

Levin landfill: Environmental management review

Update Report

February 2011



Parliamentary Commissioner
for the **Environment**
Te Kaitiaki Taiao a Te Whare Pāremata

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1. Commissioner's comment

As Parliamentary Commissioner for the Environment I have various independent statutory functions under the Environment Act. One of these is to investigate environmental issues, processes, and public agencies.

In August 2008 I released a report entitled Levin landfill: Environmental management review. This report looked at the management and environmental effects of the Levin landfill.

2. Background

The investigation began as a result of letters to the second Parliamentary Commissioner for the Environment, Dr Morgan Williams, in late 2004. Several members of the local community, including tangata whenua, expressed concern about the management and environmental effects of the Levin landfill. This landfill is located west of Levin, just south of the Hōkio Stream and 500m southeast of the Ngātokowaru marae. The holder of the resource consents for the landfill is the Horowhenua District Council.

Dr Williams put an investigation on hold after Horizons (Manawatu-Whanganui) Regional Council entered into negotiations with Horowhenua District Council in April 2005. I became Commissioner in 2007 and, given the lack of progress by the councils, decided to restart this investigation. My aims were to help restart the consent review process, give the local community a chance to be part of the decision making for the landfill, and ensure certain areas of concern were addressed.

3. Brief history of Levin Landfill

From the mid-1970s a dump operated on Hōkio Beach Road. Tangata whenua expressed concern at the time about possible effects of this dump on groundwater, the Hōkio Stream, and wāhi tapu such as archaeological sites.

With the increased volume of waste coming in, the landfill was due to reach capacity by the late 1990s. Planning for a new landfill on the same property began in 1994, and in 1997 five consents were granted. However, these were appealed. It was not until 2002 that the five resource consents were finalised and construction of a new lined landfill began.

The new landfill was opened on the property in 2004. The old unlined landfill, now well over-capacity, was closed and capped. Monitoring of environmental effects was then required for both the old and new landfills, with results reported regularly to a Neighbourhood Liaison Group.

Complaints were subsequently made about the capping of the old landfill, compliance with landfill management plans and resource consent conditions, the quality of monitoring data and reporting, and the enforcement of consent conditions.¹

4. Main findings of the investigation

My investigation report was tabled in Parliament on 5 August 2008. The report found, among other things, that there were not only problems with the progress of the review process, but also with the conditions themselves, compliance with the conditions, monitoring of compliance, lack of enforcement, and the remediation and aftercare of the old landfill.

My report included six recommendations to Horowhenua District Council and three to Horizons Regional Council.

The recommendations to the district council involved: reviewing the site operations contract; improving community liaison; improving monitoring; formally reviewing the landfill site design; factoring future landfill requirements into long-term waste strategy planning; and engaging with the community about alternate sites.

The recommendations to the regional council involved: reviewing consent conditions without further delay; improving monitoring and enforcement; and adopting an enforcement policy.

I had also commissioned a technical background report, which was completed in January 2008. This report, entitled *Levin Landfill – Operational and Environmental Impact Review*,² was prepared by environmental and engineering consultants Tonkin & Taylor Ltd (T&T). I circulated this to the interested parties in early 2008 and made it publically available on 5 August 2008.

5. Reaction to the report

Horizons Regional Council

The Horizons Chief Executive informed media that the report was a fair representation of issues arising from managing an historic landfill in a sensitive area. He accepted my view that Horizons could have done better in enforcing resource consent conditions.³

Horowhenua District Council

The Horowhenua District Council Mayor said that my report identified some “very minor non-compliance issues” that were “insignificant compared to the overall project of managing the old landfill”.⁴ The council’s Chief Executive stressed the need to meet environmental requirements in a way that was financially affordable.

He said the landfill was not breaching its consents now and waste from the Kapiti Coast district would be imported to the Levin landfill from the end of 2008. This importation deal would generate about \$500,000 a year for the Horowhenua District Council.⁵

Kapiti Coast District Council

The Kapiti Coast District Council publicly stated that Kapiti waste would only be sent from the Kapiti Coast to the Levin landfill if it was fully compliant with its resource consent conditions.⁶ If the Levin landfill was found to be operating in breach of its resource consent, waste from the Kapiti Coast district was contractually required to go to another location. This alternative location would probably be Bonny Glen landfill near Marton.⁷

The Maori Party

When the report was tabled in Parliament, the Māori Party MP Te Ururoa Flavell questioned the Minister for the Environment, Hon Trevor Mallard, about his response to the report's findings. The Minister for the Environment replied that he could not comment, as the findings and recommendations were a matter for the respective district and regional councils.⁸ This response disappointed Māori Party MPs, who were also disappointed that four years had elapsed since concerns about the landfill were raised by the tangata whenua. "Ngāti Pareraukawa and Muaupoko from around Levin have been waiting four years for this report ... who knows how much longer they might have to wait for any response," wrote Hon Tariana Turia, Māori Party MP for Te Tai Hauāuru.⁹

The Green Party of Aotearoa New Zealand

Green Party members were also disappointed with the time taken for the Levin landfill report to be published. Green Party co-leader Dr Russel Norman said the District and Regional councils needed to boost their waste minimisation efforts, as the landfill was a pressing problem for the Horowhenua region.¹⁰

A few days after the report's release, an extreme weather event led to waste water discharge from the treatment plant into Lake Horowhenua.¹¹ The District Council had also been facing court action in recent weeks due to discharges from Shannon's sewage ponds into the Mangaore Stream. Russel Norman stated "Horowhenua waste management policies with both solid and liquid waste are now a Parliamentary issue".¹² Dr Norman challenged the Horowhenua Mayor to a public debate over waste management policies and practices, including the Levin landfill.¹³ This challenge was rejected, but private talks were welcomed.¹⁴

6. Response to the Commissioner's recommendations

My report included six recommendations to Horowhenua District Council (HDC) and three to Horizons Regional Council (HRC). A description of responses to each recommendation follows. The appendix contains a summary of the responses.

Recommendations to Horowhenua District Council

Recommendation 1:

A review is undertaken by HDC of the site operations contract for adequacy in relation to meeting the performance criteria set out in the conditions of the consent.

Response: The Levin landfill maintenance contract was altered to include revised bore sampling and monitoring requirements. On 1 July 2010 the revised maintenance contract was awarded to Downer (formerly EDI Downer Works).¹⁵

Monthly operational meetings have been held with all contractors since September 2008. These meetings have served to identify operational areas needing attention, and improved clarity of roles and communication between parties involved in the landfill.¹⁶

Recommendation 2:

HDC develops and maintains clear responsibilities for providing information and invitations to the Neighbourhood Liaison Group.

Response: Horowhenua District Council were already taking steps to address this issue when my report was released. The Council now employs a full-time Solid Waste Officer, whose responsibilities include servicing the Neighbourhood Liaison Group.¹⁷

Recommendation 3:

HDC takes steps to ensure that contracted monitoring work is accompanied by clear instructions, and that responsibility for monitoring and enforcing such contracts is clearly assigned at officer level within the Council.

Response: Horowhenua District Council hired independent expert assistance to administer, and provide guidance, regarding the landfill's complicated monitoring regime. MWH New Zealand Limited consultants compiled a report¹⁸ which spelled out in detail what environmental monitoring is to take place, when and how it is to be done, and who is responsible for various tasks.¹⁹

Recommendation 4:

A formal review of site design is undertaken by HDC with regard to the recommendations made in the Tonkin and Taylor report relating to aspects of the detailed design of the new landfill site.

Response: Changes were made to the consent conditions for the new landfill in line with T&T recommendations around site design and operations:

- The number of monitoring bores was increased, and the monitoring parameters updated to reflect best practice.
- Modelling of discharges from the landfill to the Hokio Stream is to be completed annually and results acted upon.
- The capping of the new landfill has been amended to a clay cap (as opposed to the originally stated sand cap).²⁰
- The Landfill Management Plan would be updated by December 2010.²¹

The final set of consent agreements was agreed by all parties involved in the Review on 3 March 2010.²² The final decision was released on 31 May 2010. In addition to reviewing the design of the new landfill, it was agreed that a management plan would be prepared for the old landfill by December 2010,²³ and the old landfill

would be remediated to promote storm-water run-off and facilitate future ongoing monitoring. This work would be completed by April 2011.²⁴

Horowhenua District Council included \$353,000 for an improved cap on the old landfill, and \$132,000 for a litter fence, in their 2010/11 Draft Annual Plan.²⁵ The council had already included a \$1 million environmental provision in the landfill budget for 2008/09.^{26, 27}

Recommendation 5:

A formal review of site design is undertaken by HDC with regard to the recommendations made in the Tonkin and Taylor report relating to aspects of the detailed design of the new landfill site.

Response: In terms of waste reduction, re-use and recycling, Horowhenua District Council adopted and continues to implement the Waste Management Plan 2005. A review of this Waste Management Plan was planned for 2009/10, but the start of this review has been impacted by the landfill consent review, internal staff changes, introduction of a waste levy, and introduction of kerbside recycling. The intent is to complete the review in 2011/12, before the 1 July 2012 deadline set by the Ministry for the Environment.²⁸

However, there are no plans to look at an alternative site for the district landfill. Council officers believe that the Levin landfill is a good location for disposal of residual waste. Consent is held for the present landfill through to 2037. Should this landfill reach capacity prior to the consent expiry, then a flexible arrangement to send residual waste to the Bonny Glen landfill can be used. The council is also investigating increasing the capacity of the Levin landfill.²⁹

Recommendation 6:

A working party is established within the next 10 years to help identify and evaluate a future landfill site and to help develop a wider district waste strategy. The working party's remit should be to reach recommendations on future waste provision early enough to contribute to the consenting process. This working party should include representatives of tangata whenua, in addition to other significant interest groups in the region.

Response: Council officers believe that the present site is a suitable site for a landfill and the potential of better utilising this asset is being explored. The current strategy of Horowhenua District Council is for long term waste disposal at Bonny Glen landfill.

To allow sufficient time for future development, the possibility of expanding the landfill footprint beyond the area allowed in the current consent (but at the present location) is to be considered by 2012.

The recommendation for a working party was made in the context of looking at alternate sites. Although not looking at new sites, a working party might be used by the council to assess the waste management options being considered.³⁰

Recommendations to Horowhenua District Council

Recommendation 7:

The proposed consent review is undertaken by Horizons as a matter of priority and without delay.

Response: My report was tabled in Parliament 5 August 2008. Horizons Regional Council notified a consent review the following month, in September 2008.³¹ Nine submissions were received in response to this notification.³²

Recommendation 7(a):

The review process and timeframes are established by Horizons from the outset so that all parties are clear as to the likely timeframe for completion of the review, as well as opportunities for participation in the process.

Response: The first pre-hearing meeting took place at the Horowhenua District Council Chambers on 5 March, followed by six further hearings (April - December 2009). These hearings were successful in creating dialogue and formed a mediation-type process³³. Iwi representatives attended all of the meetings³⁴, and holding some meetings at the marae near the landfill helped the process.³⁵

All of the conditions of the existing consents were discussed, and changes agreed to those that were open to review. Issues regarding landfill design and capping were also resolved.³⁶

The HRC Regional Planning and Compliance Group Manager concluded that my involvement in the process:

"...has been a useful catalyst to spur the Regional Council to rethink its approach to the Review. That rethink led to a unique pre-hearing process that had the participants of that pre-hearing able to direct the destiny of the Review. Within that process Ngati Pareraukawa were able to provide a unique environment and atmosphere to restore the ailing relationships. Ultimately a participatory approach has resulted in an outcome that all parties have accepted as workable, appropriate, and targeting the adverse effects issue. The problems have not gone away, but a process of inclusion is in place that unites rather than divides the stakeholders..."³⁷

Recommendation 7(b):

Horizons prepares a full compliance history review of the site before the proposed consent review.

Response: A compliance history was completed for the consent review.³⁸

Recommendation 7(c):

A comprehensive, independent review is commissioned of the results of monitoring to date and the adequacy of the monitoring programme. This review should be used to inform a decision on an appropriate future monitoring framework to be incorporated into the consent as revised conditions.

Response: An independent review was commissioned in relation to the monitoring results. The reviewers were retained to assist through the hearing process.³⁹

Recommendation 7(d):

A framework is established for consent compliance reporting and management including, if deemed appropriate by Horizons, incorporating a peer review process for ongoing design, operations and monitoring. These requirements should be incorporated into the consent as revised conditions.

Response: A framework for consent compliance reporting and management was developed during 2008/09, and external peer review is now a core element of the regional council's consenting process. In 2009/10 a national audit process was developed to improve consistency of monitoring and enforcement across all regional councils. For external peer review purposes, monitoring and enforcement at the Levin landfill was submitted to the national audit.⁴⁰

One resource consent condition for the landfill includes an option for independent peer review. If the regional council were ever to determine that the adverse effects of the landfill on the water quality of Hokio Stream were more than minor, the district council or Neighbourhood Liaison Group can request independent peer review of the findings.⁴¹

Recommendation 7(e):

A review is undertaken of the other general conditions of the consents where these depart from accepted norms, particularly those related to waste acceptance and hazardous waste disposal.

Response: The wording of the resource consents for the Levin landfill only required review of a fraction of the conditions. The Levin landfill operates under five resource consents with a total of 112 conditions. Of these conditions, 41 included a review option. Changes were made to 16 of these.

However, Horowhenua District Council also agreed to amend, if necessary, nine consent conditions that were technically beyond the scope of the review.⁴² Changes were made to eight of these and related to the capping of the closed landfill, the functioning of the Neighbourhood Liaison Group, and the notification and scope of any future consent reviews.⁴³

Recommendation 7(f):

Specific conditions to which consideration should be given in the consent review include:

- the changes proposed in the Tonkin and Taylor report, as per recommendation 4 above
- in the event that the water quality standards specified in the consent conditions are breached, a requirement on HDC to investigate to determine if the breach is attributable to activities on site and, if so, to take remedial action
- where conditions currently require data to be made available on request by Horizons, to require that data be supplied automatically at appropriate intervals
- that representatives from each iwi are given the opportunity to be formally included in the Neighbourhood Liaison Group via the consent conditions.

Response: The review considered all of the issues mentioned in Recommendation 7(f). This resulted in changes in all of the associated conditions.

Recommendation 8:

Horizons establishes clear responsibilities for the timely monitoring and enforcement of resource consent conditions, the performance of which is capable of being assessed at officer level.

Response: Consent and compliance reporting by Horizons Regional Council is now undertaken in a systematic way. An Environmental Committee, consisting six Councillors, meets every two months. Reports are provided, using a standardised template, on the status of resource consents, monitoring, enforcement processes, council projects, environmental management issues and concerns. The agenda and minutes of each meeting are published on the Horizons Regional Council website.⁴⁴

Recommendation 9:

Consideration is given to adopting an enforcement policy, the terms of which should provide sufficient support, guidance and authority for future enforcement action.

Response:

Horizons Regional Council now has an enforcement policy in place. More importantly, there have also been changes to organisational culture regarding enforcement. This has been achieved through restructuring, recruitment of staff, and greater engagement of Councillors in relation to compliance through prosecution advisory groups.⁴⁵

A Council officer commented that my report “remains a timely and welcome external check of Horizons’ compliance activities. It has led to substantial checking of our compliance systems and has reinforced our resource management responsibilities organisation-wide.”⁴⁶

Horizons Regional Council has also provided a supplementary report summarising the Levin landfill consent review process. Their Levin Landfill Review of Conditions Report is available on the PCE website.

7. Conclusion

In August 2008 I called for an immediate review of consent conditions, monitoring, and enforcement in relation to the Levin landfill. A consent review began the following month, which addressed areas of concern of the interested parties. Revised consent conditions were agreed in March 2010, and work is underway to achieve the agreed improvements in landfill design and management.

Endnotes

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- 23 Horizons Regional Council. Discharge Permit 6009 condition 14.
- 24 Horizons Regional Council. Discharge Permit 6010 condition 15.
- 25 Horowhenua District Council 2010: Draft Annual Plan 2010-2011, p.41, 79

- 26 Horowhenua District Council 2009: Annual Report for the year ended 30 June 2009. Adopted 7 October 2009.
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