Report on an application for resource consent under the Resource Management Act 1991 (RMA)

Discretionary activity

To:	Independent Hearing Commissioners
From:	Karl Anderson, Senior Planner
Hearing date:	25 February 2026

Note:

- This is not the decision on the applications.
- This report sets out the advice and recommendation of the reporting planner.
- This report has yet to be considered by the independent hearing commissioners delegated by Auckland Council to decide these resource consent applications.
- The decision will be made by the independent hearing commissioners only after they have considered the applications and heard from the applicant, submitters and council officers.

1. Application description

Application numbers:	BUN60440759 (Council Reference) LUC60440790 (s9 land use consent) LUC60445125 (s9 land use consent – water bore) DIS60440791 (s15 discharge permit)
Applicant:	Scarbro Environmental Limited
Site address:	362 Jones Road, Drury
NZTM map reference:	Part Allotment 10 Parish of Hunua & Allotment 264 Parish of Hunua
Lodgement date:	22 November 2024
Notification date:	16 June 2025
Submission period ended:	15 July 2025
Number of submissions received:	6 in support* 0 neutral 514 in opposition*

**Note: At close of submissions, there were 7 in support and 515 in opposition. One submitter subsequently clarified that they accidentally checked support on the submission form, but they meant to oppose. Two further submissions were reclassified as invalid (see Section 13 of this report).*

2. Locality Plan

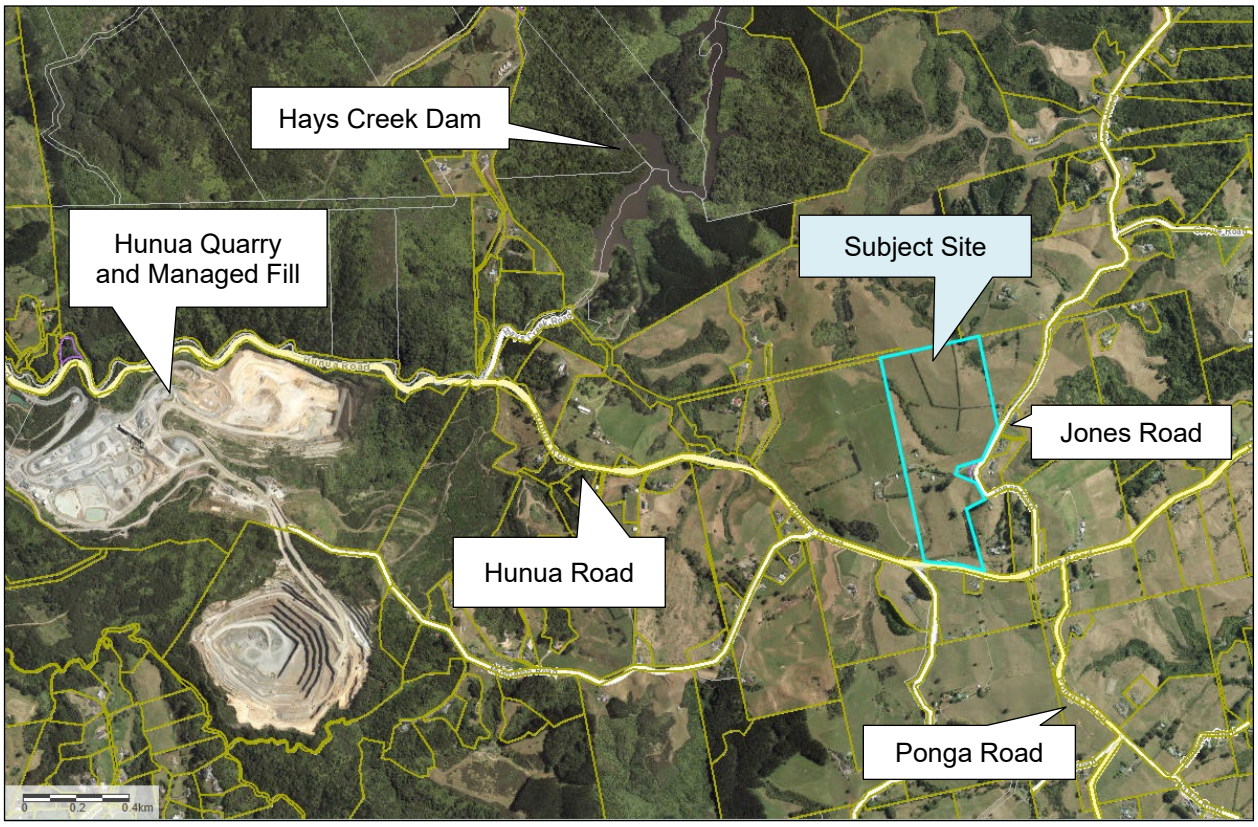

Figure 1. Aerial map
Source: Auckland Council GIS

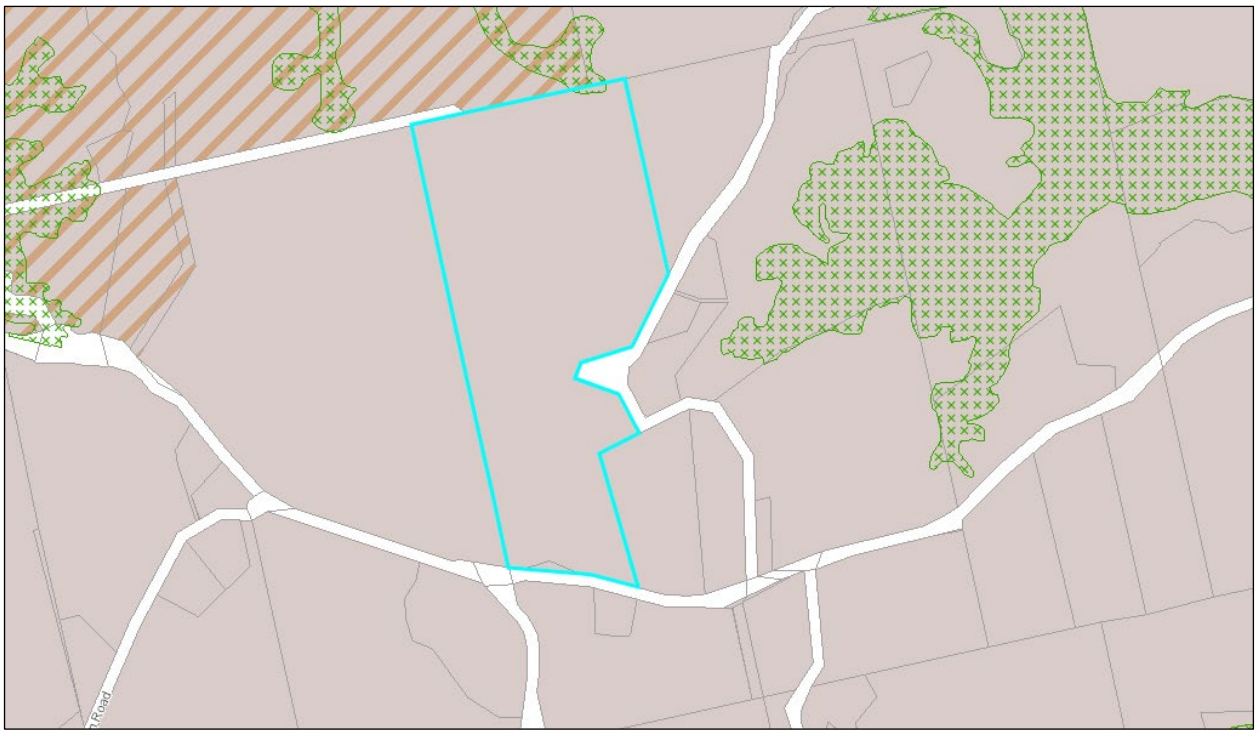

Figure 2. Auckland Unitary Plan zoning map, showing Significant Ecological Area overlay.
Source: Auckland Unitary Plan

3. Application documents

The list of application documents and drawings is set out in **Attachment 1** of this report.

4. Adequacy of information

The information submitted by the applicant is sufficiently comprehensive to enable the consideration of the following matters on an informed basis:

- The nature and scope of the proposed activity that the applicant is seeking resource consents for.
- The extent and scale of the actual and potential effects on the environment.
- Those persons and/or customary rights holders who may be adversely affected.
- The requirements of the relevant legislation.

Prior to notification, a request for further information under s92 of the RMA was made on 13 January 2025, with an additional request made on 19 February 2025. The applicant provided all of the information requested on 4 April 2025.

After notification and following review of the submissions, an additional request for further information was made on 9 September 2025. The applicant provided all of the information requested on 9 December 2025. This additional information was uploaded to Council's website, and an email was sent to all submitters on 7 January 2026 advising that updated information provided by the applicant was available for review.

5. Qualifications and/or experience

I hold a Bachelor of Planning degree from the University of Auckland, which I obtained in 2012.

I have 11 years of planning and resource management experience. My experience has included working in resource consent application preparation as a planning consultant, and I have been employed as a resource consents planner at Auckland Council since 2020.

I am an Intermediate member of the New Zealand Planning Institute.

6. Report and assessment methodology

The applications are appropriately detailed and comprehensive and include a number of expert assessments. Accordingly, no undue repetition of descriptions or assessments from the applications is made in this report.

I have made a separate and independent assessment of the proposal, with the review of technical aspects by independent experts engaged by the council, as needed.

Where there is agreement on any descriptions or assessments in the application material, this is identified in this report.

Where professional opinions differ, or extra assessment and/or consideration is needed for any reason, the relevant points of difference of approach, assessment, or conclusions are detailed. Also – the implications for any professional difference in findings in the overall recommendation are provided.

The assessment in this report also relies on reviews and advice from the following specialists:

- Sarah Pinkerton, Consultant Contaminated Land Specialist
- Shanelle Beer Robinson, Senior Earthworks Specialist
- Antoinette Bootsma, Senior Streamworks Specialist
- Stephen Brown, Consultant Landscape Architect
- Duffy Visser, Noise Specialist
- Matt Ford, Senior Development Planner (Auckland Transport)
- Phoebe Andrews, Consultant Ecologist
- Dali Suljic, Stormwater Specialist (Healthy Waters)
- Zihao Lin, Senior Development Engineer
- John Newsome, Team Leader Regulatory Engineering
- Nicola Jones, Water Specialist
- Louis Boamponsem, Senior Air Quality Specialist

These assessments are included in **Attachment 2** of this report.

This report is prepared by:	Karl Anderson, Senior Planner, Resource Consents
Signed:	
Date:	Date: 29 January 2026
Reviewed and approved for release by:	Tommy Lai, Team Leader, Resource Consents
Signed:	
Date:	Date: 29 January 2026

7. Executive summary

Scarbro Environmental Limited has applied to the council for resource consents to operate a managed fill facility on the site at 362 Jones Road, Drury (located in Hunua), for a period of 10 years, with associated enabling works, discharges of contaminants, earthworks and vegetation clearance within 10m of a natural wetland to construct a new haul road/bridge, and a new water bore.

The proposal will enable the importation of 790,000m³ of fill. This will be split over the site as follows:

- Northern Fill Area:
    - 720,000m³ of fill over 5 stages
    - 9 hectare fill site area, with each stage being 2 ha
    - Average fill depth of 8m
    - Maximum fill depth of 24m
    - Highest point of the site (223m RL) increasing to 237m RL.
    - Mounded landform shape with variable side slopes up to a maximum of 1V:3H, tying back into existing ground.
- Southern Fill Area:
    - 70,000m³ of fill over 1 stage
    - 2 ha fill site area
    - Average fill depth of 3.5m
    - Maximum fill depth of 10m
    - Mounded landform shape with variable side slopes up to a maximum of 1V:3H, tying back into existing ground.

The following types of consent are being sought:

- Land use consent (s9) for construction and operation of a managed fill facility. Land use consent is required under the Auckland Unitary Plan (Operative in Part) (AUP(OP)) and under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020, for the establishment and operation of the managed fill facility, associated district and regional earthworks, earthworks and vegetation removal within 10m of natural inland wetland, diversion and placement of fill over existing overland flow paths, and establishment of a new access which does not meet the permitted standards.
- Land use consent (s9) to drill a new water bore (for a permitted activity water take).
- Discharge permit (s15) for discharge contaminants from a managed fill facility not meeting the permitted activity standards of the AUP(OP).

Terminology relating to the primary activity used throughout various specialist documents, plans, strategies, and submissions relating to the application varies. For clarity, the proposal is to import material containing low concentrations of hydrocarbons that meet the criteria for Class 5 Fills

(Cleanfills) as recommended by *Technical Guidelines for Disposal to Land*, WasteMINZ (2023), which have been endorsed by the Ministry for the Environment. These guidelines contain different background concentration levels for volcanic and non-volcanic soil ranges. The geology of the site is non-volcanic, but the applicant is proposing to allow imported material that could meet the higher volcanic soil range concentrations (to enable soil to be imported from sites across the Auckland Region). The proposal is therefore considered a Managed fill, and not a Cleanfill under the AUP(OP) definitions. The proposal is not for a Landfill. The definition of Managed fill from Chapter J of the AUP(OP) is copied below.

> *Managed fill material is:*
>
> - *contaminated soil and other contaminated materials;*
> - *natural materials such as clay, gravel, sand, soil, rock; or*
> - *inert manufactured materials such as concrete and brick: and*
>
> *That does not contain:*
>
> - *hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;*
> - *products or materials derived from hazardous waste treatment stabilisation or disposal practices;*
> - *materials such as medical and veterinary waste, asbestos, or radioactive substances;*
> - *combustible components; or*
> - *more than 2 per cent by volume of incidental or attached biodegradable materials (e.g. vegetation).*

Further to this AUP(OP) definition, the maximum incidental inert manufactured materials such as concrete and brick are limited to no more than 5% volume per load, in accordance with the aforementioned WasteMINZ guidelines.

Overall, the proposal is a discretionary activity. For the reasons set out in this report, **I recommend that the application is refused**.

8. The proposal, site and locality description

Hodgson Planning Consultants Ltd have provided a description of the proposal and subject site on pages 11-29 of the Assessment of Environmental Effects (AEE) titled: Resource Consent Application, Scarbro Environmental Limited Managed Fill, dated 22 November 2024.

Having undertaken site visits on 19 December 2024 and 1 September 2025, I concur with that description of the proposal and the site, except where expressly identified below, and summarise as follows:

Subject Site

- The subject site is a 25.2977 hectare site with frontage to Hunua Road and Jones Road, located approximately 7km from the rural urban boundary with Papakura.
- The topography is complex, with an east-west spur running towards the centre which houses the existing access and dwelling/accessory buildings. A further south-running spur then extends from this central spur down towards Hunua Road, with an incised gully to the west and a permanent stream and wetland to the south (within the site). Land to the north also contains a permanent stream, but with a much larger area of gently sloping land from east down to the west. A Significant Ecological Area to the north briefly enters the site at the northern boundary, with an exotic/weed dominated wetland in the north-eastern corner of the site.
- The site has Class 4 soils (based on Council GIS mapping), and is predominantly in pasture grasses and is lightly grazed with cattle.
- The site is zoned Rural Production, with most surrounding land either zoned Rural Production or Mixed Rural. A large area of Special Purpose Quarry zone is located between the site and urban Papakura

Proposal

- The proposal is to construct and operate a managed fill activity comprising two separate areas of 9ha and 2ha on the northern and southern sides of the site respectively, with corresponding estimated fill volumes of 720,000m³ and 70,000m³, giving a total fill volume of 790,000m³.
- Filling will take place over a period of up to 5-10 years, with a consent duration of 10 years sought.
- All fill activities are located outside of natural streams and wetlands. Weed and pest control plus wetland planting and riparian planting around all streams and wetlands is proposed to be undertaken at the completion of filling. This will include fencing to exclude stock, plus returning the completed fill areas to grass to facilitate rural production use.
- The northern area (720,000m³) will be undertaken over 5 separate stages. This is indicated in Figure 3 on the following page. The southern area (70,000m³) will be a single stage.
- The applicant has acknowledged that further geotechnical investigation is required to confirm suitability of the southern fill area, and has proposed that this be provided by way of a pre-development consent condition prior to any fill taking place in this location.[1]

[1] Paragraph 65 of the AEE, included in Attachment 1.

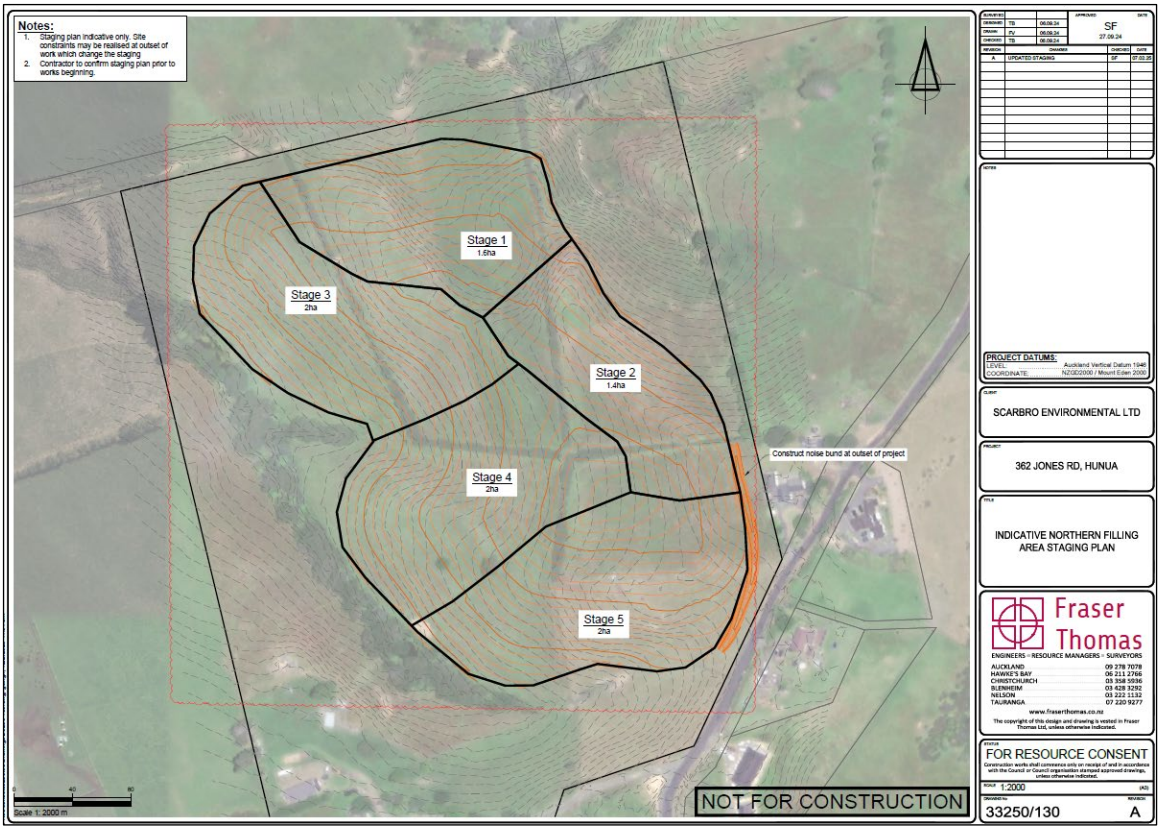

Figure 3. *Indicative Northern Filling Area Staging Plan, Fraser Thomas*

- Access to the site will be via Hunua Road. This will require a new vehicle crossing, some upgrades/shoulder widening to Hunua Road, a bridge structure over a permanent stream, and an internal haul road. While not identified in the AEE, removal of the existing culvert and construction of the bridge structure will require earthworks and vegetation removal (exotic vegetation/weeds) within a natural wetland, and within 10m of a natural wetland. The applicant has acknowledged this in the s92 response.[2]
- Further mitigation works along Hunua Road are proposed where there are existing visibility constraints for trucks. These include some road widening, vegetation trimming and new signage.
- Site operation hours are proposed to be 7am to 6pm Monday to Friday, and 7am to 1pm on Saturdays. No operation is proposed on Sundays and public holidays.
- On-site staffing (excluding truck drivers passing through the site) will involve up to 4 people. A site supervisor will be in charge on-site at all times during operating hours.
- The existing site water bore will be decommissioned as this is located within the northern fill area. A new bore established outside of the fill area at coordinates 1780472.611, 5894243.583 is proposed. This water bore will be used to supplement roof water for dust control purposes.
- A site office is proposed to be located in the existing dwelling on the site, utilising the existing water supply and wastewater disposal system. Staff parking would be adjacent to this staff office.

[2] See response to RFI 1(d) in the s92 response table, included in Attachment 8.

- No specific signage design is proposed at this stage, with any signage to adhere to the standards set out in the Auckland Council Signage Bylaw 2022 (it is noted that the AEE refers to the outdated 2015 bylaw in error).
- A suite of noise control measures is proposed as follows:
    - Truck movements will be limited to a maximum of 96 trucks per day and 20 trucks per hour (Monday to Friday), and 50 trucks per day and 20 trucks per hour (Saturday). Tonal reverse alarms are not to be used on any plant or machinery on-site.
    - An earth bund is proposed to be constructed to provide acoustic screening to 332 Jones Road and 353 Jones Road, east of the site. This bund will be 160m long and 3m high. This bund will also be planted with native species, to provide visual screening. As the managed fill progresses in height, further stages of earth bunds will be constructed up the slope.
    - No bulldozer or sheepsfoot roller will be operated within 90m of the property boundary of 332 Jones Road or within 80m of the property boundary of 353 Jones Road.
- A full suite of erosion and sediment control measures is proposed, primarily consisting of sediment ponds which will be shifted throughout the course of works as the staging requires.

9. Background

Mana Whenua Engagement

Prior to making the application, the applicant met with representatives from Ngaati Tamaoho. A follow-up email was provided by Lucie Rutherfurd of Ngaati Tamaoho, stating that they were not opposed to the application provided the following are provided for:

- That all waterways and wetland areas on both sides of the existing access are fenced for stock exclusion (this can be 3 wire hotwire if cattle are to be grazed) and riparian planted with appropriate native plants.
- That rock riprap is placed down the paddock for the road runoff to pass over prior to entering the waterway/wetland.
- That super silt fences are provided to prevent any silt from entering any of the waterways onsite.
- If any flocculation is to be used, that it is to be organic.

The applicant has reportedly made verbal assurances at the on-site meeting that these recommendations will be met. The proposal clearly lays out fencing and planting, stormwater controls, and silt fencing (along with other erosion and sediment controls).

However, in their s92 response, the applicant has stated that organic flocculant is no longer proposed to be used, and instead polyaluminium chloride (PAC) flocculant will be used which is a more commonly used water treatment chemical.[3]

No other mana whenua groups have requested engagement on the proposal, and no mana whenua groups have made a submission on the application.

Local Board Feedback

Franklin Local Board

The Franklin Local Board (Wairoa Sub-division) was invited to comment on the application. Initial comments were received on 8 May 2025, outlining the following:

> *The Franklin Local Board notes that the area is zoned Rural Production Zone, has Significant Ecological Area Overlay, has a wetland and High-Use Stream Management Area Overlay, and is within the catchment area of Slippery Creek and the Manukau Harbour.*
>
> *We also note a new entrance onto Hunua Road is proposed which is a rural road not originally built for heavy trucks and recommend Auckland Transport planners consider the additional maintenance needs and safety on the use of this road.*
>
> *We ask that Council's planners carefully consider the impact to the environment, road network and impact to local people.*
>
> *We recommend this consent should be Notified.*

The Franklin Local Board was again invited to comment on the application as publicly notified. Comments were received on 14 July 2025, as follows:

> *The Local Board has the following concerns about the proposed Managed Fill operation:*
>
> 1. *The site is in the catchment area for the Hays Creek Dam, which supplies drinking water to Auckland. Areas also feed into the Slippery Creek and Manukau Harbour.*
> 2. *The Board requests that Watercare and Healthy Waters specialists consider the potential environmental effects of a Managed Fill, including potentially contaminated fill, on the water quality in the receiving environment and ground water.*
> 3. *Building materials such as concrete and asphalt concrete may contain contaminates including paints, plastic coatings, rubber particles and tyre waste, all of which could potentially leach toxic chemicals and micro and nanoplastics into the receiving environment. The Board request that specialists also consider these factors.*
> 4. *The roads around the area are rural roads and not suitable for heavy trucks. The main access route to the site includes the Hunua Gorge, the second half of which (beyond the Hunua Quarry) is narrow and windy. The Board requests that Auckland Transport consider the effects the trucks may have on the road surfaces and on the other users of the roads. In particular, the Board requests that Auckland Transport consider the improvements needed to ensure the safety of all users of these roads.*

[3] "*Resource consent application – Further information request*" letter, prepared by Hodgson Planning Consultants dated 08 December 2025, p8

Note that the Hunua Gorge is also used by school buses and buses accessing Camp Adair.

5. *The main route – the Hunua Gorge – is often affected by slips and crashes. The alternative routes are narrow and windy and the Board also request that Auckland Transport consider the impact of increased truck movements on these alternate routes on the safety of the local community.*

6. *The Board is concerned that the site includes flood prone areas, flood plains, overland flow paths, streams and intermittent streams, and part of the site is a wetland and part is an extension of a Significant Ecological Feature. The Board would like specialists to consider the suitability of such a site for land filling operations.*

In summary, the Board is concerned about the effects on the receiving environment of a managed fill operation at this site. The Board also has concerns about the roads and the safety of other road users from the significant increase of heavy truck movements.

Watercare Services Limited

Watercare Services Limited are a submitter (ID #305), and their concerns are assessed in the following sections of this report.

10. Permitted Activities

The proposal involves the following permitted activities under the AUP(OP) and/or relevant National Environmental standards:

- Enhancement planting to a width of 10m from the banks of Streams 1, 2 and 4 is a Permitted Activity pursuant to rule E3.4.1 (A2).
- Demolition or removal of existing structures (existing culvert) in Stream 1 is a Permitted Activity pursuant to rule E3.4.1(A24).
- Construction of a new bridge over Stream 1 that complies with the standards E3.6.1.16 and E3.6.1.14 is a Permitted Activity pursuant to rule E3.4.1(A29).
- The taking and use of up to $5m^3$ of groundwater per day (when averaged over any consecutive 20-day period), in this case for a proposed wheel wash and dust control, is expressly permitted under rule E7.4.1 (A14) of the AUP(OP) and does not trigger consent under s14(3) of the RMA.
- The construction, operation, use, maintenance and repair of road network activities, in this case, any upgrades or widening of Hunua Road, is permitted under rule E26.2.3.2(A67).
- Vegetation clearance and earthworks related to enhancement planting at Wetland A to E is a Permitted Activity under regulation 38(1) and (2) of the NES:F.

Other Activities and Consents Required

For completeness, I note that installation of any signage associated with the managed fill operation is not included in this application. The applicant has advised that approval for all signage will be sought under the Signage Bylaw.

11. Reasons for the applications

Resource consents are required for the following reasons:

Land use consent (s9) – LUC60440790

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

H19 Rural – Rural Production Zone

- To construct and operate a managed fill facility on a site in the Rural Production Zone is a **discretionary Activity** under Rule H19.8.1(A66).

E12 Land Disturbance - District

- To undertake land disturbance over an area of 110,000m², being an area greater than 2,500m² in a rural zone, is a **restricted discretionary activity** under rule E12.4.1(A6).
- To undertake 790,000m³ of land disturbance, being a volume greater than 2,500m³ in a rural zone, is a **restricted discretionary activity** under rule E12.4.1(A10).

E27 Transport

- To establish a new access which is an accessory activity, but which does not comply with the access standards is a **restricted discretionary activity** under rule E27.4.1(A2). In this case, the new access exceeds 9m and does not comply with T156).

E36 Natural hazards and flooding

- Diverting the entry or exit point, piping or reducing the capacity of any part of an overland flow path is a **restricted discretionary activity** under rule E36.4.1(A41). In this case, it is proposed to pipe a section of the overland flow path for the northern fill access road.

Regional land use (operative plan provisions)

E11 Land Disturbance - Regional

- To undertake land disturbance over an area greater than 2,500m², which is on land with a slope greater than 10 degrees and partially within the Sediment Control Protection area, is a **restricted discretionary activity** under rules E11.4.1(A8) and (A9), respectively.

National Environmental Standard for Freshwater (NES:F)

- To undertake vegetation removal and land disturbance within 10m of natural inland wetland for the purpose of constructing and operating a landfill or a cleanfill area, is a **discretionary activity** under Regulation 45B(1) and (2).

Land use consent (s9) – LUC60445125

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E7 Taking, Using, Damming and Diversion of Water and Drilling

- To drill a bore not otherwise specified is a **controlled activity** under rule E7.6.1(A41).

Discharge permit (s15) - DIS60440791

Auckland Unitary Plan (Operative in part)

E13 Cleanfills, Managed Fills and Landfills

- To discharge contaminants from a managed fill that does not meet the controlled activity standards is a **restricted discretionary activity** under E13.4.1(A5). In this case standard E13.6.2.2 is not complied with because some concentrations of contaminants (nickel and zinc) will exceed the permitted activity levels specified in Chapter E30.

12. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In this instance, the effects of the proposed resource consents will overlap and thus they are considered together as a discretionary activity overall.

13. Notification and submissions

Notification background

The applications were publicly notified on 16 June 2025 following the determination on notification (refer **Attachment 3**). Notice of the applications was served on 12 June 2025 on those persons identified as being owners or occupiers of properties that immediately adjoin or are immediately opposite the subject site, the Franklin Local Board, and the following iwi groups:

- Ngāi Tai ki Tāmaki
- Ngāti Maru
- Ngāti Pāoa
- Ngāti Tamaoho
- Ngāti Tamaterā

- Ngāti Te Ata
- Ngāti Whanaunga
- Te Ahiwaru – Waiohua
- Te Ākitai Waiohua
- Waikato – Tainui

Submissions

When the submission period ended, a total of 520 submissions were received.

A map showing the location of submitters is attached as **Attachment 4**.

Of the submissions received:

6 in support*	0 neutral	514 opposing*

**Note: At close of submissions, there were 7 in support and 515 in opposition. One submitter subsequently clarified that they accidentally checked support on the submission form, but they meant to oppose. Two further submissions were reclassified as invalid (as described later in this section).*

A summary of the core issues raised in submissions together with the relief sought by the submitters is set out as follows. This table is only a summary of the key issues raised in submissions. For the specific details, refer to the full set of submissions, included in **Attachment 6** to this report.

This summary of submissions identifies the following:

- the number of submissions in terms of the key identified issues below
- details any relief sought by the submitter

Summary of submissions

Issues raised:		
1.	Traffic effects including safety and amenity (i.e. decreased speed and inconvenience)	472
2.	Damage to roads	162
3.	Contamination of water including groundwater and effects on public water supply dam	271
4.	Dust effects and air contamination (including effects of dust on roof water drinking supplies)	243
5.	Land stability and erosion and sediment control effects	48
6.	Noise (operational or traffic noise)	201
7.	Landscape and visual effects	101
8.	Water bore and groundwater take effects	8
9.	Asbestos concerns	33

Issues raised:		
10.	Concerns related to general landfill, rubbish/waste, including odours and pests	81
11.	Ecological effects (including effects on habitat loss, flora and fauna)	146
12.	Lack of consultation (including mana whenua consultation)	41
13.	Community amenity/wellbeing and health impacts (including mental health and psychological/psychosocial harm) not otherwise covered	116
14.	Effects on livestock, agriculture, and loss of productive soils	73
15.	Impacts to tourism and visitors (not otherwise covered in traffic effects)	75
16.	Impacts to property values	50
17.	Precedent setting concerns	13
18.	Stating opposition to 'all aspects' of proposal, or other widespread general comment	14

Relief sought:		
A.	Refuse consent (and/or find an alternative site for the proposal)	477
B.	Grant consent	1
C.	Require independent assessments or additional Council review of the application information.	33
D.	Transparent public consultation / send notification letters to all neighbours / require full public notification of the application	18
E.	Require engagement with iwi	5
F.	Amend planning policy to prevent landfills and/or add exclusion zones near Hunua dam catchments preventing this type of activity	2
G.	Explore waste alternatives	4
F.	*If granting consent,* require widening of Hunua Road	31
G.	*If granting consent,* undertake other upgrades of, or repairs of Hunua Road (including signage, mirrors, warning systems)	35
H.	*If granting consent,* prohibit truck use of Jones Road, Garvie Road, Ardmore Quarry Road, or Ponga Road	9
I.	*If granting consent that allows Ponga Road to be used*, require Ponga Road to be upgraded	1
J.	*If granting consent,* reroute trucks away from the Hunua Gorge onto other roads	4
K.	*If granting consent,* impose a condition requiring the facility to shut down (or other similar contingency plans) if the Hunua Gorge is closed	3
L.	*If granting consent,* require a traffic management plan, GPS data, live traffic count systems, and CCTV at the site entrance for monitoring	8

Relief sought:		
M.	*If granting consent,* ensure that there is a safe entry/exit from the site, including a pull out bay	5
N.	*If granting consent,* require truck drivers to have a minimum of 5 years driving experience	1
O.	*If granting consent,* impose limits on truck movements (i.e. further restrict peak truck movements per day) or impose limits on truck operation times	19
P.	*If granting consent,* reduce the project duration and/or scale, or restrict the days (i.e. no weekends)	27
Q.	*If granting consent,* impose condition with strict/enforceable guidelines for cleanfill material	17
R.	*If granting consent,* impose condition requiring more frequent and independent testing for fill material and/or testing for all material, with a zero-tolerance policy, including PFAS testing	17
S.	*If granting consent,* impose condition requiring regular monitoring	28
T.	*If granting consent,* require public reporting and/or a community liaison group	17
U.	*If granting consent,* install leachate capture and treatment systems plus multi-layer liners	3
V.	*If granting consent,* require groundwater testing, soil testing on adjoining farms, trough water testing, testing of farm and animal produce, and audits of environmental and welfare impacts	3
W.	*If granting consent,* install automated dust suppression systems on tipping and haul routes, require covered trucks and sealed loads to prevent airborne dust, and continuous air monitoring at the site boundary	3
X.	*If granting consent,* impose condition requiring protection measures for roof water, require the consent holder to provide filters to residents / wash houses and/or require the consent holder to provide backup potable water source for residents if contamination occurs (dust or groundwater)	17
Y.	*If granting consent,* require the wheel wash to be industrial grade	1
Z.	*If granting consent,* impose a condition requiring works to cease during high wind conditions	1
AA.	*If granting consent,* impose a condition requiring progressive rehabilitation of the site	1
AB.	*If granting consent,* require a bond for remediation works	12
AC.	*If granting consent,* impose a condition enforcing site rehabilitation	2
AD.	*If granting consent,* require the Council or applicant to mitigate property damage	1
AE.	*If granting consent,* require the consent holder to pay residents for disruption and property damage	6

Relief sought:		
AF.	*If granting consent,* require the consent holder to set up a community fund where money is donated to community projects	1
AG.	*If granting consent,* require visual screening	11
AH.	*If granting consent,* increase the level of planting and landscaping proposed	2
AI.	*If granting consent,* establish a 1-2km vegetation buffer zone	2
AJ.	*If granting consent,* require additional acoustic treatment	8
AK.	*If granting consent,* impose a condition requiring machinery on-site to be Electric Vehicles or otherwise low noise	3
AL.	*If granting consent,* require runoff systems to protect waterways	1
AM.	*If granting consent,* prohibit wetland disturbance	3
AN.	*If granting consent,* impose watercourse and wetland protection measures	1
AO.	*If granting consent,* impose conditions requiring pest and pest plant management	3
AP.	*If granting consent,* guarantee that there will be no pollution	2
AQ.	*If granting consent,* upgrade parking in the Hunua Village for trucks	1
AR.	*If granting consent,* impose a review condition that enables revocation of or changes to the consent	1
AS.	Relief sought was either unclear, or this section was responded to with questions	21

A table summarising the submissions received and whether those persons wish to be heard can be found in **Attachment 5** to this report.

Late Submissions

No late submissions were received.

Invalid Submissions

- The Papakura Local Board also provided comment by way of a submission on the application (submission #178). However, only the Franklin Local Board is eligible to provide comment on the application, and Local Boards are ineligible to make submissions. This submission is therefore considered invalid.
- A letter opposing the application from a Hunua resident was also forwarded from the Papakura library, and this was originally categorised as a submission (submission #315). However, the letter was not accompanied with an application form and did not include contact details, so the resident could not be contacted to provide the required details. The submission is therefore considered invalid.
- In addition, a phone call was also received from an Auckland resident expressing their concerns with the proposal, but advising that they were unable to make a formal

submission due to disabilities. Their primary concerns were construction debris from trucks being dropped on roads, the weight of trucks and damage to local roads, and concerns with regard to asbestos. These matters have also been raised by other residents.

Written Approvals

The applicant has not obtained the written approval from any persons.

Amendments to the applications following notification

After the submission period ended, the applicant amended the proposal, and provided further information on a number of matters. These changes and extra information are included in **Attachment 8** of this report and are also referenced earlier in this report (refer to Section 8).

This information forms part of the applications and is considered in this report. The amendments are considered to be within the scope of the original applications, and therefore re-notification of the applications was not required. All submitters were given written or electronic notice that the information is available on the council office on 7 January 2026.

The changes to the applications are as outlined in the further information tracking schedule included in **Attachment 8** of this report, and are described as follows:

- Further assessment is provided with regard to adverse effects on the Hays Creek Dam and water supply catchment.
- A further assessment with regard to Regulation 45B of the NES:F is provided.
- Calculated water demand and measures for dust control are provided, which includes the provision of water tanks on-site, a backup proposal for water tankering if water needs are greater than the permitted activity water take option in a drought year, and an updated proprietary wheel wash.
- Confirmation that riparian planting can be brought forward to achieve earlier environmental enhancement.
- Addition of an indigenous revegetation planting corridor along the eastern site boundary.
- Increased wetland riparian planting near the north-eastern corner of the site (Wetland E).
- Slightly increased stream riparian planting along Stream 3.
- Confirmation of compliance with permitted activity standards for air discharge (dust).
- An assessment on groundwater and surface water effects.
- An updated Fill Management Plan, including provision of existing water quality testing results, and a surface water monitoring plan.
- An updated noise assessment.

- Confirmation that only Hunua Road will be used for trucks, and confirmation that if Hunua Road is closed, then the managed fill operation would need to be closed for that duration.
- Updated Hunua Road tracking diagrams, plus widening on select bends.
- Additional provision of road signage.
- Volunteered condition for pavement monitoring and repairs if required, up to 100m from the site entrance.

Consideration of the applications

14. Statutory considerations

Resource Management Act 1991

In considering any application for resource consent and any submissions received, the council must have regard to the following requirements under s104(1) of the RMA – which are subject to Part 2 (the purpose and principles):

- any actual and potential effects on the environment of allowing the activity;
- any measure proposed to or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity;
- any relevant provisions of national policy statements, New Zealand coastal policy statement; a regional policy statement or proposed regional policy statement; a plan or proposed plan, a national environmental standard (NES), or any other regulations; and
- any other matter the council considers relevant and reasonably necessary to determine the application.

When considering any actual or potential effects, the council may disregard any adverse effects that arise from permitted activities in a NES or a plan (the permitted baseline). The council has discretion whether to apply this permitted baseline.

For a discretionary activity, the council may grant or refuse consent (under s104B). If it grants the application, it may impose conditions under s108.

Sections 105 and 107 address certain matters (in addition to the matters in s104(1)), relating to discharge permits and coastal permits where the proposal would otherwise contravene s15 (or ss15A or 15B).

Section 106A sets out the circumstances under which a consent authority may grant or refuse to grant a land use consent if the consent authority considers that there is a significant risk from natural hazards.

Sections 108 and 108AA provide for consent to be granted subject to conditions and sets out the kind of conditions that may be imposed.

15. Actual and potential effects on the environment

Sections 104(1)(a) and 104(1)(ab) of the RMA requires the council to have regard to:

- any actual and potential effects on the environment of allowing the activities (including both the positive and the adverse effects); and
- any measure proposed to or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

Positive effects

The proposal will have the following positive effects:

- The clearance of pest plants, proposed riparian planting on the site, and additional stock-exclusion fencing of streams and wetlands will have long term positive ecological effects.
- Upgrades of Hunua Road (in particular, the widening of some existing constrained bends in the road) will benefit other road users beyond the life span of the proposed managed fill facility.
- Provision of a new managed fill facility for waste soil disposal from urban development and infrastructure construction for which there is market demand and which would contribute to facilitating urban development within the Auckland region over the next decade.

Adverse effects

In considering the adverse effects of the proposal, the council:

- may disregard those effects where the plan permits an activity with that effect; and
- must disregard those effects on a person who has provided written approval, and trade competition or the effects of trade competition.

Effects that must be disregarded

Any effect on a person who has given written approval to the applications

No written approvals have been provided.

Trade competition

I have not identified any trade competition related effects.

Effects that may be disregarded

Permitted baseline assessment

The permitted baseline refers to permitted activities on the subject site. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful.

A number of ancillary permitted activities are listed in Section 10 of this report. I consider the permitted baseline to apply to these specific matters, and there is nothing fanciful about:

- Clearance of vegetation or earthworks relating to enhancement planting within wetlands, or enhancement planting along the banks of streams, as this is an activity that routinely takes place throughout rural Auckland.
- Removal of an existing culvert and construction of a replacement bridge, which is expressly permitted, and any other use of the site could equally consider replacing an old and damaged culvert with a bridge structure.
- Upgrades, maintenance or repair of road network activities, which is an activity that routinely takes place throughout the Auckland region.
- The taking and use of up to 5m³ of groundwater per day, as this is expressly permitted and is a viable proposition for any rural site.

Potential adverse effects associated with these specific matters are therefore disregarded.

However beyond these specific matters, there is no suitable permitted baseline that has been taken into consideration in the assessment of the overall managed fill proposal, as the type and/or complexity of effects associated with the proposed activity are such that the permitted baseline does not provide a useful comparison for the purpose of discounting effects.

Assessment

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of these applications must be assessed.

In this case, the receiving environment is predominantly rural in nature. Surrounding land uses are dominated by rural living and pastoral farming, with pockets of regenerating vegetation, mainly situated within steep gullies containing watercourses and wetland areas.

Over half of the subject site is also located within the catchment of Hays Creek Dam (forming part of Auckland's Drinking Water Supply, managed by Watercare Services Limited).

The Winstone Aggregates Hunua Quarry is located approximately 2km to the west of the subject site along Hunua Road, which sees a large volume of heavy vehicles travelling along Hunua Road to the west (between Papakura and the quarry).

The Hunua Village is approximately 3.5km east of the subject site along Hunua Road. This road is also a primary access route for many residents and farms in the surrounding area, Hunua School, Camp Adair, and the Hunua Ranges (including Hunua Falls). These uses attract a range of visitors to the area travelling along Hunua Road from the west.

There are no known unimplemented consents on the subject site that are likely to be implemented.

Adverse effects

While having regard to the above, the following assessment is completed after I have:

- analysed the applications (including any proposed mitigation measures);
- visited the site and surrounds;
- reviewed the council's records;
- reviewed the submissions received; and
- taken advice from appropriate experts.

The following adverse effects have been identified:

Traffic and Road Network Effects

The vast majority of submissions cover general roading network and traffic effects, including safety, amenity, and damage to roads. This section focuses primarily on the road safety and damage effects. Amenity aspects are considered as part of the rural character and amenity assessment in a following section.

The proposal is to use truck-and-trailer units (approximately 10-18m³ fill capacity and measuring up to 19m long) to transport fill material to the site, exclusively via Hunua Road. The applicant has proposed a daily peak of 192 truck movements per day (96 trucks per day), but with an annualised maximum average of 54 truck movements per day (27 trucks per day). The applicant has stated that the peak number is to allow flexibility to accommodate for seasonal fluctuations (likely occurring during the October to March earthworks season), but is not representative of typical truck movements.

The applicant has also confirmed that the operation will be entirely for fill material from their own (Scarbro) projects. All trucks involved will be Scarbro trucks under their management, with GPS monitoring and in constant communication so that their movements can be coordinated to avoid conflicts on constrained sections of Hunua Road. Some submitters question the reliability of this coordination and have highlighted coverage blackspots through sections of the Hunua Gorge.

It is acknowledged that there is a high volume of truck-and-trailer traffic between Papakura and the Winstone's Quarry. This section of road has seen historic upgrades to accommodate heavy vehicle traffic to and from the quarry, but heavy vehicle usage between the quarry entrance and the subject site is less frequent.

Auckland Transport's Development Planner, Matt Ford, has assessed the application (and submissions) with regard to actual and potential effects on traffic safety and the roading network.

Mr Ford's resulting technical memo (with attachments) is included as part of **Attachment 2** to this report.

Mr Ford has addressed some traffic and road network matters that are considered to be satisfactory. These are generally summarised as follows:

- The additional truck movements from the proposal are unlikely to adversely affect the stability of the cliff face along Hunua Road.
- Subject to adequate management of roadside vegetation, safe sightline distance can be achieved from the site entrance.
- The over-wide vehicle crossing is appropriate, and would enable safer truck tracking, safer passing of vehicles and would assist in avoiding queuing on Hunua Road.
- The applicant has confirmed that other roads in the vicinity such as Ponga Road and Jones Road will not be used by trucks associated with the proposal.

However, Mr Ford has identified a number of unresolved issues with the proposal, summarised as follows:

- There are four identified physically constrained and narrow sections of Hunua Road. There is less than 0.5m clearance distance between two opposing truck-and-trailer units at these bends (even when considering widening proposed by the applicant). While the applicant has proposed operational mitigation (through GPS monitoring and communication between their trucks), Mr Ford has summarised the key issue with this mitigation in Paragraph 25 of their memo as follows:

  "AT cannot accept these mitigation measures as fleet coordination (GPS/radio) is an operational mitigation and cannot substitute for geometric provision for mixed traffic. As non-Scarbro vehicles are not subject to fleet controls and residual conflict risk remains material. There will be many situations where a Scarbro truck and trailer will need to simultaneously pass another large heavy vehicle that is not operated by Scarbro. How the driver of another heavy vehicle reacts to a situation where a Scarbro truck and trailer is tracking over the centreline is outside of the Applicant's control."

  Auckland Transport considers the identified safety risk to be unacceptable, and a significant adverse safety effect.
- In addition to the above, tracking diagrams with truck-and-trailer units opposing emergency vehicles, school buses, or light vehicles have not had a clearance distance disclosed, and it cannot be concluded that these interactions can be safely managed.
- Hunua Road is a high-risk crash environment, and the increase in traffic volumes (particularly heavy vehicles) introduces additional crash risk onto an already constrained and safety-challenged section of the transport network.
- The increase in traffic volumes from the proposal proportionately increases the residual pedestrian safety risk with regard to school bus stops along Hunua Road that cannot be fully mitigated through signage.
- The tube count data provided by the applicant is suspected to be flawed, having potentially misclassified westbound light vehicles as Class 4 vehicles, inflating heavy

vehicle counts. This potential inflation increases the threshold for triggering a pavement impact assessment and associated upgrades or maintenance obligations on the applicant and therefore the data cannot be relied upon until verified.

- The proposal has partly relied on Hunua Road being marked as a strategic freight route. Auckland Transport's "Future Connect" planning tool was updated on 17 December 2025, and no longer identifies Hunua Road as a strategic freight route. Assumptions with regard to reliance on Auckland Transport for future investment beyond standard maintenance are no longer valid, and these should be matters addressed through this resource consent (but have not been).
- The applicant's section 92 response indicates that the proximity of the site to the Winstone's Quarry results in transport efficiencies for backloading[4]. However, the access arrangement on Hunua Road does not accommodate left-turning truck-and-trailer travelling towards the quarry from the subject site, and there should be no reliance on these claimed efficiencies unless the road entrance to the quarry is suitably upgraded.

Mr Ford has concluded that the proposal cannot be supported in its current form, and the mitigation measures proposed do not fully address the significant safety risks associated with opposing truck-and-trailer movements. Pavement strengthening and safety improvements required to support the proposed truck movements would need to be addressed entirely by the applicant.

I rely on the technical assessment by Mr Ford of Auckland Transport and adopt his findings and conclusions. On this basis, I consider that the proposal will result in significant adverse traffic and road network effects.

Landscape and Visual Effects

The landscape and visual effects of the proposal have been assessed by Council's consultant landscape architect Stephen Brown, following a review of the application and its landscape effects undertake by Council's consultant landscape architect Simon Cocker (prior to receipt of submissions). Mr Brown has also reviewed the applicant's landscape assessment prepared by Rob Pryor of LA4.

Mr Brown has provided an overview of the landscape and visual concerns (along with some specific examples) raised by submitters in his memo (**Attachment 2**). Many of the submissions concern both the visual impacts throughout the 10-year duration of the activity, as well as the visual and landscape impacts of the final changed landform following completion.

I agree with Mr Brown's distinction between the northern fill site, and the southern fill site with the haul road, as the existing site topography effectively splits the site in a manner that visually isolates the northern fill site from view of Hunua Road. With the exception of those residents along Jones Road, most of the public would only visually experience that part of the site facing Hunua Road.

Mr Brown has concluded that the northern fill site is acceptable from a landscape perspective, subject to the screening and buffering mitigations proposed by the applicant. I adopt this assessment and conclusion.

[4] See response to RFI 1(d) in the s92 response table, included in Attachment 8.

However, the southern portion of the site has high landscape and visual exposure to Hunua Road and private properties to the south. Mr Brown has concluded that the southern fill site would have more than minor adverse landscape/visual effects (and in the case of some properties and locations, significant effects). The proposed wetland/riparian planting would not offer much in the way of screening during the operational period of the managed fill (including screening of the haul road), and the final landform changes are considered by Mr Brown to result in a loss of rural aesthetic coherence, character and naturalness. I adopt the findings of Mr Brown with regard to the southern fill site, and conclude that it would result in unacceptable landscape and visual effects that are unlikely to be able to be mitigated through riparian planting.

Turning to the haul road, Mr Brown has suggested that an alternative access point (i.e. without a haul road visible from Hunua Road) might be necessary to ensure that adverse visual and landscape effects are acceptable. However based on the detailed traffic assessment undertaken by Auckland Transport, I am not satisfied that an alternative access point via Jones Road would be acceptable. I agree with Mr Brown that the haul road in its current form is therefore considered to result in unacceptable adverse visual and landscape effects, but I consider that an alternative planting/screening proposal for the haul road could potentially reduce these impacts to an acceptable level. This, however, is not part of the current proposal.

In summary, from a landscape and visual effects perspective:

- The northern fill site (720,000m³) is considered to result in acceptable adverse effects.
- The southern fill site (70,000m³) is considered to result in unacceptable adverse effects, that cannot be mitigated through screen planting.
- The haul road over the southern portion of the site is considered to result in unacceptable adverse effects, however there is a possibility that this could be mitigated through an alternative screen planting and/or bunding proposal.

Rural Character and Amenity Effects

Many of the issues that have been raised by the submitters in opposition to the application relate to the potential for adverse effects on amenity values as well as rural character. Without limitation, the following are attributes of the surrounding environment that have been noted in the submissions:

- Presence of lifestyle blocks and residential activities.
- Rural residential lifestyle / quality of life / way of life.
- Pleasantness and quietness. Restful / peaceful environment.
- High quality environment / living environment.
- High-value neighbourhood / high standard of living / premium area.
- Presence of native species / birdlife.
- Hunua Road being the gateway to the Hunua Ranges (including Hunua Falls), a high value tourism destination for Auckland.

- Quality of freshwater / streams, including recent efforts by residents and organised groups to undertake stream restoration, and its contribution to the catchment of the Hays Creek Dam.
- Presence of native bush / vegetation.
- Clean / fresh air.
- Rural outlook / character.

These attributes and a range of (mostly rural) activities that can be established in the Rural Production zone and nearby Mixed Rural zone as a permitted activity, without resource consent, form part of the receiving environment. It is noted that the land uses in this area and those anticipated within these rural zones are a mixture of rural production activities and non-productive rural activities (e.g. lifestyle blocks), and also notably the Winstone's Quarry.

Many of the productive activities that could be established within the area as a permitted activity could give rise to adverse rural character and amenity effects, in terms of noise, dust generation, and traffic movements, or even the construction of large rural buildings, or tall shelter belt or forestry planting. This could alter the landscape and amenity that is currently appreciated by those who reside in the area.

I also note that the application includes measures to avoid and mitigate adverse rural character and amenity effects, in particular through:

- Noise management and mitigation to maintain compliance with the AUP(OP) permitted noise and vibration levels;
- Restricted hours of operation: 7am – 6pm on Monday to Friday and 7am – 1pm on Saturday, with no operation on Sunday or public holidays. This seeks to avoid amenity impacts for those residing in the area after the typical working day, and for most of the weekends when they are most likely to be present;
- Dust suppression measures with water being sourced primarily through on-site means (rainwater storage and use of a water bore to extract a permitted-activity level of groundwater);
- Landscape planting and a bund along the eastern boundary of the northern fill area which is proposed to be implemented at the beginning of the project;
- Riparian planting and ecological restoration of wetland and stream areas across the site;
- The implementation of the proposed Fill Management Plan which sets out the fill acceptance criteria and operational requirements for the proposed fill facility;
- Restrictions on the average and peak number of vehicle movements per day;
- Avoidance of all roads except for Hunua Road for truck access, and
- Staging of the proposed fill operation and progressive stabilisation.

In my opinion, the volume of traffic experienced on Hunua Road between the Winstone's Quarry and the subject site also influences the character and amenity for both persons at properties in the near vicinity of the site, and also for other frequent users of Hunua Road. This road has noticeably higher heavy vehicle movements (including many truck-and-trailers) between

Papakura and the quarry, but heavy vehicles beyond the quarry are not usually as large as the truck-and-trailer units proposed by the applicant nor are they as frequent.

The applicant's acoustic specialist, Daniel Winter of StylesGroup, provided commentary on the associated noise and vibration effects from truck traffic on the closest dwellings to Hunua Road, having regard to existing traffic volume[5]. This commentary is based on heavy truck movement data provided in the applicant's traffic assessment, for which Auckland Transport have since stated may be inaccurate. The conclusion that additional noise and vibration from trucks associated with the proposal will be just noticeable, when compared to additional traffic, cannot be substantiated without further clarification of heavy vehicle traffic and its associated noise effects.

With consideration given to the above, with the exception of landscape and visual effects resulting from the southern fill site (discussed in the previous sub-section) and the uncertainties around additional road noise, I consider that adverse rural character and amenity effects of the proposal will be avoided and mitigated to be minor in scale in the context of the receiving environment.

Landscape values are a key contributor to the character and amenity values of the surrounding area, and the unacceptable adverse landscape and visual effects resulting from the southern fill area inevitably leads to corresponding unacceptable rural character and amenity effects.

Effects of Discharges from Managed Fill

A large number of submissions describe concerns with the proposal and the potential for contamination of land and water (including streams, groundwater, and the downstream water supply dam). Submissions share concerns with effects on land and water from general household and inorganic waste, construction waste, asbestos, toxic materials/waste, and per- and polyfluoroalkyl substances (**PFAS**). In general, these concerns would relate to a typical landfill, which is not relevant to this proposal for a managed fill as these materials are all prohibited from being disposed of at a managed fill site.

For clarity, the proposal is to import material containing low concentrations of hydrocarbons that meet the criteria for Class 5 Fills (Cleanfills) as recommended by *Technical Guidelines for Disposal to Land*, WasteMINZ (2023), which are guidelines that have been endorsed by the Ministry for the Environment. These guidelines contain different background concentration levels for volcanic and non-volcanic soil ranges. The geology of the site is non-volcanic, but the applicant is proposing to allow imported material that could meet the higher volcanic soil range concentrations (to enable soil to be imported from sites across the Auckland Region). The proposal is therefore considered a Managed fill, and not a Cleanfill under the AUP(OP) definitions.

The managed fill material would include:

- Virgin excavated natural material, being soil or natural materials such as clay, gravel, sand, soil and rock that does not exceed the background concentration of inorganic elements in soils from volcanic soils in the Auckland Region (as outlined in the WasteMINZ guidelines;
- Inert manufactured materials such as concrete and brick, up to no more than 5% by volume per load, and

[5] *RE: Managed fill, 363 Jones Road, Drury – Response to Section 92* Questions letter, prepared by Daniel Winter of StylesGroup, dated 10 October 2025 pp3-4. Included in attachment 8.

- Incidental or attached biodegradable materials (e.g. vegetation), up to no more than 2% by volume per load.

Council's consultant specialist Ms Sarah Pinkerton has assessed the application with regard to the potential adverse effects from discharges from the managed fill operation and associated soil disturbance. The matters set out in the submissions have also been considered by Ms Pinkerton, and their resulting memo is enclosed as part of **Attachment 2** to this report. Ms Pinkerton has also reviewed the Fill Management Plan (**FMP**) prepared by Fraser Thomas on behalf of the applicant, and additional information including surface water sampling that was requested to be undertaken after review of submissions.

Some key elements of the proposal's mitigation measures are summarised as follows:

- Testing at a rate of 1 sample per 500m³, as set out in the FMP.
- Every load will be accompanied by documentation stating the location and origin of site, and Hazardous Activities and Industries List (**HAIL**) status of the origin site. If fill material is imported from a HAIL site, it must be accompanied by a copy of a Site Investigation Report and a laboratory report confirming that the material meets the acceptance criteria.
- All imported fill will be visually inspected for compliance with the FMP guidelines. Unacceptable material will include any fill material from a HAIL site without sampling results that indicate that soil contaminant levels are within the fill acceptance criteria, fill containing asbestos including fibrous asbestos, asbestos fines, and demolition materials (other than the 5% inert manufactured material allowance).
- Rejection procedures for unacceptable loads, including a quarantine area for inspection (by a Suitably Qualified and Experienced Professional (**SQEP**)), and requirement to dispose of material at a licensed landfill.
- Requirement to keep accurate records of each load tipped at the site or rejected from the site.
- Redirecting all rainwater surface flows across operational areas to sediment removal ponds for treatment prior to water being discharged from the ponds, to further reduce the low potential of leachability of contaminants in particulate form (heavy metals). Conditions of consent would be necessary requiring regular surface water sampling upstream and downstream of the fill area, and at the ponds discharge point, so that the monitoring procedures and contingency measures outlined in the FMP could be followed.
- Groundwater underfill drains are also proposed, to limit contact between seasonal groundwater levels and the fill material, so that groundwater is unlikely to become contaminated from contact with the fill material. These drains also discharge water to the sediment ponds so the same treatment measure above would apply.[6] The surface water sampling would also enable the contingency measures outlined in the FMP to be employed if any contamination results.

[6] As stated in Section 6.2.7 of the Fill Management Plan v4 prepared by Fraser Thomas, dated 08/12/2025 , sediment retention ponds are to be sized to include the area of drains. A copy of this plan is included in Attachment 8.

In the applicant's assessment[7], they have highlighted that the proposed fill Waste Acceptance Criteria (**WAC**) ensures that there is low risk of any contaminants in soils. The proposal adopts cleanfill WAC, except for five parameters (boron, chromium, copper, nickel and zinc), where these adopted WAC relate to background volcanic soil concentrations in the Auckland region. These five WAC are all within the corresponding WAC for Class 3 Managed Fills, which have been determined based on protecting groundwater drinking water (based on the Water Services (Drinking Water Standards for New Zealand) Regulations 2022. The applicant states that the proposed imported material will be inert and at regional background levels for trace metals and synthetic compounds, and therefore it is not anticipated that the material would adversely affect any ground or surface water downgradient of the site that is used as drinking water (or for any aquatic species in surface waters).

Ms Pinkerton has also described the WAC as allowing for concentrations of hydrocarbon contaminants that are acceptable to be deposited at a Cleanfill site, and therefore these are conservative for fill material being imported into a Managed Fill site. Furthermore, the *Technical Guidelines for Disposal to Land*, WasteMINZ (2023) states that "w*hen discharged to the environment, clean fill material will not have a detectable effect relative to the background, and the fill site will be able to be utilised for an unrestricted purpose (e.g., future residential development or agricultural land use) on closure"*.[8]

In their memo, Ms Pinkerton concludes that:

> *"All of the mitigation measures proposed are considered to be appropriate to control the potential discharges from the importation of Managed Fill. If mitigation measures are not put in place, the adverse effects on the environment could be the potential for contaminated fill above the acceptance criteria imported onto the site, dust generation, potential for sediment laden stormwater discharging offsite, and impacts to surface water, sediment quality, and groundwater on site.*
>
> *It is considered that any effects of the proposed activity on the environment will be appropriately managed and mitigated, based on implementing the proposed measures to avoid, remedy or mitigate effects in accordance with the application documents."*

I adopt this specialist assessment, and conclude that adverse effects on the environment resulting from discharge from the managed fill (including to soil and water) will be no more than minor.

General Earthworks, Erosion and Sediment Control Effects

A draft Erosion and Sediment Control Plan (**ESCP**) has been prepared by Fraser Thomas Limited on behalf of the applicant (as part of the FMP). Council's senior specialist Ms Shanelle Beer Robinson has reviewed the draft ESCP, which is split between the northern and southern fill areas (as separate catchments), plus other sub-catchments within them. The ESCP also covers the culvert removal and bridge replacement works.

The ESCP outlines a maximum open area of no more than 2ha at any one time to limit potential exposed surface area. Ms Robinson has confirmed that the draft ESCP is in general accordance with Auckland Council Guidance Document 5 *"Erosion and Sediment Control Guide for Land*

[7] "*Resource consent application – Further information request*" letter, prepared by Hodgson Planning Consultants dated 08 December 2025.
[8] Technical Guidelines for Disposal to Land – Revision 3.1, Waste Management Institute New Zealand (WasteMINZ), September 2023, p78

Disturbing Activities in the Auckland Region" (GD05), including a range of measures including three sediment retention ponds, silt and super silt fences, clean and dirty water diversions, progressive stabilisation, a wheel wash, and the aforementioned maximum open area limit. The applicant has confirmed that they agree to consent conditions requiring a finalised ESCP, standard erosion and sediment control measures, including stabilised site entranceways and chemical treatment as per GD05.

Some submissions have highlighted concerns that the proposed mitigation measures may be insufficiently sized to account for extreme weather events (such as Cyclone Gabrielle in 2023), and that mitigation measures should be designed for less frequent but more significant events than the typical 1% AEP that is designed for. The maximum 2ha open area restriction already serves to minimise potential adverse effects, especially as sediment control ponds are usually designed for up to 5ha areas and can effectively handle this area, even in larger rainfall events.

Ms Beer Robinson has concluded that the potential adverse effects on the environment regarding sediment discharge will be appropriately managed and mitigated, provided the earthworks are undertaken in accordance with the application documents and conditions. It is important to note that the finalised ESCP will need to ensure that the sediment retention ponds are sized appropriately to also cater to the underfill drainage as stated in the applicant's FMP.

I adopt the findings of Ms Beer Robinson, and I consider that the proposed regional scale earthworks will be appropriately managed to effectively avoid and mitigate adverse effects on the receiving environment.

Geotechnical / Land Stability Effects

A number of submitters have raised concerns about instability of the proposed fill material, and potential landslide hazard risk and faultlines in this area. In this regard, the potential geotechnical effects of the proposal, including fill instability, soil instability on neighbouring sites, and landslide hazard risk has been assessed in the Geotechnical report provided with the application (included in **Attachment 1**) and a Landslide Hazard Risk Assessment (included in **Attachment 8**), which has been reviewed by the Council Team Leader Development Engineering South, John Newsome.

The report concludes that the proposed managed fill is suitable for the site, subject to satisfactory conditions and provided that the works are carried out as would be done under normal circumstances and in accordance with the requirements of the relevant New Zealand Standard Codes of Practice.

However, there is some uncertainty with regard to the southern filling area, and the reports outline that this area must be subject to further geotechnical appraisal and landslide hazard risk assessment prior to works taking place. The applicant has volunteered a condition of consent in this regard, to the effect that a specific geotechnical report with recommendations on slope stability, settlement considerations and foundation bearing pressures will need to be provided to Council for certification prior to any undertaking of the southern fill area. In verbal discussions with the applicant, they confirmed that they accept that this portion of the managed fill operation may not be able to proceed if geotechnical assessments are not able to be provided to the satisfaction of Council.

Mr Newsome agrees that the deferred approach for full geotechnical investigation and landslide hazard risk assessment for the southern fill area is acceptable. I agree that this can be acceptable in this particular instance as:

- the proposed southern fill area comprises only a small proportion of the overall managed fill volume,
- it is the later and final stages of the fill operation only, and
- in the event of unsatisfactory or overly difficult conditions, the fill operation could simply cease without any of the southern fill taking place. This would therefore avoid any additional risk to the environment.

However, this relies on the applicant confirming agreement to the specific wording of such a condition, on an Augier basis.

Overall, Mr Newsome has concluded that the geotechnical aspects of the application are suitable, subject to normal conditions (i.e. requiring engineering supervision and certifications), and the applicants proffered conditions for the southern fill area. Given the planned duration is for a period of 10 years, Mr Newsome has recommended that interim geotechnical completion reports be provided every 2 years so that Council can be confident that the works are progressing safely as planned. The applicant has agreed and has proffered a condition of consent that would require interim geotechnical completion reports to be provided annually (to go along with other standard annual reporting requirements).

With these measures and relying on the assessment provided by the Council development engineer and geotechnical reviewer, I consider that potential adverse geotechnical and land stability effects associated with the managed fill activity will be effectively avoided and mitigated. To reiterate, this relies on the aforementioned Augier condition.

Flood Risk Effects

Council's Healthy Waters Department (HWD) have reviewed the proposal in terms of changes to the landform on the natural catchment boundaries of the surrounding environment, the effects of increased imperviousness and the removal of the existing culvert. In their memo, Mr Dali Suljic on behalf of HWD concludes that the proposed changes in stream hydrology and flooding to the downstream receiving environment are likely to be negligible, subject to a minimum topsoil depth of 200mm following completion of all earthworks (which the applicant agrees to).

The increased imperviousness in the context of the contributing catchment is only 0.3%, and the effects are considered negligible.

The removal of the existing culvert, which is undersized, will not increase the risk of flooding to downstream properties.

I rely on and adopt the assessment provided by HWD and conclude that the proposal will not exacerbate flood risk beyond the subject site.

Noise and Vibration Effects

Noise and vibration during construction and operation of the managed fill facility

Provided the activity is carried out as described, including the construction of an earth bund generally along the eastern boundary of the site as shown on the application plans (with 4 levels

of bunds throughout the course of works), and other specific earth bunds to mitigate effects on 380 Jones Road and 1821 Hunua Road, the noise effects of the proposal have been assessed by the applicants' and Council noise specialists as compliant with the relevant permitted activity standards set out under Chapter E25 of the AUP(OP).

To ensure compliance, the applicant has proffered conditions of consent that restrict the hours of operation to 7am-6pm during weekdays 7am to 1pm on Saturdays, require the construction and maintenance of the proposed earth bund for the duration of the managed fill operation, and that no tonal reverse alarms will be used on any plant or machinery on-site.

Vibration from the operation on-site is not anticipated to be perceptible to occupants in other dwellings within the vicinity of the site. During initial construction of the earth bund, vibration is likely to be perceptible to occupants within 332 Jones Road and 353 Jones Road. However, any vibration effects during construction will be short term (no longer than 4 to 5 days), and is not likely to exceed the AUP(OP) vibration amenity limits.

On this basis, the noise and vibration effects associated with the proposed activity are anticipated and provided for under the AUP(OP). I adopt the specialist assessment of Ms Visser, and conclude that noise and vibration effects are considered reasonable in the context of the receiving environment and relevant statutory framework.

Noise from trucks on public roads

The AUP(OP) does not regulate noise and vibration effects arising from trucks driving on public roads.

In my opinion, noise arising from truck movements is better considered as a rural character / amenity effect, taking into account the number of additional movements per day and the hours of operation. These effects are considered in the above section of this report.

Dust and Odour Effects

The potential effect of airborne dust particles from the operation of the managed fill and truck movements on amenity values, health and wellbeing, potable water supply (for both humans and livestock), and for accumulation on land in the vicinity (that could impact farming activities and livestock) was a significant concern among submitters.

Council's Senior Specialist – Contamination, Air and Noise, Mr Louis Boamponsem, has considered the actual and potential air quality effects of the proposal against the provisions of the Resource Management (National Environmental Standards for Air Quality Regulations 2004 (NES:AQ) and the AUP(OP).

Mr Boamponsem has reviewed the application documents and considers that the applicant has provided a sufficient dust management plan within the FMP, with measures that include:

- Use of water (from roof water storage in tanks, the proposed water bore on-site, re-use from sediment ponds when available, and tankering in the event that all other options are unavailable) to dampen exposed surfaces, haul roads, and tipping areas.
- A wheel wash facility to prevent tracking of dirt onto public roads.
- Metalled haul roads and restricted vehicle speeds (≤20 km/h).
- Limiting the extent of exposed areas and drop heights during loading/unloading.

- Progressive stabilisation of completed areas through mulching and grassing.
- Use of soil binders and textiles as contingency measures.
- Daily monitoring of wind conditions and dust discharges.
- A complaints register and response protocol to ensure timely investigation and resolution of dust-related complaints.

In his memo, Mr Boamponsem concludes that he is satisfied that "*the proposed dust control measures for the managed fill facility are robust and consistent with best practice guidance".*

Mr Boamponsem also states that no odour risks are identified with the proposal, as the proposed FMP prohibits odour-generating waste and the facility will only accept managed fill material, which is inert and non-putrescible.

With the mitigation measures put forward by the applicants and based on the assessment provided by Mr Boamponsem, I consider the air discharge related effects (dust and odour) of the proposal acceptable in the context of the receiving environment.

Effects on Freshwater Ecology

Council's Specialist – Earth, Streams and Trees, Ms Antoinette Bootsma, has assessed the application with regards to the actual and potential effects on stream and wetland extent and values that could result from earthworks associated with removal of the existing culvert, and construction of the replacement haul road and bridge. The remainder of streams and wetlands fall outside of the proposed area of works, with sufficient setbacks, fencing, new riparian vegetation, and erosion and sediment control measures proposed to avoid interaction between the facility and these natural stream and wetland environments.

Ms Bootsma has assessed the removal of the existing culvert as enabling the daylighting and reinstatement of approximately 60m² of stream and associated wetland habitat, and has agreed with the applicant's ecologist who has concluded that the daylighting and re-establishment of wetland vegetation will result in a positive outcome. Conditions of consent requiring a Streamworks Management Plan and a Native Freshwater Fauna Capture and Relocation Plan prior to works would be required.

The temporary diversion of surface water during operation of the facility has also been considered by Ms Bootsma, who also agrees with the applicant's ecologist who has concluded that effects on ecological values due to temporary diversion of water to streams on-site are likely to be low. Reiterating the conclusions of Mr Suljic on behalf of Council's HWD, the long term catchment changes to stream hydrology are likely to be negligible.

I adopt the assessment of Ms Bootsma, and I consider that the proposal will not result in adverse freshwater ecology effects.

Effects on Terrestrial Ecology

The proposal does not trigger any reasons for consent that relate to terrestrial ecology matters. However, the application has been assessed by Council's Consultant Specialist – Earth, Streams and Trees, Ms Phoebe Andrews, who has reviewed general terrestrial ecology matters that could result from the proposal.

It is also acknowledged that some submitters have raised concerns relating to the effect that the managed fill could have on the terrestrial ecological values of the wider area.

Ms Andrews has confirmed that where vegetation is proposed to be removed within close proximity to a stream or natural wetland, this vegetation is pasture grass or crack willow trees (listed on the Auckland Regional Pest Management Plan). Some macrocarpa trees are proposed to be removed, plus a pine and Puriri tree, which is technically a permitted activity, but these trees may provide habitat for bats. Ms Andrews recommends that best practice bat roost tree felling protocols are implemented, and the applicant has proffered conditions in this regard.

The proposal also includes riparian margin and wetland buffer planting, which Ms Andrews states will provide ecological benefits.

Overall, Ms Andrews has concluded that potential adverse effects on terrestrial ecology are minor, and has agreed with the applicant's ecologist that the activity is unlikely to affect ecological values at the landscape scale, and that there are appropriate biosecurity risk and management protocols outlined in the applicant's ecology report.

I adopt the assessment of Ms Andrews, and I consider that the proposal will result in acceptable adverse terrestrial ecology effects.

Social, Health and Wellbeing Effects

A number of submitters have raised concerns regarding the effects of the proposal on their emotional and physical well-being as well as potential social impacts on the community. I consider that the proposal includes effective measures to minimise potential impacts on the wellbeing of surrounding residents. In particular, the proposed hours of operation, dust suppression measures, the level of landscape buffer planting provided, and that noise levels are proposed to be managed to comply with the AUP(OP) permitted activity standards. In considering the proposal with these measures in the context of the receiving environment, which includes a wide range of rural production activities that are permitted in the Rural Production zone, I consider the potential social impacts and effects on the health and wellbeing of surrounding residents less than minor.

Where submitters have raised concerns for health and wellbeing of livestock, I also consider these same measures to apply.

Effects on Rural Production

The proposed managed fill operation is not considered an activity that may give rise to reverse sensitivity effects that could interfere with surrounding farming operations. Submitters have raised concerns regarding the potential leakage of contaminants from the managed fill into groundwater or surface water bodies, or contamination to land / stock drinking water from dust. Based on the assessment by relevant Council specialists as summarised above, with the implementation of the proposed FMP and conditions of consent offered, the potential for contamination of land or water sources for rural production activities will be effectively avoided

The site soils are classed LUC4, so are not considered to be elite or prime soils under the AUP(OP), and the land is not considered to be Highly Productive Land (HPL) under the NPS:HPL. In this regard, the use of the site for non-rural production purposes over a period of up to 10 years does not have a notable impact on rural production. The final site form will enable the land to revert to its previous use for stock grazing.

Cultural Effects

Mana whenua were engaged during the application process. Engagement outcomes are discussed in Section 9 of this report. The applicant has adopted all the recommendations made in feedback to avoid and mitigate cultural effects, with the exception of use of organic flocculant. While a chemical flocculant is proposed (due to its effectiveness and recognition in sediment control), the potential environmental and health concerns are considered negligible, particularly as this type of flocculant is also used in water treatment facilities for drinking water.

Furthermore, there are no sites of significance to mana whenua identified in the AUP(OP) or by mana whenua.

I consider that the adverse cultural effects to be less than minor.

Summary

Actual and potential effects conclusion

In summary, my opinion is that:

- The proposal will result in significant adverse effects with regard to traffic safety, and more than minor adverse effects with regard to landscape and visual values for the southern fill area that cannot be mitigated through conditions of consent.
- It is likely that the proposal would result in unacceptable adverse effects in terms of damage to pavement / the roading network (which could further exacerbate safety effects), although these effects could be mitigated through conditions of consent requiring further traffic surveying, pavement impact assessment, and the requirement for the consent holder to undertake repairs of the road if damage is caused.
- There remains a degree of uncertainty in relation to the potential landslide risk affecting the southern fill area, as discussed. While no active instability has been confirmed at this stage, the available information does not fully discount the possibility of future geotechnical risks. This uncertainty has been taken into account in the assessment and is addressed through the recommended conditions of consent, which would avoid any fill taking place within the southern filling area unless sufficient technical evidence is provided to and certified by the Council. This would need to be offered on an Augier basis, and the applicant will need to confirm this in writing. If this confirmation is provided, the adverse effects will be no more than minor.
- With regard to all other aspects of the proposal not specifically discussed here, my opinion is that adverse effects will be no more than minor, and would therefore be acceptable.

16. Relevant statutory documents - s104(1)(b)

The following are not applicable to the current resource consent application:

- Except for the below referenced documents, no national environmental standards are relevant to this application (s104(1)(b)(i));
- No other regulations apply to this application (s104(1)(b)(ii));

- Except for the below referenced policy statements, no national policy statements are relevant to this application;
- Sections 7 & 8 of the Hauraki Gulf Marine Park Act (HGMPA) (as a NZCPS) is not relevant to this application as the proposal has no impact on the coastal environment of the Hauraki Gulf (s104)(1)(b)(iv).

Accordingly, only the relevant statutory documents and other matters are considered below.

National Environmental Standard – s104(1)(b)(i)

The following standards are in force as regulations:

- National Environmental Standards for Air Quality
- National Environmental Standard for Sources of Human Drinking Water
- National Environmental Standards for Telecommunication Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
- National Environmental Standards for Commercial Forestry
- National Environmental Standards for Freshwater
- National Environmental Standards for Marine Aquaculture
- National Environmental Standards for Storing Tyres Outdoors
- National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat
- National Environmental Standards for Detached Minor Residential Units

The relevant National Environmental Standards are addressed below.

National Environmental Standards for Freshwater (NES:F)

As identified under section 11 above, the proposal triggers consent under Regulation 45B of the NES:F, for vegetation clearance and earthworks within, or within a 10m setback of a natural inland wetland for the purpose of constructing or operating a landfill or a cleanfill area. This would necessarily also apply to a managed fill, and for the purposes of this assessment, the terms can be used interchangeably.

This requires an assessment of the proposal against section 45(6) of the NES:F, which states:

> *"A resource consent for a discretionary activity under this regulation must not be granted unless the consent authority has first—*
>
> *(a) satisfied itself that the landfill or cleanfill area—*
>
> *(i) will provide significant national or regional benefits; or*
>
> *(ii) is required to support the quarrying activities regulated under regulation 45A; or*
>
> *(iii) is required to support urban development regulated under regulation 45C; or*
>
> *(iv) is required to support the extraction of minerals regulated under regulation 45D; and*
>
> *(b) satisfied itself that—*

(i) there is no practicable alternative location for the landfill or cleanfill area in the region; or

(ii) every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland wetland; and

(c) applied the effects management hierarchy."

Section 45B of the NES:F is referred to as a *"gateway test"* because it establishes a series of legal tests that must be met before a territorial authority can grant a consent for a managed fill activity that requires vegetation clearance or earthworks within 10m of a natural wetland. These tests must be satisfied before the adverse effects of the proposal can be considered.

Having read the s32 analysis that led to the 2022 amendments to the NES:F (which introduced the regulation 45B pathway for managed fills), the gateway tests were intended to set a high bar for managed fill activities that involved the reclamation or drainage of wetlands (thereby giving effect to Policy 6 of the NPS:FM, which requires that there is no further loss of extent of natural inland wetlands.

The application of regulation 45B to this proposal is therefore unusual when compared with its intended use, as the earthworks and vegetation clearance are only for a small area in order to replace an existing undersized culvert, with a more preferred bridge structure. The ecological effects have been assessed as being largely positive, and there is no reclamation or drainage of a wetland.

In any case, the applicant has provided an assessment of the proposal against the specific requirements of section 45B(6) of the NES-F[9].

Step 1: ***"The landfill or cleanfill area will provide significant national or regional benefits…"*** **or** ***"is required to support urban development regulated under regulation 45C."***

The applicant is of the opinion that the managed fill operation will contribute to significant national or regional benefits, primarily due to the difficulty in finding suitable fill sites that are not contrary to national policy (i.e. for freshwater or highly productive land), and the difficulty in obtaining consents for such facilities. The applicant's assessment also relies on the high demand for cleanfill and managed fill facilities that is driven by infrastructure and urban development activity across the region, and the increased demand on these facilities due to high cost and low availability of traditional landfill space for such material.

It is difficult to conclude whether an individual managed fill facility of this scale has significant regional benefits. However, this step also enables consideration of whether the facility is required to support urban development. While there has previously been some debate as to whether this only applies to urban development directly regulated under regulation 45C (i.e. urban development requiring reclamation of a wetland). The interpretation taken in both the Tuhimata Road[10] and Beaver Road[11] decisions support a broader application – whereby 6(a)(iii) can be considered to apply to any urban development associated with intensification under the NPS:UD. Adopting this approach, the proposed managed fill inevitably passes this test due to the high

[9] For points 6(a) and 6(b), see response to RFI 1(d) in the s92 response table, included in Attachment 8. For point 6(c), see the Ecological Report prepared by Boffa Miskell Limited, included in Attachment 8.
[10] BUN60358499 – 142 Tuhimata Road, included in Attachment 10.
[11] BUN60422358 – 14 Beaver Road, included in Attachment 10.

demand (large areas of greenfield development) and low availability of managed fill facilities in the South Auckland sub-region.

Step 2: ***"There is no practicable alternative location for the landfill or cleanfill area in the region; or every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland wetland"***

The applicant has stated that they have been actively searching for an appropriate fill site in Auckland for the past 8 years. They have stated:

> *"Many sites have been viewed and ruled inappropriate given issues of proximity to fill sources, parcel size, access, wetlands, streams, Highly Productive Land. This site has proved to be the only suitable site the applicant has located. Being directly involved in the Auckland construction industry, they are acutely aware of the lack of consented fill sites available in suitable locations to take excavated fill from their development sites. This is resulting in increasing costs.*
>
> *This site was chosen through multilayer specialist assessments. Sites further away create added cost (transport, carbon). Issues of HPL have been avoided. Tangata Whenua concerns, issues of wetlands and effects on freshwater features have been avoided, and in fact there will be improvements on the current state in relation to the wetlands and streams. The assessment of alternatives must be practical to the applicant as it is not reasonable to assess every parcel across Auckland."*

Furthermore, the applicant reiterates that the proposal increases the ecological value of the wetland.

I agree that an assessment of alternatives must be practical to the applicant, in that it must be a suitably sized and located site, available for sale, and one for which it is feasible to obtain a resource consent. This effectively rules out all land other than rural zoned land. Traditionally, gullies were used for fill sites, however these gullies most often have natural inland wetlands that are afforded a high level of protection under the NPS:FM and NES:F. Most gentler grade rural land in southern Auckland is considered Highly Productive Land, which is also afforded a high level protection under the NPS:HPL, with such land being nationally recognised as needing to be maintained for rural production. Such land would not be considered a practicable alternative.

I therefore conclude that any other practicable alternative location is likely to result in greater adverse effects on a natural inland wetland, and the proposed managed fill passes this test.

Step 3: ***"Applied the effects management hierarchy."***

As it has been concluded that there will positive ecological effects associated with the culvert removal and replacement bridge, this test is met.

Conclusion

In my opinion, based on the information currently available, the requirements set out under Regulations 45B(6) have been met, and consent can be granted under Regulation 45B of the NES:F.

National Environmental Standards for Air Quality (NES:AQ)

Based on the assessment by Council's Senior Air Specialist Louis Boamponsem, as documented in their memo (enclosed as part of **Attachment 2**), the proposal is considered consistent with the requirements of the NES:AQ.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES:CS)

Based on the preliminary site investigation provided with the application, Council's consultant specialist Sarah Pinkerton has stated that most potential or actual HAIL activities identified on the subject site are located outside of the proposed works area, and therefore do not warrant further investigation. The exception to this is potential uncertified fill around the southern culvert (to be removed) which may be a HAIL activity. However, Ms Pinkerton has concluded that the area is small and localised, and therefore even if the fill material is contaminated, it is highly unlikely that there would be sufficient quantity to pose a risk to human or environmental health during its removal.

National Environmental Standard for Sources of Human Drinking Water (NES:DW)

Due to the subject site being located within the catchment for the Hays Creek Dam, a Watercare managed water supply asset, an assessment against the NES:DW has been provided by the applicant.[12]

Regulation 7 of the NES:DW states:

> *"A regional council must not grant a water permit or discharge permit for an activity that will occur upstream of an abstraction point where the drinking water concerned meets the health quality criteria if the activity is likely to—*
>
> *(a) introduce or increase the concentration of any determinands in the drinking water, so that, after existing treatment, it no longer meets the health quality criteria; or*
>
> *(b) introduce or increase the concentration of any aesthetic determinands in the drinking water so that, after existing treatment, it contains aesthetic determinands at values exceeding the guideline values."*

In the applicant's assessment, they consider that it is highly unlikely that the proposed managed fill will introduce or increase the concentration of any of these determinands.

Potential contaminant migration pathways from the activity to the dam could include via dust (from activity on the site and use of the haul road), surface/rainwater leading to streams, or groundwater interaction with the managed fill material.

The applicant has also investigated potential contaminant migration via the Hunua Fault. In their assessment, they have determined that the inactive Hunua Fault is located 200m to the east of the site. Being outside of the area of the proposal and being considered inactive, it is unlikely to present as a potential pathway for contaminant migration. Council's Geotechnical Engineer John Newsome has reviewed the applicant's geotechnical information and agrees with its conclusions. I therefore consider that no further consideration of the Hunua Fault is necessary.

[12] "*Resource consent application – Further information request*" letter, prepared by Hodgson Planning Consultants dated 08 December 2025. Included in Attachment 8.

The proposed dust control, and erosion and sediment control measures have been assessed as being appropriate and in accordance with best practice, as outlined in Section 15 of this report. Impacts of dust and sediment beyond the subject site are considered to be avoided based on these measures.

Turning to contaminant migration through water, sections B3.2 and B8 of the applicant's response (mentioned above) are most relevant. The assessment in Section 15 of this report already summarised these matters and determined that the proposed WAC is not considered to adversely affect any ground or surface water that would be used as drinking water.

I therefore conclude that the proposal is unlikely to introduce or increase the concentration of any determinands in drinking water that would, after existing treatment, no longer meet health criteria or would exceed aesthetic guideline values. The tests under Regulation 7 of the NES:DW are therefore met, and this does not present a reason to decline the consent.

National Policy Statement – s104(1)(b)(iii)

These national policy statements are in place:

- National Policy Statement on Urban Development
- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation
- National Policy Statement on Electricity Networks
- National Policy Statement for Indigenous Biodiversity
- National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat
- National Policy Statement for Highly Productive Land
- National Policy Statement for Natural Hazards
- National Policy Statement for Infrastructure

The relevant National Policy Statements are addressed below:

National Policy Statement for Freshwater Management 2020, as amended (NPS:FM)

The overarching objective of the NPS:FM is set out under Clause 2.1, which is to ensure that the natural and physical resources are managed in a way that prioritises:

> *(a) First, the health and wellbeing of water bodies and freshwater ecosystems*
>
> *(b) Second, the health needs of people (such as drinking water)*
>
> *(c) Third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.*

However, s104(2F) of the RMA states that when considering an application and any submissions received, a consent authority must not have regard to clause 2.1 and the hierarchy of obligations.

The series of policies set out under Clause 2.2 must still be considered, and these policies seek to give effect to the overarching objective in Clause 2.1. In essence, the proposal does not result in any loss of extent or value to natural inland wetlands or rivers, the application contains sufficient information to determine the current state of receiving water bodies, and the proposal has been assessed as having a negligible adverse effect on downstream water quality (discussed in Sections 15 and in the assessment against the NES:DW above). With this in mind, the proposal

is considered consistent with the NPS:FM, and it is not necessary to repeat the details of this assessment here.

National Policy Statement for Indigenous Biodiversity 2023, as amended (NPS:IB)

The objective of the NPS:IB is to maintain indigenous biodiversity across New Zealand so that there is at least no overall loss in indigenous biodiversity.

The key potential effect in this regard is the loss of potential bat roosting habitat through the removal of some mature trees (which is a permitted activity). The applicant has proffered conditions of consent for management of this, and the potential effect is considered minimised to an acceptable level as outlined in Section 15 of this report.

Similarly for the culvert removal and replacement bridge, conditions of consent for native fauna capture and relocation, and for streamworks management, adequately mitigate potential adverse effects to an acceptable level.

No identified areas of significant indigenous vegetation or significant habitats are impacted by the proposal, but there is additional riparian planting provided to enhance this existing area.

Overall, the proposal is considered to be consistent with the NPS:IB.

National Policy Statement for Highly Productive Land (NPS:HPL)

While some submissions have made reference to a loss of highly productive land, the subject site is not mapped as having Class 1-3 soils, and the proposal is not subject to the NPS:HPL.

National Policy Statement for Natural Hazards 2025 (NPS:NH)

The objective of the NPS:NH is to manage natural hazard risks to people and property using a risk-based proportionate approach. Natural hazards covered including flooding, landslips, and active faults. As the nearby faultline is inactive, only flooding and landslips are relevant.

This requires assessment based on a risk matrix. Due to the recent implementation of this NPS (with respect to the date of this report), the applicant has not yet been asked to provide a full analysis against these objectives and policies, nor have they been asked to use the new risk matrix.

With regard to landslips and land instability, a risk matrix approach has been provided in the PC120 assessment undertaken by the applicant and reviewed by Council's Geotechnical Engineer.[13] The conclusion in this assessment, and as agreed by Council's specialists, is that the Northern Filling Area has a low risk of being adversely affected by slope instability effects. The criteria involved appear very similar to those set out in the NPS:NH. The Southern Filling Area has not been analysed, but for the reasons already outlined in this report, the potential risks are minimised through the Augier condition approach. Overall the analysis indicates that the proposal will be consistent with the NPS:NH with regard to landslips and land instability.

Turning to flood related matters, the key areas associated with the managed fill operation are outside of flood plains, and appropriate measures are taken to convey overland flowpaths where the haul road crosses them. These risks are considered to be, at most, minor, so they would be deemed to be low risk overall. This is also consistent with the NPS:NH.

[13] Included in Attachment 8.

New Zealand Coastal Policy Statement 2010 (NZCPS) – s104(1)(b)(iv)

The NZCPS is not particularly relevant to this application because the application site is not located within proximity of the coast. However, for the reasons stated in Section 15 of this report, the proposed managed fill and earthworks activities can be managed in a manner that is consistent with the objectives and policies of the NZCPS that relate specifically to the protection of water quality from sedimentation (such as Policies 21 and 22).

Auckland Unitary Plan (Operative in part): Chapter B Regional Policy Statement – s104(1)(b)(v)

The RPS sets out the strategic framework for the identified issues of regional significance, and identifies the resultant priorities and outcomes sought for the Auckland Region. These align with the direction contained in the Auckland Plan 2050. The following issues of regional significance are identified under B1.4:

1) *urban growth and form;*
2) *infrastructure, transport and energy;*
3) *built heritage and character;*
4) *natural heritage (landscapes, natural features, volcanic viewshafts and trees);*
5) *issues of significance to Mana Whenua;*
6) *natural resources;*
7) *the coastal environment;*
8) *the rural environment; and*
9) *environmental risk.*

Hodgson Planning Consultants Ltd have provided an assessment against the RPS on pages 61-62 of the AEE, and Attachment 12 to the AEE. These documents are included in **Attachment 1** to this report.

I set out areas of agreement and disagreement with this assessment as follows:

B2 – Urban growth and form

I concur with the applicant that the proposed managed fill activities plays an important role in realising the level of intensification / urbanisation that is anticipated within existing urban areas and areas that have been identified in the AUP(OP) planning maps as being suitable for urban development. As mentioned in this report, the managed fill will be located close to large areas of land that is zoned for future urban purposes over the next 30 years.

Because the proposal will assist with realising the pattern and intensity of urban development sought by the RPS, the activity itself will broadly support the objectives and policies of Part B2 of the AUP(OP).

B3 – Infrastructure, transport and energy

I disagree with the applicant that the proposed managed fill will not compromise the safety and efficiency of the surrounding road network. As this aspect of the proposal has been assessed as being unsafe, as outlined in Section 15 of this report, I conclude that the proposal is **inconsistent** with Policy B3.3.2(5)(f).

B6 – Mana whenua

I agree with the applicant that the proposal is consistent with the objectives and policies of Part B6 of the AUP(OP) because mana whenua has been engaged and their values recognised by the applicant. Almost all recommendations have been adopted by the applicant (with the exception of the type of flocculant to be used, as PAC is considered a necessity).

B7 – Natural Resources

I agree with the applicant that the proposal is consistent with the objectives and policies of Part B7 of the AUP(OP), as potential adverse effects on receiving water bodies (and on SEA_T_413) are minimal, and vegetation removal has been minimised to pest plants and a small number of trees for access only. Hydrological functions of wetlands have been assessed as being able to be maintained, ensuring no long term changes to their functions and no long term changes to the contributing catchment areas.

Furthermore, positive ecological effects are likely to be realised through replacement of the undersized culvert, riparian planting and wetland restoration, and fencing to exclude livestock from watercourses in future.

Part B9 – Rural environment

I partly agree with the applicant that the proposal is consistent with the objectives and policies of Part B9 of the AUP(OP), to the extent that it will not pose a threat to the natural and rural resources of the region (as the site is not identified as having highly productive soils) and that the final landform will support future rural production potential.

The proposal is not contrary to the objectives and policies that seek to avoid the urbanisation of rural areas. It is also noted that managed fill activities are a recognised rural activity, and therefore the proposal is also consistent with objectives and policies that seek to prevent the rural area from being compromised by urban use.

I disagree with the applicant with respect to landscape character, aesthetic value and visual amenity of the site on the surrounding area. For the reasons outlined in Section 15 of this report, the southern fill portion of the proposal is **inconsistent** with Objectives B9.2.1(3) and (4) as rural character and amenity values are not maintained. However, I do note that the northern fill area is considered to be consistent with these objectives.

On balance, the proposal is **inconsistent** with the objectives of Part B9.

Part B10 – Environmental risk

The proposal is considered consistent with the environmental risk related objectives and policies set out under B10 of the RPS, in that the proposed fill management plan includes measures to avoid and mitigate adverse effects that could arise from the deposition of contaminated fill. Further, the proposal is consistent with the objectives and policies set out under B10.2.1 and

B10.2.2 natural hazard risk identification and assessment has been undertaken, cognisant of climate change effects.

The proposed changes to Chapter B10 in Plan Change 120 have also been considered, and the findings under both the operative plan and the proposed plan are the same.

Plan or Proposed Plan – section 104(1)(b)(vi)

The relevant plans are identified in section 11 above of this report, and the proposal is considered against the relevant provisions below.

Auckland Unitary Plan (Operative in part)

Relevant objectives and policies

D3 – High use stream management areas overlay

Objective D3.2(1) and Policies D3.3(1)-(3) are considered relevant. Based on the assessment by the relevant Council specialists, I consider that the proposal:

- maintains the availability of water within the high use stream, due to negligible changes to the contributing catchment area;
- does not directly impact the ability for other water takes from the stream, as the water used on-site will be via roof water and bore/aquifer water, and
- avoids reducing the stream's assimilative capacity as far as practicable from the proposal to discharge contaminants onto land or water.

Therefore, I consider that the proposal is consistent with Chapter D3.

E1 - Water quality and integrated management

Objectives E1.2(1), (2) and Policies E1.3(1)-(6), and (26) are considered relevant. Based on the assessment by the relevant Council specialists, I consider that the proposal, overall is not inconsistent with the above water quality and integrated management objectives and policies. For instance, effects on water quality will be mitigated my implementing erosion and sediment controls, best practice dust measures, ongoing water monitoring, and operating the managed fill activity in accordance with a finalised FMP.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E2 - Water quantity and integrated management

Chapter E2 of the AUP(OP) contains objectives and policies that relate to the allocation of water from aquifers, which is relevant to the proposal. Policy E2.3(10) requires Council to manage water availability in aquifers in a manner that accounts for takes expressly permitted in the Plan. The proposal seeks a water take that falls within the permitted activity thresholds, and therefore the proposal is consistent with Chapter E2.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E3 – Lakes, rivers, streams and wetlands &
E7 – Taking, using, damming and diversion of water and drilling

Chapter E3 of the AUP(OP) contains objectives and policies that relate to the management of streams and wetlands. Chapter E7 refers to the objectives and policies of Chapter D4, and Chapters E1 to E3. The objectives and policies seek to avoid effects on streams and wetlands, and where they cannot be reasonably avoided, or where there are no practical alternatives available, the effects are to be offset by providing environmental benefits either onsite or offsite.

These matters have been extensively covered under the preceding sections of this report, and the proposal is also considered consistent with Chapter E3 and Chapter E7.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E11 – Earthworks - Regional

Based on the assessment of Council's regional earthworks specialist, Shanelle Beer Robinson, I consider that the proposed earthworks can be undertaken in a manner that is consistent with the regional earthworks related objectives and policies set out under Chapter E11 of the AUP(OP).

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E12 – Earthworks - District

The proposal mostly maintains consistency with the land disturbance related objectives and policies set out under E12.2 and E12.3. In particular, with the proposed progressive stabilisation and erosion and sediment control measures, the land disturbance activity undertaken on the site is undertaken in a manner that protects the safety of people and avoids, remedies or mitigates adverse effects on the environment.

The exception to this is the external traffic effects on Hunua Road outside of the site, which can be attributed to the amount of land being disturbed at any one time (which necessitates the level of heavy vehicle traffic, and the size of trucks needed to achieve this). In this regard, the proposal is not wholly consistent with Policy E12.3(2).

Summary: Proposal is **inconsistent** with this Chapter of the AUP(OP).

E13 – Cleanfills, managed fills and landfills

The proposal is consistent with the objectives and policies pertaining to managed fill operations, as set out under E13.2(1) and (2) and E13.3(1)-(5)(a) and (b), because the proposal includes a Fill Management Plan which covers the design and operation methodology and monitoring to ensure the fill material meets standards for managed fill in regard to quantities of contaminants and the procedures and monitoring that will be undertaken to avoid and mitigate any adverse effects from the material on groundwater and watercourses in the surrounding catchment. In addition, consistent with Policy E13.3.(3), geotechnical information has been provided for the northern fill area, to demonstrate that the managed fill will be sited, designed and constructed, to avoid the risk of land instability.

While detailed geotechnical information has not been provided for the smaller southern fill area, this area only reflects approximately 9% of the entire operation, and the applicant has proffered conditions requiring extensive geotechnical and land stability investigation to the satisfaction of Council prior to any works in the southern fill area taking place. These conditions acknowledge that if stability cannot be sufficiently demonstrated, that the southern fill area would simply be

forfeited. This provides adequate confidence that the total managed fill will avoid the risk of land instability, maintaining compliance with this policy.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E14 – Air quality

Based on the assessment of Council's senior specialist, Louis Boamponsem, I consider that the managed fill activity can be undertaken in a manner that is consistent with the air quality related objectives and policies set out under Chapter E14 of the AUP(OP).

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E15 – Vegetation Management and Biodiversity

The proposal is consistent with the objectives and policies in Chapter E15 of the AUP(OP), as the proposal will enhance indigenous biodiversity values through increased riparian margin planting, and improvement of the southern watercourse values through removal of the undersized culvert.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E25 - Noise

Based on the assessment of Council's specialist, Duffy Visser, the activity can be undertaken in a manner that complies with the daytime noise limits that apply within the Rural – Rural production zone (E25.6.3(1)). I therefore consider that the proposal can be undertaken in a manner that is consistent with the objectives and policies of E25.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

E27 – Transportation

Objectives E27.2(1), (4), and Policies E27.3(1), (17), (18), and (20) are considered relevant to the proposal. Matters relating to the site access point (the vehicle crossing), and on-site loading, parking and reverse manoeuvring are all satisfactory and are deemed to be consistent with the relevant objectives and policies.

However for the reasons outlined in Section 15 of this report, the proposal is likely to result in significant adverse traffic impacts on Hunua Road, and it is therefore inconsistent with Objective E27.2(1) and Policy E27.3(1).

There are no relevant changes to the objectives and policies in Plan Change 79 that impact this proposal.

Summary: Proposal is **inconsistent** with this Chapter of the AUP(OP).

E36 – Natural Hazards and Flooding

Relying on the evidence of Council's development engineers Zihao Lin and John Newsome, and the evidence of Dali Suljic on behalf of Council HWD, the proposal is consistent with the relevant objectives and policies that pertain to land stability (including landslide hazard risk), flooding and overland flow paths.

Where changes or additional objectives and policies are proposed as part of proposed Plan Change 120, the thrust of these is the same as the operative plan, whereby they are seeking to

manage natural hazards and to avoid use or development that is subject to natural hazards where there is higher risk.

Proposed Plan Change 120 has also introduced some standards and definitions with immediate legal effect, and in particular, there are definitions in proposed Chapter J that seek to assign a natural hazard risk profile to activities. Neither cleanfills nor managed fills are included in the examples for each definition. Based on the description provided, the proposal is considered to fall under "*Activities less sensitive to natural hazards*", which is defined as "*activities where there is a minimal presence of people and buildings and which will not create a public health or pollution issues in a natural hazard event*". The proposal does not require any resource consents under these proposed provisions.

Provided the activity is undertaken in accordance with the recommended conditions of consent (as assessed in Section 15), the significant adverse effects relating to these hazards will be avoided and mitigated.

Summary: Proposal is consistent with this Chapter of the AUP(OP).

H19 – Rural Zones

The general rural objectives and policies set out under H19.2, which apply to all rural zones are relevant, as well as the more specific objectives and policies pertaining to the Rural Production zone, as set out under H19.3.2 and H19.3.3.

The applicant has provided an assessment of these objectives and policies in Table 21 of their Attachment 12 to the AEE (included in **Attachment 1** to this report). I agree with the applicant's assessment that the subject site is not on land with high rural production potential. Cleanfill and managed fill activities are commonly located in rural areas (and are specifically mentioned in the policies), and the activity will not conflict with rural production. Upon completion of the activity, the land will be returned to rural production (Objectives H19.2.1, H19.3.2, and Policies H19.2.2(1), (4) and (5)).

Land within the Rural – Rural Production zone is one of the few locations where a managed fill activity is contemplated by policy (Policy H19.2.6(4)), despite cleanfill and managed fill operations being a discretionary activity and because of this, "not generally anticipated" because the scale, intensity and nature of environmental effects are highly variable.[14] In my view, managed fill activities are contemplated in these rural zones, in part because ideally, they need to be distanced from some land uses (e.g. residential activities), and in part because urban land is recognised as a finite resource that is to be managed. I note that some submitters suggested that the activity would be better located within an industrial zone. In this regard, I note that managed fill activities are not provided for in the Business – Heavy Industry zone and the Business – Light Industry zone.

I disagree with the applicant's assessment with regard to the proposal being visually accommodated without adversely affecting the landscape character, aesthetic value and visual amenity of the site and surrounding Hunua environment, due to the adverse landscape and visual effects discussed in Section 15 of this report. In this regard, the proposal is inconsistent with Objectives H19.2.3, H19.2.5, and Policies H19.2.4, H19.2.6. This applies only to the southern fill

[14] A1.7.4 of the AUP(OP).

area, and the northern fill area is considered consistent with Objectives H19.2.3, H19.2.5, and Policy H19.2.4.

As traffic effects on traffic movement and the road network are not adequately mitigated, the proposal is inconsistent with Policy H19.2.6

Summary: Proposal is **inconsistent** with this Chapter of the AUP(OP).

Conclusion

Based on the information provided to date, the proposal is inconsistent with some of land use objectives and policies that seek to avoid and mitigate effects from traffic and on rural character and amenity values.

I am satisfied that the proposal is consistent with many of the relevant objectives and policies that apply to operating a managed fill in this location, and in essence, it is considered that it could be appropriate to undertake a revised version of the proposal if the issues with traffic effects and character/amenity values could be resolved.

However, on balance, I consider the proposal to be **inconsistent** with the relevant statutory framework.

17. Any other matter – section 104(1)(c)

Section 104(1)(c) requires that any other matter the consent authority considers relevant and reasonably necessary to determine an application be considered.

In this case the following matters are considered relevant:

Tāmaki – Whenua Taurikura | Auckland Future Development Strategy 2023-2053 (**FDS**)

The FDS is required under the required by the National Policy Statement on Urban Development 2020 and sets out the blueprint for urban development in the Auckland Region over the next 30 years. As set out in the FDS, much of the region's projected greenfield growth is situated in the South Auckland area, with Drury-Opaheke, Pukekohe and Paerata being identified as growth clusters that contain a mix of development ready land and land earmarked for development in the next decade. The proposed managed fill facility would contribute to facilitating development in these areas, thereby supporting the aspirations of the FDS and NPS:UD.

Auckland Plan 2050

The FDS is embedded in the Auckland Plan. By implication, the proposal is consistent with the strategic direction set out in the Auckland Plan by contributing to the disposal of soil from land development, near areas earmarked for future urban growth.

Submissions

All of the submissions received by the council in the processing of this application have been reviewed and considered in the overall assessment of effects in this report. The council's

specialists have also reviewed the relevant submissions as required and incorporated comments into their assessments accordingly. Many of these submissions raised similar issues and have been dealt with generically in the body of this report.

The following are matters that were raised by submitters but not addressed specifically in the body of this report:

Effects on property values

It is noted that 50 submitters were concerned that the proposal could affect property values.

Effects on property values cannot be considered under the RMA. However, I consider that concerns relating to adverse effects on property values generally relate to adverse effects on amenity values or wellbeing that affect people's enjoyment of a location / property. I therefore consider that these adverse effects have been considered in section 15 of this report.

As a relief sought, 7 submitters indicated that the consent holder should be made responsible for providing monetary compensation either to impacted neighbours / residents, or be made to set up a community fund to offset adverse effects. These matters are outside of the scope of resource consent conditions, and cannot be considered under the RMA.

Inadequate consultation / process

It is noted that 41 submitters highlighted concerns with inadequate consultation, both in terms of a lack of consultation from the applicant, but also that the notification of the application was not well communicated and that they did not receive direct communication (i.e. letters) from Council upon notification.

The advertisement was published in the NZ Herald, with letters sent to directly adjoining and opposite neighbouring properties. This is consistent with established Council process. The notification period complies with the requirements of the RMA.

Amendment of policy or exploration of waste alternatives

As relief, 4 submitters indicated that the applicant or Council should investigate waste alternatives. The content of the submissions appears to assume that the proposal is for a typical landfill, with general household waste or similar. Such alternatives are not relevant to the proposal for a managed fill.

As relief, 2 submitters indicated that Council should amend policy to prevent such applications from being made in future. This is outside of the scope of a resource consent application.

Local Board Comments

Local Board comments are included in **Attachment 7** and are summarised in Section 9 of this report.

Wildlife Act 1953

All native birds and lizards are protected under the Wildlife Act 1953, under which it is an offence to disturb, harm or remove them without a permit from the Minister of Conservation. This includes deliberate disturbance of potential habitat even if presence of native species has not been specifically surveyed. This has been addressed through the proffered and recommended

conditions described in Section 15 of this report (regarding bat surveyors, fish relocation and streamworks management).

18. Other relevant RMA sections

Monitoring – s35

If consent is granted, the recommended conditions of consent would provide for the monitoring of the managed fill activity, in keeping with s35(2)(d).

Consideration of activities affecting drinking water supply source water – s104G

When considering an application for a resource consent, a consent authority must have regard to the actual or potential effect of the proposed activity on a source of drinking water supply, and any risks that the proposed activity may pose to the source of a drinking water supply that is identified in a source water risk management plan.

Consideration has been given to the actual or potential effects, with these discussed on Sections 15 and 16 of this report, whereby I have concluded that the proposal is likely to result in negligible adverse effects and risk to the Hays Creek Dam water supply.

Matters relevant to discharge – s105

The proposal requires a consent to discharge contaminants under s15. Under section 105, the council must have regard to additional matters for any application for a discharge permit or a coastal permit that would contravene s15 of the RMA.

The proposal is considered to satisfy the matters set out in s105 because:

- As assessed by the Council's consultant specialist Sarah Pinkerton, the proposed discharge of contaminants from the managed fill facility would not give rise to significant adverse effects on the receiving environment.
- The applicant's reasons for the proposed choice are considered appropriate in the circumstances.
- There are no alternative methods of discharge in this case.

The provisions of s105 have been met subject to appropriate conditions of consent to ensure there is no significant adverse effect on the receiving environment.

Refusal of land use consent in certain circumstances – s106A

Section 106A of the RMA enables consent authorities to refuse to grant a land use consent, or may grant the consent subject to conditions, if it considers that there is a significant risk from natural hazards.

Council's Development Engineer Zihao Lin, and Geotechnical Engineer John Newsome, have assessed the proposal with regard to geotechnical stability and landslide risk, and overall the site and proposal is not considered to be subject to a significant risk.

Subject to appropriate conditions of consent to ensure that the managed fill is undertaken in accordance with best geotechnical practice, and subject to conditions of consent requiring the southern fill area to be more thoroughly investigated prior to any works being authorised to take place, there is no reason to refuse resource consent under s106A.

Restrictions on discharge permits – s107

Section 107(1) of the RMA places restrictions on the granting of certain discharge permits that would contravene Sections 15 or 15A of the RMA. Based on the assessment by Ms Pinkerton, the proposed discharge will not give rise to any of the effects listed in Section 107(1), and the effects on the environment will be appropriately mitigated.

Conditions of resource consents – ss108 and 108AA

My recommendation is for the application to be declined. However, should consent be granted, recommended conditions of consent are contained in **Attachment 11**.

Duration of resource consents – s123

Should consent be granted, I consider that the requested 10 year duration for the regional permits sought to be an appropriate timeframe in light of the scale of the operation and the need to comply with conditions of the land use consent that limit hours of operation and seek to manage the number of truck movements per day within the parameters set by the recommended conditions of consent.

Lapsing of resource consents – s125

Under s125, if a resource consent is not given effect to within five years of the date of the commencement (or any other time as specified) it lapses automatically, unless the council has granted an extension.

LUC60440790 & DIS60440791 (overall managed fill activity and discharges, and associated regional earthworks consent): In this case, five years is considered an appropriate period for LUC60440790 and DIS60440791 for the consent holder to implement the consents due to the nature and scale of the proposal.

LUC60445125 (water bore): In this case, two years is considered an appropriate period for LUC60445125 for the consent holder to implement the consent due to the nature and scale of the proposal. This shorter lapse date will ensure that the bore is drilled within an appropriate timeframe, and without having an impact on the granting of other bore permits and associated water take consents for neighbouring properties.

Review condition – s128

Section 128 of the RMA provides for the council to review the conditions of a resource consent at any time specified for that purpose in the consent. A consent may specify a time for review of the conditions of a consent for the following purposes.

- to deal with any adverse effects on the environment which may arise from the exercise of consent and which are appropriate to deal with at a later stage; or
- to require holders of discharge permits or coastal permits which could otherwise contravene ss15 or 15B of the Act to adopt the best practicable option to remove or reduce any adverse effect on the environment; or
- for any other purpose.

In the case of discharge permits the council may also review conditions of consent at certain specified times. The council may review the conditions of the resource consent within 12 months of the managed fill commencing operation.

A review condition has been recommended on the district land use consent.

The reasons for this are:

- to deal with any significant adverse effect on the environment arising or potentially arising from the exercise of the consent and which was not apparent at the time of granting the consent; or
- to require the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment; or
- to deal with any adverse effect on the environment arising or potentially arising from the exercise of this consent and in particular effects on the surface water quality, sediment transport, functioning of natural ecosystems, through either altering or providing specific performance standards; or
- to alter monitoring requirements in light of monitoring results and/ or changed environmental and or hydrogeological knowledge.

19. Consideration of Part 2 (Purpose and Principles)

Purpose

Section 5 identifies the purpose of the RMA as the sustainable management of natural and physical resources. This means managing the use of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

Principles

Section 6 sets out a number of matters of national importance which need to be recognised and provided for. These include the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the protection of historic heritage.

Section 7 identifies a number of “other matters” to be given particular regard by the council in considering an application for resource consent. These include the efficient use of natural and physical resources, and the maintenance and enhancement of amenity values.

Section 8 requires the council to take into account the principles of the Treaty of Waitangi.

Assessment

Any consideration of an application under s104(1) of the RMA is subject to Part 2. The Court of Appeal in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 has held that, in considering a resource consent application, the statutory language in section 104 plainly contemplates direct consideration of Part 2 matters, when it is appropriate to do so. Further, the Court considered that where a plan has been competently prepared under the RMA it may be that in many cases there will be no need for the Council to refer to Part 2. However, if there is doubt that a plan has been "competently prepared" under the RMA, then it will be appropriate and necessary to have regard to Part 2. That is the implication of the words "subject to Part 2" in s104(1) of the RMA.

In the context of these discretionary activity applications for land use and discharge of contaminants, where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects, and I find that there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

Specifically, the Environment Court found in *Panuku Development Auckland Ltd v Auckland Council* (Decision No. [2018] NZEnvC 179) that the AUP has only recently been made operative, so can in a general sense be considered to offer provisions prepared having regard to Part 2, and a coherent set of policies designed to achieve clear environmental outcomes. I highlight that new higher order documents have come into force subsequent to the preparation of the AUP(OP). Of particular relevance to this application are the NPS Freshwater Management 2020 (NPS:FM) and the NPS for Indigenous Biodiversity 2023 (NPS:IB). I have considered the objectives and policies of these higher order documents in my assessment under s104(1), as documented in Section 16 above.

20. Recommendation

Recommendation on the applications for resource consent

Subject to new or contrary evidence being presented at the hearing, I recommend that under sections 104, 104B, 105, 106A, 107 and Part 2, resource consents **REFUSED**.

To assist the independent hearing commissioners if it is determined on the evidence to grant consent subject to conditions, draft recommended conditions have been included at **Attachment 11**.

The reasons for this recommendation are:

1. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA, the actual and potential effects from the proposal are found to be unacceptable, in particular because of the potential and actual traffic and road network effects, and landscape, visual and rural character effects arising from the southern fill area are not sufficiently avoided, remedied or mitigated.

2. In accordance with an assessment under s104(1)(b) of the RMA, the proposal is found to be inconsistent with the relevant statutory documents, including the Auckland Regional Policy Statement, and Chapters E12, E27 and H19 of the AUP(OP).

3. In accordance with an assessment under s104(1)(c) of the RMA, the following other matters have been considered: Auckland Plan 2050, Auckland Future Development Strategy 2023-2053 (FDS), submissions received, and Franklin Local Board comments.

4. In regard to other relevant RMA sections, the proposal is considered to satisfy the matters set out in s105 and s106A. Further, the proposed discharge will not give rise to any of the effects listed in s107(1). The matters under s104G have also been considered.

5. In regard to Part 2 of the RMA, where the objectives and policies of the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects, and I find that there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.

6. Overall, for the reasons set out above, the proposal is not acceptable in the context of its receiving environment and the relevant statutory framework.