

SYNOPSIS OF ENVIRONMENT COURT DECISION

The Environment Court has released its decision on the Kate Valley Application.

The Court confirmed the grant of consent to Transwaste for the proposal with a number of substantial changes.

The Court considered that the cases in opposition to the application had been advanced appropriately and with supporting evidence and that the process had achieved the outcome desired in terms of the Resource Management Act.

The Court largely confirmed changes to the condition as sought by the applicant but will require minor variations to incorporate its conclusions in respect of Remnant A, and in respect of the source of waste and residual definitions. The Court has directed that changes be circulated to the other parties within twenty working days, any comments to be forwarded to Transwaste's Counsel within ten working days thereafter. If the changes are not agreed, then Transwaste is to forward the draft conditions, together with any comments by all parties thereon to the Court within ten working days thereafter. The Court will then issue final directions in terms of the wording of the consent.

An application for costs is not encouraged but if any part seeks to make an application for costs then it is to be filed within fifteen working days, a reply within ten working days, and a final reply within five working days.

Definitions

- (a) Source of waste;
- (b) Residual waste;
- (c) Special Waste;

Residual Waste

- (a) Residual waste is defined to waste which meets the landfill acceptance criteria; and
- (b) Where the relevant local authority has certified to Transwaste that it has adopted a waste management plan in terms of Section 539(1)(a) of the Local Government Act, which incorporates provision for the collection and reduction, re-use, recycling, recovery, treatment or disposal of waste in the district in terms of Section 539(2)(a) of the Local Government Act; and that such waste meets such Plan requirements; and
- (c) Originates from local authority areas within the Canterbury region of New Zealand.

Ground Conditions/Subsoil

The Court was satisfied in relation to subsoil and ground condition issues finding that on the evidence it was unlikely that any apparent lineament would be indicative of either fracturing or secondary fault. In the event the Court was satisfied that further steps taken by the applicant to investigate the site are sufficient to make that

possibility remote. Inspection of the subsurface geology on exposure would enable those predictions to be confirmed or otherwise.

Groundwater

In relation to groundwater it was satisfied that there was no reasonable prospect of groundwater flowing across Pine Saddle to Teviotdale Ridge towards the Waipara River and that there was no realistic prospect of water levels reaching the ground surface. The Court was also satisfied that in respect of any groundwater matters any potential problems would be picked up by the installation of subsurface drains, appropriate monitoring, ability to cut off the outflow and adequate storage. Any leachate that reached groundwater is likely to be captured and directed towards the collection point.

The Court concluded that the groundwater issues are adequately covered in terms of application and conditions of consent and that there would be no adverse effects beyond the site, and in all probability, none beyond the landfill footprint itself.

Surface Water

In relation to surface water the Court was satisfied that there was likely to be an overall improvement in surface water quality.

The Marine Environment

The Court concluded having regarding to considerable mixing and dilution that would occur downstream of the wetland, that the prospect of any adverse effect within the marine environment even as a result of a total and catastrophic failure is negligible.

Risk and Effects of Extreme Events

The evidence of the applicant's witnesses in these issues was accepted and the Court agreed that even in the event of total failure of the landfill, toe bund and leachate collection system there would still not be any adverse effects on the environment.

Ecosystems Excluding Remnant A

The Court was unable to identify any particular negative effects on the ecosystem as a result of the activity being granted having positive effects. The Court found that it was not possible to ignore the positive effects from the granting of the consent and there are significant benefits in the Court's view to the general ecosystem of Kate Valley and possibly the wider Canterbury region.

Removal of beech Remnant A

In summary, the Court preferred Associate Professor Norton's overall ranking of low for Remnant A as:

- (a) Associate Professor Norton has considered this Remnant in the context of the entire ecological district. That is the correct evaluation that needs to be undertaken in terms of the Plan; and

- (b) Associated Professor Norton was able to utilise far more ecological data and was able to undertake a more detailed assessment than that of Dr's Simpson and Meurk.

The Court has not required the retention of Remnant A and considered that the removal of it could not be taken into account.

The Court has suggested a proposed condition based on Dr Norton's suggested conditions with the following amendments to be made.

Condition 13 and Special Condition 8 – Remnant A

- (1) The inclusion of the 50 hectares beyond the site and with zone 4;
- (2) The fencing of Remnant A within 2 months of consent being granted and limitation of worker access;
- (3) The preservation of Remnant A until needed for landfill development with a minimum period of five years from first acceptance of waste;
- (4) Collection of seeds and materials for propagation to commence in the first seed season after consent is granted;
- (5) Alter the timing to include a number of provisions prior to the acceptance of first waste.

The Court also found that the restoration work should form part of the capital requirements for the project rather than being subject to the vagaries of financial success or otherwise of the landfill and requires a specific provision to be incorporated into the condition of the if the costs of the project are to be funded directly by Transwaste. It has also indicated that it may be that there should be incorporated some form of bond or financial contribution.

In relation to conditions, General Condition 13 relating to the obligation on the Peer Review Panel to alert the consent holders to hazards is deleted.

General Condition 33(iii) was deleted.

Land Use Consent RC 020067 Condition 12 – Alignment reconstruction upgrading of Mt Cass Road.

The agreed condition was incorporated.

Land Use Consent RC 020069 Condition 2- All refuse to be compacted

The condition now reads:

“All refuse delivered to the site, with the exception of special waste or other waste that cannot reasonably or practicably be compacted, shall be compacted.”

Condition 4 – Hours of Operation

New condition in relation to the hours of operation prior to the acceptance of first waste has been included.

Condition 5 – Noise Levels

The agreed condition has been incorporated.

Condition 47 and Special Condition 9 – Financial Contribution

The agreed condition has been included in the proposed conditions.

New Conditions

Condition 3 of RC 021914 has a new Clause (c) added in relation to under-drainage systems sized and specified to ensure effective sub-liner drainage, with a separate collection sump from the leachate collection system.

Condition 4, in relation to the leachate and containment (lining system), condition 4 has been altered as follows:

“Leachate and containment (lining) system for the landfill shall consist of the following, from bottom to top:

- (a) 500 millimetres of in situ compacted soils with a permeability coefficient of not more than 1×10^{-7} metres per second;*
- (b) An encapsulated geosynthetic clay liner comprising;*
 - A 0.5 mm textured HDPE layer with welded seams;*
 - A geosynthetic clay liner (GCL);*
 - A 1.5 mm textured HDPE layer with welded seams;*
- (c) A geotextile geocushion layer;*
- (d) A 500 mm liner protection layer or gravel leachate drainage layer as indicated in drawing C24 of the Assessment of Environmental Effects (AEE).”*

Separation of Waste – Discharge Permit CRC 021913

The Court found that the conditions as proposed will adequately meet the Court's concerns.

Discharge Permit CRC 021919 – Special Condition 3 – Rock Mass Stability

The Court agreed with the suggested reworded condition put forward by Transwaste.

Special Condition 4 – Surface Water Bypass Drains

The condition was unnecessary and deleted.

New Conditions

The condition in relation to lining was amended.

Landfill Stability – CRC 021914

Proposed condition accepted.

Part II Matters

The Court considered that the quality of the environment in this area is likely to be significantly enhanced in the long term as the conservation management area is retired from pastoral farming and allowed to return to its more natural ecological state.

The Court further found that there was no evidence to convince it that a landfill is not required in the region and concluded that the evidence in favour of the site was overwhelming. The Court concluded that with the limitations imposed by the conditions it considered that the application represents an effective integration of the various matters provided for sustainable management.

The Court concluded that the granting of the application would enable the Canterbury region to provide for all of the social, economic and cultural wellbeing and for health and safety.

The Court was satisfied that the natural and physical resources will be maintained by the application to meet the foreseeable needs of future generations.

The Court considered that the effects that have been identified could be adequately avoided, remedied or mitigated by appropriate conditions.

Conclusion

This is very much a summary of the Decision. A full report can be provided in due course.