

AUCKLAND REGIONAL COUNCIL

Report to Determine a Change or Cancellation of Consent Condition(s) Under Section 127 of the Resource Management Act 1991.

SUBJECT: To change existing conditions to resource consent for the discharge of 120m³ of water treatment sludge per week, to include an additional 300m³ of earth slip material per year to land at Huia Road, Parau.

FROM: Stuart Timmis, Contaminated Sites Officer

TO: John O'Grady, Manager, Contaminated Land Management

SECTION 1 – DESCRIPTION OF APPLICATION

1.1 APPLICATION DETAILS

Applicants Name:	Watercare
Consent Number(s):	37113
File Number(s):	9988
Date Application Received:	13 July 2009
Date Application Accepted	15 July 2009
Site Address/Location:	421 Huia Road, Parau
Map Reference (NZTM):	1744480 mE 5908989 mN
Site Area:	1 hectare

PERMIT NO: 37113

Legal Description: Lot 1-14 DP 206360 CT 133C/953

Further Information Required: No

1.2 LOCATION MAP



1.3 APPLICATION DOCUMENTS (PLANS AND REFERENCE DOCUMENTS)

Report: Dated 06 July 2009. "Change of Consent Condition for Consent
Permit No. 26980: Prepared by Watercare Services Ltd

1.4 DESCRIPTION OF PROPOSAL

The applicant is seeking to change the condition(s) of an existing resource consent, file number 9988, consent number 26980, which was granted on a non notified basis by Robyn Floyd on 27 June 2003.

The original consent allows the discharge of up to 120m³ per week of water treatment sludge from the Huia Treatment Plant filters to Watercare's Parau landfill site on Huia Road, Parau. This application for a change to resource consent No. 26980 would also provide for the disposal of no more than 300m³ per year of earth material collected from slips occurring throughout the water catchments in the Waitakere ranges. The proposal is to blend the earth materials from slips with the water treatment sludge at the Parau landfill site.

1.5 REASON FOR APPLICATION

The applicant needs to remove material from roads, tracks and other facilities in the Waitakere Ranges water catchment areas due to periodic earth slips

Historically this material has been deposited, in an ad hoc basis, throughout the catchment areas. The environmental effects of this practice have recently been questioned; therefore, the applicant is seeking an alternative disposal route to avoid potential adverse environmental effects.

1.6 SITE AND NEIGHBOURHOOD / CATCHMENT / ENVIRONS DESCRIPTIONS

The Parau landfill site is located directly off Huia Road, Parau, approximately 700 metres to the east of the Lower Nihotupu Reservoir. Access to the landfill is via an entrance and driveway off Huia Road; commonly referred to as the Pipeline Track. The site covers an area of approximately 1 hectare, is surrounded by native bush and bound on the north by an access road that runs downhill to the existing landfill platform. There has recently been

landscaping of the site with experimental planting of Manuka around the edge of the platform.

Residential properties are located on the opposite side of Huia Road and Exhibition Drive, but are some distance from the landfill and unaffected by the operation.

1.7 BACKGROUND / SITE HISTORY

The disposal site has been in operation since 1981. The site was designated for water supply use, and prior to the RMA the activity did not require further authorisation.

SECTION 2 – DETERMINATION OF NOTIFICATION MATTERS

2.1 STATUTORY PROVISIONS – RELATING TO SECTION 127

Under section 127 an application to change or cancel a condition of a resource consent is to be treated as if it were an application for a **discretionary activity**.

Under section 127 only the change to the condition can be considered. It does not provide for the reconsideration of the entire application. The appropriate comparison is between any adverse effects from the activity in its original form and any adverse effects that would arise from the proposal in its varied form.

For notification purposes, whether the application is to be publicly notified, limited notified or non notified will depend on the application meeting the criteria in sections 93 to 94C of the RMA.

In identifying who may be adversely affected by the application, section 127(4) of the RMA requires the consent authority to consider (in particular) every person who made a submission on the original application who may be affected by the new application. For determination of the notification process, the process to be followed will depend upon whether adverse effects are considered to be minor and whether or not approvals have been obtained from all affected persons.

During the original consent application, Watercare Services Limited consulted neighbouring property owners who were considered to be affected parties. All parties consulted at that time provided written approval.

2.1.1 Has the applicant requested that the application be publicly notified? [section 94C(1)]

No

The applicant has requested that the application be considered on a non-notified basis.

The consent authority must be satisfied that the adverse effects of the activity will be minor. To determine the scale and extent of effects a comparison needs to be undertaken between any adverse effects from the activity in its original form and any adverse effects that would arise from the proposal in its varied form.

If the adverse effects are more than minor, the application must be publicly notified [s93(1)(b)]. If the consent authority is satisfied that the effects of the activity will be minor, the application can be dealt with on either a limited notified or non notified basis. Which route will be determined by whether there are any affected persons and whether all the written approvals have been obtained.

If there are any affected persons and all written approvals have been obtained, the application can be processed on a non notified basis. If some affected persons have not given their written approval the application will be dealt with on a limited notified basis.

2.2 ASSESSMENT OF THE ADVERSE EFFECTS OF THE ACTIVITY ON THE ENVIRONMENT

2.2.1 Section 94(A) - Assessment of the permitted baseline

In addition to the overall assessment of the environmental effects in relation to a discretionary activity, Section 94A sets out two relevant criteria to be used by consent authorities when forming an opinion as to whether adverse effects on the environment are minor or more than minor.

- a) The permitted baseline – Council may disregard effects on the environment if the Plan permits an activity with that effect; and
- b) The exclusion of any effect on a person who has given written approval to the application.

The proposal is being considered under the provisions of a proposed regional plan and therefore the permitted baseline does not apply.

2.2.2 Assessment of Effects (to determine notification)

The following assessment of the adverse effects arising from the proposed change of the condition(s) on the environment addresses the proposal's (actual and potential) effects from the activity in its original form and any adverse effects that may arise from the proposal in its varied form. The assessment should distinguish the nature, extent and magnitude of the effects and the significance of their consequent effect on the environment; and identify their impact (such as continuous or intermittent, or of long or short term duration). Where appropriate the assessment criteria of the relevant regional plan are used as the context for assessing the potential adverse environmental effects arising from the proposal. (In accordance with Section 94A(c) the assessment as to whether the adverse effects are minor or more than minor disregards any effects on those persons who have given their written approval to the proposed activity.)

Parau landfill has been operating since the early 1980s and its period of operation has undergone a programme of physical improvement. The proposed change; the addition of 300m³ per year of earth slip material, will have only a minor, if any, additional effect on the environment.

2.2.3 Conclusion

For the reasons contained within the assessment of effects, it is considered the adverse effects of the addition of 300m³ per year of earth slip material on the environment will be de minimis.

2.3 FORMING AN OPINION AS TO WHO MAY BE ADVERSELY AFFECTED

2.3.1 Identification of who may be adversely affected by the granting of the application and whether written approval has been obtained.

Consent 26980 was originally issued on a non notified basis. The effect of the proposed changes has been considered and it is concluded that there would be no persons adversely

2.3.2 Is it unreasonable in the circumstances to require the obtaining of every such approval?

No

2.4 DO SPECIAL CIRCUMSTANCES EXIST?

Notwithstanding the above, do any special circumstances exist in relation to this application which would require the application to be publicly notified?

No

2.5 RECOMMENDATION OF NOTIFICATION

It is recommended that the application be processed on a **non notified** basis for the following reasons:

- The adverse effects on the environment of the activity arising from a change to Consent 26980 for which consent is sought will be de-minimis; and
- There are no persons considered adversely affected by the granting of this consent; and
- Special circumstances do not exist; and
- The applicant has not requested public notification of the proposal.

2.6 NOTIFICATION DECISION

Reported and Recommended by: Stuart Timmis

Title of Reporting Officer: Contaminated Sites Officer

Signed:



Date:

7 September 2009

Decision: That the above recommendation be adopted.

Determination of notification.

Acting under delegated authority and for the reasons set out in the above assessment, Consent Number 37113 shall be non-notified.

Team Manager:

John O'Grady

Title:

Manager, Contaminated Land Management

Signed:

P.P. Alabaster

Date:

7/9/2009

SECTION 3 – ASSESSMENT OF APPLICATION

3.1 STATUTORY CONSIDERATIONS

When considering an application for a discretionary activity the consent authority must have regard to Part 2 of the RMA ("Purposes and Principles" – sections 5 to 8), and sections 104, 104B, and where relevant sections 105 and 107 of the RMA

The statutory considerations under section 104 provide the 'legal framework' within which the application is addressed. Amongst other things, this framework requires consideration of any actual or potential effects on the environment; the relevant provisions of national policy statements (including the NZ coastal policy statement); regional policy statements and regional plans (both operative and proposed); and any other relevant and reasonably necessary matters to determine the application

Under section 104B a consent authority may grant or refuse consent for a discretionary activity and may impose conditions.

3.2 SECTION 104 EVALUATION

3.2.1 Section 104(1)(a) – Consideration of the Actual and Potential Effects on the Environment

The assessment of environmental effects undertaken in section 2.2 of this report concludes that the adverse effects that may arise from the discharge of an additional 300 m³ of earth slip material are considered to be de-minimis.

3.2.2 Section 104(1)(b)(i) – Consideration of the Relevant Policy Statements.

There are no relevant National Policy Statements considered relevant to this application.

3.2.3 Section 104(1)(b)(iii) – Consideration of the Relevant Provisions of the Auckland Regional Policy Statement.

The ARPS is a strategic document which sets out the direction of managing the use, development and protection of the natural and physical resources of the Auckland region. This document became operative in 1999. In 2005, the ARC publicly notified Proposed Change 6, in response to the Local Government Amendment Act 2004 (LGAAA) which sought to amend, amongst other things, the regional overview and strategic direction of the ARPS and mainly consisted of changes to Chapter 2 (Regional Overview and Direction and Chapter 4 (Transport).

These amendments sought to codify the growth and transport strategies that had been promulgated and agreed to in the Regional Growth Strategy and the Associated Sector Agreements.

As at the 31 July 2007, the ARC has released its decisions regarding Proposed Change 6 matters now lie within the appeal period. Given the stage in the statutory process at which Proposed Change 6 currently finds itself, it is considered that some weighting should be given to the decision version of Plan Change 6 although the proposal must also be assessed against the operative policy statement.

The strategic objectives and policies of the ARPS provide a framework to achieve the integrated, consistent and co-ordinated management of the Region's resources. This framework is based upon not compromising the strategic direction of the containment and intensification and the avoidance of adverse effects on the environment.

Under the ARPS, matters related to environmental protection, such as the coastal environment, water quality, water conservation and allocation and air quality have specific objectives, policies and methods to achieve sustainable and integrated management of major natural and physical resources in the Region.

3.2.4 Section 104(1)(b)(iv) - Consideration of the relevant Regional Plan(s) Objectives, Policies and Rules.

3.2.4.1 Relevant Objectives and Policies

The following objectives and policies are considered to be relevant to this proposal:

The provisions of the Values chapter (of the PARP:ALW) seeks to recognise, provide and give effect to Part 2 of the RMA in terms of the Regional Council's responsibilities for the management of the air, land and freshwater resources of the Auckland Region. The objectives and policies of this chapter form one part of the assessment against which resource consent applications are evaluated to determine whether they promote the sustainable management of natural and physical resources.

The Auckland Region's air, land and water resources are complex and interrelated. Managing these resources requires a good understanding of them, their current state (pristine or degraded), their interrelated nature and the effects that use and development has on them.

The Values chapter considers natural values; use and development; and Tangata Whenua values.

Section 104(1)(b)(iv) requires consideration of any relevant objectives and policies of a plan or proposed plan. In this case, the relevant objectives and policies have been considered in the assessment of this application.

It is concluded that the proposal satisfies the assessment criteria of the Plan because the effects will be de-minimis.

3.2.5 Consideration of any other matters – section 104(1)(c)

Section 104(1)(c) requires that any other matter the consent authority considers relevant and reasonably necessary to determine the application be considered. In this case the following matters are considered relevant:

3.2.5.1 Waitakere Ranges Heritage Area.

The location of the proposed activity is within the Waitakere Ranges Heritage Area (WRHA). The Waitakere Ranges Heritage Area Act 2008 (WRHAA) requires that when considering an application for resource consent for a controlled activity in the heritage area that the consent authority must consider the purpose of the WRHAA and the relevant objectives as if they are matters specified in the PARP: ALW over which the ARC has reserved its control.

The purpose of the WRHAA is to recognise the national, regional and local significance of the WRHA and to promote the protection and enhancement of its heritage features for present and future generations.

The relevant objectives are set out in section 8 as follows:

- a) to protect, restore and enhance the area and its heritage features;
- b) to ensure that impacts on the area as a whole are considered when decisions are made affecting any part of it;
- c) to adopt the following approach when considering decisions that threaten serious or irreversible damage to a heritage feature;
 - i. carefully consider the risks and uncertainties associated with any particular course of action; and
 - ii. endeavour to protect the heritage feature.
- d) to recognise and avoid adverse potential, or adverse cumulative effects of activities on the area's environment (including its amenity) or its heritage features;
- e) to recognise that, in protecting the heritage features, the area has little capacity to absorb further subdivision;
- f) to ensure that any subdivision or development in the area, of itself or in respect of its cumulative effect;
 - i. is of an appropriate character, scale and intensity; and

- ii. does not adversely affect the heritage features; and
 - iii. does not contribute to urban sprawl.
- g) to maintain the quality and diversity of landscapes in the area by;
- i. protecting landscapes of local, regional or national significance; and
 - ii. restoring and enhancing degraded landscapes; and
 - iii. managing change within a landscape in an integrated way, including managing change in a rural landscape to retain a rural character.
- h) to manage aquatic and terrestrial ecosystems in the area to protect and enhance indigenous habitat values, landscape values and amenity values;
- i) to recognise that people live and work in the area in distinct communities, and to enable those people to provide for their social economic, environmental and cultural well-being;
- j) to provide for future uses of rural land in order to retain a rural character in the area;
- k) to protect those features of the area that relate to its water catchment and supply functions;
- l) to protect in perpetuity the natural and historic resources of the Waitakere Ranges Regional Park for their intrinsic worth and for the benefit, use and enjoyment of the people and communities of the Auckland region and New Zealand.

Heritage features in the WRHA are outlined in Section 7 of the WRHAA and include its terrestrial and aquatic ecosystem, land forms and landscape, coastal areas, streams, wilderness opportunities, rural character of the foothills, the local communities, tangata whenua relationships with the area and the public water catchment and supply system.

It is considered that the proposed discharge would be consistent with the purpose of the WRHAA and the relevant policies and objectives to ensure any adverse effects on the WRHA would be avoided. In particular it would not impact on the aquatic ecosystems or cultural or heritage values within the WRHA but would provide for rural use of the land and enable people to provide for their social economic, environmental and cultural wellbeing.

3.3 CONSIDERATION OF PART 2 (PURPOSE AND PRINCIPLES) OF THE RMA

Section 104(1) requires the consideration of any resource consent application to have regard to specific factors, subject to Part 2 of the RMA ("Purpose and Principles"). The purpose of the RMA is to promote the sustainable management of natural and physical resources. Sustainable management means the use, development and protection of natural and

physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while: sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil, and ecosystems; avoiding, remedying or mitigating any adverse effects of activities on the environment.

Granting the application to change consent 26980 would be consistent with managing the site and catchment in a way which would enable people in the community to provide for their social / economic / cultural well being. Any adverse effects from the additional discharge of no more than 300m³ of earth slip material on the environment could adequately be avoided, remedied or mitigated by the imposition of the existing conditions.

Having considered the other matters set out in Part 2 of the RMA, it is concluded that the proposal will not affect any matters of national importance (section 6). Regard has been had to the identified matters of section 7 of the RMA. It is concluded that the application does not compromise the matters identified under section 7 of the RMA. Furthermore, it is considered the proposal does not have any implication on the application of the principles of the Treaty of Waitangi.

3.4 CONCLUSION

It is concluded that the proposal to discharge consent satisfies the assessment criteria of the Plan because the proposed variation will have de-minimis effects on the environment.

SECTION 4 – RECOMMENDATION AND CONDITIONS

4.1 RECOMMENDATION

It is recommended that, pursuant to sections 104, 104B and 127 of the RMA 1991, consent is granted to the change of condition(s) as a discretionary activity application by Watercare to:

Authorise change to the existing conditions to resource consent for the discharge of 120m³ of water treatment sludge per week, to include an additional 300m³ of earth slip material per year to land at 421 Huia Road, Parau, being Consent Application 37113, for the following reasons:

1. The proposal will be consistent with Part 2 of the RMA by promoting the sustainable management of natural and physical resources. Overall it is considered the cumulative safeguards of section 5(2)(a) to (c) have been met and the proposal thereby meets the purpose of the RMA.
2. The proposal is considered to be consistent with the relevant provisions of the Auckland Regional Policy Statement, in particular the integrated management of the Region's natural and physical resources.
3. The proposal is considered to be consistent with the relevant objectives and policies of the ARPS because the effects are considered to be de-minimis
4. It is considered both the existing conditions and the new conditions (the subject of this application) would adequately avoid, remedy or mitigate any adverse effects of the activity on the receiving environment.
5. The application merits the granting of a resource consent pursuant to sections 104 and 127 of the RMA.

4.2 EXPIRY DATE

Under Section 127 (1)(b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.

The expiry date for this consent 37113 shall expire on 31 December 2030 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991.

4.3 CONDITIONS

Date of Expiration of Permit: 31 December 2030

Legal Description of land: Lot 1-14 DP 206360 CT 133C/953

Territorial Authority:	Waitakere City Council
Purpose of Permit:	To discharge water treatment sludge to a purpose-built landfill at Parau and additional earth slip material
Site Location:	Exhibition Drive, Parau
Map Reference:	1744480 mE 5908989 mN
Quantity:	120 m ³ /week and 300 m ³ /year

All other conditions and advice notes of consent 37113 shall remain the same. Below is the final consent for consent number 37113, which incorporates the changes related to this application. This consent shall supersede the previous consent (consent number 26980).

4.3.1 STANDARD CONDITIONS OF PERMIT:

1. That this Resource Consent is granted by the Auckland Regional Council, subject to its servants or agents being permitted access to the relevant parts of the property at all reasonable times for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples.
2. The Resource Consent Holder shall pay to the Auckland Regional Council any administrative charge fixed in accordance with s.36(1) of the Resource Management Act 1991, or any additional charge required pursuant to s.36(6) of the Resource Management Act 1991, payable in respect of this resource consent.

4.3.2 SPECIAL CONDITIONS OF PERMIT:

1. That the Consent Holder shall measure levels of the following parameters quarterly in stormwater discharged from the Parau sludge landfill site and at a control site:

Aluminium (total and dissolved)

pH

Suspended Solids

Note:

- a. details of the locations of the two sampling sites shall be submitted to the Manager, Land and Water Quality, Auckland Regional Council, for approval prior to the commencement of this monitoring program.

- b. samples must be collected and analysed in accordance with "Standard Methods for the Examination of Water and Wastewater" (latest Edition) or equivalent as authorised in writing by the Manager, Land and Water Quality, Auckland Regional Council.
 - c. That the Consent Holder shall report all monitoring undertaken in accordance with conditions 1 and 2 of this consent in the form of a quarterly monitoring report. The quarterly report shall be forwarded to the Manger, Land and Water Quality, Auckland Regional Council, within 20 working days of the period ending 31 March, 30 June, 30 September, and 31 December each year.
 - d. That the quarterly report shall include raw data of the analytical results for the previous quarter and graphed data and comment on any trends and any mitigation actions proposed.
2. That the conditions of this consent may be reviewed by the Manager, Land and Water Quality, Auckland Regional Council, pursuant to Section 128 of the Resource Management Act 1991, by the giving of notice in writing pursuant to Section 129 of the Act, in September 2003 and subsequently at one yearly intervals, of its intention to review the conditions for any of the following purposes:
- i. To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - ii. To require a Consent Holder to adopt the best practicable option to remove or reduce any adverse effect on the environment; or
 - iii. To alter monitoring requirements or discharge standards in light of previous monitoring results and/or changed environmental conditions or circumstances; or

- iv. To deal with any other adverse effect on the environment on which the exercise of the Consent may have an influence.

4.4 APPROVAL UNDER DELEGATED AUTHORITY


4.4.1 Adequacy of Information

It is considered the information submitted by the application is sufficiently comprehensive to enable the consideration of the following matters on an informed basis:

- a) The level of information provides a reasonable understanding of the nature and scope of the proposed activity as it relates to the regional plan.
- b) The extent and scale of any adverse effects on the environment are able to be assessed.
- c) Persons who may be adversely affected are able to be identified.

Report Prepared by: Stuart Timmis

Title: Contaminated Sites Officer

Signed: 

Date: 7 September 2009.

Consent Granted as Recommended

Acting under delegated authority and for the reasons set out in the above recommendations, Consent Number 37113 shall be granted subject to the conditions set out in Section 4.3.

Team Manager: John O'Grady

Title

Manager, Contaminated Land Management

Signed:

P.P. Alalbaregh

Date:

7/9/2009

SECTION 5 – DEFINITIONS

- ARC: means Auckland Regional Council
- ARP:SC: means Auckland Regional Plan: Sediment Control
- ARPS: means Auckland Region Policy Statement
- LGAAA: means Local Government Amendment Act 2004
- Manager: means Group Manager, Consents & Consents Compliance – Land, ARC, or nominated ARC staff acting on the Manager's behalf
- RMA: means Resource Management Act 1991 and further amendments
- Site: Means the land that is the subject of the proposed works and this consent as defined by the plans associated with this consent application.
- WRHAA: means Waitakere Ranges Heritage Area Act 2008