

TO Tim Johnstone, Head of Planning
FROM Baylee O'Sullivan, Resource Consents Lead
DATE 9 April 2026

Decision on request for direct referral for RM230019 at 30 Benmore Crescent, Manor Park to the Environment Court under section 87E of the Resource Management Act

1. Introduction

Waste Management (NZ) Ltd (the applicant) has requested that Hutt City Council (HCC) allows the resource consent application for a proposed resource recovery park to be determined by the Environment Court rather than the consent authority.

The applicant has made their request in accordance with section 87D(1) of the Resource Management Act 1991 (the Act). This process is commonly referred to as a 'request for Direct Referral'.

The resource recovery park requires resource consents from both Hutt City Council and Wellington Regional Council (GWRC). This recommendation relates only to the land use consent application RM230019 within the jurisdiction of Hutt City Council, though GWRC are aware that this request has been made to HCC.

2. Land Use Consent

Location	30 Benmore Crescent, Manor Park, Hutt City
Applicant	Waste Management (NZ) Ltd
Reference	RM230019
Proposal summary	Waste Management (NZ) Ltd seeks land use consent to establish and operate a resource recovery park at 30 Benmore Crescent. Full details of the proposals are set out in the following section.



2.1. Consents required from Hutt City Council:

The application is for:

- (a) the construction of buildings and structures and their subsequent operation and maintenance as a resource recovery park and waste transfer station
- (b) associated civil works including earthworks
- (c) disturbance of potentially contaminated soil, and
- (d) site landscaping.

Land use consent in accordance with section 9(2) of the RMA is required. The resource recovery park is proposed to incorporate:

- Second-hand goods store
- Repair café
- Material recovery facility
- Transfer station

The following are proposed in association with the above activities:

- Weighbridge
- Comprehensive water management and treatment
- Associated parking, EV charging, and manoeuvring areas
- Offices that support the operation of the facility
- A workshop for mechanical repairs and servicing of trucks and waste management vehicles and equipment
- Bin storage and bin wash facility
- Truck wash facility
- Sign at the entry stating the name of the park and directional signs within the park
- Gates and security fencing
- Associated landscaping.

It is anticipated that a maximum of 145 staff operating from the application site, with 90 of these being truck drivers. This will see a progressive increase as the operation sees growth.

To facilitate the operation of the proposed resource recovery park, 8 separate buildings are proposed to be constructed on the application site, including a separate 'canopy' area and a 'bin wash canopy'.



The proposal requires resource consent under the following rules within the Hutt City Council operative District Plan:

- Restricted Discretionary Activity – Rule 8B 2.3(c) (Café)
- Restricted Discretionary Activity – Rule 8B 2.3(i) (Secondary River Corridor)
- Restricted Discretionary Activity – Rule 14A 5.1(c) (Transport)
- Restricted Discretionary Activity – Rule 14H 2.1(2) (Fault Hazard Area)
- Restricted Discretionary Activity – Rule 14I 2.2(a) (Earthworks)
- Discretionary Activity – Rule 8B 2.3(a) (Odour, Buildings and General Rules)
- Discretionary Activity – Rule 8B 2.3(e) (Transfer Stations)
- Discretionary Activity – Rule 14B 2.4(a)(i) (Signs)
- Discretionary Activity – Rule 14C 2.2(a) (Noise)
- Non-Complying Activity – Rule 8B 2.4(c) (Industrial Activity/Retail)

Land use consent is also required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011, to disturb contaminated soil, as a Controlled Activity pursuant to Regulation 9(1).

When assessed cumulatively, the proposal includes activities with differing rule classifications, including a Non-Complying Activity. Accordingly, the overall activity status of the proposal is Non-Complying.

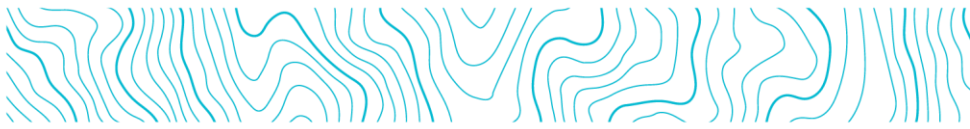
2.2. The following additional consents are being sought from Wellington Regional Council:

It is understood that the applicant has an active air discharge application and will be seeking an additional discharge permit in accordance with section 15 of the RMA for operational stormwater discharges and impermeable surfaces.

The applicant has stated an intention to request GWRC to notify these applications and for them to be directly referred to the Environment Court, so that all consents can be assessed concurrently.

3. Submissions

The application was publicly notified on 14 January 2026. The applicant elected to extend the submission period (doubling the statutory period to a total of 40 working days) and submissions closed on 11 March 2026. There were 180 submissions received, of which 174 are in opposition, 4 in support and 2 neutral.



4. Applicants reason for direct referral:

The following reasons for direct referral were outlined in the request dated 18 March 2026:

- a) HCC has accepted WM's Application.
- b) The Application was fully notified and the submission period has now closed.
- c) Given the number and nature of submissions received on the Application, the application will likely be appealed to the Environment Court.
- d) Direct referral will avoid the need for two hearings on the same Application, enabling cost and time efficiencies for all participants.
- e) The decision-making on the Application would benefit from rigorous testing of evidence under oath that is provided for in the Environment Court.
- f) It would be beneficial for all parties to have a streamlined decision-making process that enables a decision to be made by the Environment Court that is final, subject to any appeals on points of law to the High Court.

5. Statutory provisions relating to the request:

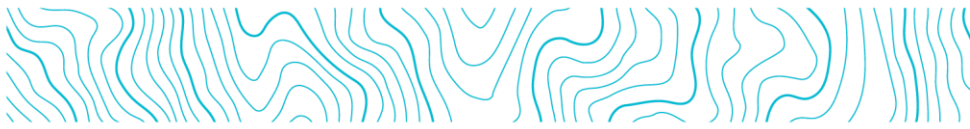
Sections 87C and 87D of the Act allow the applicant to request that a notified resource consent application be determined by the Environment Court, rather than the consent authority. The applicant must make this request within the period commencing on the day the application is first lodged and ending 5 working days after submissions close and it must be made on the prescribed form.

The request for direct referral was made in the prescribed form (Form 7A of Resource Management (Forms, Fees, and Procedure) Regulations 2003) and was received by Hutt City Council on 18 March 2026. The request was received within 5 working days of the close of submissions.

The request for direct referral is therefore an 'eligible' request under section 87D of the Act. In my view, the application is complete for the purposes of section 87E of the Act.

6. Statutory provisions relating to the decision:

Under section 87E of the Act, Council has discretion to grant or refuse an eligible request for direct referral. There are no specific criteria set out within the Act to guide Hutt City Council in deciding whether it grants or declines an eligible request for direct referral. Hutt City Council retains full discretion in this regard.



Submitters do not have a right to be heard by the Council about a request for direct referral (section 87E(7) of the RMA).

7. Assessment of direct referral request:

The reasons for the applicant requesting direct referral are set out in section 4. I am in agreement with the reasons for the direct referral identified by the applicant. I have also considered the following matters further below.

7.1. Necessity for a public hearing

About 108 of the 180 submitters have said that they wish to be heard (or heard with others), therefore a hearing is required. The Environment Court will conduct a hearing and has an established process for hearing direct referral applications.

7.2. Public interest and likelihood of appeals

The submissions received during the public notification period raised wide ranging issues relating to the application.

I agree with the applicant that the significant level of public interest, including the number and nature of the submissions in opposition to the proposal, makes it more likely that a Council-level decision on this application (whichever way it fell) will be appealed and come before the Environment Court in any event.

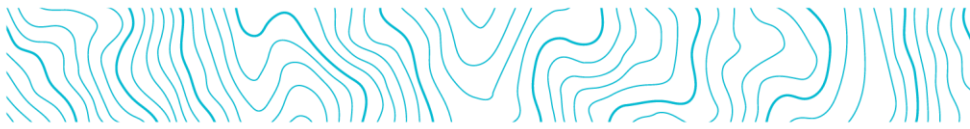
Having the application determined by the Environment Court in the first instance will avoid duplication, cost and delays. This aligns with the purpose of sections 87D and 87E and will be more efficient in terms of cost and time for most (if not all) parties.

7.3. Complexity of the proposal and technical resolution

The project is complex in terms of the scale of activities proposed, the number of consents sought and the number of experts engaged by both the applicant and the regulator to consider the relevant environmental issues.

It is expected that evidence will be provided by multiple expert witnesses, and it is appropriate for the Environment Court to fully test this expert evidence, direct mediation and expert conferencing to narrow the contested issues.

The Court process provides additional opportunity for submitters to test the applicant's evidence through cross-examination.



7.4. Impact on parties

It is possible that direct referral to the Environment Court may deter participation by some submitters. However, this may be the case with any potential appeal following a Council decision. Court support is available throughout the Court proceedings to help parties understand the process. In addition, the Environment Court is well practiced in hearing the submissions and evidence of lay submitters and the direct referral process recognises this as all parties 'first' chance to make submissions and call evidence (if any) on the proposal. It has been specifically designed for that purpose. Therefore, I do not consider that submitters or the applicant will be unduly prejudiced by the application being determined by the Environment Court.

It is important to note that submitters have the same rights of participation in the Environment Court hearing process as they would in a Council hearing.

Should any submitter wish not to appear in Environment Court proceedings, their respective written submissions will still be considered by the Court in determining the application.

Many of the submitters have made similar submissions. The direct referral process will encourage submitters to share resources and focus their evidence and presentations. A further benefit to community-based submitters through a referral process is that they would only need to appear and engage experts, if any, once.

Due to the number of submitters and the nature of submissions, it is unlikely that a pre-hearing meeting at Council level, without the benefit of the Court's resources and expertise, would be an appropriate forum for resolving the issues.

The Court is based in Wellington which is close to Lower Hutt and would only be slightly less accessible to submitters.

7.5. Other relevant consents

The applicant has advised that they have lodged an air discharge consent application with Wellington Regional Council, which they have requested to be notified. They have also indicated an intent to seek a consent for discharge for stormwater from GWRC by mid-April 2026. They have advised an intention that all three consents (land use, air discharge and stormwater) should be heard together by the Environment Court in accordance with section 91. The direct referral process enables consideration of all related consents together, if GWRC agrees to a request for direct referral when received.



7.6. Cost considerations and streamlined decision-making

It is considered that having the application determined by the Environment Court in the first instance will provide more efficiency as it will involve a single process.

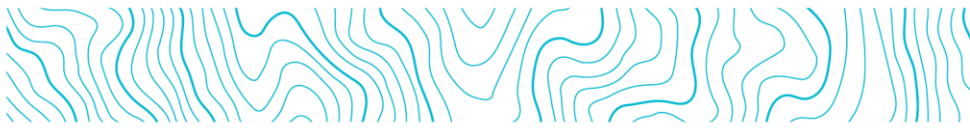
The level of public interest and complex issues raised by interested parties generates an increased likelihood that any decision on the application made by consent authorities will come before the Environment Court through an appeal. In such cases, the Environment Court would rehear the application. Therefore, having the application determined by the Environment Court will avoid duplication, cost and delays in processing the application. This aligns with the purpose of sections 87D and 87E as well as the intentions and purpose of the Resource Management (Simplifying and Streamlining Amendment Act 2009).

A direct referral may provide a cost advantage for the applicant as they will save the cost of going to a Council-level consent hearing first, then the Environment Court. However, the applicant is liable for the payment of Court costs on a direct referral (and recent experience is that the Court does seek recovery of those costs). Similarly, any submitters who would otherwise have appeared at the Council hearing and then Environment Court may make a cost saving especially if they have expert witnesses.

The parties that may be disadvantaged will be those who would have appeared at the Council hearing in person without engaging a lawyer or experts. Consequently, the overall cost to those submitters will be higher if they have to engage advisers for an Environment Court hearing. However, there is no requirement to do so.

It is noted that the submission from the local Haywards and Manor Park Residents Association states that it represents 159 local parties. It is understood that this body has engaged legal representation and expert advice, and therefore the interests of a large number of submitters would be served by these experts, regardless of whether this application is heard and decided at Council level, or by the Environment Court.

Given the Environment Court is located in Wellington City, there would be little additional travel costs for participants than if the initial hearing was held in Lower Hutt.



7.7. Local decision making

Noting that the Council has made a submission on the application in its operational capacity, independent commissioners (rather than elected members) would need to be appointed to make a decision on any Council-led hearing in order to address a conflict of interest. Further, any commissioners making a decision on the application are bound by the RMA regardless, and a decision is not a political one. The referral request therefore does not alter the course of local decision making, as elected members would not form part of a decision making panel in any case.

7.8. Alternative consenting process(es)

In exercising discretion under section 87E of the Act, regard has been had to the alternative of retaining the application for determination through a Council-led hearing and any subsequent appeals. Given the scale and complexity of the proposal, the level of public interest, and the likelihood of appeal irrespective of outcome, this alternative would likely result in duplication of process, increased cost, and delay due to the Environment Court's de novo jurisdiction.

The proposal could potentially be eligible for referral under the Fast-track Approvals Act 2024 if it were assessed as delivering significant regional benefits under section 22 of that Act. However, this cannot be relied upon as a certain alternative. It is a discretionary choice for the applicant to seek the Minister's approval and therefore is not a matter for the Council to address.

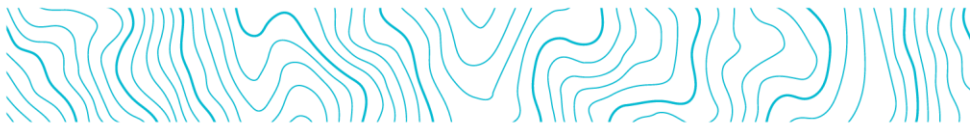
On balance, determination by the Environment Court in the first instance is considered the most efficient and effective approach. This conclusion does not reflect any view on the merits of the application, which will be determined independently by the Environment Court.

7.9. Risks

The key risk of direct referral is potential increased formality and cost for individual submitters. However, given the level of organised opposition, representation already engaged, and the likelihood of appeal, this risk is outweighed by the efficiencies and certainty gained.

7.10. Other relevant matters

Council has identified that further information will be sought from the applicant under section 92(1) of the Resource Management Act to inform the substantive assessment of the proposal. The intention to seek further information does not affect Council's ability to grant the request for direct referral under section 87E.



The application is considered complete for the purposes of determining the referral request, and section 92 expressly provides for additional information to be sought prior to the hearing and determination of an application. Any information provided in response will assist the Environment Court's consideration of the application.

There are no other relevant matters or special circumstances that I consider would warrant the request for direct referral to be declined by Hutt City Council.


8. Main findings

In conclusion:

1. It is clear from the high level of public engagement that any decision made is likely to be appealed.
2. Direct referral will allow for a single process and therefore likely reduce costs, duplication and delays for all parties.
3. Submitters have the right to continue their participation in the application process as they would in any Council process and should any submitter wish not to appear in Environment Court proceedings, their respective written submissions will still be considered by the Court in determining the application.

9. Decision:

Having considered the applicant's reasons for the request; the relevant statutory provisions of the Act; and the matters outlined above as relevant to this decision, **Hutt City Council grants the request for the application to be determined by the Environment Court rather than Hutt City Council.**

Decision recommended by:	Baylee O'Sullivan	Resource Consent Lead	
Decision approved by:	Tim Johnstone	Head of Planning	