



Agenda

**Notice is hereby given of
an Open Workshop**

Tuesday 26 March 2024

Commencing at 1:00pm

Function Room
Waimate Event Centre
15 Paul Street
Waimate

www.waimatedc.govt.nz

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Open workshops are an informal forum for staff to bring information items or presentations to Council which, if undertaken at a Council meeting, could take a significant amount of time, and therefore restrict other business from being transacted.

No decisions or resolutions will be made.

Brief agendas will be prepared and will be available on Council's website:

<https://www.waimatedc.govt.nz/council/meetings/agendas-and-minutes> and brief notes will be taken.

There are no legal requirements relating to a quorum.

Standing Orders do not apply.

Members of the public are welcome to attend but do not have speaking rights.

REPORTS

1 GENERAL BUSINESS

1.1 PROJECT KEA UPDATE - 1:00PM

Author: Emma Bush, Planner

Authoriser: Dylan Murray, Regulatory and Compliance Group Manager

Attachments: Nil

PURPOSE

1. For Council to receive an update on South Island Resource Recovery Limited's (**SIRRL**) applications for resource consent, also known as 'Project Kea'.

BACKGROUND

2. SIRRL applied to both the Canterbury Regional Council (Environment Canterbury/**ECan**) and the Waimate District Council (**WDC**) for resource consents to permanently operate a large waste to energy incinerator in the Waimate District. The proposed incinerator will burn up to 365,000 tons of combustible municipal solid waste and construction and demolition waste per year. The waste is to be sourced from throughout the South Island and delivered by up to 68 trucks per day (136 truck movements). It is expected that the proposal will generate up to 30MW of electricity at peak output. The primary by-products which require treatment are grate ash and 'fly ash', of which will amount to 100,000 tons per year. The air discharge will also contain products that require treatment, with residual contaminants being discharged from a 75m high exhaust stack. The main powerhouse building is expected to be 52.5m high and cover 20,000m², with all buildings combined having a footprint of almost 33,000m² in land area.
3. On 31 August 2023, the Minister for the Environment directed the Environmental Protection Authority (**EPA**) to take over management of the applications, and the Environment Court (the **Court**) to be the decision-maker on the overall proposal. The Minister's decision followed requests from WDC and ECan (and later, from SIRRL) to call in the applications, and subsequent advice and recommendation by the EPA to call in the applications pursuant to s142 of the RMA as a project of national significance.

PROCESSING BY THE ENVIRONMENTAL PROTECTION AUTHORITY

4. The process is now being managed by the EPA. The EPA is communicating with staff of both councils about how the matter proceeds from here, and when it will be publicly notified. The EPA has commissioned Key Issues Reports (**KIR**) from ECan and WDC regarding the provisions of relevant planning documents (Section 149G(3) of the RMA). These were being prepared by the councils, however the applicant has requested that the EPA pause work for the time being. As a result, the EPA have also asked the councils to pause work on the KIRs. It is still intended that the two KIRs will be publicly available at the time of public notification.
5. It is noted that the proposal will use up to 2,500m³ per day of water, but an application for SIRRL to take and use water is still pending. The Minister directed that the public notification on the proposal occurs without waiting for the lodgement of the outstanding water permit which the applicant still needs to submit. However, SIRRL has indicated to the EPA that it will lodge the required water permit application directly with the EPA prior to the proposal being publicly notified by the EPA. Once the proposal is notified, the public will have 30 days to make submissions. Each council can choose to make a submission at this point, but it is not essential. Then the EPA will pass on the application and the submissions to the Court who will set the timeframe for the next steps in the process and

consider and decide. There is no statutory deadline for when the Court needs to make its decision.

6. It is also noted that both ECan and WDC requested further information in order to fully understand the proposal and the actual and potential effects. Although the EPA is now administering the process after it was called in, all parties see value in these additional, comprehensive questions from the councils' experts, as they will enable a better understanding of matters that are missing or unclear from the applications. The applicant has not yet responded to these requests for further information.

ENVIRONMENT COURT PROCEEDINGS

7. After the public notification process, the applicant will initiate the Court proceedings by filing a Notice of Motion per Section 149T(2) of the RMA. The applicant is required to serve a copy of the notice on both councils and any person who made a submission. Submitters and the councils then have the opportunity to join the Court proceedings by filing notices via Section 149T(6) and Section 274 of the RMA – this includes the opportunity for submitters to outline the issues they have with the application (further to their submissions).
8. Once the Court has received notices from the applicant and other parties, it will likely convene a preliminary conference to discuss how and when the hearing will take place, including the exchange of evidence by any experts the parties intend to call. The Court has a lot of flexibility in its procedures and may appoint a Friend of Submitter to assist parties navigate the hearing process. The Court also has the opportunity to call evidence on particular topics or appoint a special advisor. This might happen where the Court thinks there is information missing, as may be pointed out in a submission. The Court can also require experts with conflicting views to participate in caucusing in order to prepare a Joint Statement of Evidence that, hopefully, narrows the issues.

COUNCIL'S ROLE AT THE ENVIRONMENT COURT

9. Potentially, WDC can have multiple roles at Court: in the production of the KIR, or as a submitter and/or provider of expert witnesses/technical advisers or a combination of these roles at the Court. This is an unusual situation for WDC to be faced with, which potentially presents conflicts. It is therefore important that the role of WDC is given thought to and defined early on and documented as to which staff, consultants and/or independent experts will be fulfilling each role. Possibly different delegations will also be required.
10. A particular area of difficulty is if WDC wants to submit on the applications. Any document submitted to the Court must clearly convey which 'hat' WDC is wearing. This enables the Court to determine what weight to place on those documents and avoids any sense that WDC is not being entirely transparent or is obtaining any advantage due to its position as local authority. The Court will expect WDC to have legal representation. If WDC has different and conflicting roles/positions at the hearing (i.e., as consent authority and submitter with different views) then having separate legal counsel and expert advisers is advisable. If WDC wishes to make a submission, a primary planning report with expert reports attached makes it clear which expert contributed and easily allows for individual briefs of evidence to be developed. Each of the people who have contributed to the submission must be made available to the Court to participate in the proceedings, be able to speak to their report(s), and answer questions. The Court may also call on any of WDC's witnesses to comment on any recommended consent conditions contained in the report and other recommended conditions which may emerge during the course of the hearing.

11. A further issue for WDC in appearing before the Court are the costs involved. There is an ability for WDC to recover its costs for appearing as a party and giving evidence in relation to the KIR. Once the application is before the Court, Section 285 of the RMA applies (i.e., the Court may order any party to proceedings before it to pay to any other party the costs and expenses (including witness expenses) incurred by the other party that the Court considers reasonable). WDC can apply for a costs order to recover the costs of presenting the WDC submission from the applicant, but this is at the discretion of the Court.

IMPLICATIONS OF WIDER RESOURCE MANAGEMENT REFORM

12. In March 2024, the Fast-track Approvals Bill was introduced to Parliament for Select Committee review. This Bill proposes to establish a permanent fast track approvals regime for a range of infrastructure, housing and development projects. Entry of a project into the regime is via inclusion in Schedule 2A to the Bill (i.e., by Parliament), or by Ministerial referral. Once in the regime, the projects are referred to expert panels that have the task of making substantive recommendations about the projects, including appropriate conditions (where necessary), within six months. The final decision to grant or decline the approvals and consents sits with the Ministers after considering the panel's recommendations. Ministers can also ask the panel to reconsider any recommendations, commission additional advice or seek further comments from affected parties. Submissions on the proposed legislation are open until 19 April, so it will be later in the year before we have certainty about whether 'Project Kea' may be able to be considered under the proposed new fast-track regime.

OUTCOME

13. For Council to receive and discuss the update on the 'Project Kea' resource consent applications. At this time, it is not known if Council wishes to have a role at the Environment Court proceedings beyond the production of the Key Issues Report.

1.2 WHY WASTE WAIMATE / WAIMATE DOCTORS PRESENTATION: PROJECT KEA

Author: Dylan Murray, Regulatory and Compliance Group Manager

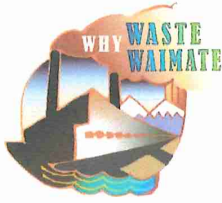
Authoriser: Dylan Murray, Regulatory and Compliance Group Manager

Attachments: 1. Why Waste Waimate / Waimate Doctors Letter 15 March 2024 [!\[\]\(83f22ed94ec5517769dd76d702c6bfd8_img.jpg\)](#) 

PURPOSE

Council received a request from Waimate Doctors and Why Waste Waimate on 15 March 2024, requesting an informal briefing regarding their serious concerns about Project Kea.

The letter is attached for the information of Council.

**WAIMATE DOCTORS**

15 MAR 2024

Waimate District Council
125 Queen St
Waimate 7924
Attention: Mayor Rowley

38 Allan St
Waimate 7924
Wednesday 13 March
whywaste waimate@gmail.com

Dear Mayor Rowley,

Re: Project Kea: Health Risks, Technological Inaccuracies and Misleading Statements

Why Waste Waimate Inc. and the Waimate Doctors have recently had a joint meeting as we share many, serious concerns about Project Kea.

Although SIRRL have yet to provide requested additional information, it cannot be that long before the application is put before the Environment Court. Obviously, both our groups will be submitting, and it has been suggested that it would be unreasonable to do so without ensuring that our local community representatives are not left looking ill-informed, or worse, disinterested in the outcome. The health risks (and costs) especially, should be a major concern for Council.

To that end, we would like to suggest that representatives of our groups meet with you and the Chief Executive to provide an informal briefing which could either form a basis for Council discussion, or perhaps be a precursor to a more formal presentation to councillors.

If you are agreeable to meeting, perhaps you could suggest a short series of dates (within say the next month) so that we can make the necessary arrangements?

Thank-you for considering this matter,

Yours sincerely

Robert Ireland
Why Waste Waimate Inc

Dr Crispin Langston
Waimate Doctors

1.3 LOCAL GOVERNMENT MEMBERS (2024/25) DETERMINATION

Author: Tina Stevenson, Corporate Services Group Manager
Authoriser: Tina Stevenson, Corporate Services Group Manager
Attachments: Nil

PURPOSE

1. For Elected Members to consider if any matters should be brought to the attention of the Remuneration Authority when preparing the Local Government Members (2024/25) Determination.

BACKGROUND

2. The Mayor has received advice from the Remuneration Authority on 7 March 2024, as follows:

Kia ora koutou

We are beginning preparatory work on the Local Government Members (2024/25) Determination 2024 (the principal determination) that will come into force on 1 July 2024.

The Authority welcomes your views on any matters that you think we should consider when making this determination.

Please email any submissions that you wish to make to info@remauthority.govt.nz by Friday 12 April 2024.

3. This workshop provides an opportunity for Elected Members to consider and discuss their views on any matters they want the Remuneration Authority to consider.
4. If Council decides to provide feedback, this is required by 12 April 2024.
5. We ask Elected Members to refer to [Local government members | Remuneration Authority \(remauthority.govt.nz\)](https://www.remauthority.govt.nz) for detailed information on how Local Government Members remuneration is currently set, to ensure they understand the history and relevant factors that are considered and applied. We note:

In 2018 the Authority completed a comprehensive review of its approach to determining the remuneration and allowances for local government members.

How remuneration is determined

As a result of that review, remuneration for elected councillors, mayors, and regional council chairs is now determined within a local government pay scale which takes into account three factors:

- *the size of the governance role of each council,*
- *the average time required by a local government member on a council of a particular size, and*
- *a general comparison with parliamentary salaries.*

6. The current determination can be viewed here [Local Government Members \(2023/24\) Determination 2023 \(SL 2023/142\) \(as at 05 October 2023\) Contents – New Zealand Legislation](#)
7. Payments to Elected Members are rate funded, through the Governance activity.

OUTCOME

8. That Elected Members have considered their views on any matters to be advised to the Remuneration Authority for their consideration when making the 2024 Local Government Members (2024/25) Determination; and
9. Elected Members conclude whether a collective submission of Council is required, or alternatively, whether Elected Members make their own individual submissions.

1.4 RATES PENALTY INFORMATION FOR COUNCIL

Author: Tina Stevenson, Corporate Services Group Manager

Authoriser: Tina Stevenson, Corporate Services Group Manager

Attachments: 1. Rates Penalties Applied by Category of Land Use [↓](#) 

PURPOSE

1. For Council to receive information on rates penalties and a breakdown of urban versus rural.

BACKGROUND

2. When Council received the Finance Report at the 27 February Council Meeting, they discussed rating income, and asked for information on rates penalties to compare any trends.

16.1 FINANCE REPORT FOR THE 6 MONTHS ENDED 31 DECEMBER 2023**RESOLUTION 2024/1**

Moved: Cr John Begg

Seconded: Cr Rick Stevens

That the Finance Report for the 6 months ended 31 December 2023 be accepted.

CARRIED

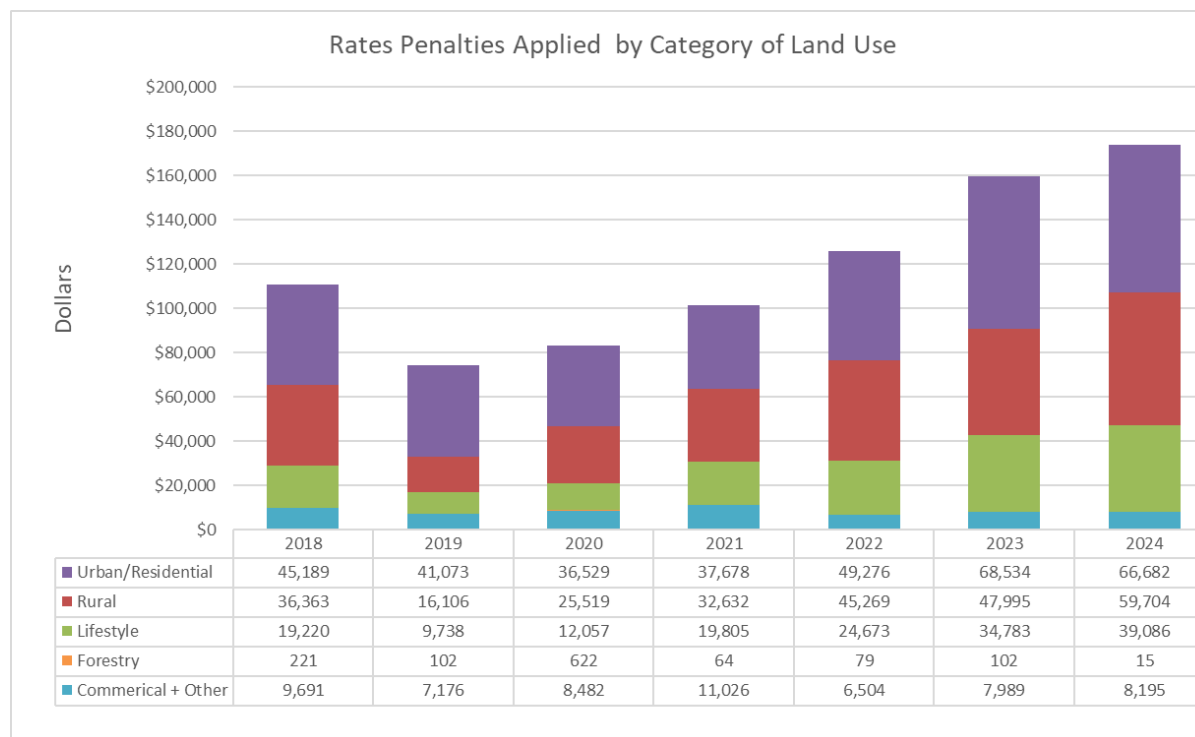
Note:

Council requested data of rates penalties income over the last five years to compare any trends as well as a possible breakdown of rural verses urban.

3. We have prepared a summary as attached, providing detail of rates penalties applied (Waimate District Council and Environment Canterbury), categorised by land use, covering the period from 2018 to January 2024.
4. We note that the penalty applied following the February 2024 instalment is not included. Additionally, one further penalty is yet to be applied, following the May instalment.
5. A brief description of what is included in each category appears below the graph.
6. Penalty remissions are excluded from the data presented.
7. This information complements the rates statistics report that was provided to Council at the 3 October 2023 workshop, which including the following:
 - a. *Rates Penalties*
 - i. *The percentage of the penalty has remained the same over the 5 year period (10%), however the values owed at the time of application of the penalty has increased, reflected in the increased penalty total.*
 - ii. *Reviews of the Rating Information Database have allowed us to more consistently apply penalties in line with policy, resulting in its fairer application.*

OUTCOME

8. That Council considers the Rates Penalty Information.



Urban/Residential includes Waimate, Glenavy, St Andrews etc.

Rural includes Arable Land, Dairying, Horticulture, Pastoral Land and Specialist Farming Practices such as pig or deer farming

Commercial + Other includes Commercial, Utilities & others such as sports facilities and passive reserves

This chart does not include any penalties remitted (refunded) to ratepayers for any year.