

Before Hawkes Bay Regional Council and Hastings District Council

In the matter of the Resource Management Act 1991

And

In the matter of Application by Hastings District Council and Napier City Council to
Hawke's Bay Regional Council for resource consents authorising
the operation of Area B at Ōmarunui Landfill (**consent application**)

And

In the matter of A notice of requirement by Hastings District Council to Hastings
District Council for alteration of designation for the Ōmarunui
Regional Landfill (**NoR**)

Reply evidence by Philip Doolan in response to evidence of Danny Bearsley

Dated 19 October 2021

INTRODUCTION

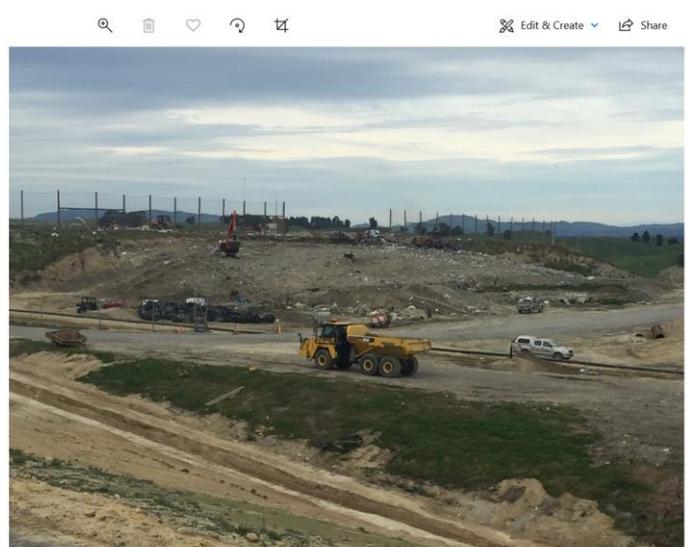
1. My name is Philip Jeffrey Doolan. I gave a statement of evidence on this matter in relation to landfill operations and management at Ōmarunui Landfill (the **Landfill**) dated 2 September 2021. My qualifications and experience are set out in that statement. I confirm my earlier statement as to the Code of Conduct for Expert Witnesses and note that this statement has also been prepared in compliance with it to the extent relevant.
2. This reply evidence has been prepared to respond to the evidence given by Mr Danny Bearsley received on 17 September 2021.
3. I note that although Mr Bearsley does not mention it in his evidence, Mr Jarvis, Mr Bray and I met with Mr Bearsley on 14 September 2021, and I discuss this later in my evidence.

COMPLIANCE WITH CONDITIONS

4. Mr Bearsley makes a number of allegations throughout his evidence that the Landfill is being operated in a way that fails to comply with conditions of its consent and designation. I reject those allegations. Hawke's Bay Regional Council undertakes a compliance audit each year and to my knowledge, the only non-compliance that has been recorded was in the last report for 2020/2021, which related to an odour complaint which was upheld and which is detailed in my original evidence. The Landfill has an excellent compliance record.
5. In relation to para 5, the Landfill complies with its obligations to cover waste, which includes the installation of daily cover. We also have permanent and temporary litter fences in place to minimise the risk of debris being blown off-site. Designation condition 3.5 requires that windblown debris escaping from the site onto or near to adjacent properties will immediately be collected and removed. My evidence, and that of Mr Jarvis, explains the approach to litter collection including that if a neighbour advises of litter on their property, staff are sent immediately to collect it. On several occasions since 2014 Mr Bearsley has called the landfill supervisor or engineer requesting that litter be collected, and this has been done promptly. Sometimes staff are asked to do this by the solid waste supervisor on their own initiative if there is something noticed on the boundary fence. Where a phone call is received, it is recorded in the Infrastructure data system where we keep the complaints register.
6. The Applicants have suggested an addition to the Operations and Maintenance Manual condition in the regional Solid Waste consent to require "*Litter control including collection of off-site litter originating from the landfill*" (Condition 6).
7. In terms of the seagulls, I note that I have been on Mr Bearsley's site a number of times to discuss Landfill matters with him and have never witnessed the seagull excrement he complains of. I also note that the Landfill provided the kiwifruit orchard with a gas canon in order to keep all birds off the kiwifruit block. To my knowledge, this canon is not being used.
8. At paragraph 10, Mr Bearsley shows a photo of the tip face on Sunday, 5 September 2021. At paragraph 15, he refers to videos showing this face, although these have not been provided to the Applicants. I note that the photo, and presumably any videos, were taken from within the Landfill site which Mr Bearsley must have

accessed without Landfill staff knowledge or consent. He most likely entered the Landfill from his property and would have had to travel at least 400 to 500 metres through the Landfill property to access the location from where the photo was taken. This trespass by Mr Bearsley is a serious concern and could have had significant health and safety implications.

9. Moreover, on this date, the Hawke's Bay was at Alert Level 3 and the Landfill was operating with skeleton staff. Mr Bearsley has taken advantage of the reduced staff on site, particularly on a Sunday, to obtain access onto the site without being noticed.
10. In any event, his photo shows the start of a new tip face, with approximately 2 days' worth of rubbish in it. A gas well needed to be extended upwards and a cylinder installed which was delayed by the Covid restrictions, so there were limitations on being able to cover this part of the face. The situation was not to our usual standard but was quickly remedied. The following photo was taken on 22 September 2021, when the Hawke's Bay was back at Level 2, and able to be fully staffed.



SEDIMENT CONTROL

11. At para 7 Mr Bearsley refers to earthworks which he says fail to implement sediment control. The photo he refers to at para 8 is a track that is at the top of the ridge at Area C and has been in place since before I started work at the Landfill in 2014. This track has a windrow to the outer edge which prevents water and silt from going directly over the side. Any water and silt that does go over the side is diverted to the sediment pond which is at the bottom of the valley C shown in Photo 1.

12. Any water which goes through the sediment ponds then goes through a silt fence which was installed on the boundary fence between the Landfill and the Bearsley property, 200 – 300 metres further down the Valley. This sediment fence has been installed as per HBRC recommendations and also inspected and approved by the Regional Council.
13. Mr Bearsley's photo 2 shows Area C. Any water and sediment from Area D as shown in Mr Bearsley's first photo flows down the other side into the Area D sediment ponds, away from the area shown in his second photo. The lines visible in the centre of the second photo are just tyre tracks from the farmer who leases Area C for grazing.
14. To illustrate how Mr Bearsley's evidence on this issue is wrong, I have produced the diagram and explanation attached as **Attachment A**.
15. Sediment controls are taken seriously at the Landfill and I am satisfied that all earth working areas are appropriately treated.

EARTHWORKS AND PLANTING

16. At paragraph 14, Mr Bearsley includes a photo of a track and asserts that the planting described in Mr Bray's evidence cannot occur in that location. As noted above, 3 days before his evidence was filed, Mr Jarvis, Mr Bray and I met with Mr Bearsley to discuss and resolve his issues with regard to the track. I attach as **Attachment B** a copy of a file note prepared by Mr Jarvis recording what was discussed and agreed at the meeting. I confirm this is an accurate record from my perspective.
17. The track shown is a temporary access track which can be relocated if the consents sought are granted, to allow for the proposed planting. Temporary access is still required if the consent is granted for construction to install planting, fencing and for sampling of the water bores which are located on the ridgeline,
18. Mr Bearsley asserts at para 15 that the Applicants have not complied with planting and landscaping requirements, although he does not give details of this alleged breach. We have carried out all previous consented planting plans for Area D.

ODOUR AND NOISE COMPLAINTS

19. At para 16, Mr Bearsley states there are odour issues with the Landfill. The approach to odour management has been set out in the evidence in chief for the Applicants.

The Landfill has never received an odour complaint from Mr Bearsley, at least for as long as I have been at the Council, i.e. since 2014.

20. At para 17, Mr Bearsley says that trucks arrive at the site as early as 5.40am. The designation conditions stipulate an opening time of 7am, however the Landfill is not open to refuse disposal trucks until 8am, and this is strictly adhered to. No refuse disposal trucks are allowed onto the site until that time. Mr Bearsley has not given specific examples, so it is difficult to otherwise respond to this allegation.

STORMWATER AND FLOODING

21. The Applicants specifically commissioned expert evidence on stormwater and flooding from Mr Hansford. Mr Bearsley does not refer to that evidence in his statement.
22. Mr Hansford has prepared further evidence to respond specifically to Mr Bearsley's evidence, and I defer to his expertise. From my perspective, I note that the rain event Mr Bearsley describes was significant and a number of properties were flooded – an example being the property at 384 Swamp Road, over paddocks that are usually dry.



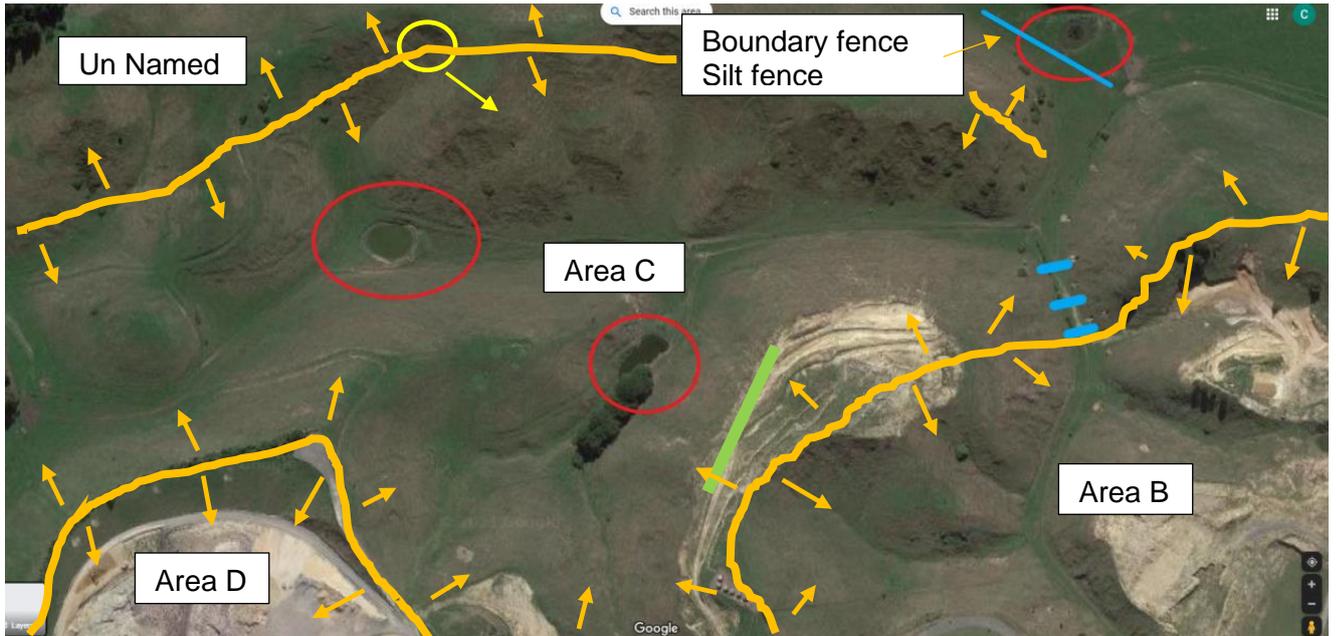
23. Based on the expert evidence provided by Mr Hansford and Tonkin+Taylor, I am satisfied that any flooding on Mr Bearsley's land is not caused or exacerbated by the Landfill. Similarly I rely on the expert evidence in relation to sediment treatment.
24. The drainage described by Mr Bearsley at para 27 is there to direct water along the fence line and into the culvert which crosses the Landfill access road. The water then disperses into the lower portion of the Forestry block. No 'major earthworks' have been done on this system – rather there has been maintenance to drains which was identified through an annual programme of checking and maintaining site infrastructure where needed. This system has not caused flooding to Bearsley Farms land.
25. Mr Bearsley describes the drainage and pump system he has recently installed. My understanding is that this was required due to the low-lying nature of the land and the fact that it consistently receives water from the surrounding hills. The power source for the pump goes across the Landfill property, and this access across our property was approved by the Landfill this year. In June 2021 Mr Bearsley installed a pump on his land to deal with natural ground water levels, and this has allowed him to undertake planting of the area he describes.

CONCLUSION

26. The Landfill has consistently sought to be a good neighbour to Mr Bearsley. It has recently leased land to him to grow apples and give him suitable turning space for his tree rows. We have also met with him numerous times over the years to discuss various issues. I consider the conditions proposed by the Applicant will ensure adverse effects on Mr Bearsley's property are avoided to the extent practicable, and we continue to operate an open-door policy to discuss any issues Mr Bearsley has, and to address them when necessary.

Philip Doolan
19 October 2021

Attachment A



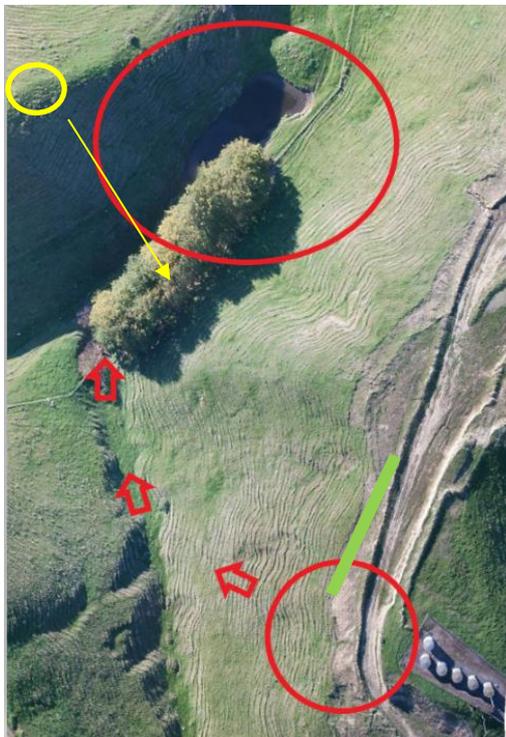
Yellow is where Mr Bearsley is taking photo from and the direction, looking across Area C.

Green is the face that the photo has been taken of.

Red is sediment ponds.

Blue is silt fencing in place for Valley B excavation works, which have been sighted and approved by HBRC staff

Orange is approx. ridgelines and approx. flow path of rainfall between Unnamed Valley and Area C, Valley B and Valley C and Valley D and Valley C



Yellow is where Mr Bearsley is taking the photo from and the direction, looking across

Valley C

Green is the face that the photo has been taken of.

Red is sediment ponds and flow path down the face

FILENOTE

File Note: Omarunui Landfill – Area B Consultation
Date: Meeting date 14th September
Subject: Omarunui Landfill – Area B proposed landscaping

NOTES FROM MEETING WITH DANNY BEARSLEY WITH REGARDS PROPOSED LANDSCAPING AT THE OMARUNUI LANDFILL.

An additional meeting was held at 3 pm on 14th September 2021 between Shannon Bray (Wayfinder Landscape Planning and Strategy Ltd), Philip Doolan and Martin Jarvis (HDC) and Mr Bearsley at the landfill. This meeting was held to update Danny about the landscaping plan being developed by Shannon Bray and to address concerns raised by Danny about the positioning of an access track along the Area B boundary line. The track in Area B was being constructed so that access can be gained to ground water monitoring wells on that side of the property. The track would also be used to assist planting and litter fence contractors as well as ongoing maintenance of these items.

After initially meeting at the landfill kiosk, the meeting moved into Area B of the landfill and to the access track in question. While the first part of the track already existed and is mostly well away from the boundary line, the track has been extended along the Area B ridge line in a parallel direction with the boundary fence.

Danny's concern was that the new section of track was too close to his boundary fence, and as a result would not allow enough space between the track and the boundary fence for meaningful planting/landscaping. Shannon explained that he had not completed detailed planting plans at this point in time as this would only occur once consent for Area B was granted. The planting zone Shannon had shown in his plans developed to date would require an access track but there should be sufficient space between the track and Danny's property for some meaningful landscaping. A distance of 4 metres was agreed to be an appropriate width. It was also agreed to move the section of new track away from the boundary line where it was closer than 4 metres.

As the width of the planting zone is expected to be greater than 4 metres in places, it is expected that part of the access track will have planting either side of it and this was an accepted outcome should consent be granted.

While it was appreciated that access for contractors planting trees, setting up irrigation systems, building litter fences and taking samples from the monitoring wells was necessary, the placement of the track needed to be in a position that did not put it in conflict with a detailed planting plan once it was finalised.

Danny also raised some concerns about the control of plant weeds. Shannon indicated that he would be putting together a maintenance programme, and that this would form part of the detailed planting plans.

In terms of the overall plan Shannon has developed for the site, Danny remains positive and supportive of it, should the Area B consent be granted.

The meeting finished with an agreement to stop any further construction of the track on its current alignment, and to move the track (where necessary) so that a gap of at least 4 metres is maintained between it and the boundary fence.

MARTIN L. JARVIS

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