

## Before the Independent Hearing Commissioner In Wellington

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Under the Resource Management Act 1991 (the Act)

In the matter of A Notice of Requirement by Wellington City Council to alter Designation 58 (Moa Point Drainage and Sewage Treatment) to provide for the construction, operation and maintenance of the proposed Sludge Minimisation Facility at Moa Point, Wellington

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### Outline of legal submissions for Wellington City Council

Dated 5 December 2022

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## May it please the Commissioner:

### 1 Introduction

- 1.1 On 3 August 2022, Wellington City Council ('**WCC**') lodged a Notice of Requirement ('**NOR**') to provide for the construction, operation and maintenance of a Sludge Minimisation Facility ('**SMF**' or '**Project**') at Moa Point, Wellington.
- 1.2 The NOR is for an alteration to existing Designation 58 (Moa Point Drainage and Sewage Treatment – the Wastewater Treatment Plant) in the Wellington City District Plan ('**WCDP**').
- 1.3 Wastewater 'sludge' is a residual by-product of the wastewater treatment process. It is currently pumped<sup>1</sup> from Moa Point WWTP via pipelines to the Carey's Gully Sludge Dewatering Plant at Ōwhiro Bay, where it is dewatered, and is then disposed of at the adjacent Southern Landfill via vehicle.<sup>2</sup>
- 1.4 The management of sludge needs to be 'de-coupled' from its existing disposal to the Southern Landfill, for three key reasons:<sup>3</sup>
- a There is currently only one method for sludge management and disposal in Wellington City;
  - b Existing sludge management infrastructure has a low level of resilience;<sup>4</sup> and
  - c Current requirements to maintain a set ratio of solid waste to sludge<sup>5</sup> prevent WCC from pursuing its waste reduction commitments at the Southern Landfill.
- 1.5 The SMF will take sludge waste from the Moa Point and Karori Wastewater Treatment Plants ('**WWTP**'),<sup>6</sup> and produce a 'heat dried, stabilised biosolids' product that is less odorous,<sup>7</sup> and contains less than 10% moisture (as compared

<sup>1</sup> In relatively liquid form; it is understood that the 'sludge' piped to Carrey's Gully is about 96-98% water.

<sup>2</sup> French EIC, para 6.2; AEE, page 5. Sludge from the Karori WWTP is dewatered there and then transported by truck to Southern Landfill for disposal.

<sup>3</sup> French EIC, para 6.5.

<sup>4</sup> As illustrated in 2020 when trucks had to be used for several months when the pipeline under Mt Albert failed.

<sup>5</sup> Under the GWRC resource consent for the Southern Landfill (No. WGN070230 [35862]) requires every tonne of sludge to be mixed with four tonnes of solid waste: conditions 9 and 12.

<sup>6</sup> French EIC, para 7.2(b).

<sup>7</sup> Noonan EIC, para 14.3.

with the sludge currently being disposed in the Landfill which contains about 75% moisture<sup>8</sup>).<sup>9</sup>

- 1.6 Compared with the current 'sludge', the benefits of the new 'stabilised biosolids' product include that it:
- a Will take up less space when disposed of, and won't require the same ratios with solid waste;<sup>10</sup>
  - b Can be more readily re-used;<sup>11</sup>
  - c Is much easier and more stable to transport;<sup>12</sup> and
  - d Will attract fewer rodents, flies and mosquitoes.<sup>13</sup>

## 2 Scope of legal submissions

- 2.1 These submissions will address:
- a The background to the Project;
  - b A description of the Sludge Minimisation Facility;
  - c The statutory framework:
    - i Assessment of effects on the environment;
    - ii Planning and policy framework;
    - iii Consideration of alternatives;
    - iv 'Reasonable necessity';
    - v Other matters;
    - vi Part 2 of the RMA;
  - d Matters raised in submissions and mana whenua engagement;

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<sup>8</sup> After the dewatering process.

<sup>9</sup> French EIC, para 5.4(g).

<sup>10</sup> French EIC, para 7.1(a) and (c). The consent for the discharge of sludge to land at the Landfill (Consent No, WGN 070230 [35862] requires that there be "a ratio of at least four parts municipal solid waste/ bulking material to one part sludge contaminants on a daily basis": conditions 9 and 12.

<sup>11</sup> French EIC, para 7.1(c).

<sup>12</sup> French EIC, para 7.1(c).

<sup>13</sup> French EIC, para 7.1(a).

- e The Section 42A Report and conditions; and
- f The evidence to be presented in support of the NOR.

### 3 Background to the Project

- 3.1 Most of Wellington City's wastewater<sup>14</sup> is treated at the Moa Point Wastewater Treatment Plant and Western (Karori) WWTP:
  - a Sludge from the Moa Point WWTP is currently pumped via pipelines to the Carey's Gully Sludge Dewatering Plant at Ōwhiro Bay, where it is dewatered and is then transported by truck to the Southern Landfill for disposal.<sup>15</sup>
  - b Sludge produced at the Western WWTP is dewatered on site, and then transported by truck to the Southern Landfill for disposal.<sup>16</sup>
- 3.2 The existing dewatering processes at Carey's Gully and the Western WWTP are designed to remove some water from the sludge by way of centrifuge (but do not otherwise provide further treatment). The product from the dewatering process (dewatered sludge) is a wet soil-like material, that is about 75% water.<sup>17</sup>
- 3.3 The current GWRC resource consent for the disposal of dewatered sludge<sup>18</sup> at the Southern Landfill (No. WGN070230 [35862])<sup>19</sup> requires a 'mixing ratio' of four parts solid waste for every one part dewatered sludge. This reflects an operational requirement to manage landfill structural stability and odour,<sup>20</sup> but constrains WCC's ability to reduce the amount of solid waste going to the landfill over time.<sup>21</sup>

#### Need for the project

- 3.4 There is a need for transformative change in sludge management for Wellington City. The key drivers for the Project are described in the evidence of **Mr Chris French**.
- 3.5 Very briefly, they can be summarised as:

<sup>14</sup> French EIC, para 6.1; AEE, page 5. WCC also has a 27.6% share in the Porirua Treatment Plant which treats sewage from Wellington's northern suburbs.

<sup>15</sup> French EIC, para 6.2; AEE, page 5.

<sup>16</sup> French EIC, para 6.2.

<sup>17</sup> French EIC, para 6.3; AEE, page 5. There is between 96 – 98% water in the product piped to Carey's Gully.

<sup>18</sup> Defined in this consent as "dewatered human effluent (sludge)".

<sup>19</sup> This discharge permit allows WCC to discharge dewatered human effluent ('sludge') contaminants to land at the Carey's Gully Southern Landfill. It is due to expire in 2026.

<sup>20</sup> This is due to the relatively untreated nature of the sludge, French EIC, para 6.4. The ratio is set out in condition 12.

<sup>21</sup> French EIC, para 6.4; AEE, page 5.

### *A singular sludge disposal pathway*

- 3.6 There is currently only one available method for sludge management and disposal in Wellington City – disposal at Southern landfill.<sup>22</sup> This exposes WCC to cost increases for sludge disposal beyond its control, and reduces flexibility for WCC to respond to regulatory changes.<sup>23</sup>

### *Operational and seismic resilience*

- 3.7 The current way in which sludge is managed presents several risks in terms of both operational and seismic resilience.<sup>24</sup> These relate to:
- a The pair of 9km sludge transfer pipelines, which suffered a critical failure in 2020<sup>25</sup> (requiring sludge to instead be transported by truck).<sup>26</sup>
  - b The mechanical equipment at the existing Carey's Gully dewatering facility, which is expected to reach its nominal end of life within the next five years.<sup>27</sup>
  - c The site of the Carey's Gully dewatering facility, which is located on the top of a former 'uncontrolled'<sup>28</sup> landfill. This presents a significant geotechnical risk in the event of a major seismic event.

### *Waste minimisation and carbon reduction*

- 3.8 WCC is committed to reducing carbon emissions and to greatly reducing the amount of waste sent to landfill, with a specific commitment to delivering a sewage sludge minimisation solution by 2026.<sup>29</sup> Both WCC's solid waste and carbon emission reduction commitments are being held back by the required mixing ratio.<sup>30</sup>

<sup>22</sup> French EIC, paras 6.13-6.14. The grade of sludge that is presently being produced from Carey's Gully is limited to being disposed at landfills because it is un-stabilised in nature. This also means that it is not feasible to transport the sludge to other landfills within the region as a long-term measure due to odour and the risk of spillage.

<sup>23</sup> AEE, section 2.3.1.

<sup>24</sup> AEE, section 2.3.

<sup>25</sup> AEE, section 2.3.2. Two pipes under Mt Albert burst, French EIC, para 6.16.

<sup>26</sup> This resulted in over one million litres of sludge a day being transported using trucks on a 24-hour rotation to collect the sludge from Moa Point WWTP and take it to Carey's Gully. The pipelines also traverse multiple known seismic faults and include almost 2km of pipework within a sewer tunnel under Mt Albert, French EIC, para 6.16.

<sup>27</sup> French EIC, paras 6.17-6.18. The Carey's Gully dewatering facility is also located in an old gully on the top of a former, uncontrolled landfill site. This presents a significant geotechnical risk in the event of a major seismic event.

<sup>28</sup> In this context 'uncontrolled' means that the landfill was constructed in a non-engineered way, i.e. it cannot be guaranteed that material placed at this location in a manner that would not cause it to subside in the future. In a modern landfill, care is taken to compact the material as it goes into a landfill in a controlled way, but this has not always occurred in the past.

<sup>29</sup> AEE, section 2.3.3. The sludge minimisation solution is designed to help achieve a 33% reduction landfill waste. The sludge minimisation solution is also described (pg 47 Long Term Plan 2021-2031) as meaning the sludge would not need to be pumped to the Southern Landfill.

<sup>30</sup> French EIC, paras 6.20-6.22. Under the GWRC resource consent for the Southern Landfill (No. WGN070230 [35862]) requires every tonne of sludge to be mixed with four tonnes of solid waste: conditions 9 and 12.

3.9 These drivers are reflected in the project objectives, set out at paragraph 9.1 below.

#### 4 The proposed Sludge Minimisation Facility

4.1 The SMF is fully described in the Assessment of Environmental Effects ('AEE') and **Mr French's** evidence.<sup>31</sup>

4.2 The SMF incorporates a sequence of treatment steps which are fully described in the **Mr French's** evidence, and shown in **Figure 1** below. At a high level, the process involves the following steps:<sup>32</sup>

- a Sludge waste from the existing Moa Point WWTP and Western WWTP<sup>33</sup> will be subject to screening and dewatering (by centrifuge).
- b The dewatered sludge will be fed into a thermal hydrolysis process where it is "pressure cooked" at a high temperature.
- c The hydrolysed sludge is cooled and enters the anaerobic digesters, where it is held from between 8 – 20 days to biologically break down the sludge under anaerobic conditions.
- d After digestion, the sludge is further dewatered.
- e The sludge then enters a thermal dryer, whereby water contained within the hydrolysed, digested cake is 'baked off' to produce a dried biosolids product typically with less than 10% moisture (compared to approximately 75% in the existing situation).

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<sup>31</sup> French EIC, section 7.

<sup>32</sup> French EIC, section 7.

<sup>33</sup> The sludge at the Western WWTP will be slightly dewatered and then dewatered again at the SMF.

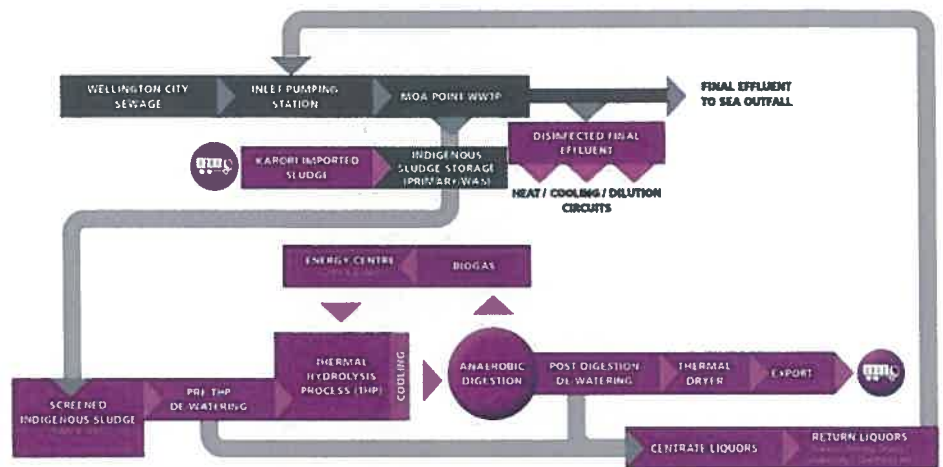


Figure 1: SMF sludge treatment process<sup>34</sup>

### SMF Site

- 4.3 The proposed SMF site comprises an area of mostly flat land adjoining Stewart Duff Drive, situated between Wellington International Airport, Miramar Links Golf Course, the Cyclotek laboratory, and the existing Moa Point WWTP.<sup>35</sup>
- 4.4 Most of the land needed for the SMF is already designated in the operative Wellington City District Plan (Designation 58).<sup>36</sup> The NOR proposes two additions shown in **Figure 2** below:<sup>37</sup>
- a 'Area 1' to the west, which will be added to allow for the construction, operation and maintenance of the SMF, on an ongoing basis;<sup>38</sup> and
  - b 'Area 2' to the north, which will be added to provide a temporary construction yard, and will be removed from the designation once construction is completed.<sup>39</sup>

<sup>34</sup> WAS – Waste Activated Sludge. CHP – Combined Heat and Power, French EIC, Figure 1.

<sup>35</sup> AEE, section 3.2.

<sup>36</sup> McGimpsey EIC, para 6.8.

<sup>37</sup> McGimpsey EIC, para 6.8.

<sup>38</sup> AEE, section 5.2.

<sup>39</sup> AEE, section 5.2.

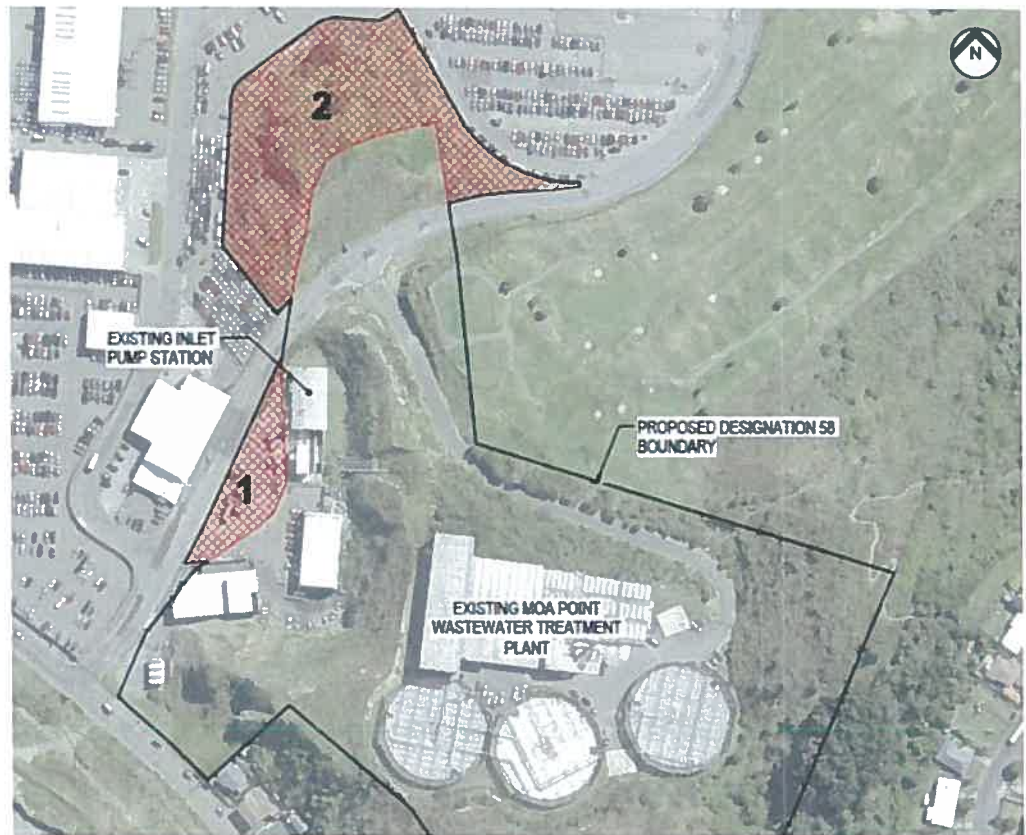
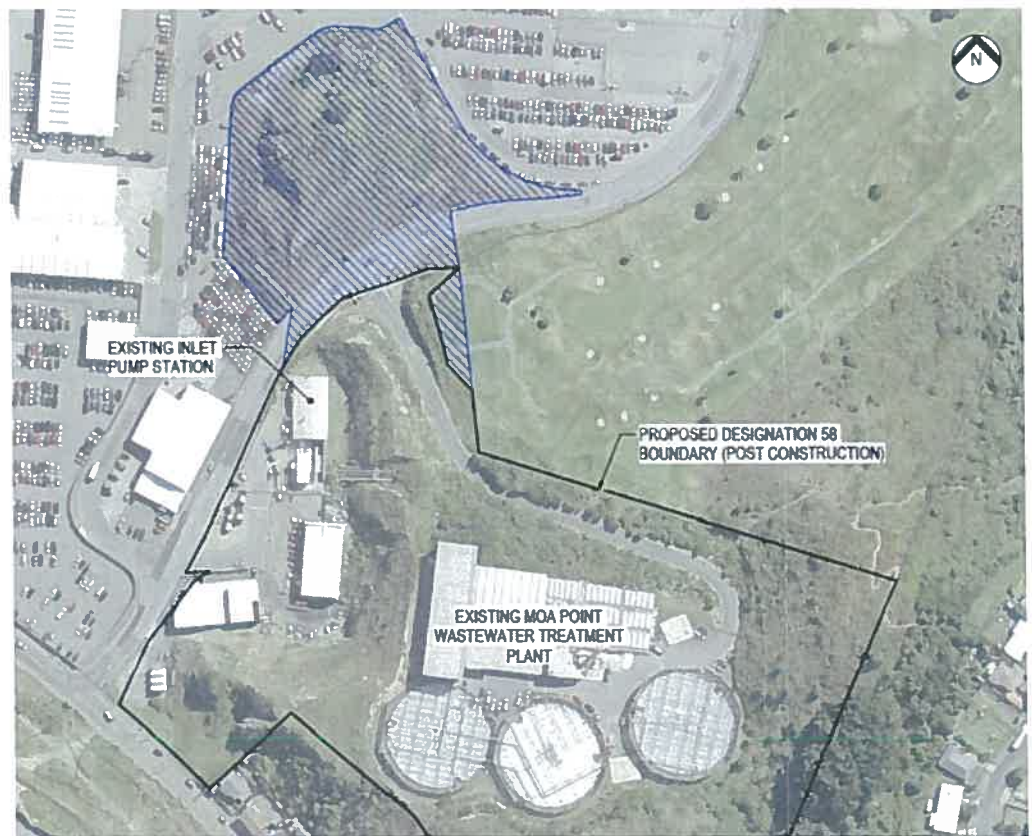


Figure 2: Proposed alterations to Designation 58 boundary (new areas to be added shown in red hatching)

4.5 As noted above Area 2 will be withdrawn once construction is complete. It is also proposed that a small area over golf course land to the north west (owned by WIAL) will be removed after construction.<sup>40</sup> These proposed alterations are shown in **Figure 3** below.

<sup>40</sup> McGimpsey EIC, para 6.10.





**Figure 3: Proposed alterations to Designation 58 boundary post-construction (areas to be removed shown in blue hatching)**

*Land ownership*

4.6 The majority of the land within the existing designation (except as noted below) is owned by WCC.<sup>41</sup> However, some of the land is owned by WIAL. In respect of the WIAL owned parts:

- a Part of Area 1 (shown above) which will be the subject of a sale and purchase agreement between WCC and WIAL;<sup>42</sup>
- b The golf course area to be removed from the designation (shown in **Figure 3**) will continue to be owned by WIAL;<sup>43</sup>
- c WCC will lease the land covering the temporary construction yard (hillock) from WIAL during construction;<sup>44</sup> and

<sup>41</sup> AEE, section 3.2.

<sup>42</sup> French EIC, para 7.3

<sup>43</sup> AEE, section 5.2.

<sup>44</sup> McGimpsey EIC, para 6.9(b).

- d WCC will not purchase the part of the designation that contains the Cyclotek building, which will instead remain in WIAL's ownership.

#### The future receiving environment

4.7 In assessing the effects of the Project it is necessary to consider effects on the surrounding environment as it might be modified in the future (often called the 'existing environment').<sup>45</sup> In this respect, there are two anticipated changes to the wider environment that have been considered for the purposes of the effects assessments.

4.8 These are:

- a The levelling of the hillock to the north-west of the application site – which is authorised by WIAL's Main Site Area ('MSA') Designation;<sup>46</sup> and
- b The construction of a new Freight Hub<sup>47</sup> to the west of the application site – also authorised by WIAL's MSA designation<sup>48</sup> (and shown in WIAL's 2040 Masterplan).<sup>49</sup>

4.9 In some cases the effects of the SMF Project have been assessed on the environment both with and without the hillock present, to ensure a 'worst-case' effects scenario is captured.

#### Design evolution

4.10 As described in the evidence of **Mr French**, the design and layout of the SMF has been subject to ongoing refinements and continues to evolve,<sup>50</sup> in order to:

- a Optimise the design from a technical and 'value engineering' perspective;<sup>51</sup>

<sup>45</sup> This is in the sense of the Court of Appeal's finding in *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] NZRMA 424 (CA) at para [84], that "the word "environment" embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activity under a district plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented." The *Hawthorn* analysis of what comprises the existing environment is also relevant in assessing environmental effects in determining a notice of requirement: *Villages of NZ (Mt Wellington) Ltd v Auckland City Council*, ENC Auckland A023/09, 20 March 2009, 2009 WL 824378 at [32]. In addition, decisions following *Hawthorn* have confirmed that activities authorised by a designation (as opposed to a resource consent) are capable of forming part of the future 'existing environment' for the purposes of assessing the effects of a proposal, see for example: *Save Kapiti Inc v New Zealand Transport Agency* [2013] NZHC 2104 at [61] – [71].

<sup>46</sup> Wellington City District Plan, Designation G5, Appendix AF, conditions 18-19. WCC and WIAL are also currently preparing joint resource consent applications (to WCC and GWRC) to authorize the removal of the hillock. The applications are in the process of being signed by WIAL and WCC.

<sup>47</sup> This best illustrated in the Evidence of Mr Head, Attachment 22 of Appendix C.

<sup>48</sup> Wellington City District Plan, Designation G5, Appendix AF, purpose, conditions 1-2.

<sup>49</sup> WLG 2040, available at: [https://www.wellingtonairport.co.nz/documents/3134/Updated\\_Masterplan\\_FINAL.pdf](https://www.wellingtonairport.co.nz/documents/3134/Updated_Masterplan_FINAL.pdf).

<sup>50</sup> French EIC, para 7.9.

<sup>51</sup> French EIC, para 7.9.

- b Seize opportunities to further reduce environmental effects, including in response to matters raised by submitters.<sup>52</sup>
- 4.11 While the design is not yet finalised, consideration is being given to (for example) consolidation and reduction of the building(s), and creating greater separation between the SMF and Cyclotek's operations.<sup>53</sup>
- 4.12 In terms of the further steps for finalising the design, it is noted that:
- a Both the AEE<sup>54</sup> and draft conditions<sup>55</sup> contemplated an 'envelope of effects' approach to the designation, with scope for ongoing refinements to the design.
  - b The proposed conditions allow "variations to the siting and footprints of these buildings/ structures" to "accommodate layout and design evolution" to the extent that all other designation conditions are complied with.<sup>56</sup>
  - c The various expert witnesses were mindful of the potential for change in design when carrying out their effects assessments, and have recorded that their conclusions are unlikely to be affected by layout changes, provided certain conditions or pre-requisites are met.<sup>57</sup>
  - d Final design will be subject to further regulatory review through an OPW process<sup>58</sup> (and conceivably, if deemed necessary, through a further s 181 RMA alteration process).
  - e There will also be consultation and engagement with the community and Cyclotek around the ongoing design refinements. In particular:
    - i mana whenua<sup>59</sup> and the wider community will be provided with the opportunity to provide feedback on the OPW;<sup>60</sup> and

<sup>52</sup> French EIC, paras 7.9 – 7.12.

<sup>53</sup> French EIC, para 7.12.

<sup>54</sup> AEE, section 4.4.

<sup>55</sup> AEE, Appendix A, conditions 19.1 and 20.1.

<sup>56</sup> McGimpsey supplementary evidence, Appendix A, condition 20.1. The Section 42A Report supported this condition, Appendix 11.

<sup>57</sup> Mr Town considered the ongoing refinements would not affect his assessment, provided the proposed conditions were complied with and the scale of construction and interaction of the SMF site with Stewart Duff Drive are similar: Town EIC, para 7.1. Mr Head considered that the ongoing refinements would not affect his assessment of effects provided the proposed designation conditions are complied with and building heights are within 20% of what was modelled: Head EIC, para 10.11. Mr Halstead considered the ongoing refinements would alter his assessment of effects, provided the conditions and assumptions described in his report are met, Halstead EIC: para 6.3. Mr Noonan did not consider ongoing refinements would alter his assessment of effects, provided the regional consent and designation conditions are complied with: Noonan EIC, para 7.1.

<sup>58</sup> Once the designation has been confirmed, an Outline Plan of Works ('OPW') with final design details, will be submitted to WCC (regulatory) (which can request changes) under section 176A RMA.

<sup>59</sup> McGimpsey supplementary evidence, Appendix A, condition 28.A1.

<sup>60</sup> McGimpsey supplementary evidence, Appendix A, condition 28.1. This is not usually the case at the OPW stage, as s 176A only provides for the council (territorial authority) to provides comments.

- ii WCC will hold design workshops with Cyclotek, as described in the evidence of **Mr French**.<sup>61</sup>

## 5 Statutory framework

### Sections 181 and 168A of the RMA

- 5.1 The NOR is to alter the existing Designation 58<sup>62</sup> under section 181 RMA, in order to authorise the construction, operation, and maintenance of the new SMF. However, in substance<sup>63</sup> the NOR needs to be considered in terms of the matters in section 168A RMA.
- 5.2 Section 168A(3) provides that, when considering a requirement and any submissions received, a territorial authority must, "subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to":<sup>64</sup>
  - a any **relevant provisions** of—
    - i a national policy statement;
    - ii a New Zealand coastal policy statement;
    - iii a regional policy statement or proposed regional policy statement;
    - iv a plan or proposed plan; and
  - b whether **adequate consideration** has been given to **alternative** sites, routes, or methods of undertaking the work if—
    - i the requiring authority does not have an interest in the land sufficient for undertaking the work; or
    - ii it is likely that the work will have a significant adverse effect on the environment; and
  - c whether the work and designation are **reasonably necessary** for achieving the objectives of the requiring authority for which the designation is sought; and
  - d **any other matter** the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.

<sup>61</sup> French EIC, para 11.7(b).

<sup>62</sup> Under section 175(2)(a), the NOR will alter the designation in both the operative and proposed district plans.

<sup>63</sup> Section 181(2) provides that the usual designation sections of the RMA apply "with all necessary modifications" to a notice of requirement to alter a designation, as if it were a new designation. In addition, section 181(4) states that section 181 applies "with all necessary modifications" to a requirement by a territorial authority to alter its own designation within its own district (which is considered under s168A).

<sup>64</sup> Resource Management Act 1991, section 168A(3).

5.3 The considerations are each addressed in the following sections of these submissions.

## 6 Assessment of effects on the environment

6.1 The positive and adverse effects of the Project are summarised below, grouped into the different stages of its development.

### Positive effects

6.1 The SMF will address many of the current issues with sludge management identified above, and have the following positive effects:<sup>65</sup>

- a Substantially reducing carbon emissions from the disposal of the city's sludge;<sup>66</sup>
- b Substantially reducing odour emissions at the landfill associated with the disposal of sludge, as described in the evidence of **Mr Mathew Noonan**;<sup>67</sup>
- c Substantially reducing the volume of material<sup>68</sup> needing to be disposed of to landfill and in turn, reducing pressure on the landfill which is already constrained in capacity;<sup>69</sup>
- d Containing odour from the Moa Point WWTP which is currently periodically emitted from the existing Inlet Pump Station adjacent to Stewart Duff Drive (by encompassing it into the new SMF building).

### Temporary effects during construction

6.2 The main potential adverse effects during construction are the emission of dust, noise and vibration, construction traffic, effects on lizards, and land contamination. A suite of management plans<sup>70</sup> will be submitted to WCC (some as part of the outline plan process) confirming specific measures to manage these effects.

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<sup>65</sup> McGimpsey EIC, para 10.2.

<sup>66</sup> McGimpsey EIC, para 10.3.

<sup>67</sup> Noonan EIC, para 14.3. Mr Noonan considers the end product of the SMF "will generate only a small amount of odour".

<sup>68</sup> Both directly, in terms of reduced volumes of solids from the wastewater treatment process, but also indirectly because the ratio to solid waste will no longer apply.

<sup>69</sup> Reducing the volume of material going to landfill will also assist in meeting city and regional waste minimisation targets, such as the Wellington Region Waste Management and Minimisation Plan's target to reduce the total quantity of waste sent to Class 1 landfills from 600kg per person per annum to 400kg per person by 2026, AEE, section 9.9.

<sup>70</sup> Construction Traffic Management Plan (condition 25.1), Construction Noise and Vibration Management Plan (condition 25.2), Erosion and Sediment Control Plan (condition 26.1)

### *Noise and vibration*

- 6.3 For the majority of construction activities, noise emissions will be well within the relevant standards, as described in the evidence of **Mr Miklin Halstead**.<sup>71</sup>
- 6.4 However, due to the requirement to undertake night-time construction works, there will be some minor noise and vibration effects for short temporary periods.<sup>72</sup> Night time works are expected to be necessary on an infrequent basis<sup>73</sup> for large concrete pours (around 10 to 20 times (total) during the construction programme), crane lifts, and the transport of oversize loads.<sup>74</sup>
- 6.5 **Mr Halstead's** evidence is that the mitigations proposed will result in noise and vibration effects being appropriately managed.<sup>75</sup> Similarly, the Section 42A Report concludes that (based on the assessment of the noise expert, Mr Lindsay Hannah) noise and vibration can be mitigated with the proposed conditions and that the effects will be "acceptable".<sup>76</sup>

### *Traffic*

- 6.6 On average, across the construction period, the project is only expected to add around 5 to 14 construction truck movements per day to the network.<sup>77</sup> The effects of this are likely to be "negligible" in the context of the 300 to 500 truck movements that occur on the recommended heavy vehicle routes currently.<sup>78</sup>
- 6.7 However, from time to time, increased heavy trucks will be required for intensive concrete pour activities (as above there may be between 10-20 total, involving between 38 and 200 truck movements per day).<sup>79</sup> The proposed mitigation measures, to be further detailed in a Construction Traffic Management Plan, are discussed in the evidence of **Mr Michael Town**.<sup>80</sup>
- 6.8 On the basis of these measures, **Mr Town** concludes that construction traffic effects will be mitigated "appropriately to an acceptable level".<sup>81</sup>

<sup>71</sup> Halstead EIC, para 14.13.

<sup>72</sup> Halstead EIC, paras 13.14-13.15.

<sup>73</sup> Halstead EIC, para 13.14.

<sup>74</sup> Galloway EIC, para 9.8.

<sup>75</sup> Halstead EIC, para 14.16. "Mr Halstead concludes that "With these steps taken [being the proposed mitigation measures], and with general adherence to the guidance of NZS6803:1999, it is my opinion that noise and vibration emission from [the] construction of Wellington SMF will be reasonable and can be appropriately managed".

<sup>76</sup> Section 42A Report, section 8.1.6, page 15.

<sup>77</sup> Town EIC, para 7.4.

<sup>78</sup> Town EIC, para 9.13.

<sup>79</sup> Town EIC, para 7.6, 9.5. Concrete pours will occur over 1 day each, although there will be times when pours happen on successive days. AEE, Appendix L, Figure 4.1, section 4.4.

<sup>80</sup> Town EIC, paras 9.3-9.17, McCimpsey supplementary evidence, Appendix A, condition 25.1.

<sup>81</sup> Town EIC, para 5.7.

- 6.9 The Section 42A Report also concludes that the construction traffic effects can be mitigated and are acceptable, subject to a number of matters outlined at paragraphs 13.4 - 13.8 below.<sup>82</sup>

#### *Ecology*

- 6.10 The slopes at the north and east of the site have been found to contain two different lizard species.<sup>83</sup> Both species are widespread around the lower North Island and upper South Island, and are classified as 'Not Threatened'.<sup>84</sup> A Wildlife Act permit has been sought,<sup>85</sup> and a specific Lizard Management Plan ('LMP') has been developed as part of that process, to manage impacts on lizards and to ensure effects will be 'low'.<sup>86</sup>

#### *Contaminated land*

- 6.11 There is an underground fuel storage tank at the SMF site,<sup>87</sup> which is to be extracted as part of the Project.<sup>88</sup> As a result, an unexpected discovery protocol is proposed during the earthworks and tank extraction in the event that contaminated soil is found. These precautionary measures will be contained within a Contaminated Soils Management Plan ('CSMP').<sup>89</sup>
- 6.12 The Detailed Site Investigation confirms that the site has a shallow soil profile,<sup>90</sup> and the DSI concludes more likely than not that the fuel tank extraction and all on site soil disturbance would be compliant with the permitted activity standards of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ('NESCS').<sup>91</sup>
- 6.13 The Section 42A Report concludes that effects can be mitigated through the proposed conditions to an 'acceptable level'.<sup>92</sup>

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<sup>82</sup> Section 42A Report, section 8.1.5, page 14.

<sup>83</sup> Bell EIC, para 8.7. The two species are the northern grass skink and Raukawa gecko.

<sup>84</sup> Bell, EIC para 9.2.

<sup>85</sup> WCC is currently in the process of applying for a Wildlife permit in respect of the removal of the hillock. Under section 63 of the Wildlife Act, a permit under the Wildlife Act is required to hunt, kill, buy, sell, possess or disturb or destroy the nest of any protected or partially protected wildlife (defined in section 2 as any animal that is living in a wild state, although there are exceptions in Schedules 1-5 of the Wildlife Act 1953). In the absence of a permit an offence would be committed under section 63 of the Wildlife Act 1963.

<sup>86</sup> Bell EIC, Appendix A; Bell EIC, para 9.17.

<sup>87</sup> McGimpsey EIC, para 10.14; AEE, Appendix R, page 39.

<sup>88</sup> McGimpsey EIC, para 10.14;

<sup>89</sup> McGimpsey supplementary evidence, Appendix A, condition 25.5.

<sup>90</sup> AEE, Appendix R, section 6.1.

<sup>91</sup> AEE, Appendix R, section 10.1.

<sup>92</sup> Section 42A Report, section 8.1.7, page 16.

### Odour effects during commissioning

- 6.14 The potential for the emission of offensive odour during the commissioning phase has been identified as a specific risk. This will be managed by a Commissioning Odour Management Plan ('COMP') which will require the use of temporary odour treatment.<sup>93</sup>
- 6.15 **Mr Noonan** concludes that with these controls in place, there are unlikely to be any adverse odour effects on the nearest residential properties in the area (Moa Point and Strathmore Park).<sup>94</sup>
- 6.16 WCC's (regulatory) air quality expert agrees that "in general" if the control measures proposed by WCC are implemented, "the potential for odour during commissioning would be minimised and any odour will be limited in duration so that the effects will be less than minor".<sup>95</sup>

### Ongoing effects during operation

- 6.17 The main permanent or ongoing effects are associated with dust and odour, noise and vibration, traffic and landscape and visual.

#### *Dust and odour*

- 6.18 The potential adverse odour effects is inherent in the operation of a wastewater sludge treatment facility. There is also the potential for dust from the handling and truck loadout operations involving the stabilised biosolids end product.<sup>96</sup>
- 6.19 It is proposed that the export silos and conveyor used to transfer dried sludge cake from the dryer to the export silos will be fully enclosed, which assists in the management of these effects.<sup>97</sup>
- 6.20 Odour from all odorous activities will be treated via a comprehensive odour treatment system.<sup>98</sup> The Proposed conditions require that during operation there will be no objectionable or offensive odours from the SMF at or beyond the site boundary.<sup>99</sup>

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<sup>93</sup> The COMP is a requirement of the proposed GWRC resource consent and must be provided to WCC's Compliance Monitoring Officer, for their records, under condition 31.1 of the proposed designation conditions.

<sup>94</sup> Noonan EIC, para 15.1.

<sup>95</sup> Section 42A Report, Appendix 2, Statement of evidence of Deborah Ryan, para 30.

<sup>96</sup> Noonan EIC, para 11.1.

<sup>97</sup> Noonan EIC, para 11.4(a).

<sup>98</sup> This includes measures such as enclosing and venting the treatment process and storage silos, monitoring the performance of the OCU and SMF, and maintaining the building at a negative pressure: Noonan EIC, table 10.

<sup>99</sup> McGimpsey supplementary evidence, Appendix A, condition 31.4.



- 6.21 Accordingly, Mr Noonan concludes that the dust and odour effects arising from the proposal during operation will be less than minor.<sup>100</sup> Likewise, the Section 42A Report concludes that the air quality effects at the SMF during both commissioning and operation will be 'acceptable'.<sup>101</sup>

*Noise*

- 6.22 Operational noise levels will be within district plan limits.<sup>102</sup> Accordingly, **Mr Halstead** has concluded that the noise effects during operation will be less than minor.<sup>103</sup>
- 6.23 No operational vibration effects are anticipated.<sup>104</sup>

*Traffic*

- 6.24 Given the low volume of operational traffic (being approx. 14 truck movements per day, and private vehicles used by staff), no operational traffic issues are anticipated. Traffic volumes will be higher during scheduled maintenance (an annual event), and a specific traffic management plan<sup>105</sup> for this activity will be developed. Among other things, this plan will address the potential for conflict between Moa Point WWTP/SMF traffic and airport traffic.
- 6.25 Accordingly, **Mr Town** has assessed the residual traffic effects as being no more than minor.<sup>106</sup>
- 6.26 The Section 42A Report concludes that operational traffic effects can be mitigated and will be acceptable.<sup>107</sup>

*Landscape and visual effects*

- 6.27 Due to the highly modified context of the site, **Mr Jeremy Head's** assessment is that there will be "no effect on the natural character of the coast".<sup>108</sup> With regards to landscape character more broadly, he concludes that landscape effects will be moderate-low adverse.<sup>109</sup>

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<sup>100</sup> Noonan EIC, para 15.1.

<sup>101</sup> Section 42A Report, section 8.1.1, page 10.

<sup>102</sup> District Plan permitted activity limits in the Airport Zone for non-aircraft related activities in Standard 11.1.1.1.8, Halstead EIC, para 8.5.

<sup>103</sup> Halstead EIC, section 17.

<sup>104</sup> Halstead EIC, para 15.3(c).

<sup>105</sup> McGimpsey supplementary evidence, Appendix A, condition 32.2; The plan is called a Maintenance Period Traffic Management Plan.

<sup>106</sup> Town EIC, section 13.

<sup>107</sup> Section 42A Report, section 8.1.5, page 14.

<sup>108</sup> Head EIC, para 14.4.

<sup>109</sup> Head EIC, para 11.11.

- 6.28 Visual effects have been considered from a range of viewpoints, with and without the hillock present. With the hillock removed, adverse visual effects as experienced at Stewart Duff Drive, the airport terminal, and the golf course have each been assessed as 'moderate-high'. Visual effects from other locations such as Strathmore Park and Moa Point Road are 'moderate' or 'low' with the hillock removed.<sup>110</sup>
- 6.29 The site offers very limited opportunity for landscape planting mitigation, due to lack of space on site and due to its proximity to the airport (and associated need to avoid attracting birds).<sup>111</sup> The landscape and visual impact of the proposal will be reduced using recessive colours and low reflectivity materials externally.<sup>112</sup> The landscape and visual effects have been assessed as, at worst, moderate-high adverse for identified viewing audiences.<sup>113</sup> For other audiences, effects have been assessed as being either moderate or low.<sup>114</sup>
- 6.30 The Section 42A Report concludes that the effects will be "acceptable given the context and agreed conditions".<sup>115</sup>

## 7 Planning and Policy Framework

- 7.1 Relevant statutory and policy instruments have been considered in the evidence of **Mr Paul McGimpsey** and in the Section 42A Report.
- 7.2 Overall, **Mr McGimpsey**<sup>116</sup> and the Section 42A Report<sup>117</sup> conclude that the Project is consistent with the applicable provisions of the relevant statutory documents, being the:
- a New Zealand Coastal Policy Statement 2010;
  - b National Policy Statement on Urban Development 2020;
  - c Wellington Regional Policy Statement 2013;
  - d Operative Wellington City District Plan 2000; and
  - e Wellington City Proposed District Plan (notified July 2022).

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<sup>110</sup> Head EIC, para 12.63, Table 1.

<sup>111</sup> WIAL, in its submission, outlines its "opposition to the planting of trees on the site that might attract birds (which can cause safety risks, such as bird strike)": para 6.6.

<sup>112</sup> McGimpsey supplementary evidence, Appendix A, condition 21.1

<sup>113</sup> Head EIC, section 18.

<sup>114</sup> Head EIC, table 1.

<sup>115</sup> Section 42A Report, section 8.1.2, page 11.

<sup>116</sup> McGimpsey EIC, paras 12.2-12.9.

<sup>117</sup> Section 42A Report, sections 8.2.1-8.2.5, pages 20-35.

## 8 Consideration of alternatives

8.1 Section 168A(3)(b) requires the Commissioner to have regard to:

(b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—

(i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or

(ii) it is likely that the work will have a significant adverse effect on the environment;

8.2 With respect to this, the case law has held that:

a 'Adequate consideration' does not mean exhaustive or meticulous consideration, but means that the consideration must be sufficient or satisfactory and this will depend on the circumstances.<sup>118</sup>

b WCC is not required to demonstrate that it has considered all possible alternatives, nor that it has selected the best of all available alternatives.<sup>119</sup> In particular, it is not required to eliminate alternatives that are clearly speculative or suppositious,<sup>120</sup> nor is it required to consider every alternative that is non-suppositious with potentially reduced effects.<sup>121</sup> It is for WCC to establish an appropriate range of alternatives and properly consider them.<sup>122</sup>

8.3 WCC does not currently have a 'sufficient interest' in the land for the purposes of 168A(3)(b), as WIAL owns part of the site. However, WCC plans to purchase the WIAL owned part of Area 1 (shown in **Figure 2**). The entirety of Area 1 is proposed to be permanently added to the designation. The parties are currently finalising a sale and purchase agreement for this purchase.<sup>123</sup>

8.4 As described above, the adverse effects of the SMF will not be significant.<sup>124</sup> However, a robust and (more than) adequate<sup>125</sup> alternatives process was undertaken in any event.

<sup>118</sup> *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991 ('Basin Bridge'), at [137].

<sup>119</sup> *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991, at [154].

<sup>120</sup> *Queenstown Airport Corporation Limited v Queenstown Lakes District Council* [2013] NZHC 2347, at [122].

<sup>121</sup> *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991, at [154].

<sup>122</sup> *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991, at [154].

<sup>123</sup> French EIC, para 7.14.

<sup>124</sup> The Section 42A Report considers the adverse effects will not be "significant", Section 42A Report, Page 36, section 8.2.6.

<sup>125</sup> 'Adequate consideration' does not mean exhaustive or meticulous consideration, but means that the consideration must be sufficient or satisfactory and will depend on the circumstances: *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991 at [137].

- 8.5 In terms of the requirements of section 168A(3)(b), it is noted that:
- a Different sites and methods of treatment were robustly assessed, as described in **Mr McGimpsey's** evidence;<sup>126</sup>
  - b A structured process was followed to move from a long-list to a short-list and multi-criteria analysis ('MCA'), as described in **Mr French's** evidence;<sup>127</sup>
  - c The evidence of **Mr French** and Chapter 6 of the AEE sets out the process, and results of the consideration of various site and process alternatives. Further detail is also provided in the SMF Business Case document (Appendix E of the AEE); and
  - d The Section 42A Report considered the "selection process" was "comprehensive" and that the "assessment of alternatives provided is acceptable".<sup>128</sup>

## 9 'Reasonable necessity'

### Project objectives

- 9.1 The Project objectives are to:<sup>129</sup>
1. Significantly reduce the operational impact of sludge management at Southern Landfill.
  2. Provide a sustainable and resilient long-term solution for sludge management from Wellington's WWTPs, that:
    - a. Has appropriate capacity to provide for projected population growth, and aligns to associated infrastructure planning; and
    - b. Can be integrated into the wastewater network in a cost-effective manner.
  3. Reduce the environmental impact of sludge disposal, particularly in terms of:
    - a. Carbon emissions; and
    - b. Odour at the disposal site.

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<sup>126</sup> McGimpsey EIC, para 8.3.

<sup>127</sup> French EIC, section 9.

<sup>128</sup> Section 42A Report, section 8.2.6, pages 35 and 36.

<sup>129</sup> AEE, section 2.6.

- 9.2 The evidence of **Mr McGimpsey** describes in some detail how the Project works, and also the designation as a planning tool, are 'reasonably necessary' to achieve the Project objectives.<sup>130</sup> The Section 42A Report concludes that "the proposed works and designation are considered necessary to achieve the objectives for which the designation is sought".<sup>131</sup>
- 9.3 In terms of the criteria for 'reasonable necessity' considered in previous cases, it is submitted that:<sup>132</sup>
- a There is a 'nexus' between the works proposed and the achievement of WCC's objectives for which the alteration is sought;
  - b The spatial extent of land required is justified in relation to those works; and
  - c The designated land is able to be used for the purpose of achieving WCC's objectives for which the alteration is sought.
- 9.4 In relation to the second of these points, it is noted that (as outlined above) part of the designation will be 'shrunk' to only cover the area needed for ongoing operation and maintenance of the SMF.<sup>133</sup> This will also mean that, in the long term, there will not be any overlap between WCC and WIAL designations.<sup>134</sup>

## 10 Other matters

- 10.1 The AEE contains an assessment of the Project against 'other matters' for the purposes of section 168A(3)(d) RMA.<sup>135</sup> These other matters include various waste minimisation and emission reduction documents, as well as WCC's Long Term Plan 2021-2031. The SMF is consistent with the strategic intent of these documents, as outlined in the AEE and the evidence of **Mr McGimpsey**.<sup>136</sup>
- 10.2 The Section 42A Report accepts that assessment.<sup>137</sup>
- 10.3 The Section 42A Report also notes, with reference to these documents, that:<sup>138</sup>

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<sup>130</sup> McGimpsey EIC, para 9.2.

<sup>131</sup> Section 42A Report, section 8.2.7, page 36.

<sup>132</sup> *Re Queenstown Airport Corporation Ltd* [2017] NZEnvC 46 at [9]. While this criteria is in the context of section 171(1)(c), this is equally applicable to section 168A(3), due to the wording being the same in the two subsections.

<sup>133</sup> McGimpsey EIC, para 6.10, and proposed condition 19.3.

<sup>134</sup> Currently WIAL's Designation G5 (Main Site Area) also covers part of the site. Appeals on this designation were recently resolved and the designation has now been incorporated into the operative Wellington City District Plan (as of July 2022). Much of the SMF site now covered by WIAL's Designation G5 was already covered by Designation 58 (meaning WIAL would need permission from WCC to undertake work at these locations (under RMA s 177).

<sup>135</sup> AEE, section 9.8-9.11.

<sup>136</sup> McGimpsey EIC, para 10.1.

<sup>137</sup> Section 42A Report, section 8.2.8, page 36.

<sup>138</sup> Section 42A Report, section 8.2.8, page 36.

the SMF within the altered designation, is consistently cited as a key action for the reduction in emissions, achieving regional waste minimisation objectives, meeting waste and carbon reduction commitments, and reducing landfill waste.

- 10.4 The Section 42A Report Officer also refers to the GWRC resource consents as an 'other matter' and notes that:<sup>139</sup>

The regional consents support the construction and operation the SMF. I understand the Regional Council has worked with the territorial authority to ensure there is continuity of conditions and advisors were shared to provide consistent advice. I note at this stage these have not yet been granted.

- 10.5 The GWRC resource consents have not yet been granted but WCC understands GWRC is currently considering the final wording of conditions.<sup>140</sup>

## 11 Part 2 considerations

- 11.1 The determination to be made under section 168A is expressed as being 'subject to Part 2'. Case law has held that Part 2 of the RMA is relevant and must be considered in determining a notice of requirement.<sup>141</sup>
- 11.2 Part 2 of the RMA is addressed in the evidence of **Mr McGimpsey**. His evidence concludes that the Project meets the purpose of the RMA as set out in section 5 of the Act.<sup>142</sup>
- 11.3 **Mr McGimpsey** also agrees with the assessment contained in the AEE that section 6 and section 7 matters have been adequately provided for by the SMF proposal.<sup>143</sup>
- 11.4 Section 8 matters have been addressed in the evidence of **Mr French** and **Mr McGimpsey**.<sup>144</sup>
- 11.5 It is submitted that the evidence establishes that the Project will achieve the sustainable management purpose of the RMA.

<sup>139</sup> Section 42A Report, section 8.2.8, pages 36-37.

<sup>140</sup> A copy can be provided for the Commissioner's information if and when consent is granted.

<sup>141</sup> See *NZ Transport Agency v Architectural Centre Inc* [2015] NZHC 1991 ('*Basin Bridge*') at [118]; *Re Queenstown Airport Corporation Ltd* [2017] NZEnvC 46 at [66]. It follows that Part 2 is potentially somewhat more relevant in considering a designation than it is in considering a resource consent, but such distinctions do not have any bearing on the SMF Project.

<sup>142</sup> McGimpsey EIC, para 13.2.

<sup>143</sup> McGimpsey EIC, paras 13.3 – 13.5.

<sup>144</sup> McGimpsey EIC, paras 13.6 – 13.10; French EIC, section 10.

## 12 Matters raised in submissions and engagement with mana whenua

- 12.1 The NOR was publicly notified on 26 August 2022. A total of 11 submissions were made with 5 in support<sup>145</sup>, 5 taking a neutral stance<sup>146</sup> and 1 in opposition.<sup>147</sup>
- 12.2 The matters identified in submissions have been addressed in the expert evidence for WCC. In essence, the evidence is that the potential effects associated with the Project which are noted in the submissions will be adequately mitigated.
- 12.3 Some of the specific concerns raised are addressed below.

### Ms Fiona Hoang

- 12.4 **Mr Dan Ormond** and **Mr French** met with Ms Fiona Hoang on 22 November 2022 (after WCC's evidence had been lodged). It appears that, in part, Ms Hoang's submission relates to the wastewater discharge from the Moa Point WWTP, and her opinion is that "it would be worthwhile to review the treatment level".<sup>148</sup>
- 12.5 In response to Ms Hoang's concern, it should be noted that the quality of the wastewater treatment of the Moa Point WWTP is specified in the GWRC discharge consent, and not within the scope of this NOR.<sup>149</sup> The quality of wastewater treatment is not due to be revisited until 2034, when the Moa Point WWTP discharge consent is up for renewal.<sup>150</sup>
- 12.6 In response to Ms Hoang's concerns (in her primary submission and evidence) that the "outfall option"<sup>151</sup> needs to be fully studied",<sup>152</sup> the Section 42A Report concludes that the options process was based on early consultation with mana whenua and a "robust cost-benefit analysis".<sup>153</sup>
- 12.7 As discussed in the evidence of **Mr French**, an 'outfall option'<sup>154</sup> was considered in preparing the Economic Business Case (Appendix E to the AEE) as one of the

<sup>145</sup> Mr Andrew Page, Mr Martyn Howells, WIAL, Mr Carl Savage, Greater Brooklyn Residents Association Incorporated,

<sup>146</sup> Ms Elise Webster, Guardians of the Bays, Strathmore Park Residents Association, Cyclotek Pharmaceuticals Limited, Te Whatu Ora – National Public Health Service.

<sup>147</sup> Ms Fiona Hoang.

<sup>148</sup> Submission of Ms Fiona Hoang, page 3.

<sup>149</sup> WCC is not seeking to amend the part of Designation 58 relating to the WWTP, or the regional council discharge consents.

<sup>150</sup> Consent No. WGN080003 [31505]. Expires on 11 May 2034.

<sup>151</sup> It is understood this refers to "the option whereby liquid sludge would be piped from the Moa Point Wastewater Treatment Plant and discharged into the Cook Strait": French EIC, para 12.4.

<sup>152</sup> Submission of Ms Fiona Hoang, page 3.

<sup>153</sup> Section 42A Report, section 8.1.12.

<sup>154</sup> AEE, Appendix E, page 50. The 'outfall option' was described as Outfall – sludge is discharged with treated effluent. In essence, pumping the relatively liquid 'sludge' mixture out to sea, rather than to Carrey's Gully.

options for what the “base case” for sludge management in Wellington would be (for the purposes of comparison), in the absence of the SMF.<sup>155</sup> In that context this option was considered:

- a ‘Not acceptable’ when assessed against mana whenua values and principles, and environmental impact;<sup>156</sup> and
- b To have a “very low to impossible” likelihood of getting consent.<sup>157</sup>

### **Mana whenua**

- 12.8 Mana whenua engagement is discussed in the evidence of **Mr French**.<sup>158</sup> Neither Taranaki Whānui nor Ngāti Toa made a submission on the NOR.
- 12.9 There has been ongoing engagement with mana whenua led by **Mr French**.<sup>159</sup> **Mr French’s** evidence describes the extent of engagement with both Taranaki Whānui and Ngāti Toa during the alternatives process, and subsequently. Both iwi were involved in the short list and MCA stages, with iwi representatives leading the assessment of the proposed options against the criterion “mana whenua values”.<sup>160</sup>
- 12.10 The principal issue raised by mana whenua (during the MCA process) relates to how the stabilised biosolids arising from the SMF process are to be disposed or re-used for other purposes.<sup>161</sup>
- 12.11 **Mr French** also attaches (Appendix B to his evidence) an April 2022 memorandum that was provided to WCC from Wikaira Consulting on behalf of Taranaki Whānui.<sup>162</sup> This memorandum comments on the mana whenua engagement to date and makes a number of recommendations for their involvement going forward. **Mr French** confirms that mana whenua representatives will remain involved:

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<sup>155</sup> French EIC, paras 12.14 – 12.15.

<sup>156</sup> AEE, Appendix E, page 50.

<sup>157</sup> AEE, Appendix E, page 50. The ‘outfall’ option was described as Outfall – sludge is discharged with treated effluent from Moa Point WWTP via the long sea outfall into Cook Strait. This would mean that the sludge would not require any further treatment.

<sup>158</sup> French EIC, section 10.

<sup>159</sup> French EIC, para 10.13.

<sup>160</sup> French EUC, paras 10.1-10.5.

<sup>161</sup> French EIC, para 10.9.

<sup>162</sup> Ms Hoang’s evidence suggests there was a “lack of consultation in certain areas including identifying the long list of technologies”. Ms Hoang makes this suggestion in relation to an April 2022 memorandum that was provided to WCC from Wikaira Consulting on behalf of Taranaki Whānui (Appendix B to Mr French’s evidence).



a in the development of the project (and a new condition is proposed to clarify this requirement);<sup>163</sup> and

b in the development of a wider 'Biosolids Reuse and Management Plan'.<sup>164</sup>

### **WIAL**

12.12 WIAL filed written submissions on 1 December 2022, essentially supporting the NOR subject to further refinements to conditions. All of the suggested amendments have been incorporated into the latest set of conditions, as further detailed in the supplementary evidence provided by **Mr McGimpsey**.<sup>165</sup>

12.13 WCC will continue to closely work with WIAL throughout the construction and operation of the SMF, as described in the evidence of **Mr French**.<sup>166</sup>

### **Cyclotek**

12.14 In relation to concerns raised by Cyclotek's about air quality, the Section 42A Report Officer concludes:<sup>167</sup>

I agree with Ms Ryan that the requirements for this operation are very specific, and the recommended conditions are in accordance with good practice for managing the effects for odour and particulate matter. Any additional mitigation is between the territorial authority and submitter.

12.15 **Mr Noonan** agrees that the conditions reflect good practice, and recommends WCC continue to discuss the potential air quality risk with Cyclotek, and what additional mitigation measures may be able to be implemented.<sup>168</sup> **Mr French** discusses the ongoing consultation proposed with Cyclotek, which includes design workshops, construction planning workshops and the establishment of liaison meetings.<sup>169</sup>

<sup>163</sup> There is a proposed condition that requires WCC to engage with mana whenua at specific times, where requested by mana whenua: McGimpsey Supplementary, Appendix A, condition 28A.1.

<sup>164</sup> This is to be developed in the medium to longer term, so will sit outside of the designation conditions.

<sup>165</sup> McGimpsey Supplementary, Appendix A.

<sup>166</sup> French EIC, para 11.5.

<sup>167</sup> Section 42A Report, section 8.1.1, page 10.

<sup>168</sup> Noonan EIC, para 19.3.

<sup>169</sup> French EIC, para 11.7.

### Guardians of the Bays

- 12.16 Guardians of the Bays' submission was expressed as being neutral, but raises a number of concerns with the potential effects of the Project. These concerns are generally addressed by the relevant subject matter expert witnesses for WCC.<sup>170</sup>
- 12.17 The submission raises a number of concerns about night time noise, and requests<sup>171</sup> consideration be given to compensation or alternative accommodation for residents where construction will take place during the Airport's curfew hours.<sup>172</sup>
- 12.18 However, the Section 42A Report<sup>173</sup> (on the advice from Council's noise expert<sup>174</sup>) concludes that this is not required. **Mr Halstead** agrees that a provision for compensation or alternative accommodation is not required, given his assessment that night works would not cause an adverse noise effect.<sup>175</sup>

### Mr Howells

- 12.19 Mr Howells requests that the proposed operational odour condition for the SMF be that there is 'no discernible odour' at the boundary, as per the existing designation condition 6 for the WWTP. The evidence of **Mr Noonan** and **Mr McGimpsey** consider this matter in detail, and concludes that:
- a The existing designation condition does not reflect good practice, is "highly unusual" and is not a practicable condition for a WWTP;<sup>176</sup>
  - b The proposed NOR condition for the SMF reflects good practice and is consistent with the MfE Good Practice Guide for Assessing and Managing Odour,<sup>177</sup> and the Proposed Natural Resources Plan ('PNRP') air quality Policy P58 (Managing air amenity), as well as the permitted activity standard under PNRP Rule 35(a);<sup>178</sup>
  - c The proposed NOR condition is consistent with the proposed regional resource consent condition; and

<sup>170</sup> Head EIC, paras 16.2 – 16.13; Ormond EIC, paras 7.1 – 7.5, 8.5; Town EIC, paras 11.5 – 11.13; McGimpsey EIC, paras 14.35 – 14.42.

<sup>171</sup> Guardians of the Bays' submission, page 4.

<sup>172</sup> Generally, between midnight and 6am, although this can vary depending on when the last flight for the night was.

<sup>173</sup> Section 42A Report, section 8.1.6.

<sup>174</sup> Mr Lindsay Hannah, author of the noise report at Appendix 7 to the s 42A report.

<sup>175</sup> Halstead EIC, paras 13.15 and 15.8.

<sup>176</sup> Noonan EIC, para 12.5.

<sup>177</sup> Good Practice Guide for Assessing and Managing Odour, Ministry for the Environment, available at: <https://environment.govt.nz/assets/Publications/good-practice-guide-odour.pdf>, page 24.

<sup>178</sup> McGimpsey EIC, paras 14.6 – 14.7.

- d As described by **Mr McGimpsey**, pre-application discussions with GWRC compliance officers also confirmed that there is no practical difference in enforcement terms between existing Condition 6 and proposed Condition 31.4 of Designation 58.<sup>179</sup> The air quality expert advising the Council Officer, Ms Ryan, also agreed that in practice GWRC “has not enforced a ‘no discernible’ criterion”.<sup>180</sup>

12.20 The Section 42A Report concludes that the proposed air quality conditions reflect good practice.<sup>181</sup>

### 13 Section 42A Report and conditions

13.1 The Section 42A Report recommends that the NOR be confirmed, subject to the conditions outlined in Appendix 11 to the Section 42A Report.

13.2 Where the Section 42A Report comments on matters relevant to the evidence of particular witnesses, their evidence responds to those comments. There are very few areas of difference<sup>182</sup> between WCC and the Section 42A Report Officer, although three are noted below.

13.3 WCC is largely comfortable with the amendments to the conditions recommended in the 42A Report, although confined further amendments are sought as explained in **Mr McGimpsey’s** two statements of evidence:

- a Appendix A to his evidence in chief shows further amendments in response to the section 42A Report in red;
- b Appendix A to his supplementary statement provides a further update (with further changes in shown in blue) where additional refinements are proposed following discussions with the Council Officer (and Wellington Water), and WIAL’s written statement.

#### Hillock

13.4 The Section 42A Report raises a concern that (removal of) the hillock is an “integral part of the traffic management mitigation ... but is not part of this designation”.<sup>183</sup> To address that concern, the Section 42A Report suggests that

<sup>179</sup> McGimpsey EIC, para 14.8.

<sup>180</sup> Section 42A Report, Appendix 2, para 38.

<sup>181</sup> Section 42A Report, section 8.1.1, page 10 (referring to conditions 24.5 and 31.1-31.5, which have been amended in a minor way to refer to a map of the ‘site boundary’ in the version of conditions attached to Mr McGimpsey’s supplementary evidence).

<sup>182</sup> There are 8 other points of difference in total. The differences are addressed in the evidence of Mr Trent Bell (paras 21.1 – 21.2 relating to the location of a condition to engage with Predator Free Wellington), Mr Michael Town (paras 12.6 – 12.9, relating to minor additions to conditions which Mr Town does not consider necessary), Mr McGimpsey’s EIC (paras 15.14 – 15.23, relating to earthworks, airport safety (which WIAL now supports) and supplementary evidence (paras 3.1 – 3.6, relating to the WWL conditions).

<sup>183</sup> Section 42A Officer’s Report, pages 13-14, section 8.1.5.

the CTMP should be “subject to a certification requirement instead of an Outline Plan”.<sup>184</sup> WCC has accepted this request and amended the conditions.<sup>185</sup>

- 13.5 As described in the evidence of **Mr French**, the hillock site is intended to serve as a construction laydown area for both the Freight Hub to be constructed by WIAL, and (in the short term) for the SMF Project. Applications for resource consents to remove the hillock will be lodged with WCC and GWRC, with WCC and WIAL as joint applicants. WIAL has recently had a designation confirmed in the District Plan which contemplates the hillock site being removed and used for airport purposes in the long term.<sup>186</sup>
- 13.6 However, if consent were ultimately not granted for the removal of the hillock, then an alternative construction laydown area would be used, and appropriate authorisations sought. **Mr Town** considers that the Construction Traffic Management Plan would be able to be updated appropriately to mitigate any new effects associated with a new construction laydown location.<sup>187</sup>

#### Construction hours

- 13.7 The Section 42A Officer's Report includes a recommendation to restrict heavy vehicle movements to and from the site in the windows of 8-9am, and 2:30-3:30pm, in order to avoid school drop off and pick up times.<sup>188</sup>
- 13.8 WCC disagrees with this proposed change to conditions because:
- a As described in the evidence of **Mr Town**, the effects of construction traffic can be mitigated through the CTMP such that restricting movements during school hours is not required to address effects;<sup>189</sup>
  - b As described in the evidence of **Mr Richard Galloway**:<sup>190</sup>
    - i The site of this Project is very small, with limited ability to store materials onsite site, such that for dust control purposes it is important to remove excavated materials as soon as possible.
    - ii A restriction on access times equates directly to a restriction on construction activity, and it is estimated that the loss of two hours per

<sup>184</sup> Section 42A Officer's Report, pages 13-14, section 8.1.5.

<sup>185</sup> McGimpsey supplementary evidence, Appendix A, condition 19.2, 25.1.

<sup>186</sup> Wellington City District Plan, Designation G5, Appendix AF, Conditions 2, 19.

<sup>187</sup> Town EIC, para 12.2.

<sup>188</sup> Section 42A Officer's Report, pages 13-14, section 8.1.5 and Appendix 11.

<sup>189</sup> Town EIC, para 12.4.

<sup>190</sup> Galloway EIC, para 12.2.

day will add approximately six to eight months to the construction programme, as well a cost of around \$10M to the Project.<sup>191</sup>

- c Given the conclusions of **Mr Town** and **Mr Galloway**, it is submitted that the proposed restriction on traffic movements is not required to address an effect of the SMF, and would impose a disproportionate burden.

### **Three waters**

- 13.9 Wellington Water Limited's ('**WWL**') Team Leader Development Engineer, Mr Mohammed Hassan, recommended extra conditions relating to three waters.<sup>192</sup> The Section 42A Report supported the inclusion of WWL's conditions.<sup>193</sup>
- 13.10 The set of conditions appended to **Mr McGimpsey's** evidence in chief did not include WWL's conditions, as discussions were still ongoing between the SMF team, the Section 42A Officer, and WWL.
- 13.11 Those discussions have continued and **Mr McGimpsey** has included WWL's conditions in the latest set of proposed conditions in his supplementary evidence as **Appendix A**.<sup>194</sup> **Mr McGimpsey** has recommended some further changes to WWL's conditions which are discussed in his supplementary evidence.<sup>195</sup>

## **14 The evidence to be presented**

- 14.1 WCC has lodged evidence by nine witnesses to support the NOR:
  - a **Mr Chris French** (Project need and overview);
  - b **Mr Dan Ormond** (Community engagement);
  - c **Mr Richard Galloway** (Construction methodology);
  - d **Mr Miklin Halstead** (Noise and vibration);
  - e **Mr Mathew Noonan** (Air Quality);
  - f **Mr Jeremy Head** (Landscape and visual effects);
  - g **Mr Michael Town** (Transport);

<sup>191</sup> Based on standing plant and labour, and time related Preliminary and General (offsite and onsite overheads) being extended by 20%.

<sup>192</sup> Section 42A Report, Appendix 5, page 7.

<sup>193</sup> Section 42A Report, section 8.1.4, page 13.

<sup>194</sup> Conditions 22A, 1 – 22A.20.

<sup>195</sup> McGimpsey supplementary evidence, paras 3.1 – 3.6.

h **Mr Trent Bell** (Ecology) (being taken as read, with written responses to be provided to the Commissioner's written questions); and

i **Mr Paul McGimpsey** (Planning).

**15 Conclusion**

15.1 Given the issues associated with the City's current approach to sludge disposal, the community's expectations and councils' policy settings, Wellington City requires a fundamental change in the management of wastewater sludge.

15.2 The proposed SMF will achieve a more resilient system for the management of sludge, producing less odorous, and more stable end product in lower volumes, that is not dependant on landfill disposal and creates opportunities for re-use in the future.



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