



ADVICE AND RECOMMENDATION OF THE EPA UNDER SECTION 144A RMA:

REQUEST TO CALL IN RESOURCE CONSENT APPLICATIONS BY GLOBAL CONTRACTING SOLUTIONS LTD

To the Hon Penny Simmonds, Minister for the Environment

1. On 12 March 2024, as Minister for the Environment, you requested the Environmental Protection Authority (**EPA**) provide advice on whether the resource consent applications for a proposal to construct and operate a waste to energy plant in Te Awamutu (**the matters**) are a proposal of national significance under section 142(2) of the Resource Management Act 1991 (**RMA**). You also asked where the matter should be referred to for decision, if called in, either to a board of inquiry or the Environment Court.
2. The Waipā District Council (**WDC**) and Waikato Regional Council (**WRC**), as the relevant local authorities, have requested under section 142(1) of the RMA that you make a direction under section 142(2) to call in the matters.
3. The applicant is Global Contracting Solutions Limited (GCSL), and further details of the proposal and the associated resource consent applications are provided in this advice.
4. For the reasons set out in this advice, we advise and recommend, in accordance with section 144A of the RMA, that you:
 - a. **Note** our advice that the matters can be considered to be a proposal of national significance.
 - b. **Note** our recommendation that you may call in the matters.
 - c. **Note** that we provide advice but do not provide a recommendation on whether you refer the matters to a board of inquiry or the Environment Court if you call them in.

A handwritten signature in blue ink that reads "MAB Ward".

11 April 2024

Michelle Ward

Date

General Manager: Climate, Land and Oceans
Environmental Protection Authority

Background

5. GCSL requires multiple resource consents to construct and operate a waste to energy plant at a site in Te Awamutu; one from WDC and three from WRC, as listed in Appendix A.
6. The resource consent applications were initially lodged with both WRC and WDC on 3 December 2021. Following requests for further information, the applications were publicly notified on 14 September 2023, with the submission period closing 13 October 2023. Over 800 submissions were received by each local authority, with 575 submitters indicating that they wish to be heard. A hearing date has not yet been set while the local authorities await the result of their request for you to call in the matters. An application timeline is provided in Appendix B.

Call in steps

7. In the context of a call in, an application for resource consent can be referred to as a matter.¹ The Ministerial power to call in is triggered when a matter is, or is part of, a proposal of national significance. The matter must itself be a proposal of national significance, or it can be considered in combination with other matters, in which case it is part of a proposal of national significance. In this case there are a number of matters, as listed in Attachment A.
8. Under the RMA, if you determine the matters are a proposal of national significance, you may call them in by making a direction under section 142(2) of the RMA to refer the matters to a board of inquiry or the Environment Court for decision. If you decide to not call in the resource consent applications, they will continue to be processed by WDC and WRC.
9. In deciding whether the matters are a proposal of national significance, you may consider any relevant factor, including those listed under section 142(3)(a) of the RMA, and any advice provided by us².
10. In deciding whether to make a direction to call in the matters, and where to direct them for decision, you must have regard to³:
 - a. the views of GCSL, as the applicant, and WDC and WRC as the relevant local authorities;
 - b. the capacity of WDC and WRC to process the matters; and
 - c. any recommendation of the EPA (although you may make a direction that differs from the EPA recommendation)⁴.
11. In your request for advice, you asked us to seek the views of:
 - a) The WDC and WRC; and
 - b) The following Iwi interests:

¹ As defined in Section 141 of the RMA, there are a number of types of application that can be considered a matter but only resource consents are relevant in this case.

² Section 142(3)(b) of the RMA

³ Section 142(4) of the RMA

⁴ Section 142(7) of the RMA

- i. Te Whakakitenga o Waikato:
- ii. Te Nehenehenui; and
- iii. Raukawa Settlement Trust

12. Where relevant, any views that have been received have informed our advice and recommendations. For completeness, we include the letters we received as Attachment C.

13. The purpose of your consideration for call-in is not to assess or prejudge the merits of the proposal. This is something that must be left for the decision maker, whether that is the local authority or, if called in, a board of inquiry or the Environment Court.

The proposal

14. The proposal involves the construction and operation of a waste to energy plant at an 11-hectare site 401 Racecourse Road, Te Awamutu. The location of the site is shown in Figure 1 below, which also shows the adjoining land uses and features.

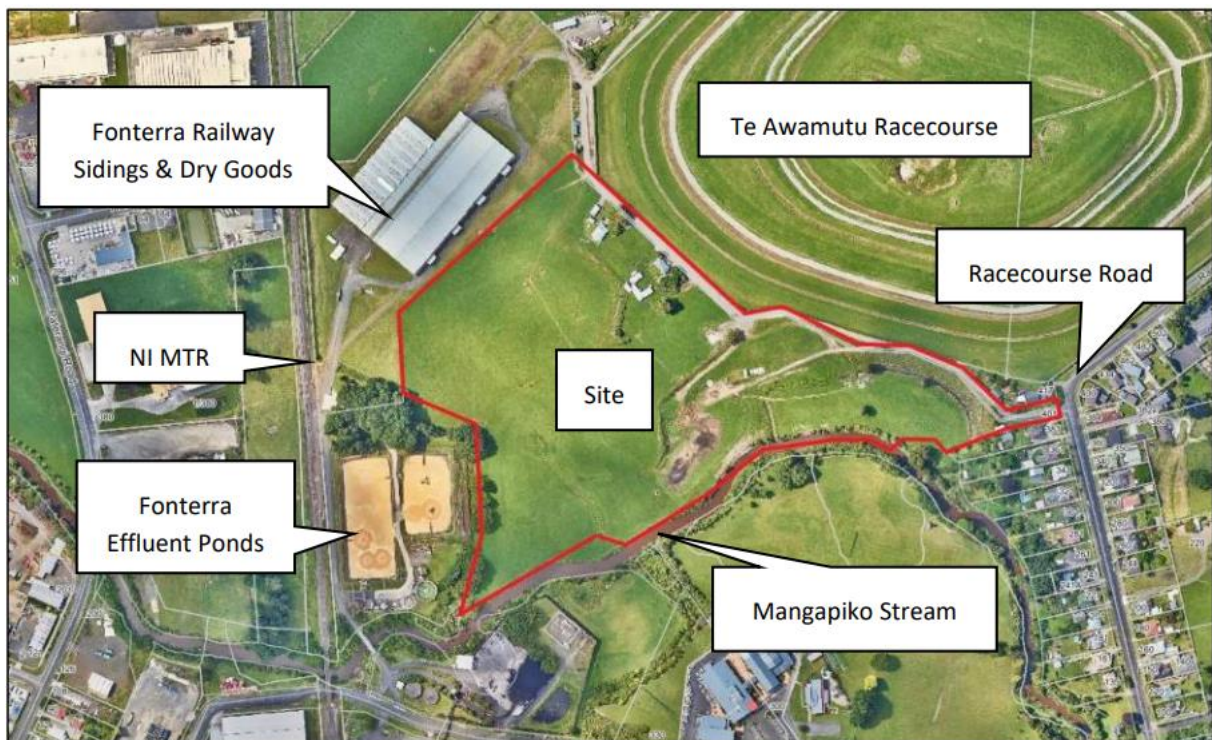


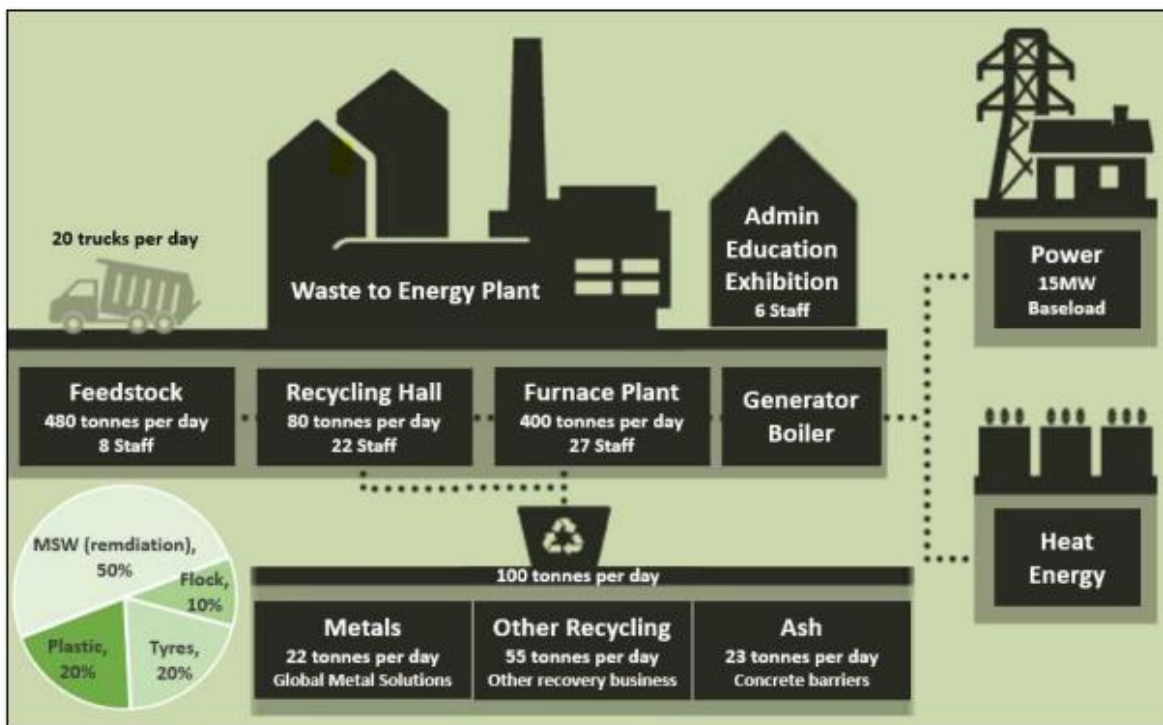
Figure 1. Annotated map of the site

15. The proposal is for the facility to accept approximately 480 tonnes per day (approximately 166,525 tonnes annually⁵) of refuse from within the Waikato Region and other regions, via trucks. The refuse will include municipal solid waste (45-50 percent), plastic (20 percent), tyres (20 percent) and car flock (10

⁵ Table 3 on page 19 of the Assessment of Environmental Effects

percent). Of the 480 tonnes of waste, 80 tonnes will be recycled at the facility, and 400 tonnes will be incinerated.

16. Electricity will be generated via the proposed waste incineration. The incineration process would be used to convert water into steam that would then power two turbines. The incineration system comprises three furnaces and three boiler lines. Each boiler line will produce approximately 17MW of steam, equating to approximately 5MW power output per furnace. Assuming three boiler lines are used, the facility is anticipated to generate approximately 15MW of electricity per day, and approximately 131GWh of energy per year. The facility also has the capacity to handle a fourth furnace line. If consent is obtained for the addition of a fourth line at some point in the future, the total electrical generation would increase to around 20-22 MW per day.
17. The incineration system involves a four-stage flue treatment process to screen and trap pollutants through a 38-metre-high exhaust stack before residual discharges are released to air.
18. The incineration process will generate approximately 100 tonnes of material per day, including 23 tonnes of ash, 22 tonnes of metals and 55 tonnes of other miscellaneous recyclable material. 22 tonnes of the ash will go to landfill and 1 -2 tonnes will be recycled for use in low grade concrete. Both the metal and miscellaneous output from the incineration process will be recycled.
19. Figure 2 is a diagram showing the waste to energy proposal from page 20 of the Assessment of Environmental Effects (AEE).



Whether the matters are a proposal, or part of a proposal, of national significance

20. For the reasons set out below, our advice is that the matters can be considered to be a proposal of national significance. We have assessed the factors listed under section 142(3)(a) of the RMA, followed by further comments in relation to another relevant factor, namely the Aotearoa New Zealand Waste Strategy.

Assessment of factors listed in section 142(3)(a)(i)-(x) of the RMA for assessing national significance

Has the matter aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment) (s142(3)(a)(i))

21. The proposed facility has attracted widespread public attention, with over 800 submissions received by each council on the notified applications. The matters have also attracted significant media attention and public protest. You have received a number of emails from individuals asking you to call in the matters, including a request from Zero Waste Network in 2022.
22. Most of the submissions received by the local authorities oppose the proposed waste to energy plant, with many submitters wishing to speak to their submission at a hearing. The submissions have raised concerns relating to a number of potential environmental effects, including the effects of greenhouse gas (GHG) emissions on climate change and the effects of dioxins from the discharge to air on neighbouring land uses (including the Fonterra operations). There is a statutory bar on the local authorities considering the effects on climate change, which we discuss in our advice below regarding international obligations, but in respect of public concern it is relevant that these concerns could be considered if the matters are called in as the statutory bar would not apply.

EPA advice in relation to this factor

23. Based on the information contained in the documentation provided, including submissions received on the applications, we consider that there is widespread public concern and interest regarding the actual and likely effects of the matters on the environment.

Does the matter involve or is it likely to involve significant use of natural and physical resources (s142(3)(a)(ii))

24. The proposal will require construction of a large plant and will consume a significant amount of waste. For a sense of scale, 308,885 tonnes of class 1 landfill waste was disposed of in the Waikato Region in 2020⁶, compared with the 166,525 tonnes of refuse that will enter the site annually.

⁶ [WPI - waste | Waikato Regional Council](#)

EPA advice in relation to this factor

25. Based on the information contained in the documentation provided, we consider that the matters involve significant use of natural and physical resources, in both the construction and ongoing operation of the proposed waste to energy plant.

Does the matter affect or is it likely to affect a structure, feature, place, or area of national significance (s142(3)(a)(iii))

26. The AEE provided to WDC and WRC in support of the resource consent applications does not identify any structure, feature, place, or area of national significance provided for in a planning instrument, such as the Waikato Regional Policy Statement.

EPA advice in relation to this factor

27. We note that while the planning report does not identify any particular structures, features, places, or areas of national significance, waterways, such as the neighbouring Mangapiko Stream that is a tributary to the Waipā and Waikato Rivers, are of particular importance to Māori, as discussed further in our advice.

If the matter is one that is specified in any of paragraphs (c) to (f) of the definition of matter in section 141, does it give effect to a national policy statement (s142(3)(a)(iia))

28. The matters are applications for resource consent, so this subsection is not relevant to the proposal on hand.

Does the matter affect or is it likely to affect or is relevant to New Zealand's international obligations to the global environment (s142(3)(a)(iv))

29. Also of relevance in the context of this factor are the considerations set out in section 5ZN of the Climate Change Response Act 2002:

If they think fit, a person or body may, in exercising or performing a public function, power, or duty conferred on that person or body by or under law, take into account—

- (a) the 2050 target; or*
- (b) an emissions budget; or*
- (c) an emissions reduction plan.*

30. New Zealand's international obligations to the global environment, such as our international climate change agreements, could be impacted by the estimated GHG emissions from the proposed incineration facility. Under the Paris Agreement, New Zealand has committed to a 50 percent reduction of net emissions below our gross 2005 level by 2030. There is currently a gap between that target and projected emissions. New emission sources, such as the proposed facility, will widen that gap and increase the cost to the government of meeting its international commitment.

31. The Ministry for the Environment's (MfE) initial view is that the estimated GHG emissions for the proposal are between 145 kt and 165 kt p/a CO₂-e and that this is significant at a national level. This

number agrees with the 2022 letter from the Zero Waste Network which estimated the emissions to be 150 kt p/a CO₂-e. Zero Waste Network does note that there could be an offset to these emissions, which may reduce the net emissions of the facility to 65 kt p/a CO₂-e. Officials have not verified these possible offsets.

32. MfE officials have noted that, when standardising for the amount of input waste, the estimated GHG emissions are higher than that estimated for the larger proposed facility in Waimate that was called-in on 31 August 2023. This is because the Te Awamutu facility is proposing that 20 percent of its feedstock is plastic only, which creates a significant amount of GHG emissions.
33. In assessing whether the GHG emissions from the Te Awamutu proposal may be nationally significant, MfE made a comparison with RMA national direction for industrial GHG emissions, and the Climate Implications of Policy Assessments (CIPA), required for all policy proposals for Ministers and Cabinet.
34. The National Environmental Standards for Greenhouse Gases from Industrial Process Heat (NES-GHG) came into force on the 27 July 2023. The NES-GHG requires a resource consent and emission reduction actions to be taken for discharges of 500 tonnes of CO₂e per year (0.5 kt p/a CO₂e) and above, as long as they meet other criteria. While it is unclear whether the other criteria would be met in this case, this threshold is significantly less than the estimated amount of GHG emissions for the proposed Te Awamutu facility.
35. The Emissions Reduction Plan is for more renewable, low-emissions energy production. Waste to energy by incineration of fossil-fuel derived materials is not considered renewable energy because the raw materials are largely derived from fossil fuels. Burning natural gas is potentially more efficient than the proposed facility, when considering plastics and other fossil energy intense feedstock production emissions. It is also not aligned with the definition of renewable electricity in the National Policy Statement on Renewable Electricity Generation 2011.
36. An issue of the timing of any waste to energy proposal lodged with local authorities prior to 30 November 2022 raises the implications of the statutory bar under section 104E of the RMA for considering the effect of GHG emissions on climate change that was in place when the applications were lodged with the local authorities. While the statutory bar was lifted by the Resource Management Amendment Act 2020 that came into effect on 30 November 2022, the timing of lodgement means the statutory bar would still apply to the local authority consideration of the matters. However, this statutory bar does not apply to the applications if they are called-in as a proposal of national significance.
37. A board of inquiry or Environment Court decision on this application could clarify what is a significant level of GHG emissions from this type of activity. The decision would help guide future decisions by local government on future waste to energy plants.
38. The AEE and supporting documents do not include an assessment of GHG emissions. Accordingly, if you decided to call-in the matters, we recommend that GCSL be requested to provide further information regarding the project's GHG emissions, or that a report be commissioned under section 149 of the RMA, before the matters are publicly notified under section 149C of the RMA.

39. We note that the operator of the waste to energy facility would be a mandatory participant in the New Zealand Emission Trading Scheme (NZ ETS) and face costs for GHG emissions⁷.

EPA advice in relation to this factor

40. Based on the information contained in the documentation provided, and due to the potential greenhouse emissions associated with the matters, we consider that they may affect or be relevant to any international obligations that New Zealand has to the global environment.

Will the matter result or is it likely to result in or contribute to significant or irreversible changes to the environment (including the global environment) (s142(3)(a)(v))

41. The potential for significant greenhouse gas emissions and implications for New Zealand's obligations the global environment is discussed above.

42. MfE staff have advised that all emissions of fossil-based CO₂ are additions to atmospheric concentrations and contribute to human induced climate change. Some of that addition will remain in the atmosphere for thousands of years.

EPA advice in relation to this factor

43. Based on the information contained in the documentation provided, and due to the potential greenhouse emissions associated with the matters, we consider that they may contribute to significant changes to the environment, including the global environment.

Does the matter involve or is it likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment (s142(3)(a)(vi))

44. There are numerous waste to energy plants in operation around the world. However, there are no waste to energy facilities incinerating the type of waste proposed by GCSL in New Zealand that have yet been authorised. While GCSL asserts that some of the technology, processes and methods that will be used are not new to New Zealand, the proposal would be one of the first of its kind in New Zealand.

45. In addition to emitting GHGs, the incineration of plastic and other inorganic waste can pose human health risks from compounds such as dioxins being discharged to air. While the proposal contains technology to clean the air discharges and minimise this risk, as well as contain and manage other hazardous compounds in the ash, submitters worry that the technology is highly complex and unproven in New Zealand. There are concerns about accepting this new technology, including whether New Zealand's relevant national standards adequately cover waste to energy facilities. There are also concerns about toxins in the ash that would need to be disposed of at suitable landfill.

⁷ There are five participants currently registered for combusting waste for energy, including Fletcher Cement (used tyres) and Oji Fibre Solutions (used oil).

EPA advice in relation to this factor

46. Based on the information contained in the documentation provided, we consider that matters involve technology, processes, or methods that are new to New Zealand and that may affect its environment.

Is the matter significant or likely to be significant in terms of section 8 of the RMA (s142(3)(a)(vii))

47. Section 8 of the RMA requires all persons exercising functions and powers under the Act, in relation to managing the use, development, and protection of natural and physical resources, to take into account the principles of the Treaty of Waitangi.

48. The Treaty settlement legislation in place for this area includes the:

- a) Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
- b) Nga Wai o Maniapoto (Waipa River) Act 2012; and
- c) Maniapoto Claims Settlement Act 2022.

49. Te Whakakitenga o Waikato and Te Nehenehenui are the Post Settlement Governance Entities (PSGEs) in relation to the above settlements.

50. Section 17 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 and section 8(2) of the Nga Wai o Maniapoto (Waipa River) Act 2012 provide that a person carrying out functions under the RMA that relate to the Waipā or Waikato Rivers or activities in the catchments that affect these rivers must have particular regard to Te Ture Whaimana.

51. Te Ture Whaimana sits ahead of all other subordinate legislation or planning documents under the RMA in relation to activities affecting the Waipā and Waikato Rivers.

52. The Te Awamutu site is on the northern bank of the Mangapiko Stream, which is a tributary of the Waipā and Waikato Rivers. Accordingly, the proposal is likely to be significant in the context of Treaty settlements and Te Ture Whaimana given that it involves land uses and discharges of contaminants to air and water in proximity to a tributary of the Waipā and Waikato rivers.

53. In addition to the consideration of Te Ture Whaimana, the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 enables the Waikato River Authority to nominate appointees to a board of inquiry. Maniapoto can also suggest members for the board of inquiry under their relationship agreement with you. This does not apply if you make a referral to the Environment Court.

54. We note that there are Joint Management Agreements between the two local authorities and Waikato-Tainui and Te Nehenehenui, relating to how council resource consenting processes occur.

55. In addition to the two PSGEs discussed above, the Raukawa Settlement Trust, as the PSGE for the Raukawa Claims Settlement Act 2014, may also have an interest in the matters given that the site borders their rohe and there are several marae and hapū in the vicinity.

56. We are aware that there are other relevant accords and relationship agreements which confer engagement responsibilities on the Crown.

57. As explained below, the letters from Te Whakakitenga o Waikato and Te Nehenehenui support calling in the matters. We did not receive a response from the Raukawa Settlement Trust.

EPA advice in relation to this factor

58. We consider that the matters are of high interest to mana whenua and there are a number of Treaty-related issues making it likely to be significant in terms of section 8 of the RMA.

Will the matter assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions (s142(3)(a)(viii))

59. Waste management is a significant matter of public health, which is a government function. The impact of the proposal on waste management is likely to be locally significant.

EPA advice in relation to this factor

60. We consider that matters may assist the Crown in fulfilling its public health obligations or functions.

Does the matter affect or is it likely to affect more than one region or district (s142(3)(a)(ix))

61. The proposal will take place in only one region or district, i.e. the Waikato Region and Waipā District.

EPA advice in relation to this factor

62. Based on the information contained in the documentation provided, we consider that the matters will not affect more than one region.

Does the matter relate to a network utility operation that extends or is proposed to extend to more than one district or region (s142(3)(a)(x))

63. The matters do not relate to a network utility operation, although we note that the intent of the proposal appears to be to feed electricity into the national grid, which may make it eligible to be a network utility operation in the future.

64. We understand that Transpower has said that electricity demand in the Waikato Region is set to grow approximately 32 percent over the next 15 years and that the proposed facility would help defer the timing of future transmission grid upgrades to meet Te Awamutu's growing energy demands.

EPA advice in relation to this factor

65. We consider that the current proposal does not relate to a network utility operation.

Other Relevant Factors

66. Because the list in section 142(3)(a) of the RMA setting out decision criteria is not exhaustive, you may also have regard to any other relevant factor. We have identified the following factor that we consider is also relevant to your decision on whether to call-in the matters as a proposal of national significance.

Aotearoa New Zealand Waste Strategy

67. We consider that the Aotearoa New Zealand Waste Strategy (**the Waste Strategy**)⁸ and waste sector reform work also has implications for the proposal. While the strategy is not a statutory consideration under the RMA, it may be important to consider how energy from waste to energy plants fit into this strategy's priorities to reduce, reuse and recycle, rather than creating another waste market.
68. Goal six of the Waste Strategy looks for ways to recover any remaining value from waste, sustainably and without increasing emissions. While goal six does allow for waste to energy facilities, it does so under the need to balance competing principles and considerations. When deciding the value of the technology, consideration also needs to be given to the purpose, feedstock, process (including potential emissions) and amount of energy produced.
69. The Waste Strategy also notes that initiatives that are underway to reduce, reuse and recycle waste may significantly change the amount of waste available for these facilities and make them unviable in the longer term. Finally, the strategy specifically states that "Pyrolysis and gasification of municipal solid waste is unlikely to align with our circular economy goals, due to its climate impacts, dependency on continued linear waste generation, and likelihood of hazardous discharge."⁹
70. The proposed Te Awamutu facility is not pyrolysis or gasification of municipal solid waste, but it involves the incineration of municipal solid waste. Of additional concern is that these facilities require a steady stream of waste to remain viable. Internationally, this has created an incentive for additional waste to be created, or at least a disincentive to reduce waste.
71. While not necessarily an issue to consider for a call-in of these matters, we note that all waste to energy facilities are currently excluded from potential coverage by the waste levy, which gives an economic incentive to fund and build new facilities.

Conclusions on National Significance

72. Based on our above analysis of section 142(a) factors and the additional matter that we have identified for consideration, on balance, our advice is that the matters can be considered to be a proposal of national significance.

Direction and Referral

73. If you agree that the matters are a proposal of national significance, you may call them in by making a direction to refer it to a board of inquiry or the Environment Court for a decision under section 142(2) of the RMA.
74. We now also include our advice and recommendations regarding your mandatory considerations ¹⁰:
- a) the views of the applicant and local authority;

⁸ [Aotearoa New Zealand Waste Strategy | Ministry for the Environment](#)

⁹ Aotearoa New Zealand Waste Strategy pp46 Te-rautaki-para-Waste-strategy.pdf (environment.govt.nz).

¹⁰ [Section 142\(4\)](#) of the RMA

- b) the local authority's capacity to process the matters; and
- c) any recommendations of the EPA.

Views of the Local Authorities

75. The relevant local authorities are the WDC and WRC. Both consider the matters are a proposal of national significance and have requested that you call them in. In addition to their initial requests, they have each reiterated their views in letters dated 5 April 2024, which are provided in Appendix C. Their main reasons relate to:
- a. their inability to consider the concerns raised in submissions about the potential effect of GHG emissions on climate change and the effects of the new technology, processes and/or methods that are unfamiliar to Aotearoa;
 - b. the ability and expectation of the Waikato River Authority (a mechanism of the River Settlements) to have a role in appointing members to a board of inquiry that have a grounding in the Waikato and Waipā River Settlements (including Te Ture Whaimana), given that the matters have the potential to affect a tributary to the Waikato and Waipā Rivers; and
 - c. the need for decision-making on the effects of the proposal to be considered holistically and in a clear and consistent way, particularly in relation to the issues associated with GHG emissions and the effects of the new technology, processes and methods.
76. Both local authorities favour referral of the matters to a board of inquiry rather than the Environment Court. In particular, WRC emphasises that referral to a board of inquiry would provide for Waikato River Authority representation, whereas referral to the Environment Court would not. WDC also favours a board of inquiry process, believing it to be less costly and confronting for lay-submitters than the Environment Court and that it could more easily be held locally given that many submitters have indicated that they wish to be heard in support of their submissions.
77. Both local authorities consider they would have capacity to process the applications if required to.

Views of the applicant

78. In its letter dated 5 April 2024 (provided in Appendix C), GCSL explained that it initially did not request or support any request that you call in the matters on the basis that WRC and WDC are both well capable of hearing and determining the matters with the assistance of well-qualified and experienced independent hearing commissioners. However, GCSL's view has changed and it believes that the best course of action would be for you to call in the matters.
79. GCSL disputes the applicability of the section 142(3)(a) factors. However, the applicant and its principals have become less confident in the benefits of localised decision making, with risks of distraction and influence of public campaigning and what it considers to be misinformation.

80. GSCL's preference is for the matters to be referred to the Environment Court, to be consistent with the call-in of the Waimate matters and because it considers the resources and processes of the Environment Court are best for considering a proposal that has drawn so many submissions and for which a robust and scientific examination is crucial.

Views of Māori interests

81. You have statutory considerations under Treaty settlements if exercising your call-in power.

82. We have sought views from:

- a. Te Whakakitenga o Waikato - in relation to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
- b. Te Nehenehenui - in relation to Nga Wai o Maniapoto (Waipa River) Act 2012; and
- c. Raukawa Settlement Trust - in relation to the Raukawa Claims Settlement Act 2014.

83. We did not receive a reply from the Raukawa Settlement Trust. The other two expressed concern about the effects of the discharges to air and the discharge of stormwater to the Mangapiko Stream, a tributary of the Waipā River that is considered to be a taonga and river of deep, cultural significance (acknowledged by the Crown in the Preamble to the Ngā Wai o Maniapoto (Waipā River) Act 2012).

84. They explain that the Waikato and Waipā River Settlements resulted in unique arrangements that modify RMA decision-making criteria, including (among other matters) applications that are called-in and decision maker appointments. In addition to informing substantive decision making on the matters, they consider that these arrangements should also inform your decision as to whether to call-in the matters and where to refer them for decision. They support the requests by WRC and WDC that you call in the matters, for the same reasons.

85. The iwi interests are mindful of the Fast-track Approval Bill for "regionally and nationally significant infrastructure and development projects", which remains the subject of policy decisions. They note that substantive engagement with iwi about how the Fast-track Approval Bill will uphold their settlement arrangements is yet to occur. They are concerned that any decision about whether the matters are a proposal of national significance under RMA s142 is not taken as deeming the proposal an appropriate candidate for the fast-track process; particularly without direct engagement between iwi and the Crown.

EPA recommendation as to whether to call the matters in

86. Our recommendation is that you call in the matters on the basis of:

- a. the section 142 analysis above;
- b. the fact that both local authorities have requested that you call in the matters;
- c. GSCL (the applicant) now also requests that you call the matters in, although for different reasons to the local authorities;

- d. Iwi support calling in the matters; and
 - e. calling in the matters could provide for a streamlined decision making process by removing the standard local authority consenting process, limiting appeals to points of law only – this would offset the cost and time requirements for the applicant and submitters associated with re-notification of the applications, given the significant interest in the applications and associated likelihood that any decision by the local authorities would be appealed to the Environment Court.
87. A key reason to call-in the matters is consistency with the decision to call in the resource consent applications for the proposed Waimate waste to energy plant, especially in relation to concerns around new technology and the ability to consider the effect of GHG emissions on climate change.
88. There have been two other recent resource consent applications for waste to energy facilities in New Zealand, one in Feilding in the Manawatū, and one in Waimate, South Canterbury. The resource consent applications for the proposed Feilding facility went through the council process, but was withdrawn by the applicant in June 2023. The resource consent applications for the proposed Waimate facility were called in and referred to the Environment Court for decision by the previous Minister for the Environment on 31 August 2023. The applications (as well as the Minister’s direction to call them in) have not yet been publicly notified at the request of the applicant. Accordingly, the Waimate applications are some way from being considered by the Environment Court.
89. Calling in the Te Awamutu matters, following the call in of the Waimate matters, could be seen as setting an expectation that all resource consent applications for waste to energy facilities will be called in. However, this risk is mitigated somewhat because GHG emissions are now factors that can be considered by local authorities under the RMA.

EPA analysis of where to refer the matters if called-in

90. We provide the following analysis of the board of inquiry and Environment Court options.

Board of Inquiry Option

91. Key features of a board of inquiry option are:
- a. The requirement for a decision within nine months of your Direction to call in the matters being publicly notified¹¹. If you consider that special circumstances apply, you can extend the time by up to 18 months unless the applicant agrees to longer¹².
 - b. Appeals on a board of inquiry’s decision are limited to points of law only.¹³
 - c. The ability to appoint up to five members provides access to a broad range of relevant knowledge and decision-making experience.¹⁴

¹¹ Section 149R(2) of the RMA

¹² Section 149S of the RMA

¹³ Section 149V of the RMA

¹⁴ Section 149J & 149K of the RMA

- d. There is also the ability to appoint a current, former, or retired Environment Court Judge as the chair of a board of inquiry, which can be particularly useful if the matters involve issues relating to evidence or challenging statutory interpretations.
- e. The costs associated with a call-in and referral to a board of inquiry are recoverable¹⁵. A local authority, the EPA, and you, can recover actual and reasonable costs incurred from the applicant. The applicant can ask for an estimate of costs and has the right to object to the costs¹⁶.
- f. It does take some time to appoint members to a board of inquiry before consideration of the matters can begin, although this does not have to delay public notification. To support the appointment of a board of inquiry, further work can be undertaken by EPA staff and MfE to:
 - i. serve notice of your direction on the local authorities and begin the process of requesting nominations as required under section 149K(2) of the RMA;
 - ii. screen potential board of inquiry candidates for their availability and suitable skills and experience;
 - iii. prepare a Cabinet Paper relating to your recommended candidates;
 - iv. confirm appointments to a board of inquiry; and
 - v. assist the board of inquiry in the development of its inquiry process.

92. As noted above, iwi understandably favour a board of inquiry because of the ability under the Waikato and Waipā River Treaty settlements for the Waikato River Authority to nominate members that have a strong understanding of potential cultural effects, Te Ture Whaimana and the principles of Te Tiriti o Waitangi.

Environment Court Option

93. We note that the Environment Court Registry has indicated there is no issue with capacity to progress the matters if they are referred to the Environment Court for decision.

94. Key features of the Environment Court option are:

- a. There is no deadline in the RMA for the Environment Court to decide on the matters, other than the general requirement to regulate its proceedings in a manner that best promotes a timely and cost-effective resolution.¹⁷
- b. As for a board of inquiry, appeals are limited to points of law only.
- c. Environment Court proceedings can establish case law that can inform decisions on future applications of a similar nature.

¹⁵ Section 149ZD of the RMA

¹⁶ Section 357B of the RMA

¹⁷ Section 269 of the RMA

- d. Costs associated with the referral of a call-in to the Environment Court are recoverable under section 285 of the RMA. When deciding to make an order in relation to costs, the Environment Court must apply the presumptions that costs are not to be ordered against a section 274(1) party (i.e. a submitter or the local authorities), and that costs are to be ordered against the applicant.
 - e. In terms of formality, the powers of the Environment Court offer comparatively informal access (i.e. less formal than other Courts), as confirmed in its practice note that derives from section 269 of the RMA. That provides for broad procedural discretion, which is routinely used by the Environment Court for such things as mediations, the appointment of Friends of Submitters, and the hiring of local venues if a courthouse is not available in the vicinity of the site and affected community.
 - f. We are also aware that the Environment Court has Judges and Commissioners that have a wide range of skills and experience that may be relevant to these matters, including mātauranga Māori and tikanga Māori, and Treaty principles.¹⁸
95. We note that WDC, WRC and the Iwi interests favour referral to a board of inquiry. We have not formally explored the reasons for this view, but we understand that it may be based on the expectation that a board of inquiry would be more community friendly and flexible than Environment Court proceedings. However, as noted above, we are aware that the Environment Court has methods for achieving these objectives. There is also a view that board of inquiry process is less expensive than Environment Court proceedings, but our experience is that board of inquiry processes can involve similar costs given that the applicant and some of the submitters often choose to engage legal counsel and expert witnesses.
96. Given that the resource consent applications for the Waimate waste to energy plant were referred to the Environment Court, there would be advantages for two similar proposals to be considered through the same forum. This is one of the reasons that GCSL favours referral to the Environment Court. However, we note that public notification of the Ministerial direction to call in the Waimate matters (along with the actual applications) has not yet taken place on the applicant's request and there is no guarantee that this will take place.

Overall advice and recommendation

97. Our advice is that the matters may be considered to be a proposal of national significance.
98. The factors under section 142(3) of the RMA are not an exhaustive list and you are able to have regard to any other relevant factors, and you may take advice from sources other than us.
99. A disadvantage of calling-in the matters is that re-notification of the applications would be required, given that public notification of the applications has already been carried out by the local authorities.
100. However, a key advantage of calling-in the matters would be the ability to consider the potential effects of the GHG emissions of the proposal on climate change, given that the applications were lodged before

¹⁸ [About the Environment Court | Environment Court of New Zealand](#)

the statutory bar on local authorities considering these effects was lifted. This would be consistent with the Waimate matters being called-in.

101. We note that Cabinet Office Circular CO (06) 7 proposes that you consult with Cabinet prior to making a call-in decision.
102. In terms of where to refer the matters for decision if you do call them in, our advice is that there would be no advantages either way in referring the matters to the Environment Court or a board of inquiry. It would be consistent with the Waimate call in to refer the matters to the Environment Court. However, in this case, the Iwi interests have a strong preference that the matters be referred to a board of inquiry as their Treaty settlements enable them to nominate one member (in the case of a three-person board) or two members (in the case of a five-person board).
103. If you wish to call in the matters, we have provided draft Directions for either option in Appendix D.
104. We are available to provide further advice as required.

Appendix A: Resource Consents Required

Four resource consent applications are required to construct and operate the Te Awamutu Waste to Energy facility:

Waipā District Council

The resource consent application is required in relation to the provisions of the Waipā District Plan.

1. Land use consent to permanently operate a large waste to energy incinerator in Waipā (LU/0323/21)

Environment Waikato

The resource consent applications are required in relation to the Waikato Regional Plan.

Global Contracting Solutions Limited has submitted the following applications (Application Number APP143988)

2. Discharge of emissions to air associated with operating a Waste to Energy plant (143988.01.01)
3. Discharge of stormwater to surface water associated with operating a Waste to Energy plant. (143988.02.01)
4. Deposition of cleanfill associated with constructing a Waste to Energy plant. (143988.03.01)

Appendix B: Timeline for resource consent applications

Lodgement of applications

- December 2021: Resource consent applications from GCSL for Te Awamutu waste to energy facility were lodged with WDC and WRC.

Further information requests

- 4 March 2022: A further information request was sent to the GCSL by WRC. The request centred around erosion and sediment control, flooding, air quality, groundwater, waste acceptance and consultation amongst other issues. WRC also sent a further information request to GCSL. This was a wide-ranging request dealing with waste strategies, cultural effects, wastewater and district plan requirements amongst other things.
- 11 April 2022: A further information request was sent by WDC to GCSL. This request dealt with acoustic effects, operational effects and mitigation.
- 8 July 2022: GCSL responded to the WRC's further information request. GCSL also responded to WDC regarding their further information request.

Public notification of the applications

- September 2023: As lead agency for the joint processing of the resource applications, WRC notified the applications and invited submitters to comment. Submissions closed in October 2023. 822 submissions were received by WRC, and 874 submissions were received by WDC.

Post notification further information request

- 11 October 2023: WDC sent a further information request to GCSL. The request centred around landscape, national, regional and district policy instruments and waste sources. We have not received clarification as to whether the applicant has responded yet.
- 20 December 2023: WRC also requested further information – this has not been responded to yet.

Appendix C: Letters to Minister requesting call in of Project Kea

Views of Environment Waikato

[5 April 2024 Letter Response to EPA from WRC View.pdf](#)

Views of Waipā District Council

[5 April 2024 Letter Response to EPA - Waipa DC views.pdf](#)

Views of Global Contracting Solutions Ltd (the applicant)

[5 April 2024 Applicant views.pdf](#)

[T Brady Memo energy from waste technologies Oct 2.pdf](#)

Views of Iwi interests

Te Whakakitenga of Waikato

[2024-03-14 - Letter to Hon P Simmonds - Waikato Tainui.pdf](#)

Te Nehenehenui

[27 February 2023 - Letter to P Simmonds - Te Nehenehenui.pdf](#)

File No: 61 82 69A
Document No: 28927478
Enquiries to: AnaMaria d'Aubert



5 April 2024

Private Bag 3038
Waikato Mail Centre
Hamilton 3240
New Zealand

Jillian Kennemore
Environment Protection Agency
Private Bag 63002
Wellington 6140

waikatoregion.govt.nz
0800 800 401

Dear Jillian

Response to EPA's Request for Waikato Regional Council Views on Calling in the Waste to Energy Plant Te Awamutu Application

On the 19 March 2024 you requested by letter that the Waikato Regional Council (WRC) provide its view on certain matters relating to the request for call in made to the Minister for the Environment on 15 December 2023. The request for call in relates to the resource consent application from Global Contracting Solutions Limited (GCS) to construct and operate a Waste to Energy (WTE) plant proposed in Te Awamutu.

The matters that you are requesting WRC's views on are listed below in italics followed with our response:

Whether the matter is, or is part of, a proposal of national significance and why, particularly in respect of the factors set out in section 142(3)(a) of the Resource Management Act 1991 (RMA);

The WRC has considered GCS's proposal against the factors listed under Section 142(3) of the RMA and concludes that the proposal reaches the threshold of national significance for the following reasons:

Section 142(3) Factors	WRC's assessment of GCS Proposal
Has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment).	<p>There has been public interest and media coverage regarding the application since it was lodged.</p> <p>On 14 September 2023 the application was publicly notified, and 822 submissions were received that opposed the proposal. The submissions indicate widespread public concern. Submissions have been received from both local individuals and national organisations such as Zero Waste Network Aotearoa, Xtreme Zero Waste, Greenpeace and Climate Justice Taranaki.</p>

	<p>The emission of greenhouse gas and its contribution to climate change in the global environment is a common theme identified in the submissions.</p> <p>The submissions also indicate substantial public concern around the use of technology unproven in New Zealand and adequacy of the proposed emission control equipment associated with the release of non-greenhouse gas contaminants such as dioxins and heavy metals.</p>
Involves or is likely to involve significant use of natural and physical resources.	<p>The proposed activity will combust up to 400 tonnes of refuse derived fuel (RFD) per day and up to 150,000 tonnes of RDF annually. The main source of feedstock is expected to be sourced from municipal waste that would be otherwise sent to landfills such as Hampton Downs or Tirohia.</p> <p>The feedstock includes non-renewable fossil fuel-based materials such as plastics, incineration of this waste type would divert it away from a circular economy (recycling), likely resulting in a significant use of natural and physical resources.</p>
Affects or is likely to affect a structure, feature, place, or area of national significance.	The proposed site is not an area of national significance. Putting aside the effects of any contribution to climate change, the proposal is not expected to directly affect any area of national significance.
Gives effect to a national policy statement and is one that is specified in any of paragraphs (c) to (f) and (j) to (m) of the definition of matter in section 141 .	Does not give effect to a national policy statement and is not one that is specified in any paragraphs c) to (f) and (j) to (m) of the definition in section 141.
Affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment.	<p>New Zealand is a party to the United Nations Framework Convention on Climate Change and has entered into agreements such as the Paris Agreement to reduce greenhouse gas emissions.</p> <p>The application was lodged on 3 December 2021 which was prior to the RMA amendments that allow greenhouse gas emissions and the effects on climate change to be considered at a regional level. (This was through the repeal of section 104E of the RMA on 30 November</p>

	<p>2022). Therefore, WRC cannot have regard to the effects of greenhouse gas emissions on climate change. However, this statutory bar will not apply to GCS’s proposal if the application is called in and would allow a robust analysis of the effect the proposal could have on New Zealand’s international obligations to the global environment.</p> <p>The EPA has advised for the Waimate - Project Kea application that “... <i>due to the potential greenhouse emissions associated with Project Kea, the EPA considers that Project Kea may affect or be relevant to any international obligations that New Zealand has to the global environment.</i>” We note that the GCS proposal is similar to the Project Kea activity and on that basis the WRC considers the EPA advice is relevant to this application. That is, the GCS proposal may affect or be relevant to New Zealand’s international obligations to the global environment.</p> <p>In regard to greenhouse gases, WRC concludes that the proposed WTE plant may affect or be relevant to any international obligations that New Zealand has to the global environment.</p>
Results or is likely to result in or contribute to significant or irreversible changes to the environment (including the global environment)	<p>The potential for significant greenhouse gas emissions and New Zealand’s obligations to the global environment arising from this proposal is briefly set out above.</p> <p>There is no guidance on what a significant level of greenhouse gas emission from this type of activity would be. In any case the amount of greenhouse gas being emitted from the proposed WTE plant is not known and cannot be assessed by the WRC, and therefore the magnitude of this effect is unknown.</p>
Involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment	Similar technology to that proposed is commonly used overseas. However, there are no authorised WTE plants burning solid waste in New Zealand and the methods and associated technology is new.
Is or is likely to be significant in terms of section 8	Results of consultation with mana whenua have not been provided by the applicant. However,

	the submissions indicate that there is high interest to mana whenua.
Will assist the Crown in fulfilling its public health, welfare, security, or safety obligations or functions	Not applicable
Affects or is likely to affect more than 1 region or district	Ash disposal may potentially affect another district or region. Also, if the discharges are found to affect climate change, effects are potentially widespread.
Relates to a network utility operation that extends or is proposed to extend to more than 1 district or region	Not applicable
Any advice provided by the EPA	None provided specific to this application that we are aware of. However, we note the advice received by the EPA in its decision to call-in the Project Kea proposal.

Whether the Minister should call in the matter and why;

WRC considers the GCS application should be called in given our conclusion above that the proposal meets the definition of a proposal of national significance, and for the reasons noted below:

- On review of international studies, it is apparent that the emission of GHG from the incineration of waste can be complicated and needs to be considered on a case-by-case basis. The discharge of GHG from this proposal is arguably the key adverse effect. However, due to the timing of when this application was lodged WRC has no jurisdiction to consider this matter. The scale and significance of greenhouse gas emissions arising from this proposal is therefore unknown and unable to be assessed by WRC and could potentially affect or be relevant to international obligations New Zealand has to the global environment.
- There is substantial public concern relating to the technology proposed that is new to New Zealand, the control of emissions and potential impacts to human health and the environment. These submissions are relevant to the factor that involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment. WRC considers that this is another factor where the threshold has been met for the proposal to be of national significance.
- The Waimate - Project Kea application has recently been called in. Given the similarities of the GCS Te Awamutu proposal, calling this project in would enable a consistent approach to be taken, especially regarding greenhouse gas emissions and contributions to climate change.

If the matter is called in, whether the Minister should direct the matters to be heard and decided by a Board of Inquiry or the Environment Court, and why;

WRC's preference is for this application to be heard by a Board of Inquiry (BOI) for the following reasons.

As part of our engagement with Waikato Iwi we have identified that the project area is within the boundary of the Joint Management Agreement (JMA) areas for both Waikato-Tainui and Te Nehenehenui

(Maniapoto). The consent authorisations required include the discharge of stormwater to the Mangapiko Stream, a tributary of the Waipā River.

Waikato Tainui have provided a letter to the Minister for the Environment dated 14 March 2024, stating that they support the application being referred to a BOI if called in. We note that Te Nehenehenui have also provided a letter to the Minister for the Environment, dated 27 February 2024, that supports the application being referred to a BOI if called in.

If a BOI is held then Section 29 of Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010, and Section 10 of the Ngā Wai o Maniapoto (Waipā River) Act 2012, apply. Those sections provide for equal numbers of Waikato River Authority (WRA) appointed representatives as Crown EPA appointees. Note that WRA appointed representatives are not provided for if the application is referred to the Environment Court.

Considering the views of Waikato Tainui and Te Nehenehenui, we therefore recommend that the Minister refers the application to a BOI to allow WRA involvement.

Your Council's capacity to process this matter; and

This application is currently being jointly processed with the Waipa District Council with the WRC taking the lead role. While processing this application would place significant pressure on WRC resources, WRC has capacity to process this application if required to.

Any other information you consider may be relevant to the Minister's decision.

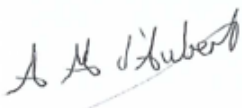
The Aotearoa New Zealand Waste Strategy may also have implications for this application.

The views expressed in this letter are not related to Waikato Regional Council's potential views on the definitions or considerations of the proposed Fast Track Bill for "regionally and nationally significant infrastructure and development projects".

In conclusion the WRC considers that the matters that constitute the GCS application are a proposal of national significance under section 142(3) of the RMA and should be called in by the Minister for the Environment and referred to a BOI for processing.

Yours faithfully

—



AnaMaria d'Aubert
Manager – Regional Consents

5 April 2024

ECM 11201775

LU/0323/21

NZBN: 9429041901977r

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Tēnā koe Jillian

EPA seeks views on calling in Te Awamutu waste-to-energy resource consent applications

I write to you on behalf of Waipā District Council (Waipā) to respond to your letter dated 19 March 2024 asking Waipā provide its view on certain matters relating to the request for call in made to the Minister for the Environment on 7 February 2024. The request for call in relates to the resource consent application from Global Contracting Solutions Limited (GCS) to construct and operate a waste incineration plant proposed in Te Awamutu.

Your letter outlined a number of points you would like our views on; for ease of reference, I have used these as headings.

Whether the matter is, or is part of, a proposal of national significance and why, particularly in respect of the factors set out in section 142(3)(a) of the Resource Management Act (RMA);

As set out in our request to the Minister (dated 7 February 2024), Waipā have supported the call in request made by Waikato Regional Council (WRC) dated December 2023. The matters WRC have outlined include several relevant factors relating to the widespread community interest in the proposed waste incineration plant and its potential for emission of greenhouse gases to have subsequent effects on climate change, as well as the technology, processes, or methods being new to New Zealand and that may affect its environment. Whilst the results of consultation with mana whenua were not provided with the application, it is considered likely the development will be of high interest to mana whenua.

I have viewed the letter WRC are issuing in response to their similar request from the EPA, and I can confirm that the additional detail they have provided to these matters continue to be supported by Waipā.

Please note that this consideration does not provide any connection to the potential views of Waipā on the definitions or considerations of the proposed Fast-track Approvals Bill for “regionally and nationally significant infrastructure and development projects”.

Whether the Minister should call in the matter and why;

Waipā’s position is that the Minister should call in the matter due to the connected nature of the consents being processed by Waipā and WRC. In the interests of the applicant GCS, the significant number of submitters involved and our community, any decision-making around this issue must be clear, co-ordinated and consistent and that there should be only one hearing process undertaken.

If the matter is called in, whether the Minister should direct the matters to be decided by a Board of Inquiry or the Environment Court, and why;

Waipā would like to advocate for the Board of Inquiry process. A Board of Inquiry process is less confronting than the Environment Court for our lay-community submitters, is less likely to require lawyers (and their additional cost) for our submitters and it has the potential to be held locally (Te Awamutu being our preference, given 575 submitters who have advised they wish to be heard).

A Board of Inquiry process also provides an opportunity for our Joint Management Agreement partners (Waikato-Tainui, Raukawa and Te Nehenehenui) to be considered as Board members to ensure there is a strong grounding in the Waikato and Waipā River settlements in decision-making. This development is within the takiwā of all three iwi partners and Waipā would support this consideration.

Your Council's capacity to process this matter; and

The GCS application is currently being jointly processed by WRC and noting that WRC are taking the lead role. While processing this application would place significant pressure on Waipā resources due to the scale of community interest and technical input required, Waipā does have capacity to process this application if required to.

Any other information you consider may be relevant to the Minister's decision.

As indicated above, our JMA partners would like to be involved in the provision of your advice to the Minister and any future decision making process should the matter be called in. If you haven't contacted them previously, we would recommend you do so and can provide contact details on request.

I thank you again for your agreement to provide this response a couple of days later than your originally stipulated date. I hope this does not impact your ability to provide your advice to the Minister within the 20 working days you are provided with (s144A (3) of the RMA). Waipā is very mindful of timeframes for our community and the applicant.

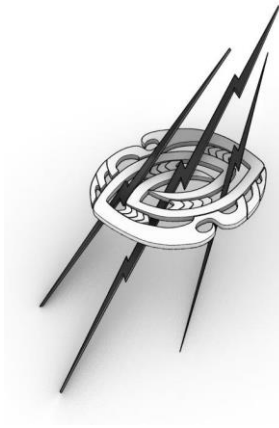
In conclusion, Waipā considers that the matters included in this development are a proposal of national significance and should be called in by the Minister for the Environment and referred to a Board of Inquiry to decide.

If you require any further information or wish to discuss the matters raised, please contact me directly.

Ngā mihi



Wayne Allan
GROUP MANAGER DISTRICT GROWTH & REGULATORY SERVICES



GLOBAL CONTRACTING SOLUTIONS LIMITED (PAEWIRA) ENERGY FROM WASTE
RESOURCE CONSENT PROPOSAL

THE APPLICANT'S VIEWS ON THE REQUEST FOR A S142 RMA MINISTER'S CALL-IN

The Environmental Protection Authority has requested that the applicant states its views on the request for a ministerial call-in of this proposal under s142 of the RMA. The applicant initially did not request or support any request for a call-in by the Minister on the basis that the Waikato Regional Council and the Waipa District Council are both well capable of hearing and determining the application with the assistance of well-qualified and experienced Independent Hearing Commissioners. That view has now changed, and the applicant believes that the best course of action would be for the Minister to call in the proposal under s142. The applicant's reasons are recorded in the following responses to the listed s142 considerations.

Consideration of national significance factors listed in RMA s142(3)(a)(i)-(x)

- i. Has the matter aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment)?*

There has been a high level of publicity about the proposal and organized responses in public settings. It appears to the applicant that much of the publicised commentary and expressions of concern and interest in the proposal have either been generated by or influenced by a national pressure/interest group that has been particularly vocal. It is difficult to gauge whether there has actually been widespread public concern or widespread interest about the actual or likely effects on the environment, when there has been a highly publicised campaign to make statements about the proposal and to generate responses. There were a total of 859

submitters to the resource consent application to Waipa District Council. A total of 822 submissions have been lodged in relation to the applications to Waikato Regional Council, 813 of which are in opposition, many being duplicates or near duplicates.

Having said that, there is undoubtedly a widespread source of submissions on the applications in the sense that many of the submissions are sourced from outside the immediate location of the proposal and some from places very remote from that locality.

In the applicant's view the way in which submissions have been generated makes it more appropriate for consideration of the proposal by the Environment Court or a Board of Inquiry, as the influence of publicity or activism is less likely to be a prominent factor in decision-making.

ii. Does the matter involve or is it likely to involve significant use of natural and physical resources?

Any use of resources for construction of the facility will be a "one off" confined and limited use of resources to construct a facility for long term use. That is not a significant resource use in itself. The use of water is efficient and to a significant extent internalised, not dissimilar to other "wet industries" The refuse that is to be used as fuel is not currently considered to be a resource but an environmental burden, which will be turned into a resource if the consents are granted.

iii. Does the matter affect or is it likely to affect a structure, feature, place, or area of national significance?

No.

iiia If the matter is one that is specified in any of paragraphs (c) to (f) of the definition of "matter" in RMA s141, does it give effect to a National Policy Statement?

As the proposal is a resource consent application, this consideration is not relevant.

iv. Does the matter affect or is it likely to affect or is relevant to New Zealand's international obligations to the global environment?

The most obvious relevant international obligations to the global environment are New Zealand's international climate change treaties. As the proposal will emit greenhouse gases, the matter technically must affect or be likely to affect or be relevant to those international obligations. However the degree of effect is not likely to materially constrain the ability of New Zealand to meet its international obligations.

Put another way, every activity that generates greenhouse gases is likely to affect or be relevant to New Zealand's international obligations, but the scale of the discharge from the proposal is not such as to significantly influence New Zealand's ability to meet those obligations.

- v. *Will the matter result in or is it likely to result in or contribute to significant or irreversible changes to the environment (including the global environment)?*

Any discharge of greenhouse gases has the potential to cause irreversible change to the environment, though in this case at a small scale. The other changes to the environment will not be significant or irreversible as the activity and/or its effects can be altered at any time if necessary and the related structures removed if necessary.

- vi. *Does the matter involve or is it likely to involve technology, processes or methods that are new to New Zealand and that may affect its environment?*

The technology, processes and methods proposed for this activity are not new to New Zealand. The accompanying expert information from Dr Terry Brady confirms the previous and current use of the proposed technologies, processes and methods in New Zealand.

The question whether the technology, processes or methods may affect New Zealand's environment is limited to the effects of only novel technologies.

- vii. *Is the matter significant or likely to be significant in terms of s8 of the RMA?*

The principles of the Treaty of Waitangi are not a significant issue in this case. The submissions and the consultation with tangata whenua do not indicate any special significance in terms of the Treaty.

- viii. *Will the matter assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions?*

This proposal is neutral in terms of providing assistance to the Crown in fulfilling its public health, welfare, security of safety obligations and functions. The expert assessment of air quality effects indicates a neutral impact on health issues through discharges to air. There will be no hindrance caused to the Crown fulfilling its welfare, security or safety obligations and functions. Potentially there is a benefit for the Crown in fulfilling its functions by broadening the methods and resources available for waste management and electricity generation.

Public welfare, security and safety obligations of functions of the Crown do not appear to be compromised by any aspect of the proposal.

ix. Does the matter affect or is it likely to affect more than one region or district?

The processing activity will be taking place in only the Waikato Region and in particular the Waipa District. Refuse for use as a fuel will be sourced from other districts and other regions. Any such broader ranging effects would be likely to be positive effects through reduction in the rate of landfilling within those districts and regions, but not as a matter of major significance to the local authorities in those regions or districts. The activity could lead to a reduction in transportation between districts for landfilling and/or a reduction in use of landfill space in other districts or regions. In those senses there may be effects on more than one region or district.

x. Does the matter relate to a network utility operation that extends or is proposed to extend to more than one district or region?

Electricity generated by the proposal will extend to network utility operations outside of the district and region in which the proposal will take place, however the proposal is not in itself considered a network utility operation, but there is potential for the proposal to seek declaration as a generator under section 4A of the Electricity Act 1992 that could then fall within the definition of a network utility operation.

Are there any other relevant factors to consider?

The positive effects of the proposal may be relevant to consider at a national level.

If consented, the proposal will be the first step in the introduction of a further alternative for waste management and reduction in reliance on landfilling. That could potentially improve the

prospects of providing localised energy from waste activities and spreading the locations and modes of electricity generation.

There are no other anticipated relevant factors to consider under s142(3).

S142(4) CONSIDERATIONS

(a) The views of the applicant and local authority

The applicant

The applicant initially opposed the making of a request for a ministerial call-in, favouring local decision-making as the first step in the process. However, the applicant and its principals have become less confident in the benefits of localised decision making, with risks of the distraction and influence due to public campaigning and, in some cases, misinformation. The applicant's confidence in the ability of the Councils to focus on reliable evidence over unsupported claims is now much reduced. Indications from the Councils was that a local hearing was being prepared for up until the "11th hour" when WRC's call-In request was reported to the applicant. The WDC's request was made nearly two months later. This occurred after three years of engagement including a public submission process. Subsequent information discovered under a LGOIMA request and the presentation of a WRC prepared report that presents a negative view on energy from waste plants generally further undermined the Applicant's confidence in the Councils' ability to view the project objectively.

The local authorities

The local authorities have made their requests for ministerial call-in, for reasons that differ from the applicant's views.

IF THE MATTER IS CALLED IN, SHOULD THE MINISTER DIRECT IT TO BE DECIDED BY A BOARD OF INQUIRY OR BY THE ENVIRONMENT COURT; AND WHY?

The applicant's preference is for the application to be decided by the Environment Court.

Reasons:

- (a) Another energy-from-waste proposal has already been referred to the Environment Court for consideration;
- (b) The resources and processes of the Environment Court are the best available to consider a proposal that has drawn so many submissions and for which a robust scientific examination is crucial.

Ref 3263.01

30 October, 2023

Phil Lang
PO Box 19-539
Hamilton 3244

Re Waste to Energy Technology

Dear Phil

I refer to your recent Email requesting an assessment of whether or not the proposed Waste to Energy (WtE) plant at Te-Awamutu involves the use of *technology, processes or methods that are new to NZ and that may affect its environment*.

The proposal involves the combustion of refuse derived fuel (RDF) in boilers to raise steam which is then used in steam turbines to generate electricity to feed into the national grid. As with all combustion systems, the process produces exhaust gases (flue gases) that are discharged via tall chimney stacks after cleaning using filtration equipment. While the use of refuse or waste to generate electricity has not yet been implemented in New Zealand, the technologies and processes proposed are similar to or identical to those already in wide use throughout New Zealand. I discuss this below.

1. Steam Turbines

Steam turbines have been used for well over 100 years, are well understood, and a number are installed in New Zealand including the large scale geothermal units operated by Contact Energy in the Taupo area.

2. Combustion Process

Likewise, solid fuel combustion in steam boilers has a very long history, and the controls that are used to ensure that emissions to air are minimised via good combustion efficiency are the exactly the same for RDF as for coal, wood, plastics or biomass. It is a mature technology and well understood but RDF plants do differ from more conventional combustion plants in that additional equipment is used to control the emission of contaminants to air.

3. Emission Controls

A number of controls are employed to minimise the discharge of contaminants such as carbon monoxide, nitrogen oxides (NO_x), acid gases such as hydrogen chloride, hydrogen fluoride and sulphur dioxide, trace metals, dioxins and particulate. The technologies used to control these are described in detail in the assessment document¹ lodged in support of the discharge to air consent, and with the exception of the addition of urea for nitrogen oxide control they all utilise elements of typical technology that can be found in standard equipment already in place in industrial applications in New Zealand. Table 1 summarises the use of the selected controls for this application.

Table 1. Proposed Control Technologies

¹ Global Contracting Solutions Ltd Assessment of the Effects of Discharges to Air from an RDF Energy Plant. Terry Brady Consulting Ltd. Technical report 3263.02r001 November 2021

Contaminant	Control	Notes
Carbon monoxide	Good combustion practices	Same as standard boiler and other heat plant
Nitrogen oxides	Selective zonal cooling of flame temperatures	Same as implemented in low NOx burners widely used in New Zealand
Nitrogen oxides	Addition of urea into combustion chamber - Selective Non Catalytic Reduction (SNCR)	Not currently used in New Zealand, but see comments in Section 3.2
Acid gases	Addition of lime into flue gases	Same as practiced in lime kilns in New Zealand
Trace metals	Addition of activated carbon into flue gases	Result is the identical as implemented by carbon carry over in wood and coal fired boilers
Dioxins	High temperature combustion, and activated carbon as above	Result is the identical as implemented in crematoria and the carbon carry over in wood and fired boilers
Particulate	High efficiency fabric filtration	Identical to that used on lime kilns and wood fired boilers.

As shown in Table 1, there are 6 main control technologies utilised in addition to standard good combustion practices, namely:

- Low NOx combustion
- Selective Non Catalytic Reduction (SNCR)
- Addition of lime into the flue gases
- Addition of activated carbon into the flue gases
- Fabric filtration

3.1. Low NOx combustion

All combustion systems require the addition of air and good control is dependent on both the amount of air that it added, and the location where it is added in the firebox. In RDF or MSW fired boilers, some air is added using high pressure nozzles at different locations depending on the physical layout of the firebox, and results in a lowering of the amount of nitrogen oxides that are produced. Other than the more precise location of the air addition and a beneficial lowering of NOx emission, there is no difference in the technology compared to any other standard combustion system or boiler.

3.2. Selective Non Catalytic Reduction (SNCR)

This involves the addition of small amounts of urea into the firebox when the continuous monitoring indicates that further reduction of NOx is required. Most of the urea is used up in the conversion of NOx to inert nitrogen (N₂) and small residual amounts are then completely converted to N₂, H₂O and CO₂ in the high temperature post combustion burn-out section that operates at 850 °C with a minimum of 6% O₂. The combustion of any residual urea is no different to the combustion of other nitrogen containing materials including wood or protein such as wool. There is nothing in the discharge from this technology that would affect the environment that is different to other boilers used in New Zealand.

3.3. Addition of lime into the flue gases

Lime addition into the flue gases as described in the application document is used to minimise the discharge of acid gases such as sulphur dioxide, some nitrogen dioxide, hydrogen fluoride, and hydrogen chloride. Note that these acid gases are also discharged in wood and coal fired boilers that do not use lime to reduce them. The lime (as a powder) is then collected in the fabric filter in exactly the same fashion as in the numerous lime kilns in New Zealand that use fabric filters, and the only difference is that the lime is added after the firebox whereas in a lime kiln it is added in the firebox.

3.4. Addition of activated carbon into the flue gases

Activated carbon is used in New Zealand to remove hydrocarbons from industrial processes including ventilation at air ports to prevent Avgas odours in terminals. In this application it is introduced into the flue gases to absorb metals dioxins and some hydrocarbons and as with the lime, it is then collected in the fabric filter. It is an identical process that is used to remove carbon carry over from coal and wood fired boilers where the carbon is generated in the firebox instead of being added to the flue gases after the firebox in this application.

3.5. Fabric filtration

Fabric filtration is widely used globally and in New Zealand and is regarded as the best available technology for the control of particulate emissions including carbon and lime.

4. Summary

The proposed technologies for the RDF Paeriwa plant are well understood and already in use in many industrial plants in New Zealand. There is no additional process nor technology proposed that would have an effect on the environment that has not already been assessed in the application documents. Finally it is useful to note that a recent United Nations Environmental Program (UNEP) report² concluded:

"There have been significant improvements in emissions control for modern thermal WtE technologies compared to WtE technologies from the 1970s to the 1990s. Thermal WtE plants with advanced emission control technologies that are well-maintained have minimum public health impacts".

Yours sincerely



TJ Brady
Air Quality Scientist
Email terry@tbc.pl.net

² UNEP (2019). Waste-to-Energy: Considerations for Informed Decision-Making.
<https://www.unep.org/ietc/resources/publication/waste-energy-considerations-informed-decision-making> Retrieved 27 Sept 2023

14 March 2024



Hon Penny Simmonds
Minister for the Environment
Parliament Buildings
WELLINGTON 6160

By email: P.Simmonds@ministers.govt.nz

E te Minitaa, teenaa koe,

CALL IN APPLICATION: RESOURCE CONSENT APPLICATIONS BY GLOBAL CONTRACTING SOLUTIONS LIMITED

Ko Tainui te waka, ko Taupiri te maunga, ko Waikato te awa, ko Waikato te iwi, ko Pootatau Te Wherowhero te tangata

Waikato taniwharau, he piko he taniwha, he piko he taniwha

I refer to the applications by the Waikato Regional Council and Waipaa District Council (the **Councils**) requesting call in, under RMA s 142, of resource consent applications by Global Contracting Solutions Limited (**GCSL**) to both Councils.

GCSL's consent applications relate to a waste-to energy plant in Te Awamutu within the Waikato and Waipaa River catchments. Waikato-Tainui understands that the proposal will involve the site accepting approximately 480 tonnes of feedstock daily via trucks. The feedstock will include Municipal Solid Waste, plastic, tyres and car flock. The overall aim of the proposal is to generate approximately 15MW of electricity from the combustion of 400 tonnes of refuse per day. Multiple consents are required from both Councils, including discharge of emissions to air and discharge of stormwater to the Mangapiko Stream, a tributary of the Waipaa River.

I also refer to the Waikato-Tainui River Deed of Settlement 2009 with the Crown and the Waikato Raupatu Claims (Waikato River) Settlement Act 2010; and the subsequent Raukawa, Te Arawa River Iwi and Ngaati Tuuwharetoa Deeds of Settlement 2010, Ngaati Tuuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010, Waipaa River Deed of Settlement 2010 and Ngaa Wai o Maniapoto (Waipaa River) Act 2012, together, the **River Settlements** and **River Settlement Acts**.

Starting with the Waikato River Settlement, the River Settlements and River Settlement Acts have substantively modified the application of the RMA in the Waikato and Waipā River catchments. The Waikato River Settlement was the genesis of Te Ture Whaimana o Te Awa o Waikato, the Vision and Strategy (**Te Ture Whaimana**), which is intended by Parliament to be the primary direction-setting document for the Waikato and Waipā Rivers and activities within their catchments. The Settlements also modified, among other matters, consent application decision-making and hearing committee appointments, including for applications for call in. It is critical (as per the criteria in RMA s 142(3)) that these unique features of our settlement are properly understood, and suitably inform, your decision whether to call in the application (not just the substantive decision on the consent application).

I understand that Waikato Regional Council and Waipaa District Council seek that the application be called-in and referred to a Board of Inquiry on the basis that it:

- provides the Waikato River Authority (a mechanism of the River Settlements) a role in appointing members to the Board of Inquiry;
- will support the strong community interest in the Application, noting 575 submitters have advised that they wish to be heard, including through the ability to hold a hearing locally in Te Awamutu; and
- allows the consideration of greenhouse gas emissions and the effects on climate change.

Waikato-Tainui supports the Councils' request for call in. The application involves the combustion of 400 tonnes of refuse per day. It is critical that the effects on climate change of greenhouse gas emissions can be considered, particularly where those technology, processes, or methods are unfamiliar to Aotearoa and there is public concern regarding effects.

Referral to a Board of Inquiry provides for appointment of decision-makers that have a grounding in the River Settlements and River Settlement Acts, to properly inform those decision-making factors. It also provides a more user-friendly forum for submitter participation at first instance than the Environment Court, where legal representation is more common.

Finally, central to your decision whether to call in the application is whether it is, or is part of, a proposal of national significance. Waikato-Tainui is mindful that this application for call in has been made while consideration of the Fast Track Approvals Bill for "regionally and nationally significant infrastructure and development projects" is taking place. As you know, the Fast-track Approvals Bill will set out a 'one-stop shop' process for approvals that would normally be required under other legislation, including the RMA. We are aware that "listed projects" are being considered for Schedule 2 of the Bill, which will be automatically referred to an Expert Panel (2A listed projects) or which, while still subject to the Ministers referral discretion, will be considered to have significant regional or national benefits (2B listed projects). Substantive engagement about how, among other matters, the Fast-track Approvals Bill will uphold Waikato-Tainui's settlement arrangements is yet to occur. It is therefore critical that this application is assessed against the relevant RMA considerations, and that it is not automatically considered an appropriate candidate for the fast-track process (whether as a listed project or otherwise); particularly without direct engagement between Waikato-Tainui and the Crown.

Naaku noa, naa



Tukoroirangi Morgan
CHAIR, TE ARATAURA
TE WHAKAKITENGA O WAIKATO



27 February 2024

Hon Penny Simmonds
Minister for the Environment
Parliament Buildings
WELLINGTON 6160

By email: P.Simmonds@ministers.govt.nz

Tēnā koe e te Minita,

RE: CALL IN APPLICATION: RESOURCE CONSENT APPLICATIONS BY GLOBAL CONTRACTING SOLUTIONS LIMITED

1. We refer to the application by Waikato Regional Council requesting call in, under RMA s142, of resource consent applications filed with the Regional Council and Waipā District Council by Global Contracting Solutions Limited (**GCSL**).¹
2. Te Nehenehenui is the post-settlement governance entity for Maniapoto and acts on behalf of Maniapoto under the Waipā River Deed of Settlement 2010 and associated Ngā Wai o Maniapoto (Waipā River) Act 2012 (**Waipā River Act**).² Together with our neighbouring Waikato River Iwi (Waikato-Tainui, Raukawa, Te Arawa River Iwi and Ngāti Tūwharetoa), Maniapoto has bespoke settlement arrangements that are engaged when activities are proposed within the catchments of the Waikato and Waipā Rivers.
3. Te Nehenehenui understands that GCSL's consent applications relate to a waste-to energy plant in Te Awamutu within the Waikato and Waipā River catchments, the proposal will involve the site accepting approximately 480 tonnes of feedstock daily and involves the combustion of 400 tonnes of refuse per day. Multiple consents are required from both Councils, including for discharge of emissions to air and discharge of stormwater to the Mangapiko Stream, a tributary of the Waipā River; a taonga and river of deep, cultural significance to Maniapoto.³
4. The Waikato and Waipā River Settlements resulted in unique arrangements that modify RMA decision-making criteria, including (among other matters) call-in application decision-making and hearing committee appointments. It is critical (as per the criteria in RMA s142) that the unique features of our settlements are properly understood, and suitably inform, your decision whether to call in the application (not just the substantive decision on GCSL's consent application).

¹ I understand that the application for call in is supported by Waipā District Council staff, who advise a formal recommendation to request a call in will be made at the Council's February 2024 Council meeting.

² And the Maniapoto Deed of Settlement 2021 and resulting Maniapoto Claims Settlement Act 2022.

³ Acknowledged by the Crown in the Preamble to the Waipā River Act.

5. We understand that Waikato Regional Council seeks that GCSL’s application be called-in and referred to a Board of Inquiry on the basis that it:
 - (a) allows the consideration of greenhouse gas emissions and the effects on climate change;
 - (b) provides the Waikato River Authority (a mechanism of the River Settlements) a role in appointing members to the Board of Inquiry; and
 - (c) will support the strong community interest in the Application.
6. Te Nehenehenui supports the Regional Council’s request for call in and referral to a Board of Inquiry.
7. The application involves the combustion of 400 tonnes of refuse per day. It is critical that the effects on climate change of greenhouse gas emissions can be considered, particularly where the technology, processes and/or methods are unfamiliar to Aotearoa and there is public concern regarding effects.
8. Referral to a Board of Inquiry provides for appointment of decision-makers that have a grounding in the Waikato and Waipā River Settlements, to properly inform those decision-making factors. It also provides a more user-friendly forum for submitter participation at first instance than the Environment Court, noting 575 submitters have advised that they wish to be heard.
9. Finally, central to your decision regarding call in of the application is whether it is, or is part of, a proposal of national significance. Te Nehenehenui is mindful that this application for call in has been made while development of a proposed Fast-track bill for “regionally and nationally significant infrastructure and development projects” is taking place, and which remains the subject of policy decisions. We understand that the Fast-track bill will set out a ‘one-stop shop’ process for approvals that would normally be required under other legislation, including the RMA.
10. Substantive engagement with Te Nehenehenui about how, among other matters, the Fast-track bill will uphold Maniapoto’s settlement arrangements (a matter for which Minister Bishop has given us and other iwi assurances to that effect in a 31 January 2024 letter⁴) is yet to occur. It is critical to Te Nehenehenui that any decision that GCSL’s application is, or is part of, a proposal of national significance under RMA s142 is not taken as deeming the proposal an appropriate candidate for the fast-track process; particularly without direct engagement between Te Nehenehenui and the Crown.

Nāku noa, nā



Samuel Mikaere
Group Chief Executive Officer
Te Nehenehenui

⁴ Minister Bishop’s letter stated that “the Government has made a commitment to uphold Treaty of Waitangi settlements and other Treaty-related commitments and arrangements.”

Appendix D: Draft directions

[DRAFT Ministerial Direction - ENVIRONMENT COURT Te Awamutu.doc](#)

[DRAFT Ministerial Direction - BOARD OF INQUIRY Te Awamutu.doc](#)

Ministerial direction to refer the Global Contracting Solutions Limited application for resource consents to the Environment Court

Having had regard to all the relevant factors, I consider that Global Contracting Solutions Limited's (GCS) application for the resource consents required for the construction and operation of a waste to energy plant in Te Awamutu (the matters) are a proposal of national significance. Under section 142(2) of the Resource Management Act 1991 (RMA), I direct these matters to be referred to the Environment Court for decision.

My reasons are as follows:

National Significance

I consider the matters are a proposal of national significance having had regard to the following relevant factors in accordance with section 142(3) of the RMA. In particular, the matters:

- a) have aroused widespread public concern or interest regarding its actual or likely effect on the environment;
- b) involve or are likely to involve the significant use of natural and physical resources;
- c) are relevant to New Zealand's international obligations to the global environment;
- d) may contribute to significant or irreversible changes to the environment (including the global environment);
- e) involve technology, process, or methods that are new to New Zealand and that may affect its environment;
- f) are significant or are likely to be significant in terms of section 8 of the RMA;
- g) may assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions; and

I have also had regard to the Aotearoa New Zealand Waste Strategy and waste sector reform as an additional relevant factor.

Direction to the Environment Court

I direct that the matters be referred to the Environment Court for decision having had regard to the following in accordance with section 142(4) of the RMA:

- a) the views of the applicant and the relevant local authorities (being the Waipa District Council and Waikato Regional Council);
- b) the capacity of the relevant local authorities to process the matter; and
- c) the recommendations of the Environmental Protection Authority.

Dated at Wellington this

day of

2024

Hon Penny Simmonds

Minister for the Environment

Ministerial direction to refer the Global Contracting Solutions Limited application for resource consents to a Board of Inquiry

Having had regard to all the relevant factors, I consider that Global Contracting Solutions Limited's (GCS) application for the resource consents required for the construction and operation of a waste to energy plant in Te Awamutu (the matters) are a proposal of national significance. Under section 142(2) of the Resource Management Act 1991 (RMA), I direct these matters to be referred to a Board of Inquiry for decision.

My reasons are as follows:

National Significance

I consider the matters are a proposal of national significance having had regard to the following relevant factors in accordance with section 142(3) of the RMA. In particular, the matters:

- a) have aroused widespread public concern or interest regarding its actual or likely effect on the environment;
- b) involve or are likely to involve the significant use of natural and physical resources;
- c) are relevant to New Zealand's international obligations to the global environment;
- d) may contribute to significant or irreversible changes to the environment (including the global environment);
- e) involve technology, process, or methods that are new to New Zealand and that may affect its environment;
- f) are significant or are likely to be significant in terms of section 8 of the RMA;
- g) may assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions.

I have also have had regard to the Aotearoa New Zealand Waste Strategy and waste sector reform work as an additional relevant factor.

Direction to a Board of Inquiry

I direct that the matters be referred to a Board of Inquiry for decision having had regard to the following in accordance with section 142(4) of the RMA:

- a) the views of the applicant and the relevant local authorities (being the Waipa District Council and Waikato Regional Council);
- b) the capacity of the relevant local authorities to process the matter; and
- c) the recommendations of the Environmental Protection Authority.

Dated at Wellington this

day of

2024

Hon Penny Simmonds

Minister for the Environment