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Tēnā koutou

LETTER TO THE COMMUNITY LIAISON GROUP FOR THE WAINUIOMATA COAST ROAD CLEANFILL

Following the meeting of the Community Liaison Group for the Wainuiomata Coast Road cleanfill on Thursday 20 May, there have been several action points from the minutes and other pieces of correspondence received from the consent holder, the regulator, and members of the community. As I have said through-out this process, I see my role as not an adjudicator but rather as a facilitator to help each and all of you to come together and communicate about the cleanfill operation. To that end, where information has been provided to me as the facilitator, I have appended it to this letter verbatim, without change, and I encourage you to work directly with each other to resolve any outstanding matters.

In response to the material provided by Christine Green, I strongly encourage anyone who is interested in doing so, to engage with the review and replacement of the District Plan.¹ As both Christine and David spoke about at the latest community meeting, it is your experience of living and working in Wainuiomata that will provide you with the knowledge to engage in processes such as the CLG or District Plan review. Christine has drafted a letter to the City Council, and a cover letter to the CLG members setting this out. I have not made any changes to Christine's letter as it is not the role of the CLG to do so, but I have attached these for you to read and discuss in your own time.

On a similar note and in response to David Smith, the 'purpose and or function of the CLG' is established by Condition 5 of Hutt City resource consent RM190050 (see excerpt in Appendix 1, below). The primary purpose of the Community Liaison Group is to '*provide a mechanism for the consent holder and community members to meet in person and discuss operations at the site*'. If any member of the CLG wishes to place specific and referenced feedback on the minutes I am happy to take this into account and make any amendments if I agree with the feedback. I encourage all feedback to be succinct and brief and not attempt to relitigate any matters discussed on the night. I also reiterate my point that the minutes are not a transcript, attempting to capture how the minutes and any action points were reached.

In response to Jodie Winterburn, thank you for your comments. As discussed at the meeting, testing and monitoring of environmental health typically falls within the functions of regional councils.² However, as you have correctly identified the functions of regional councils and territorial authorities are not mutually exclusive. In this case, Hutt City as the consent holder may hold some "*air, water or soil quality tests results*", and I encouraged them to bring any such data to the next meeting. I agree with your point that the consent holder

¹ <http://www.huttcity.govt.nz/Your-Council/Projects/district-plan-review/>

² In this context, regional council functions include but are not limited to soil conservation, water bodies and coastal water, natural hazards, identifying and monitoring contaminated land, discharges of contaminants into or onto land, air, or water

provide this information before the next meeting, if possible, but do so in a format that it does not get lost in the multiple emails and can still be included and circulated as part of the agenda of the next meeting.

With regard to asbestos contaminated materials and dust that blows from the Cleanfill, there has been a substantial amount of discussion on these two topics during the meetings. In accordance with the Ministry for the Environments guideline to cleanfill management, asbestos is a prohibited material and therefore being a cleanfill there should not be asbestos on-site. I think that Bob and Scott provided adequate assurances at the last meeting that asbestos is not on-site. With regard to dust, I expect that further information including any monitoring data will be provided at the next meeting.

On Friday 26 March 2021 I was provided with a paper drafted by Sally-Ann Moffat, addressed to the Council. I have attached a response to that paper, from Hutt City staff. I would like to point out here the difference between Hutt City as a consent holder and as a regulator; the response letter has been prepared by the consent holder, and the same as Christine's letter I have not made any changes. Considering that both parties have now had a right of reply, I consider that the matter is settled. If there are any outstanding matters can these, please be provided to me in writing before 5 PM Friday 30 July, being 10 working days before the next meeting.

All the best,



Charlie Hopkins

Practice Leader – Planning

Appendices:

1. Appendix 1: Hutt City resource consent RM190050 Condition 5 establishing the CLG and setting the purpose and scope
2. Appendix 2: Letter from Christine Green to the CLG and to the Hutt City Council
3. Appendix 3: Response from Hutt City Council to letter from Sally-Ann Moffat

Appendix 1: Hutt City resource consent RM190050 Condition 5 establishing the CLG and setting the purpose and scope

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

RM190050 Decision

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- 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.

Figure 1: excerpt of Condition 5 of Hutt City resource consent RM190050



Dear Fellow CLG Members

I spoke to Nathan Geard Senior Policy Planner District Plan Team Hutt City Council at a recent meeting held in the Wainuiomata Library with regard to the District Plan Review and he said I could contact him.

Contacting him now with regard to traffic movement through residential streets is an opportunity to convey our concerns for the future.

We could also collate additional points of issue before the CLG is disbanded next year for future reference.

Cheers

Christine Green

Nathan Geard
Senior Policy Planner
District Plan Team
Hutt City Council

Dear Nathan

District Plan Review – Business and Commerce

Community Liaison Group for the Wainuiomata Coast Road Cleanfill

We are writing to you in the capacity of the CLG Group.

We note from the District Plan Review with regard to Business and Commerce that you have said:

“It would be disruptive to have workers and traffic from a commercial or industrial area coming and going all day through residential streets.

Industrial activities are often noisy or disruptive and would be undesirable close to housing”

The Cleanfill site at 130 Coast Road is due to close mid 2022 unless it has reached capacity before then. In the time it has operated it has had a considerable disruptive impact. Not only for the residents that live close to the site but also the wider community with trucks coming and going through residential streets.

Council have said they wouldn't be opening another Cleanfill site in Wainuiomata, but we are concerned that a private operator could. Cleanfill sites are necessary for housing development but as you have said this shouldn't be through residential areas. The volume of trucks travelling over the Wainuiomata hill is a safety hazard to road users and the shared pathway also Homedale Village has been very badly affected.

Cleanfill sites should be located where they will cause the least disruption. There are options in Lower Hutt and these should be implemented.

We ask you in your capacity as Senior Policy Planner to insure that controls are put in place in the District Plan for operators of Cleanfill sites to follow.

With regards from

The Community Liaison Group
For the Wainuiomata Coast Road Cleanfill

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1. Noise exceedances. July-through to Dec 2020 show noise exceedances.

a) How are these proven noise exceedances being effectively remedied to ensure compliance at the next noise testing?

Noise emissions from the cleanfill have been found to be largely compliant with the resource consent's noise limit of 50 dB(A) at all neighbouring properties, subject to two exceptions. Noise has been determined as being non-compliant only at 199 or 200 Coast Road when the bulldozer is operating within 96 m of either property. An offer has previously been made to residents at these affected properties to install temporary noise screens to mitigate noise, however these offers have not been accepted. The operator has also introduced operational controls to minimise the noise contribution from the bulldozer as follows:

- Where practicable, only using the bulldozer when ground conditions require additional traction from a tracked vehicle – i.e. following or during wet weather.
- Restricting the times when the bulldozer is used – i.e. not at the start or end of a working day.

Following the March 2021 monitoring report, a restriction has been placed on where the bulldozer can operate. This restricts the bulldozer from operating within 96 m of the notional boundary of any neighbouring property, except when undertaking construction work as anticipated by the consent. Additional operational controls have been implemented by the operator of the cleanfill, including the installation of signs to request that drivers minimise tail gate slamming and to minimise the need to reverse and use reversing beepers.

There remains a high degree of confidence that noise measured from all other properties remains compliant with the consented noise levels. This has been confirmed with the peer reviewer.

b) Why is the noise continuing?

Noise is an inherent element of cleanfill operations. Noise will continue to be generated by the cleanfill and will change over time. In the future operations will move away from the eastern area of the site and will mean that noise levels will reduce.

c) Why have we got three proven exceedances and no improvement?

See response to 1(a).

2. Incorrectly determined data. Experts have peer-reviewed the August 2020 noise testing and found it to be "incorrectly determined" and "insufficient" in its methods.

a) What is the Council process to address this to ensure future compliance and ensure methods are robust?

Hutt City Council's Resource Consents Manager engaged Marshall Day Acoustics to peer review subsequent monitoring reports. As part of the peer review process, the March 2021 compliance monitoring was expanded to cover a 2-day survey period as it is recognised that cleanfill operations are dynamic, which means that the activity and therefore the noise fluctuates depending upon how busy the site is. This procedure used both attended and unattended monitoring and will be used for the next round of compliance monitoring in June 2021, which will be undertaken by a newly appointed acoustic consultant who is suitably qualified and experienced.

Notwithstanding the above, the NZS 6802 rating levels of the noise as reported in each of the compliance reports and the March 2021 2-day survey have shown to be generally consistent with one another. This demonstrates that the noise surveys are broadly reflective of the noise generated and that noise levels have not been “incorrectly determined”. This has been confirmed with the peer reviewer.

3. Improper conduct. The Acoustical Society of NZ conducted an investigation of the first noise report from July 2020 and found ‘improper conduct’ and made the following statement: “it was not possible to conclude with any reasonable degree of confidence that compliance with the consent conditions was achieved.”

a) What is the process put in place since these expert findings that address this ‘improper conduct’ in a meaningful way?

The decision of the ASNZ investigation were made available to Tonkin + Taylor and Max Shierlaw (complainant) on 22 January 2021. Between the finalisation of the July 2020 report and the ASNZ decision, two further compliance visits and reports were prepared (September and December 2020). These reports are substantially more comprehensive than the July 2020 report, which was conducted during COVID19 travel restrictions recommending against inter-region travel. The July 2020 report acknowledged that additional information was required in subsequent assessments and this was duly complied with in the September 2020 compliance survey. The ASNZ were aware of this but chose to ignore the unusual circumstances when the July 2020 survey was conducted. Marshall Day Acoustics has undertaken the peer review of all subsequent monitoring reports and additional refinements have been made on the methodology and reporting following consultation with Marshall Day, based on the findings of each compliance visit. In summary, an ongoing review process is in place. The culmination of these reviews is an agreed monitoring methodology which was adopted for the March 2021 compliance assessment.

In total, four rounds of monitoring have now been undertaken. The activities witnessed and the noise results from each round of monitoring have proven to be broadly consistent, which is suggestive that the monitoring results are reflective of the actual noise environment, and that we can have a high degree of confidence in the monitoring results.

b) How is it acceptable conduct for a Council to submit reports to an auditor that are found to be wrong. Where is the accountability here? Due to this ‘improper conduct’ the community request an independent investigation into cleanfill reporting and operations conducted by a third party approved by the CLG.

The ASNZ did not conclude that the July 2020 compliance report was wrong. As mentioned in the response to 3(a) above, Hutt City Council’s Resource Consent Manager from time to time engages peer reviews to ensure professional work meets its quality standards. This peer review process can include making recommendations such that that relevant changes and improvements can be made. These recommendations have been adopted; an outcome being the use of an extended period of noise compliance monitoring.

The solid waste team at Hutt City Council, as the consent holder, advises that it is the role of the Resource Consents Team at Hutt City Council and Greater Wellington Regional Council to determine whether any independent investigations are warranted, depending on the issues at hand.

4. Peer Review feedback. In the Dec 2020 noise report Marshall Day have found that “insufficient measurements have been carried out to establish overall compliance.” This is unacceptable.

a) What is the Council plan to meaningfully address and remedy this serious issue of insufficiency? Marshall Day also assert in their peer review that “the noisiest cleanfill activities have been under-represented”

The March 2021 compliance monitoring used a different monitoring methodology compared to previous visits. The methodology proposed by Tonkin + Taylor was agreed beforehand by Marshall Day Acoustics and included extended monitoring over 2 days using attended and unattended measurements as well as the use of audio recording to identify when the cleanfill was operating. The results of the monitoring were consistent with previous measurements and highlighted that the bulldozer is the dominant source of noise at the cleanfill. The monitoring confirmed that cleanfill noise fluctuates during the day and on a day-to-day basis and that road traffic continues to be a major source of non-cleanfill noise. This agreed methodology will be used for all subsequent compliance assessments.

This updated methodology in March 2021 has shown that that the NZS 6802 noise rating levels are broadly consistent with the measurement results undertaken previously. As such, we are confident that the noisiest cleanfill activities have not been “under-represented” and this has been confirmed with the peer reviewer.

b) Please explain how this has happened?

See response to 4(a).

c) What are Council plans to remedy this serious issue?

See response to 4(a). In addition Hutt City Council will engage a new suitably qualified and experienced acoustic consultant for the next round of noise monitoring in June 2021.

Will you make a written commitment to the CLG to remove T+T from the noise testing process (in respect of the findings of ‘improper conduct’)?

See response to 3(a) and (b). Notwithstanding, Hutt City Council has agreed to utilise a new noise consultant for future reports, starting with the testing cycle in June 2021.

Will you make a written commitment to the CLG ensure that you have only fully qualified and fully accredited noise experts conducting tests?

Hutt City Council has already complied with this request, and all noise consultants it has engaged to both undertake the testing and to perform a peer review are suitably qualified and experienced. However, in order to eliminate any perceived bias, Hutt City Council has agreed to utilise a new and suitably qualified noise consultant for future compliance monitoring, starting with the next testing cycle due in June 2021.

How are you planning on addressing noise peer review feedback in a meaningful and effective way?

Hutt City Council considers that it has addressed relevant peer review feedback.

Will you make a written commitment to the CLG to adopt peer review feedback to ensure robust reporting in the future, how will you do this?

We remain confident that reporting to date has been robust. Where relevant changes to the reporting have been requested based on expert advice and peer review feedback, Hutt City Council will continue to make the necessary recommendations and changes.

If you have already made changes or addressed these issues outlined above, in what ways have you communicated that you have addressed them to the CLG, to the affected parties?

These matters have been previously discussed at CLG meetings. More specific conversations have previously been held with the affected parties, being 199 and 200 Coast Road. There is a high degree of confidence that noise at other properties remains compliant, as identified above.

The CLG requests that as our elected representative, the Mayor outlines what specific and measurable ways he commits to addressing the community concerns a) that the cleanfill is non-compliant again and b) that the cleanfill closes as soon as possible.

The cleanfill will cease no later than 19 June 2022 (per consent condition 22).

That Council as consent holder accepts responsibility for and writes and publishes a written apology to the community for noise exceedances (draft apology to be approved by CLG)

HCC as consent holder continues to act responsibly. Discussion has previously taken place between affected persons at 199 and 200 Coast Road and the consent holder with offers made to mitigate noise at these properties. At all other locations there is a high degree of certainty that cleanfill noise is below the 50 dB daytime noise limit. This has been agreed with the peer reviewer.

That as a gesture of good faith Council as consent holder publicly announces and adheres to an earlier closing date.

As previously discussed at CLG meetings, Hutt City Council is unable to commit to this. Cleanfilling will cease no later than 19 June 2022, however depending on the volume of material received it is possible that the cleanfill will close earlier. Updates will be provided at the CLG meetings.

That Council as consent holder appoints an independent party to conduct noise testing (not T+T)

Hutt City Council has agreed to utilise a new and suitably qualified noise consultant for future reports, starting with the testing cycle in June 2021.

That Council as consent holder accept and adopt all peer review recommendations eg: implement consistency with the noise data, who collates the data: qualified and registered acousticians...

See response to 4(a).

That Council as consent holder find and adopt robust solutions to avoid 'incorrectly determined data'

See response to 4(a).

That Council as consent holder use an agreed noise testing methodology that takes into account all expert feedback for all noise reports going forward

See response to 4(a).

That Council as consent holder assess and address the real effects on the environment that we (affected parties) live in

See response to 1(a) to 1(b).

That Council as consent holder provides the community with a written commitment for effective noise mitigation from today with a plan outline showing measurable steps to address adverse noise effects or Council shuts the cleanfill down due to ongoing non-compliance

See Response to 1(a).

That as outlined by the auditor, the construction non-compliance of the road from Jan 2020 is formally added to the non-compliance register and a written apology for the breach itself and for the amount of time it has taken to admit and register the breach is given to the affected community.

This has been previously addressed on several occasions.

That Council as consent holder supply the CLG with written notice of dates, times and who is conducting all future noise testing, within 10 days prior to any and all noise testing and that this is added to the SMP

This was addressed at the most recent CLG meeting. Advance notice will not be provided so as to ensure that monitoring remains reflective of the actual noise environment.