
 9. No more than 75 trucks per day shall be permitted to access the site for the purpose of depositing cleanfill material.
 10. The consent holder will ensure that access to the site for the purpose of cleanfill deposition is granted only to approved commercial operators.
 11. Within one month of the completion of each sub-stage of the Stage 3 filling (as identified in the fill sequencing plan identified in the SMP), the consent holder shall ensure that the particular sub-stage is progressively stabilised (i.e. via hydroseeding or similar mechanism). The stage should then be monitored and maintained until 80% grass cover has been established.
 12. Noise from any cleanfill deposition activities (excluding emergency and construction works) shall not exceed the following levels when measured at or within the notional boundary of any dwelling existing at the time the consent is granted:
 - a. Monday to Friday (excluding public holidays) 7.30 am to 5.00 pm – 50 dB LAeq
 - b. Saturday (excluding public holidays) 7.30 am to 12.00 pm – 50 dB LAeq
 - c. All other times - 40 dB LAeq
 - d. 10.00 pm to 7.00 am (all days) – 75 dB LAFmax

Notes:

For the purpose of monitoring all sound levels shall be measured in accordance with NZS 6801:2008 "Acoustics – Measurement of environmental sound" and be assessed in accordance with NZS 6802:2008 "Acoustics – Environmental Noise".

The notional boundary is defined as a line 20 metres from the façade of a dwelling or the legal boundary of the site where this is closer to the dwelling.

13. Site construction activities² shall be assessed (and measured where appropriate) in accordance with NZS 6803: 1999 “Acoustics - Construction Noise”.

Note:

A description of construction activities will be included within the SMP.

14. The consent holder shall notify the *Team Leader, Resource Consents, Hutt City Council* and members of the CLG of any construction activities taking place and their expected duration, at least five (5) working days prior commencement of those activities.
15. The Noise Management Plan (NMP) prepared by Tonkin and Taylor Ltd (dated November 2017) shall be updated within two (2) months of approval of this resource consent. Any subsequent changes to the operation of the cleanfill relevant to noise generation will require a review of the NMP and any amendments shall be sent to the Team Leader Resource Consents for approval. The ongoing operation of the cleanfill shall be in accordance with the approved NMP.
16. The Consent holder shall undertake noise monitoring of the cleanfill within 30 days of work commencing within Stage 3 and thereafter at three (3) month intervals unless otherwise agreed by the Team Leader Resource Consents, Hutt City Council. All noise monitoring results shall be made available to Hutt City Council within two weeks of completion of each monitoring visit.
17. The cleanfill shall only operate within the hours of Monday to Friday 7.30am – 5.00pm and Saturday 7.30am – 12.00pm, excluding public holidays (except where deposition of fill is required outside these hours/days for emergency civil works).
18. The consent holder shall ensure that the operation is managed in a manner to ensure that no dust nuisance occurs beyond the boundary of the site. Measures for control will be outlined in the SMP, and must include the presence of a watercart (or similar water source suitable for managing the generation of dust) on-site at all times that filling occurs.
19. That if the consent holder finds taonga (a thing of tangible or intangible value treasured in Māori culture) on the site, the consent holder must contact iwi representatives, the Heritage New Zealand and the Council within 24 hours. All work in the area must stop immediately and may not resume until iwi representatives and Council staff have carried out a site inspection and the Council gives its approval.
20. The final batter slopes shall be designed and certified by a suitably qualified geotechnical engineer and certification shall be provided to the Team Leader Resource Consent within three (3) months of the cleanfill reaching capacity.
21. The consent holder shall manage cleanfill activities to generally avoid the placement of concrete and building rubble and other material not easily compacted in the part of the site affected by the 1:100 year floodway (as shown in Appendix D of the AEE), unless appropriate rock armouring is installed on the southern edge of the fill area.
22. By 19 June 2022, cleanfilling shall cease, with restoration of the site in accordance with the Environmental Restoration Plan to commence during the next planting season following approval of the Environmental Restoration Plan.
23. That the consent holder shall submit an Environmental Restoration Plan for Stage 3 of the cleanfill to the Team Leader Resource Consents for approval within three (3) months of the cleanfill reaching capacity or by the lapse date, whichever is sooner. The environmental

² Construction activities include, but are not limited to, those referred to NZS6803:1999. Such activities include construction of a haul road, perimeter drains or a noise bund. It does include any ongoing land use activity.

restoration plan shall include measures to grass or landscape any exposed areas and ensure the site is left in a suitable condition to enable use of the site as a reserve in future. The plan will have regard to the guidance prepared by GWRC titled '*Restoration Planting – A Guide to Planning Restoration Planting Projects in the Wellington Region*' and will be informed through consultation with the CLG.

24. The consent holder shall control weeds and maintain the plants in accordance with the procedures set out in the Environmental Restoration Plan required by Condition (23) for a duration of three (3) years.
25. The consent holder shall engage an independent audit of the site on a six (6) monthly basis (following the exercise of this consent) to ensure that the site is operating in accordance with the conditions of consent. All costs of this audit shall be borne but the consent holder. The consent holder shall invite the Team Leader Resource Consents and representatives from the CLG (with a minimum of ten (10) working days' notice of the scheduled date) to be in attendance to observe the audit process. The findings of this audit shall be provided to Team Leader Resource Consents and the CLG.
26. Hutt City Council may review any or all conditions of this consent by giving notice of its intention to do so pursuant to section 128 of the Resource Management Act 1991, on a six monthly basis following the commencement of this consent, for any of the following reasons:
 - a. To review the adequacy of any plan and/or monitoring requirements, and if necessary, amend these requirements outlined in this consent.
 - b. To deal with any adverse effects on the environment that may arise from the exercise of this consent; and which are appropriate to deal with at a later stage.
 - c. To enable consistency with any relevant District Plan(s) or any National Environmental Standards or Regulations.
 - d. The review of conditions shall allow for the deletion or amendment of conditions of this consent; and the addition of such new conditions as are shown to be necessary to avoid, remedy or mitigate any significant adverse effects on the environment.

Note:

For the purposes of these conditions the "exercise of the consent" is deemed to be once the works authorised by this consent have commenced.