

Tuesday, 20 February 2024

He hui e whakahaeretia nei e Te Kaunihera ā-Rohe o Heretaunga
Administered by Hastings District Council
Ōmarunui Refuse Landfill Joint Committee Meeting

Kaupapataka

Agenda

Te Rā Hui:
Meeting date: **Tuesday, 20 February 2024**

Te Wā:
Time: **2.00pm**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

Te Hoapā:
Contact: **Democracy and Governance Services
P: 06 871 5000 | E: democracy@hdc.govt.nz**

Te Āpiha Matua:
Responsible
Officer: **Waste & Data Services Manager - Martin Jarvis**

ŌMARUNUI REFUSE LANDFILL JOINT COMMITTEE HEADS OF AGREEMENT – Terms of Reference

The Heads of Agreement for the Ōmarunui Refuse Landfill Joint Committee have presented with minor amendments for Council’s consideration on 8 December 2022 and are incorporated into the Committee & Rural Community Board Register of Delegations.

1.	Parties	Hastings District Council and Napier City Council (the Councils)
2.	Nature of Relationship	A Joint Committee between the Councils who already own a property at Ōmarunui as tenants in common in the following shareholding percentages for refuse disposal purposes: Hastings District Council: 63.68% Napier City Council: 36.32% The Councils recognise the connection of Ngāti Pārau Hapū to the site.
3.	Objectives	To jointly develop and operate generally for the benefit of the Councils a refuse disposal facility (including any ancillary activities) in compliance with resource and regulatory consents.
4.	Participation of each Council	Each Council shall participate on the basis of the following shareholding percentage: Hastings District Council: 63.68% Napier City Council: 36.32% (subject to any specific provisions following) The Councils also provide for one representative from Ngāti Pārau Hapū to be a voting member of this Joint Committee.
5.	Joint Committee	
5.1	Omarunui Refuse Landfill Joint Committee (Joint Committee):	This Committee shall comprise four elected members of the Hastings District Council and two elected members of the Napier City Council and one representative from Ngāti Pārau Hapū or the alternates of those members and an alternate when acting in the place of a member shall be deemed to be a member. The functions of this Joint Committee shall be to determine policies to ensure the objectives are achieved and to monitor the implementation of those policies by obtaining reports from the Facility Manager or any other persons involved in the refuse disposal operation.
5.2	Administering Authority	The Hastings District Council shall be the Administering Authority. It shall provide technical, financial and secretarial services and shall be the employing authority for staff required in the administration and conduct of the refuse disposal operation. The Administering Authority shall make any information required by the Joint Committee available to that Committee.
6.	Joint Committee General Powers	<p>1.1 Subject to Clause 6.2 the general powers of the Joint Committee shall be:</p> <ol style="list-style-type: none"> Except as provided in Clause 6.3 all such powers as shall be necessary to develop and operate the refuse disposal facility in compliance with the resource and regulatory consents already obtained including, if necessary, the power to seek further resource and regulatory consents. To construct buildings, purchase and dispose of plant, equipment and materials. Arrange insurance cover to ensure that there is comprehensive insurance in respect of the establishment and operation of the refuse disposal facility. To indemnify any Council or Council representative acting on behalf of the Councils pursuant to this agreement in connection with the development or operation of the refuse disposal operation after the execution hereof. To fix and recover fees and charges payable by landfill users. The licensing of users. To recommend to the Councils the raising of loans. For the purpose of loan raising the ‘Administering Authority’ shall undertake all loan raising on behalf of the Councils. To enter into contracts within the estimates it being acknowledged by each of the Councils for the purposes of the Local Government Act 2002 that the Joint Committee shall be delegated power to enter into any contract limited to such an amount as may be fixed by the Councils from time to time unless the prior written approval of each Council shall have been obtained. To use any part of the Ōmarunui property not required for refuse disposal for any lawful purpose including leasing thereof. Such further specific powers as may be delegated to it as agreed by the Councils. <p>1.2 The Joint Committee shall operate within budgets approved by the Councils. In the event that over expenditure is anticipated or incurred the Joint Committee shall immediately report that fact to the Councils.</p> <p>1.3 The powers delegated to the Joint Committee shall not entitle that Committee to sell or otherwise dispose of on behalf of any Council any asset owned by that individual Council or to sell the Ōmarunui land or any other land administered by the Joint Committee for refuse disposal purposes.</p>

	1.4	Subject to Clause 6.2 and 6.3 all decisions made by the Joint Committee pursuant to its delegated powers shall without confirmation of the Councils bind each of the Councils as if it had been done in the name of each Council.
7. Joint Committee Procedural Matters	7.1	Each member or the alternate of such member shall have one vote.
	7.2	The members shall elect a Chair and Deputy Chair.
	7.3	Quorum at meetings shall be four elected members including at least one elected member from each Council. The parties note that this conflicts with the provisions in clause 30 (9) (b) of schedule 7 of the Local Government Act 2002. To avoid any possible doubt the parties shall operate the committee based on the specific requirements in this agreement at all times.
	7.4	All meetings may be attended by officers of the Councils but officers shall not be entitled to vote.
	7.5	Meetings may be requisitioned by any two elected members who shall state the nature of the business and the Administering Authority shall convene a meeting (giving notice of the business) and Councils shall ensure that at least one of their elected members attends.
	7.6	Annual meetings shall be held within three months of the end of the financial year and the business of such meeting shall include the financial accounts for the previous year.
	7.7	Budget estimates for the following financial year shall be prepared and supplied to the Councils no later than 31 January in each year for their approval.
	7.8	Meeting procedures shall be in accordance with NZS 9202: 2003, or such other version of standing orders as mutually agreed between the parties, except to the extent that specific provision is contained herein and is not contrary to law.
8. Joint Committee Financial Provisions	8.1	The Joint Committee shall provide financial and management accounting records and reports which provide sufficient detail to enable the committee and the Councils to assess performance of each separate business activity within the Landfill.
	8.2	The administering authority shall circulate a draft budget prior to the meeting at which the Joint Committee is to consider the estimates for recommendation to the Councils.
	8.3	Surpluses and deficits shall be received and borne by the Councils in the following shareholding percentage: Hastings District Council: 63.68% Napier City Council: 36.32%
	8.4	All amounts payable by each Council shall be paid within one calendar month of notification of the amount payable. If any Council shall consistently fail to make payments as required by this clause the Joint Committee may impose a penalty on the defaulting Council which shall be met by such Council.
9. Duties of the Individual Councils	9.1	To comply with the resource and regulatory consents relating to the operation.
	9.2	The Councils shall make bylaws to ensure the efficient operation of the refuse disposal facility and set and adopt fees and charges and licensing procedures.
	9.3	To establish and operate transfer stations and to adopt charges in relation to such transfer stations.
10. Changes in Participation	1.1	The establishment and operating costs of the Councils up to the time of any Change in Participation shall be safeguarded as far as possible.
	1.2	The addition or withdrawal of any party shall require agreement of the Councils.
11. Staff Appointments	11.1	Where any Council is involved in the provision of staff or services, such Council shall be reimbursed for the cost of such persons or services.
	11.2	It is recognised that it will be desirable for the staff required to be employed by one of the Councils.
12. Facility Manager	12.1	The Facility Manager appointed by the Administering Authority shall be a suitably qualified person who shall report to the Joint Committee and attend its meetings and will be responsible for the day to day operations at the landfill site.
	12.2	During any further development the Facility Manager, as appointed by the Administering Authority, shall be considered to be the officer responsible for all development activities unless otherwise directed by the Joint Committee.
13. Secretarial Services	13.1	Secretarial and Accounting services shall be provided by the Administering Authority.
	13.2	The functions to be fulfilled shall include: a) Convening of meetings. b) Keeping of minutes. c) Preparation of estimates and accounts. d) Keeping the Joint Committee informed. e) The recovery of fees and charges. f) Such further specific powers as may be delegated by agreement of the Councils.
	13.3	All documents to be signed on behalf of the Joint Committee shall be signed by the Chair (or in his absence one elected member of that Committee) together with such other person authorised by the Administering Authority.

14. Commencement and Duration	<p>14.1 This Joint Committee shall commence from the date of this agreement and shall continue thereafter until terminated by agreement of the Councils.</p> <p>14.2 On termination of this agreement the assets shall be applied, first, in the repayment of all debts, second, in the repayment of any capital contributions, advances or sums of money that may have been made or may be due to any of the Councils, third, the surplus, if any, shall be distributed between the Councils in the following shareholding percentage: Hastings District Council: 63.68% Napier City Council: 36.32%</p> <p>14.3 In the event of a short-fall on the termination of this agreement the Councils shall contribute in the following shareholding percentage: Hastings District Council: 63.68% Napier City Council: 36.32% To such short-fall, with any necessary adjustments being made to reflect any amounts due by or to any individual Council at termination.</p>
15. Arbitration	<p>15.1 In the event of any dispute relating to this agreement the same shall be referred to arbitration pursuant to the Arbitration Act 1996 and each Council who is a party to the dispute shall be entitled to appoint an Arbitrator.</p> <p>15.2 The Arbitrators before embarking on the Arbitration shall appoint an umpire whose decision shall be final in the event that the Arbitrators are unable to agree.</p>
16. Substitution	16.1 This agreement substitutes and revokes the previous Heads of Agreement dated 4 October 2010.

Tuesday, 20 February 2024

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council

Ōmarunui Refuse Landfill Joint Committee Meeting

Kaupapataka

Agenda

Heamana

Chair: 1 Vacancy

Deputy Chair: Councillor Chad Tareha (NCC)

Nga mema o te Komiti

Committee Members:

Councillors Ana Apatu, Simon Nixon and Kellie Jessup (HDC)

Councillor Richard McGrath (NCC)

Councillor Michael Fowler (HDC Alternate)

Councillor Nigel Simpson (NCC Alternate)

Ngāti Pārau Appointee: - Alice Hughes

Ngāti Pārau Alternate: - Darren Tareha

Tokamatua:

Quorum:

4 - including at least one elected member from each Council

Apiha Matua

Officer Responsible:

Waste and Data Services Manager - Martin Jarvis

Te Rōpū Manapori me te

Kāwanatanga

Democracy &

Governance Services

Christine Hilton (Ext 5633)

Te Rārangi Take

Order of Business

Apologies – Ngā Whakapāhatanga

- 1.0** At the close of the agenda no apologies had been received.
Leave of Absence had previously been granted to Councillor Apatu
-

2.0 *Conflict of Interest – He Ngākau Kōnatunatu*

Members need to be vigilant to stand aside from decision-making when a conflict arises between their role as a Member of the Council and any private or other external interest they might have. This note is provided as a reminder to Members to scan the agenda and assess their own private interests and identify where they may have a pecuniary or other conflict of interest, or where there may be perceptions of conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the relevant item of business and withdraw from participating in the meeting. If a Member thinks they may have a conflict of interest, they can seek advice from the General Counsel or the Manager: Democracy and Governance (preferably before the meeting).

It is noted that while Members can seek advice and discuss these matters, the final decision as to whether a conflict exists rests with the member.

Confirmation of Minutes – Te Whakamana i Ngā Miniti

- 3.0** Minutes of the Ōmarunui Refuse Landfill Joint Committee Meeting held Friday 3 November 2023.
(Previously circulated)
-

- 4.0** **Wairoa District Council Solid Waste Disposal** **9**
-

- 5.0** *Minor Items – Ngā Take Iti*
-

- 6.0** *Urgent Items – Ngā Take Whakahihiri*
-

Tuesday, 20 February 2024

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga***Hastings District Council: Ōmarunui Refuse Landfill Joint Committee Meeting***Te Rārangi Take*

Report to Ōmarunui Refuse Landfill Joint Committee

Nā:
From: **Martin Jarvis, Waste and Data Services Manager**

Te Take:
Subject: **Wairoa District Council Solid Waste Disposal**

1.0 Executive Summary – Te Kaupapa Me Te Whakarāpopototanga

- 1.1 The purpose of this report is to inform the Ōmarunui Refuse Landfill Joint Committee that the Wairoa District Council is seeking approval in principle to possibly dispose of solid waste at the Ōmarunui Landfill on a short term and/or long-term basis. The length of term being sought would ultimately depend on the outcome of consultation and decision-making processes in Wairoa.
- 1.2 To assist the Wairoa District Council (WDC) with establishing a list of future solid waste disposal options, the WDC are seeking an indication from the Committee on whether the use of the Ōmarunui Landfill will possibly be considered subject to mutually agreed terms and conditions.
- 1.3 As part of this report the WDC will present (in person) their proposal to the Committee. This will outline their current position and the work they have completed to date in planning for the future disposal of solid waste in their district.
- 1.4 Generally, the Ōmarunui Landfill does not accept “out of district waste”. Waste originating from outside of Napier City Council (NCC) and Hastings District Council (HDC) boundaries requires specific approval to be disposed of at Ōmarunui. While this is a self-imposed rule, it is one that the landfill has operated under since opening in 1988 and adhered to with relatively few exceptions.
- 1.5 Out of district loads received at the Ōmarunui Landfill typically tend to be one-off loads and have mostly involved special wastes (i.e. asbestos). The most significant acceptance of “out of district” waste occurred in 2002 when the landfill agreed to accept Gisborne District Council waste for a period of 7 months. During that period 11,000 tonnes of waste were transported from Gisborne to Ōmarunui.
- 1.6 This report concludes by recommending that the Committee consider the WDC request and is open to the possibility of accepting Wairoa solid waste at the Ōmarunui Landfill on a short term and/or long-term basis. This recommendation would not be binding on the Ōmarunui Landfill and any

confirmed request to accept WDC solid waste would be the subject of a separate report to the Committee and/or the parent councils (HDC and NCC) at a later date. The timing of that report would be dependent on the WDC completing their decision-making process and confirming a preferred option.

2.0 Recommendations - Ngā Tūtohunga

- A) That the Ōmarunui Refuse Landfill Joint Committee receive the report titled Wairoa District Council Solid Waste Disposal dated 20 February 2024.
- B) That the Ōmarunui Refuse Landfill Joint Committee receive the Wairoa District Council presentation as attached to the report titled Wairoa District Council Solid Waste Disposal dated 20 February 2024.
- C) That the Committee is open to the possibility of accepting Wairoa District Council solid waste at the Ōmarunui Landfill on a short term and/or long-term basis and that any confirmed request to accept Wairoa District Council solid waste would be the subject of a separate report to the Committee and/or the parent councils (Hastings District Council and Napier City Council).

3.0 Background – Te Horopaki

- 3.1 The Wairoa District Council will present their request and outline the work completed to date on determining options and future direction of solid waste management in their district.

4.0 Discussion – Te Matapakitanga

- 4.1 The interest Wairoa is showing in the Ōmarunui Landfill is not surprising or out of the ordinary. Throughout New Zealand smaller landfills are closing and entire regions like the Taranaki and Wairarapa (as just two examples) are now “exporting” their solid waste beyond their regional boundaries for disposal at an alternative larger facility.
- 4.2 The management of solid waste now requires greater technical resources and has become significantly more expensive. Smaller landfills, like the one Wairoa operate, are struggling to obtain and comply with the latest consent conditions imposed upon them. Operating a landfill to these new standards requires sufficient waste (and therefore revenue) to account for increased fixed and operational costs without having to set a gate charge that is unrealistically high.
- 4.3 Additionally, changes in Government legislation are likely to result in a greater diversion of “waste” from landfills and therefore a subsequent reduction in revenue. This will have a more significant impact on smaller landfills.
- 4.4 The Ōmarunui Landfill is currently receiving around 100,000 tonnes of waste per annum which is substantially more than the 3,000 received by Wairoa. Furthermore, the Ōmarunui Landfill has obtained the necessary consents to build and operate a new area of the site (Area B) which will take 30 years to fill at a rate of 100,000 tonnes per year. This new area will open mid-2025.
- 4.5 From a technical viewpoint, Ōmarunui has the capacity to easily accept 3,000 per annum from Wairoa without impacting the life of the landfill to any great degree. Ōmarunui does have an additional area (Area C) at the site and if this was to be developed it would provide space for a further 40 to 50 years life at 100,000 tonnes a year. In this regard Ōmarunui is in a good position to manage solid waste in the region and also accept Wairoa solid waste should it choose to do so.
- 4.6 As the movement of solid waste around NZ has become more common, and involved larger distances, the technical aspects of Wairoa transporting and disposing of their waste at Ōmarunui

are all manageable. However, aspects of this would need to be discussed and agreed prior to any formal arrangement being entered into, should both parties decide to pursue this proposal further.

- 4.7 As the Ōmarunui Landfill does not discount any of its charge rates (even for the HDC and NCC), the WDC should use the current Ōmarunui rates as a starting point for any present-day cost analysis of their options.
- 4.8 As a point of clarification, the request from the WDC concerns access to the Ōmarunui Landfill and not for the Ōmarunui Landfill and/or the parent councils (HDC and NCC) to take ownership/responsibility for Wairoa's waste. As an example, if the Ōmarunui Landfill were to close because of an abatement notice or fire, the WDC would need to make alternative arrangements for their waste and at their cost.
- 4.9 The possible approval for the WDC to use the Ōmarunui Landfill is not being offered to other parties residing or producing waste in the Wairoa District.

5.0 Options – Ngā Kōwhiringa

Option One - Recommended Option - Te Kōwhiringa Tuatahi – Te Kōwhiringa Tūtohunga

- 5.1 That the Committee consider the WDC request and is open to the possibility of accepting Wairoa solid waste at the Ōmarunui Landfill on a short term and/or long-term basis:

Advantages

- The Wairoa district has close ties with the Hastings and Napier region and this option could provide a solution to the challenges now faced by the WDC. The Ōmarunui Landfill has previously assisted the Gisborne District Council and a precedent has therefore been set to a certain degree.
- In future the Ōmarunui Landfill could well be looking for additional waste if existing volumes reduce because of legislative changes, competition by new landfills and/or new disposal technologies. Solid waste received from Wairoa could well help the Ōmarunui continue to be a financially and economically viable operation well into the future.

Disadvantages

- By possibly receiving this waste, it does slightly reduce the life of the Ōmarunui Landfill.
- Controls on the condition and content of the solid waste being received from Wairoa would need to be introduced and monitored so that it would not result in any breach of consent for the landfill.
- This option does go against the historic position of the landfill to not accept out of district waste as a general rule. There is the possibility that not all members of the Napier and Hastings wider community will want to see solid waste from another region coming to Ōmarunui.

Option Two – Status Quo - Te Kōwhiringa Tuarua – Te Āhuetanga o nāianeī

- 5.2 That the Committee do not approve in principle the disposal of WDC solid waste at the Ōmarunui Landfill on a short term and/or long-term basis:

- The only real benefit in this option is that it would give the WDC a very clear direction on what waste disposal options remain for them. It would almost certainly result in lengthy transportation distances for their waste in the short term and expensive development costs to construct a new landfill cell in the long term.
- Controls and acceptance processes for receiving WDC solid waste would not have to be considered, developed and managed.

6.0 Next steps – *Te Anga Whakamua*

- 6.1 Should the Ōmarunui Refuse Landfill Joint Committee adopt the recommended option, the next step would be for the Wairoa District Council to complete their consultation and evaluation work. If the preferred option is to use the Ōmarunui Landfill, a more detailed report would need to be presented to the Committee and/or the parent Councils (HDC & NCC) for consideration.

Attachments:

[1](#) Wairoa District Council Solid Waste Disposal SW-7-4-24-41

Summary of Considerations - *He Whakarāpopoto Whakaarohanga*

Fit with purpose of Local Government - *E noho hāngai pū ai ki te Rangatōpū-ā-Rohe*

The Council is required to give effect to the purpose of local government as set out in section 10 of the Local Government Act 2002. That purpose is to enable democratic local decision-making and action by (and on behalf of) communities, and to promote the social, economic, environmental, and cultural wellbeing of communities in the present and for the future.

Link to the Council's Community Outcomes – *Ngā Hononga ki Ngā Putanga ā-Hapori*

The Ōmarunui Landfill is a regional (HDC and NCC) asset and as such takes a position of responsibility for solid waste disposal over a wider area than that of single council activity. The discussion of waste disposal options with the Wairoa District Council aligns with “working with others” but on a broader and more provincial basis.

Māori Impact Statement - *Te Tauākī Kaupapa Māori*

Should a confirmed and detailed request be received by the Wairoa District Council in the future, an Impact Statement may be required depending on the nature of the request.

Sustainability - *Te Toitūtanga*

No impact at this time.

Financial considerations - *Ngā Whakaarohanga Ahumoni*

None at present.

Significance and Engagement - *Te Hiranga me te Tūhonotanga*

This decision/report has been assessed under the Council's Significance and Engagement Policy as being of minor significance at this point in time.

Consultation – internal and/or external - *Whakawhiti Whakaaro-ā-roto / ā-waho*

No consultation required at this time. Should a confirmed request be received by the Wairoa District Council some consultation maybe required depending on the nature of the request.

Risks

Opportunity: No implications.

REWARD – <i>Te Utu</i>	RISK – <i>Te Tūraru</i>
N/A	N/A

Rural Community Board – *Te Poari Tuawhenua-ā-Hapori*

No implications.

WAIROA DISTRICT SOLID WASTE DISPOSAL

20 February 2024



POINTS OF DISCUSSION

Overview

Cultural Impact Assessment

Options Considered

- Single Stage Business Case
- Carbon Impacts
- Timeline

Summary/Next Steps



