

Our reference: APP-20202200 APP-205862-01-V2
Enquiries to: Michael Durand
Email: Mike.Durand@pdp.co.nz



19 March 2021

Jacobs New Zealand Limited
Wynn Williams Building – Level 2
47 Hereford Street
Christchurch Central
Christchurch 8013
Attn: Ryan McCone – Environmental Planner
Email: Ryan.McCone@jacobs.com

Dear Ryan

Further information request – Section 92(1) of the Resource Management Act 1991 – APP 20202200, APP-205862-01

I am writing to request further information in relation to the above application in accordance with section 92(1) of the Resource Management Act 1991.

Request

1. Please provide a revised or supplementary assessment of the environmental effects of the proposed activities in accordance with accepted case law and practice. In particular, this assessment must address the totality of the environmental effects and their significance for the period 2038 to 2046, without discounting any effect associated with the resource consents that will be replaced.

Background

2. The application seeks new resource consents that, if granted, will replace the current consents¹ and advance the expiry of consents from 2038 to 2046 by seeking a term of 25 years.²
3. Section 104 requires consideration of the effects of a proposal *on the environment*. It is critical, for that purpose, that the existing environment accurately defined.

¹ Noting changes to the volume limit, the introduction of provisions for special waste and incorporation of a management plan structure.

² Initially the applications sought to advance their expiry from 2038 to 2056, by seeking consents for 35 years.

4. In that regard, principles that are well established in case law³ direct that:
 - a. the current consents and their effects will form part of the environment until 2038 or until they are surrendered; and
 - b. following 2038 or their surrender, those consents will not form part of the environment.
5. Since this application is for a period that spans the duration of the existing consents and extends beyond that, the effects of the proposal will need to be considered in two different ways – first, for the period where the current consents form part of the environment, and second for the period where they do not.
6. Although the application is clear that “*opportunity to revisit the term of existing consents ... has been taken*,”⁴ the assessment of environmental effects and supporting technical reports are not presented on those terms. Rather, the application and supporting documents state that they address the difference between the current consented situation and the proposed future situation only.⁵
7. The effects and their significance in total, as if the landfill’s activities were not part of the environment, are not presented or assessed.^{6,7,8}
8. This approach is valid and useful for an application to change conditions under section 127 or to replace existing consents for the same term, but neither of those are the case here.

Next steps

9. In relation to this request, please advise if you consider it is feasible for AB Lime to respond in time to have this response assessed in the s 42A report in time for circulation (no later than 29 March 2021, based on your requested timetable for s 42A report circulation), or, if it is not feasible to do so whether:
 - a. AB Lime wishes to retain the hearing dates and respond to the issues identified in this request at the hearing; or
 - b. AB Lime would prefer to defer the hearing.
10. You have rights under s 92A (1) of the RMA to refuse to provide this information. However, this would be likely to be reflected in the content of the s 42A report.

³ *Ngati Rangī Trust v Manawatu-Whanganui Regional Council* [2016] NZHC 2948.; *Port Gore Marine Farms v Marlborough District Council* [2012] NZEnvC 72.

⁴ AB Lime Limited Landfill Resource Consent Application AEE section 1.2, pg. 10

⁵ “The above consents form the consented baseline for the current landfill activities on site. [...] The relevant matters to consider in this application relate to the difference in effect between the consented activity (primarily the discharge of up to 100,000 tonnes of waste per year onto or into land) and the proposed activity (the removal of the 100,000 tonne discharge limit, extension of permit expiry dates, and change of odour compliance locations).” AB Lime Limited Landfill Resource Consent Application AEE section 1.1, pg. 10 (emphasis added)

⁶ “This technical memo summarises the current management, systems and processes for air quality and investigates the impact of removing the limit of waste acceptance on air quality on this resource consent application.” (emphasis added) (Landfill Air Quality Technical Memo, Executive Summary pg. iv)

⁷ “The consented AB Lime quarry and landfill both form part of the existing environment.” (Landfill Air Quality Technical Memo section 2.4.2.)

⁸ “Despite the proposed increase in waste acceptance rates at the AB Lime Landfill it is predicted that off-site effects on the surrounding ambient air quality will reduce, as compared with the current effects.” Landfill Air Quality Technical Memo section 8, pg. 69

11. I note that odour effects, odour management and special waste are matters of significant current public interest in relation to this application and this was also reflected in the pre-hearing meeting on 4 March 2021. Odour effects beyond 2038 are a key issue that should be addressed in any response to this request.

12. Please advise as soon as possible how you wish to proceed with this matter.

Yours sincerely,

A handwritten signature in black ink that reads "Michael Durand". The signature is written in a cursive, slightly slanted style.

Michael Durand
Consents Officer