

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

REQUEST TO CALL IN PROJECT KEA RESOURCE CONSENT APPLICATIONS

To the Hon David Parker, Minister for the Environment

1. On 3 August 2023, you requested the Environmental Protection Authority (**EPA**) provide advice on whether the resource consent applications by South Island Resource Recovery Limited's (**SIRRL**) proposal to construct and operate a waste to energy plant in Waimate, as described in more detail below which together, constitutes the matters for the purposes of section 142 of the Resource Management Act 1991 (**RMA**) (**Project Kea**), is a proposal of national significance under Part 6AA of the RMA and, if so, whether Project Kea should be called in and referred to either a board of inquiry or the Environment Court.
2. SIRRL as the applicant, the Waimate District Council (**WDC**) and Environment Canterbury Regional Council (**ECan**) as local authorities have requested that you make a direction under section 142(1) of the RMA whether Project Kea is, or is part of, a proposal of national significance. You have the power under [section 142\(2\)](#) of the RMA to make a direction to call in Project Kea and to refer Project Kea to a board of inquiry or the Environmental Court for decision.
3. For the reasons set out in this advice, the EPA advises and recommends for the purposes of [section 144A](#) of the RMA that you:
 - a) **Note** our advice that the matters that constitute Project Kea are a proposal of national significance.
 - b) **Note** our advice that the matters that constitute Project Kea may be called in.
 - c) **Note** that the EPA provides advice but does not provide a recommendation whether you refer Project Kea to a board of inquiry or the Environment Court if you call it in.



9 August 2023

Michelle Ward

Date

General Manager: Climate, Land and Oceans
Environmental Protection Authority

Background

4. As Minister for the Environment, you requested the EPA provide advice and recommendations on whether to call in the resource consent applications required for Project Kea under [section 142](#) of the RMA as an proposal of national significance and refer them to a board of inquiry or the Environment Court.
5. Project Kea requires multiple resource consents; one from WDC and eight from ECan, as listed in Appendix A.
6. An application timeline is provided in Appendix B. Most of the applications were lodged on 30 November 2022. However, we understand that SIRRL is yet to lodge with ECan a further application for a water permit and that ECan has put its applications on hold in accordance with section 91 of the RMA, awaiting the SSIRL's further application for a water permit and the outcome of this call in request. To avoid public confusion and minimise costs for the applicant, WDC has deferred notification of the land use consent application until the outstanding water permit application is received by ECan to enable joint processing of all Project Kea resource consents.

Call in steps

7. Under the RMA, if you determine Project Kea is, or is part of, a proposal of national significance, you may call it in by making a direction to refer the matters to a board of inquiry or the Environment Court for decision¹. If you decide to not call in Project Kea, the resource consent applications will continue to be processed by WDC and ECan.
8. 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 the EPA². The purpose of your consideration is not to assess or prejudge the merits of Project Kea. 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.
9. In deciding whether to make a direction, and where to direct Project Kea for a decision, you must have regard to³:
 - a) the views of SIRRL as the applicant and WDC and ECan as the relevant local authority;
 - b) the capacity of WDC and ECan as the local authorities to process Project Kea; and
 - c) the recommendation of the EPA⁴.
10. In your request for advice, you provided the following letters you received requesting that Project Kea is called in:

¹ [Section 142\(2\)](#) of the RMA

² [Section 142\(3\)\(b\)](#) of the RMA

³ [Section 142\(4\)](#) of the RMA

⁴ [Section 142\(7\)](#) of the RMA

- a) 6 October 2022 – from Zero Waste Network
- b) 14 October 2022 – from Te Rūnanga o Waihao - as described in letter: Te Rūnanga o Waihao - the Ngāi Tahu papatipu rūnanga who are mana whenua and kaitiaki in their South Canterbury takiwā that includes Waimate District.
- c) 16 June 2023 – from Te Rūnanga o Waihao
- d) 23 June 2023 – from ECan
- e) 26 June 2023 – from WDC
- f) 29 June 2023 – from SIRRL

11. Where relevant, the views expressed in these letters have informed our advice on whether Project Kea is a proposal of national significance. For completeness, we include these letters as Attachment C.

Project Kea

12. Project Kea involves the construction and operation of a \$350 million waste to energy plant on 15 hectares of land located in Glenavy, in South Canterbury's Waimate District. An aerial photograph showing the location of the site in relation to the township of Glenavy and the Waitaki River to the south of the site is provided:



13. SIRRL is 40 percent owned by Renew Energy Ltd and 60 percent by China Tianying Inc and its European subsidiary, Europe ZhongYing BV. China Tianying operates several waste to energy plants in Asia and Europe. An application to the Overseas Investment Office for Project Kea will be required.
14. The primary purpose of the Project Kea is to recover value from waste that would otherwise go to final disposal in a landfill - i.e. to convert waste into 30MW electricity for the local and national grid.
15. An image demonstrating a general overview of the waste to energy process is provided in Appendix D. A key component is the burning of waste in a specially designed furnace, with the heat from the furnace being used to boil water (2,500 m³ per day) to create steam to drive a turbine that in turn drives an electrical generator.
16. The facility would burn approximately 955 tonnes of waste per day (360,000 tonnes per year), comprising approximately equal quantities of household waste and construction and demolition waste. This volume is approximately 10 percent of all residual waste that goes to class 1 landfills in New Zealand per year (i.e. waste that does not get re-used or recycled). The residual waste feedstock will primarily come from Canterbury and Otago, representing approximately 20 percent of the South Island's existing waste stream that is currently sent to landfill. SIRRL estimates that, even after implementation of the measures set out in the Aotearoa New Zealand 2023 Waste Strategy (the Waste Strategy), there will continue to be an adequate supply of residual waste generated in the South Island over the proposed 35-year consent term.
17. Examples of residential waste include treated timber framing cutoffs, demolition treated timber, window frames and doors, single use building weather protective wrapping, transport bundles and product synthetic ties, non-recyclable contaminated containers such as disused jerry cans for oil, agricultural chemicals, contaminated cardboards, used carpet/carpet offcuts, used mattresses, and obsolete/broken furniture and obsolete clothing. The waste feedstock will be required to meet specific waste acceptance criteria to ensure that recyclable material is diverted in accordance with the waste management hierarchy.
18. SIRRL states that the facility will not accept hazardous materials or tyres, other than the small incidental quantities that may be present in the waste that is allowable⁵.
19. The residual waste would come from transfer stations, which will be contracted to sort through the waste and remove recyclables prior to it being sent to the plant. Waste will initially be delivered to the plant by road on up to 70 trucks per day initially, with a view to eventually using the railway network.
20. The waste to energy incineration process involves a seven-stage flue treatment process to screen and trap pollutants through a 75-metre-high exhaust system before residual discharges are released to air.

⁵ If municipal solid waste is used as a fuel, it is inevitable that some hazardous waste materials would be incinerated, and the applicant acknowledges that lithium-ion batteries will be present in the waste. However, MfE staff consider that it is unlikely to be considered prohibited under NES-AQ air quality.

What is collected in the screening process (approximately 20,000 tonnes of fly ash) will be recycled (vitrified) in a plasma furnace into an inert glass-like material that could be used as a construction aggregate, e.g. in roading. The plant will also generate 80,000 tonnes of 'grate ash' that will need to be disposed of by other means.

21. SIRRL notes that this process is not pyrolysis or gasification, both of which would not align with the Waste Strategy, but the proposed high-temperature incineration will be like the process used in cement kilns in New Zealand (but with greater emission controls).
22. The supporting documents lodged with the resource consent applications highlight the proposed economic and environmental benefits. SIRRL expects that Project Kea would divert waste going to landfill, create 165 new jobs, and contribute \$77.3 million annually to New Zealand's GDP, with the potential to become the third-largest industry in Waimate District. The 30 MW energy produced for local and national use would be enough to power tens of thousands of homes, around that of the Kinleith wood cogeneration generator in South Waikato and the 12 turbine Mahinerangi wind farm in Dunedin. Construction of the plant would add \$94 million to the GDP of Waimate, Waitaki and Timaru annual over the two-year construction period.

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

23. For the reasons set out below, our advice is that Project Kea is a proposal of national significance. Our assessment against the [section 142\(3\) of the RMA](#) factors is set out as follows, followed by further comments in relation to other relevant factors.

Relevant factors 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))

24. There has been extensive media coverage of the applications and community meetings. Zero Waste Network points out in their letter that public concern started with earlier proposals on the West Coast that did not go ahead.
25. Given that Project Kea will generate greenhouse gas emissions, interested parties have raised concerns related to contributions to global climate change.
26. There also appears to be public concern relating to the proposed location of Project Kea on a floodplain that has recently been affected by flood events. Other freshwater management issues have been expressed by the local community such as the effect of nitrate contamination.

EPA advice in relation to this factor

27. Based on the information contained in the documentation provided and the media coverage surrounding Project Kea to date, the EPA considers that there is widespread public concern and interest regarding the actual and likely effects of Project Kea on the environment.

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

28. Project Kea will require construction of a large plant. The plant will require the use of 2,500m³ of water per day in order to operate and would involve significant discharges to air. The proposed plant would have the capacity to consume approximately 20% of the eligible waste material produced in the South Island.

EPA advice in relation to this factor

29. Based on the information contained in the documentation provided, the EPA considers that Project Kea involves significant use of natural and physical resources, both in its construction and ongoing operation.

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

30. The planning report submitted to WDC and ECan with the applications notes that⁶:

The Waitaki River is one of Canterbury's major braided rivers. Regarding the protection of significant values, it is noted that neither the Waimate District Plan nor the Canterbury Regional Policy Statement identify any Outstanding Natural Landscapes or Areas of Outstanding Natural Character within the lower river's boundaries.

Similarly, even though the Wainono Lagoon Conservation area, east of Waimate and some 18 km from the Project Kea site, is identified as an Outstanding Natural Landscape in the Canterbury Regional Policy Statement, no other parts of the nearby coastline are attributed Outstanding Natural Landscape or Outstanding Natural Character status.

There are no areas of Significant Natural Areas, Significant Natural Features or other locations subject to higher order environmental constraints in the general vicinity of the Project Kea site.

EPA advice in relation to this factor

31. The EPA notes that while the planning report does not identify any particular structures, features, places, or areas of national significance, waterways, such as the Waitaki River are of particular importance to Māori, as discussed further below and Project Kea could affect a structure, feature, place, or area of national significance, if any structure, feature, place, or area of national significance was identified by mana whenua.

⁶ From page 45 of the Project Kea: Energy from Waste Plant – Planning Report – Babbage Partners in Excellence, 26 September 2022

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))

32. Project Kea is an application for a 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))

33. New Zealand's obligations to the global environment, such as international climate change treaties, could be impacted by even the most conservative estimates of greenhouse gas emissions from Project Kea.
34. The applications lodged to date were lodged shortly before the statutory bar on the local authorities' consideration of the discharge of greenhouse gas emissions was lifted by the Resource Management Amendment Act 2020 that came into effect on 30 November 2022. However, this statutory bar will not apply to Project Kea if called in as a proposal of national significance.
35. The assessment of environmental effects and the supporting documents provided to WDC and ECan do not include any information or assessments on greenhouse gas emissions. Accordingly, if you decided to call the applications in, the EPA recommends that further information regarding Project Kea's greenhouse gas emissions is requested or a report commissioned under section 149 of the RMA before your direction and the applications are publicly notified under section 149C of the RMA. .
36. A board of inquiry or Environment Court decision on this application could clarify what is a significant level of greenhouse gas emissions from this type of activity. The decision would help guide future decisions by local government on future waste to energy plants.

EPA advice in relation to this factor

37. Based on the information contained in the documentation provided, 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.

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))

38. The potential for significant greenhouse gas emissions and implications for New Zealand's obligations the global environment and New Zealand's obligations to the global environment is briefly set out above.
39. In addition, we note that the proposed incinerator activities would be located adjacent to two regions that are polluted airsheds under Section 17(4) of the Resource Management (National Environmental Standards for Air Quality) Regulations 2004, Waimate and Oamaru. Toxic contaminants in the incineration emissions would have the potential to exacerbate known pollution issues in this part of New Zealand.

EPA advice in relation to this factor

40. Based on the information contained in the documentation provided, due to the potential greenhouse emissions and pollution issues associated with Project Kea, the EPA considers that Project Kea 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))

41. There are numerous waste to energy plants in operation around the world. However, there are no authorised waste to energy incinerators burning waste in New Zealand. The proposal would be the first of its kind in New Zealand, involving new technology, processes and methods.
42. The burning 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, this 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 discharged at suitable landfill.

EPA advice in relation to this factor

43. Based on the information contained in the documentation provided, the EPA considers that Project Kea involves 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))

44. [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.
45. The letters from Te Rūnanga o Waihao supports call in of the applications, on the basis that a one-step process will better enable involvement of mana whenua and ensure that the decision-makers have appropriate expertise in considering the cultural effects associated with the proposal.
46. The Treaty Settlement legislation in place for this area is the Ngāi Tahu Claims Settlement Act 1998. Te Rūnanga o Waihao is leading the mana whenua response on behalf of the three Papatipu Rūnanga potentially affected by the proposal (including Te Rūnanga of Arowhenua and Te Rūnanga o Moeraki).
47. Te Rūnanga o Waihao have raised concerns regarding the impacts on aspects of the Treaty settlement, for example freshwater, mahinga kai, and taonga species. This is related to the arguments being made in proceedings in the High Court by Te Rūnanga o Ngāi Tahu against the Crown seeking to assert rangatiratanga over freshwater in the Ngāi Tahu takiwā (area).

48. Accordingly, Te Rūnanga o Waihao supports the matters being called in to enable the involvement of mana whenua and ensure that the decision-makers have appropriate expertise in considering cultural effects of the proposal and the principles of Te Tiriti o Waitangi, particularly the principles of:

- partnership, including the duty to act reasonably, honourably and in good faith, to ensure the needs of both Māori and the wider community are met;
- mutual benefit or mutual advantage;
- participation including choice/options; and
- tino rangatiratanga, which includes the protection and management of resources and other taonga according to Māori cultural preferences.

EPA advice in relation to this factor

49. The EPA considers that Project Kea is likely to be of high interest to mana whenua and submissions may identify Treaty-related issues.

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

50. Waste management is a significant matter of public health. Estimated impact of Project Kea on waste management will be locally significant. Waste management relates to public health and is a government function.

EPA advice in relation to this factor

51. The EPA considers that Project Kea 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))

52. Project Kea will take place in only one region or district, the Waimate District. However, the proposed Glenway site is close to the regional and district boundary with the Otago Regional Council and Waitaki District Council, so there is potential for effects to extend to these neighbouring districts. It is also noted that SSIRL anticipates that residual materials would be brought in from beyond the Waimate District and the Canterbury Region.

EPA advice in relation to this factor

53. Based on the information contained in the documentation provided, the EPA considers that Project Kea will affect more than one region or district.

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))

54. The matter does not appear to relate to a network utility operation, although we note that the intent of Project Kea appears to be to feed electricity into the national grid, which may render it a network utility operation pending further analysis of the proposal.

EPA advice in relation to this factor

55. The EPA considers that Project Kea may not relate to a network utility operation.

Other Relevant Factors

56. 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. The EPA has identified the following factor that may also be relevant to the consideration of whether to call in Project Kea as a proposal of national significance.

57. The EPA considers that the Aotearoa New Zealand Waste Strategy and waste sector reform work also has implications for Project Kea. It may be important to consider how energy from waste plants fit into this strategy's priorities of reduce, reuse and recycle rather than creating another waste market.

Conclusions on National Significance

58. Further to our above analysis on which limbs of section 142(3)(a) of the RMA are met, including the additional matters for consideration we have pointed out, on balance, our advice is that Project Kea is a proposal of national significance.

Direction and Referral

59. If you agree that Project Kea is a proposal of national significance, you may call it 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.

60. We now also include our advice and recommendations regarding your mandatory considerations ⁷:

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

Views of the Local Authority on whether to call in

61. The relevant local authorities are the WDC and ECan. Both WDC and ECAN have requested Project Kea be called in.

⁷ [Section 142\(4\)](#) of the RMA

62. Given the novel nature of Project Kea, the local authorities consider it appropriate that a judicial decision-maker consider it in the first instance, with the ability to thoroughly test all of the evidence provided. It would also provide the local authorities with the benefit of being able to call technical expertise and legal representation.

Views of the applicant on whether to call in the matter in

63. SIRRL has requested by letter that Project Kea is called in.

64. In its letter dated 29 June 2023, SIRRL requests that the application be called in to be heard by a board of inquiry because:

- a) calling in Project Kea will enable the new processes involved in Project Kea to be considered in the national context and from a strategic perspective consistent with a national waste strategy; and
- b) SIRRL and its international partners have 'lost confidence' in the capacity of WDC and ECan to process the applications, from both objectivity and capacity points of view.

65. SIRRL acknowledges and supports that the EPA can request further information it considers necessary under section 149(2) of the RMA.

66. SIRRL also acknowledges the need for you to instruct the EPA under section 149D(2) of the RMA to delay giving public notice of any direction until the application for a water take permit which is currently being prepared by SIRRL has been lodged in response to a request from ECan under section 91 of the RMA.

The local authority's capacity to process the matters

67. Both local authorities consider they would have capacity to process the applications if required to, although we note that ECan is the lead authority in the joint processing of the applications. However, given the scale of the application and breadth of evidence involved, the local authorities note that the applications would place significant pressures on their consent processes, potentially leading to delays in processing other applications. The capacity issue is more pronounced for the smaller WDC.

68. As there is a significant amount of technical evidence provided in support of the application, there may also be issues with the capacity and availability of commissioners with the relevant expertise to hear and determine the application.

EPA comments on whether to call the matters in

69. Noting the limited time available to consider Project Kea, we recommend you call in the matters on the basis of the section 142 analysis above and based on the fact that both local authorities and the applicant request that you call in the proposal, along with other stakeholders such as mana whenua and Zero Waste Network.

EPA comments on where to refer the matters if called in

70. Given the limited time to consider the mechanisms to follow should you decide to call the matters in we have not made a recommendation on the process to follow should the matters be called in. However, we provide some considerations for each option below.
71. Note that Cabinet Office Circular CO (06) 7 proposes that you consult with Cabinet prior to making a call-in decision.

Board of Inquiry Option

72. A key feature of a board of inquiry option is the requirement for a decision within nine months of your Direction to call in the matters being publicly notified⁸. If you consider that special circumstances apply, you can extend the time by up to 18 months unless the applicant agrees to longer⁹.
73. The ability to appoint up to five members would provide access to a broad range of relevant knowledge and decision-making experience.¹⁰ There is also the ability to appointment of a current, former, or retired Environment Judge as the chair of a board of inquiry, if the matters involve evidence or legal issues.
74. The costs associated with a call in and referral to a board of inquiry are recoverable¹¹. 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 costs¹².
75. The EPA notes that it does take some time to appoint members to a board of inquiry before their work can begin. To support the appointment of a board of inquiry, further work can be undertaken by the EPA and the Ministry for the Environment to:
- a) serve notice on the local authorities as soon as practicable after a direction made to refer the matters to a board of inquiry and begin the process of requesting nominations;
 - b) screen potential board of inquiry candidates for their availability and suitable skills and experience;
 - c) prepare a Cabinet Paper relating to your recommended candidates;
 - d) confirm appointments to a board of inquiry; and
 - e) assist the Board in the development of its inquiry process.
76. We note that there may be issues associated with appointing a board of inquiry in the general election period.
77. The EPA notes that all of the letters you have received requesting that you call the matters in have requested that you refer the matters to a board of inquiry. We have not had time to formally explore 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/or flexible than court proceedings. However, as discussed in the

⁸ Section 149R(2) of the RMA

⁹ Section 149S of the RMA

¹⁰ Section? of the RMA

¹¹ Section 149ZD of the RMA

¹² Section 357B of the RMA

following section, the EPA is aware that the Environment Court has methods for achieving this, such as the appointment of Friend of Submitter, mediation meetings, and the ability to hold hearings in local venues.

78. It is relevant to note that in supporting the call in, Te Rūnanga o Waihoa has expressed a clear expectation that the decision makers need to have appropriate expertise to thoroughly test all the evidence and to consider a broad range of environmental and cultural effects, and understanding of the principles of Te Tiriti o Waitangi in relation to the 'new to New Zealand' waste to energy technology. They would welcome the opportunity to assist with board nominations.

Environment Court Option

79. The EPA notes that the Environment Court Registry has indicated there is no issue with capacity to progress the matters if referred to the Environment Court.
80. There is no deadline in the RMA for the Environment Court to decide on the matter, other than the general requirement to regulate its proceedings in a manner best promotes the timely and cost-effective resolution.¹³
81. 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, and that costs are to be ordered against the applicant.
82. In terms of formality, the powers of the Environment Court offers 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 creates very broad procedural discretions and the Environment Court routinely uses them 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.
83. The EPA is also aware that the Environment Court has Judges and Commissioners that have a wide range of skills and experience that may be relevant to Project Kea matters, including Mātauranga Māori and Tikanga Māori.¹⁴

Overall advice and recommendation

84. The EPA considers that the matters that constitute Project Kea are a proposal of national significance.
85. The matters under section 142(3) of the RMA are not an exhaustive list, the Minister is able to have regard to any other relevant matters, and may take advice from sources other than the EPA.
86. We recommend that you call in Project Kea.

¹³ Section 269 of the RMA

¹⁴ [About the Environment Court | Environment Court of New Zealand](#)

87. Given the limited time available to consider the mechanisms to follow should you decide to call the matters in, we do not make a recommendation on the process to follow should the matters be called in.
88. Draft directions to cover referrals to either a board of inquiry or the Environment Court are included in Appendix E. As the EPA is unable to use section 91 of the RMA for the application to remain on hold if called in prior to receipt of the outstanding application, the draft directions include an instruction to the EPA to delay giving public notice under section 149D of the RMA pending lodgement of additional application for a water permit.
89. The EPA remains available to provide further advice as required.

Appendix A: Project Kea Resource Consents Required

Nine resource consent applications are required to construct and operate the Project Kea facility:

Waimate District Council

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

1. Land use consent to permanently operate a large waste to energy incinerator in Waimate (RM220066)

Environment Canterbury

The resource consent applications are required in relation to the Canterbury Air Regional Plan and the Canterbury Land and Water Regional Plan.

SIRRL has submitted the following applications:

2. Excavation and deposition of material as part of the construction (CRC231559)
3. Use and storage of hazardous substances (CRC231560)
4. Take of groundwater for dewatering purposes (CRC231561)
5. Discharge construction-phase stormwater to land and discharge dewatering water to water (CRC231562)
6. Discharge contaminants into land from an onsite wastewater system for workers and visitors (CRC231563)
7. Discharge operational stormwater to land (CRC231564)
8. Discharge contaminants to air from waste incineration and discharge to air from diesel generators
CRC231565

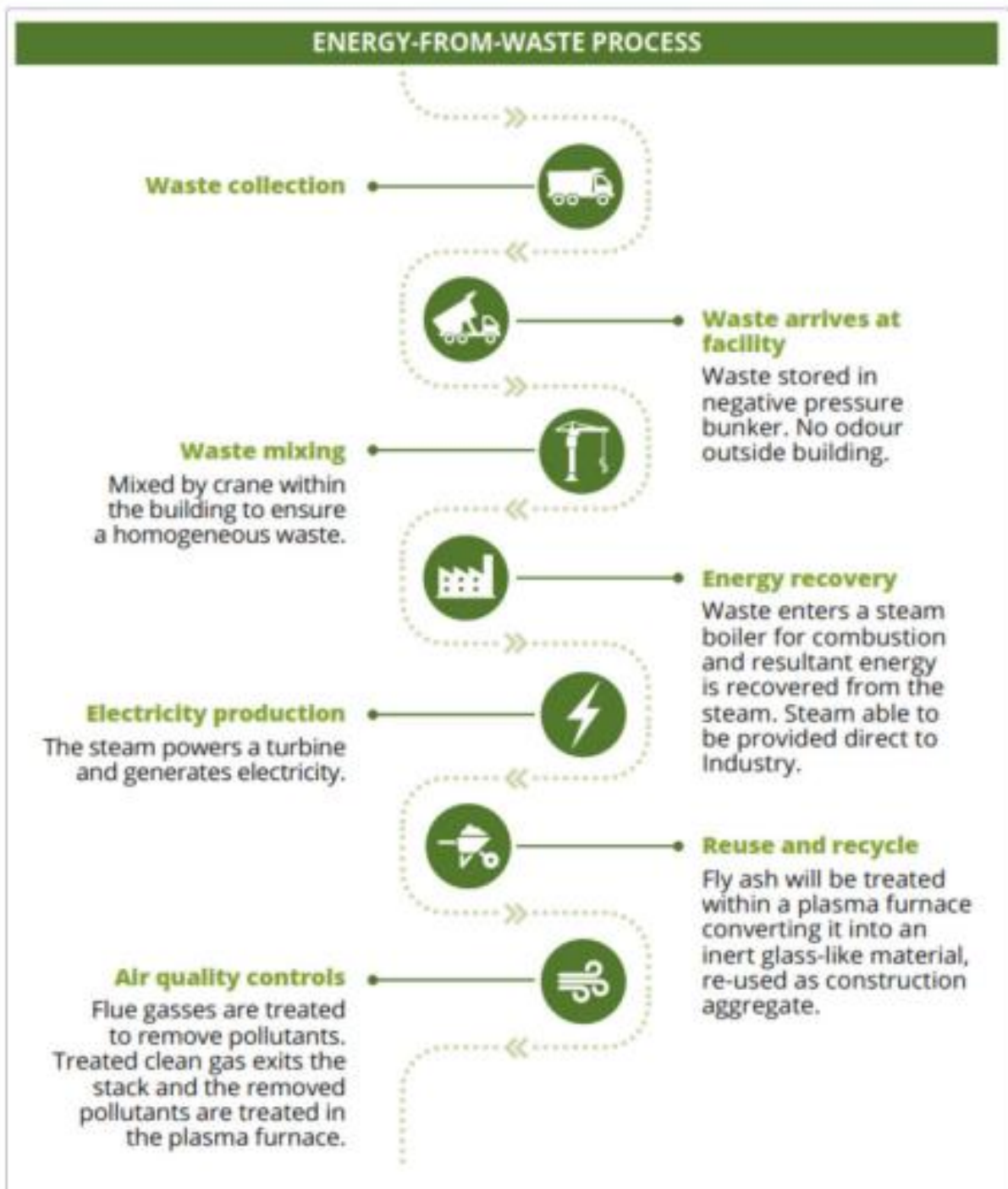
SIRRL also needs to apply for an additional resource consent application:

9. Water permit to take up to 2,500m³ of water per day to run the waste to Project Kea facility.

Appendix B: Timeline for Project Kea resource consent applications

- September 2022: resource consent applications from SIRRL for Project Kea were received.
- October 2022: the applications were returned to the SIRRL under section 88(3) of the RMA due to insufficient information being supplied regarding the proposed activities of the plant, and their effect on the environment.
- November 2022: SIRRL submitted revised applications requesting (including an assessment of environmental effects and 19 technical attachments).
- December 2022: ECan and WDC returned the revised applications due to insufficient information being supplied – on the basis that, while the resubmitted application addressed many of the matters raised in the previous version regarding adverse effects of the discharges to air, stormwater and wastewater, the cultural values had not been adequately addressed.
- January 2023: SIRRL formally objected under 357 of the RMA to the councils' decisions to return the revised applications.
- April 2023: A joint hearing was held by an independent commissioner (on behalf of the councils) regarding the return of the revised applications.
- May 2023: The independent commissioner found in favour of SIRRL. As a result, the councils commenced processing of the applications.
- May 2023: ECan put the applications on hold and gave notice under section 91 of the RMA that the applications would not be processed further, pending receipt of the additional resource consent application for a water permit.
- June 2023: The councils resolved to request to you to call in the resource consent applications as a proposal of national significance.
- July 2023: SIRRL also sent you a request to call in their applications.

Appendix C: General overview of the energy to waste process



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



Waimate District Council

Office of the Mayor

26 June 2023

Minister for the Environment Hon David Parker
Parliament Buildings
Wellington 6160
By email to: d.parker@ministers.govt.nz

Tēnā koe Minister

REQUEST FOR CALL IN OF RESOURCE CONSENT APPLICATION UNDER SECTION 142(2) OF THE RMA – SOUTH ISLAND RESOURCE RECOVERY LTD – PROJECT KEA

1. I write on behalf of the Waimate District Council (**Council**) to request that you make a direction under section 142(2) of the RMA, to call in the resource consent applications lodged by South Island Resource Recovery Ltd (**Applicant**) with the Council (and Canterbury Regional Council) for a proposed energy from waste plant in Glenavy, South Canterbury, known as Project Kea.
2. The Council originally received these applications in September 2022. This application was returned but subsequently re-lodged on 28 November 2022.¹ The application constitutes a planning report, as well as 19 other technical reports on various aspects of the application.
3. The Applicant has applied for resource consents from the Canterbury Regional Council,² and the Council. The proposal is for a large energy from waste plant, involving technology that has not yet been approved in New Zealand.
4. The Planning Report accompanying the applications notes:
 - a. The Applicant recognises that Project Kea is the first of its kind proposed in New Zealand and there will be initial concerns around accepting this technology. There may also be concerns as to whether New Zealand's relevant national standards adequately cover energy from waste facilities;³
 - b. The energy from waste plant would have the capacity to consume 1,000 tonnes per day and 365,000 tonnes per year of waste feedstock (which would otherwise be diverted to landfill);⁴ and

¹ While this application was again returned by CRC, the Applicant successfully objected to the Council, with an independent commissioner determining on 12 May 2023 that the application was complete.

² A request under section 91 of the RMA has been made by the Canterbury Regional Council in relation to a water permit that has not yet been applied for.

³ Planning Report, dated 26 November 2022, at page x.

⁴ Planning Report dated 26 November 2022, at page 21.

- c. The Applicant is committed to constructing Project Kea at a cost of approximately \$350 million NZD. The construction of Project Kea is estimated to add \$94 million to the gross domestic product of Waimate, Waitaki and Timaru annually over the two-year construction period, and \$77 million annually once operational.⁵
5. An image, included in the planning report, demonstrating a general overview of the energy from waste process is included as **Appendix 1** to this letter.
 6. The Council considers that the proposal reaches the threshold to be considered of national significance in accordance with the factors listed in section 142(3) of the RMA. A more detailed assessment of the proposal against the relevant factors is included as **Appendix 2** to this letter, but in short:
 - a. The proposal has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment);
 - b. The proposal involves or is likely to involve a significant use of natural and physical resources;
 - c. The proposal involves or is likely to involve technology, processes or methods that are new to New Zealand and that may affect its environment;
 - d. The proposal is likely to be significant in terms of section 8 of the RMA; and
 - e. The proposal affects more than one region or district.
 7. The Canterbury Regional Council and Waimate District Council have been in contact with the local Rūnanga (Te Rūnanga o Waihao). I understand that Te Rūnanga o Waihao supports call in of this application, on the basis that a one-step process (as opposed to two step process ordinarily) will better enable involvement of mana whenua, and ensure that the decision-makers have appropriate expertise in considering the cultural effects associated with the proposal.
 8. Given the scale of this application, and the novel technology that it proposes to use, the Council considers that call in of this application with a decision being made by either the Environment Court or a Board of Inquiry in the first instance would enable full consideration of the potential environmental effects of the proposed activity.
 9. While the Council considers it would have capacity to process this application if required to, given the scale of the application and breadth of evidence involved this would place significant pressure on the Councils' consent processes, potentially leading to delays in processing other applications. The capacity issue is more pronounced for Waimate District Council, with fewer staff and a smaller rating base than the Canterbury Regional Council.
 10. As there is a significant amount of technical evidence provided in support of the application, there may also be issues with the capacity and availability of commissioners with the relevant expertise to hear and determine the application.
 11. While a section 91 request has been made by the Canterbury Regional Council (and Waimate District Council) in respect of a water permit that has not yet been applied for, the Council considers that this should not prevent you making a decision that the application is to be called in as a proposal of national significance, with the knowledge that the notification of the applications will be delayed until that water permit is applied for. The Council considers that the applications that have already

⁵ Planning Report dated 26 November 2022, at page 23.

been lodged demonstrate the national significance of the proposal, regardless of the outstanding water permit application.

12. The Waimate District Council fully supports that the process remain publicly notified.
13. The Planning Report referred to in this letter, and all other technical reports provided as part of the application, are available at the following link:
<https://www.projectkea.co.nz/about>.
14. The Council thanks you for considering this request. Please feel free to contact Emma Bush, Planner at emma.bush@waimatedc.govt.nz. if you would like to discuss any of the matters raised in this letter or require any further information.

Yours sincerely

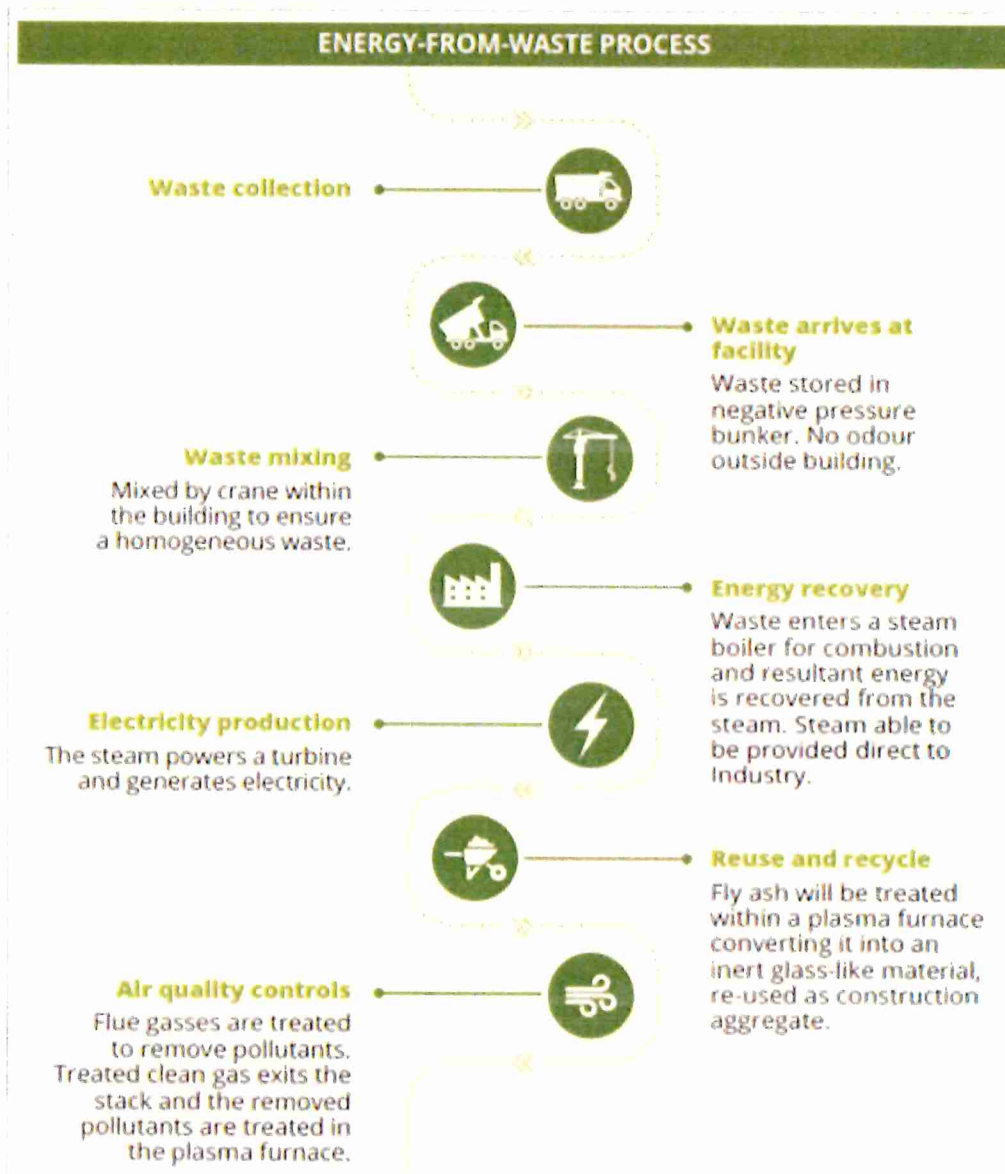

Mayor Craig Rowley

Copy to:

Sukhi Singh sukhi.singh@babbage.co.nz

Mark Christenson mark@naturalresourceslaw.co.nz

APPENDIX 1: ENERGY FROM WASTE PROCESS



APPENDIX 2: ASSESSMENT AGAINST RELEVANT FACTORS FOR CALL IN

Factor	Assessment of Application
Has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment)	Significant public interest has already been fuelled by this application before it has even been notified. There has been extensive media coverage of the applications.
Involves or is likely to involve significant use of natural and physical resources.	<p>As noted in the Planning Report, the application will require construction of an approximately \$350m plant.⁶ The plant will also require the use of 2,500m³ of water per day in order to operate.⁷ The proposed plant would have the capacity to consume 1,000 tonnes per day and 365,000 tonnes per year of waste feedstock (which would otherwise be diverted to landfill).⁸ The Planning Report indicates that this means that Project Kea could have the capacity to consume approximately 20% of the eligible waste material produced in the South Island.⁹ The proposal also contains a significant air discharge component.</p> <p>Given the scale of the application, it is apparent that this application involves a significant use of natural and physical resources, both in its construction and ongoing operation.</p>
Involves or is likely to involve technology, processes or methods that are new to New Zealand and that may affect its environment.	<p>The statement attached to the Planning Report recognises that the technology proposed is the first of its kind in New Zealand, and there may be concerns as to whether New Zealand's relevant national standards adequately cover energy from waste facilities.¹⁰</p> <p>While the Planning Report refers to approximately 2,500 other energy from waste plants in operation around the world, there are no authorised waste to energy incinerators burning municipal solid waste in New Zealand so this proposal involves technology, processes, and methods that are new to this country. The burning of plastic and other inorganic waste can pose significant 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, this technology is</p>

⁶ Planning Report dated 26 November 2022, at page 23.

⁷ Planning Report dated 26 November 2022, at page 21.

⁸ Planning Report dated 26 November 2022, at page 21.

⁹ Planning Report dated 26 November 2022, at page 31.

¹⁰ Planning Report dated 26 November 2022, at page x.

23 June 2023

Customer Services
P. 03 353 9007 or 0800 324 636

200 Tuam Street

PO Box 345
Christchurch 8140

www.ecan.govt.nz/contact

Attention: Minister for the Environment

Hon David Parker – Minister for the Environment
Parliament Buildings
Wellington 6160

By email to: d.parker@ministers.govt.nz

Tēnā koe Minister

REQUEST FOR CALL IN OF RESOURCE CONSENT APPLICATION UNDER SECTION 142(2) OF THE RMA – SOUTH ISLAND RESOURCE RECOVERY LTD – PROJECT KEA

1. I write on behalf of the Canterbury Regional Council (**Council**) to request that you make a direction under section 142(2) of the RMA, to call in the resource consent applications lodged by South Island Resource Recovery Ltd (**Applicant**) with the Council (and Waimate District Council) for a proposed energy from waste plant in Glenavy, South Canterbury, known as Project Kea.
2. The Council originally received these applications in September 2022. This application was returned but subsequently re-lodged on 28 November 2022.¹ The application constitutes a planning report, as well as 19 other technical reports on various aspects of the application.
3. The Applicant has applied for seven resource consents from Council,² and six resource consents from Waimate District Council. The proposal is for a large energy from waste plant, involving technology that has not yet been approved in New Zealand.
4. The Planning Report accompanying the applications notes:
 - a. The Applicant recognises that Project Kea is the first of its kind proposed in New Zealand and there will be initial concerns around accepting this technology. There may also be concerns as to whether New Zealand's relevant national standards adequately cover energy from waste facilities;³
 - b. The energy from waste plant would have the capacity to consume 1,000 tonnes per day and 365,000 tonnes per year of waste feedstock (which would otherwise be diverted to landfill);⁴ and

¹ While this application was again returned by CRC, the Applicant successfully objected to the Council, with an independent commissioner determining on 12 May 2023 that the application was complete.

² A request under section 91 of the RMA has been made in relation to a water permit that has not yet been applied for.

³ Planning Report, dated 26 November 2022, at page x.

⁴ Planning Report dated 26 November 2022, at page 21.

- c. The Applicant is committed to constructing Project Kea at a cost of approximately \$350 million NZD. The construction of Project Kea is estimated to add \$94 million to the gross domestic product of Waimate, Waitaki and Timaru annually over the two-year construction period, and \$77 million annually once operational.⁵
5. An image, included in the planning report, demonstrating a general overview of the energy from waste process is included as **Appendix 1** to this letter.
6. The Council considers that the proposal reaches the threshold to be considered of national significance in accordance with the factors listed in section 142(3) of the RMA. A more detailed assessment of the proposal against the relevant factors is included as **Appendix 2** to this letter, but in short:
 - a. The proposal has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment);
 - b. The proposal involves or is likely to involve a significant use of natural and physical resources;
 - c. The proposal involves or is likely to involve technology, processes or methods that are new to New Zealand and that may affect its environment;
 - d. The proposal is likely to be significant in terms of section 8 of the RMA; and
 - e. The proposal affects more than one region or district.
7. The Council has been in contact with the local Rūnanga (Te Rūnanga o Waihao). The Council understands that Te Rūnanga o Waihao supports call in of this application, on the basis that a one-step process (as opposed to two step process ordinarily) will better enable involvement of mana whenua, and ensure that the decision-makers have appropriate expertise in considering the cultural effects associated with the proposal.
8. Given the scale of this application, and the novel technology that it proposes to use, the Council considers that call in of this application with a decision being made by either the Environment Court or a Board of Inquiry in the first instance would enable full consideration of the potential environmental effects of the proposed activity.
9. While the Council considers it would have capacity to process this application if required to, given the scale of the application and breadth of evidence involved this would place significant pressure on the Council's consent processes, potentially leading to delays in processing other applications. As there is a significant amount of technical evidence provided in support of the application, there may also be issues with the capacity and availability of commissioners with the relevant expertise to hear and determine the application.
10. While a section 91 request has been made in respect of a water permit that has not yet been applied for, the Council considers that this should not prevent you making a decision that the application is to be called in as a proposal of national significance, with the knowledge that the notification of the applications will be delayed until that water permit is applied for. The Council considers that the applications that have already been lodged demonstrate the national significance of the proposal, regardless of the outstanding water permit application.

⁵ Planning Report dated 26 November 2022, at page 23.

11. The Planning Report referred to in this letter, and all other technical reports provided as part of the application, are available at the following link:
<https://www.projectkea.co.nz/about>.
12. The Council thanks you for considering this request. Dr Stefanie Rixecker, Chief Executive, has oversight and can be contacted if you would like to discuss matters raised. Please feel free to contact Aurora Grant, Environment Canterbury Consents Planning Manager, at Aurora.Grant@ecan.govt.nz if you have detailed questions or require further information.

Yours sincerely,

A handwritten signature in black ink that reads "Peter Scott". The signature is written in a cursive style with a small dash at the end.

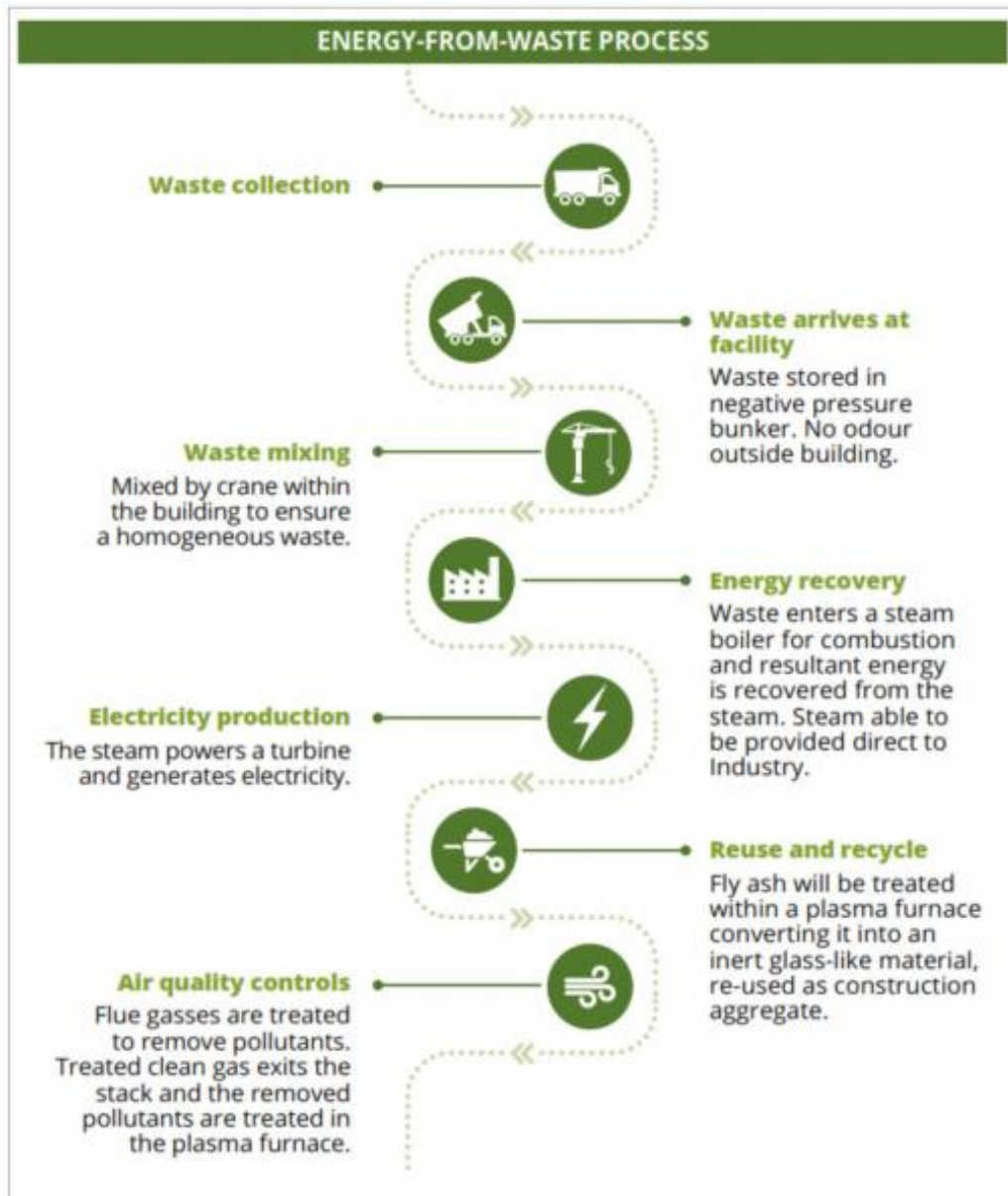
Chair Peter Scott

CC:

Sukhi Singh sukhi.singh@babbage.co.nz

Mark Christenson mark@naturalresourceslaw.co.nz

APPENDIX 1: ENERGY FROM WASTE PROCESS



APPENDIX 2: ASSESSMENT AGAINST RELEVANT FACTORS FOR CALL IN

Factor	Assessment of Application
Has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment)	Significant public interest has already been fuelled by this application before it has even been notified. There has been extensive media coverage of the applications.
Involves or is likely to involve significant use of natural and physical resources.	<p>As noted in the Planning Report, the application will require construction of an approximately \$350m plant.⁶ The plant will also require the use of 2,500m³ of water per day in order to operate.⁷ The proposed plant would have the capacity to consume 1,000 tonnes per day and 365,000 tonnes per year of waste feedstock (which would otherwise be diverted to landfill).⁸ The Planning Report indicates that this means that Project Kea could have the capacity to consume approximately 20% of the eligible waste material produced in the South Island.⁹ The proposal also contains a significant air discharge component.</p> <p>Given the scale of the application, it is apparent that this application involves a significant use of natural and physical resources, both in its construction and ongoing operation.</p>
Involves or is likely to involve technology, processes or methods that are new to New Zealand and that may affect its environment.	<p>The statement attached to the Planning Report recognises that the technology proposed is the first of its kind in New Zealand, and there may be concerns as to whether New Zealand's relevant national standards adequately cover energy from waste facilities.¹⁰</p> <p>While the Planning Report refers to approximately 2,500 other energy from waste plants in operation around the world, there are no authorised waste to energy incinerators burning municipal solid waste in New Zealand so this proposal involves technology, processes, and methods that are new to this country. The burning of plastic and other inorganic waste can pose significant 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, this technology is</p>

⁶ Planning Report dated 26 November 2022, at page 23.

⁷ Planning Report dated 26 November 2022, at page 21.

⁸ Planning Report dated 26 November 2022, at page 21.

⁹ Planning Report dated 26 November 2022, at page 31.

¹⁰ Planning Report dated 26 November 2022, at page x.

	<p>highly complex and unproven in this country.</p> <p>Given the novel nature of this proposal, and the potential significant use of natural and physical resources, the Council considers it is appropriate that a judicial decision-maker such as the Environment Court or a Board of Inquiry considers this proposal in the first instance, with the ability to thoroughly test all of the evidence provided.</p>
Is or is likely to be significant in terms of section 8 of the RMA	<p>Te Rūnanga o Waihao (taking the lead role as mana whenua in respect of this application) has been in contact with the Council, indicating support for the call in of the applications. Te Rūnanga o Waihao considers that call in of the application would enable the involvement of mana whenua and ensure that the decision-makers have appropriate expertise in considering cultural effects. Given the preference expressed by mana whenua in this instance, it is considered significant in taking into account the principles of Te Tiriti o Waitangi.</p>
Affects or is likely to affect more than one region or district	<p>Resource consents are required from both Council and the Waimate District Council. The proposed location in Glenavy is also very close to the regional boundary with the Otago Regional Council, so there may be cross-boundary issues between the regional councils that will need to be dealt with.</p>



PROJECT KEA



South Island
Resource
Recovery Ltd

South Island Resource Recovery Ltd (SIRRL)
+64 27 438 3866
paul@sirrl.co.nz
www.projectkea.co.nz

29th June 2023

Hon David Parker MP
Minister for the Environment
Parliament Buildings
WELLINGTON 6160

By email: d.parker@ministers.govt.nz
David.parker@parliament.govt.nz

Tēnā koe Minister

REQUEST FOR CALL-IN UNDER SECTION 142 OF THE RESOURCE MANAGEMENT ACT – ENERGY FROM WASTE PLANT

As you may be aware, South Island Resource Recovery Limited (SIRRL) is the applicant for resource consents lodged with the Waimate District Council and Environment Canterbury (Councils) for New Zealand's first significant scale energy from waste plant using the best available techniques.

Known as Project Kea, the plant is proposed to be located near Glenavy in the Waimate District of South Canterbury.

SIRRL's application was lodged on 30 November 2022.

SIRRL understands that the Councils have requested you call-in SIRRL's application. SIRRL also requests that the application be called-in and that it be heard by a board of inquiry under section 142(a) of the Act.

Given the strategic importance of this proposal and its potential role in the vision of New Zealand as a low-emissions, low-waste society, embedding circular economy principles, SIRRL considers that confidence in the RMA process would, in the circumstances, be best achieved if the application is called-in and heard by a board of inquiry.

The reasons for SIRRL's request are discussed in more detail in the appendix to this letter. In summary, SIRRL requests that the application be called in because:

- a. The proposed energy from waste plant is consistent with Aotearoa New Zealand's long-term path, as outlined in your recently released draft waste strategy, to achieve the vision of Aotearoa New Zealand in 2050 as a low-emissions, low-waste society, embedding circular economy principles. Because the Project Kea proposal involves processes that are new to New Zealand (section 142(3)(a)(vi) of

the Act), it presents an opportunity to contribute nationally to a net positive effect on the management of our waste, in support of the transition to a circular economy. It therefore seems more appropriate that the application be considered in the national context and from a strategic perspective consistent with a national waste strategy. Consideration of this proposal should therefore be part of a coordinated approach across government.

- b. As you have also commented, the way we create and manage waste in Aotearoa New Zealand is way behind many other developed countries. Despite increasing waste minimisation and recycling efforts, which SIRRL fully supports, there remains an enormous amount of residual waste¹ going to methane-releasing landfills. Several existing landfills are also failing, particularly those in coastal areas which are already affected by extreme weather events. SIRRL believes that energy from waste plants have an important role in the waste hierarchy concept and provide an opportunity to recover value from materials that cannot be recycled, reused and are a genuine residual waste.
- c. Because the residual waste to be used will include biomass material, it is estimated that approximately 60% of the electricity generated from the proposed Project Kea facility will be 'renewable electricity generation' as defined in the National Policy Statement on Renewable Electricity Generation 2011.
- d. SIRRL and its international partners who are wishing to introduce direct foreign investment into Aotearoa New Zealand have lost confidence in the capacity of the Councils to process the applications in an objective manner. The Councils themselves have indicated to you that they have neither the capacity nor the desire to process the application (section 142(4)(b) of the Act).
- e. SIRRL is also concerned about the processing of the applications by the Councils to date which has caused SIRRL unnecessary time and expense by successfully obtaining a ruling from an independent Commissioner about the Councils' rejection of the application. In confirming the completeness of the application under section 88 of the Act, this avoided what many considered would have been an unhelpful and injurious precedent to future RMA applicants.
- f. In addition, SIRRL is concerned about the lack of timely consultation despite our attempts to work constructively with Council staff. For example, SIRRL as applicant was the last to know that a 'call in' decision would be taken to both Councils and that this would be put to vote in several days' time. We understand other stakeholders were not only consulted but had been much earlier. From this and other incidences, sadly SIRRL is concerned that council staff may not have adopted an objective position in terms of the processing of the application.
- g. The Councils' request for a call-in is supported by a local group who currently oppose Project Kea and by three Papatipu Rūnanga. They have all expressed a lack of confidence in the capacity of the Councils to process the application.
- h. SIRRL's application under the Overseas Investment Act is currently being processed by the Overseas Investment Office and we understand that this application is being treated as a transaction of national interest under s20(b) of the Overseas Investment Act.

¹ What SIRRL means by residual waste is explained in the Appendix.

Minister, as you are only too aware, Aotearoa New Zealand cannot continue to bury its waste and its considerable waste challenges. Instead, we must welcome safe, more efficient and less climate change emitting ways to treat residual waste, alongside our transition to greater waste minimisation and effective recycling efforts.

We request that:

- a. you call-in the application to be heard by a board of inquiry under section 142(a) of the Act;
- b. The EPA takes over the processing of the application from the Councils and issues such requests for further information as it considers necessary under section 149(2)(a) of the Act; and
- c. You instruct the EPA under section 149D(2) of the Act to delay giving public notice of your direction under section 149C of the Act until the application for a water take permit which is currently being prepared by SIRRL in response to a section 91 request from council has been lodged.

We also understand that Project Kea's operation is new to many kiwis and will introduce change for Aotearoa - but one that has many years' experience of similar plants throughout Europe, China, Singapore and Japan, and technological advancement behind it. SIRRL would welcome the opportunity to demonstrate to Aotearoa New Zealand communities that energy from waste technology can be delivered and implemented safely with the added advantage of renewable energy generation as our nation transitions towards the goal of a zero-waste future.

SIRRL would be pleased to meet with you or your advisors to further explain the reasons for our request, if you consider that would be helpful.

Yours sincerely

Ngā mihi nā



Mr Debiao Cao

SIRRL – Chairman of the Board



Mr Paul Taylor

SIRRL – Director

APPENDIX

South Island Resource Recovery Limited

South Island Resource Recovery Limited (**SIRRL**) is a New Zealand registered company that was formed in March 2021.

SIRRL's shareholders are:

- Renew Energy Ltd (**REL**) (40% shareholding). REL is a New Zealand registered company with experience in waste collection and waste logistics.
- China Tian Ying Incorporated (**CNTY**) (41% shareholding). CNTY is a Chinese registered company with significant experience in energy recovery and waste handling. Since 2009, CNTY has designed and delivered 17 EfW Plants throughout Asia and have a further 8 currently under construction.
- Europe ZhongYing BV (**EUZY**) (19% shareholding). EUZY is a Belgium registered company with experience in designing and delivering EfW Plants throughout Europe.

SIRRL is committed to constructing Project Kea, currently at a cost of approximately \$350 million. The construction of Project Kea is estimated to add \$94 million to the gross domestic product of the Waimate, Waitaki and Timaru districts annually over the two-year construction period, and \$77 million annually once operational.

The proposed energy from waste process

The primary purpose of the plant is to recover value from waste that would otherwise be going to final disposal in a landfill. The plant will burn waste in a specially designed furnace to recover the energy from the waste in the form of heat. This heat is then used to boil water to create steam. The steam is then used to drive a steam turbine which drives an electrical generator to produce electricity. Thus, the overall process converts the energy within waste into electricity.

This process is not pyrolysis or gasification, both of which the 2023 draft Waste Strategy states are unlikely to align with New Zealand's circular economy goals. In contrast, the proposed plant will use high-temperature incineration which is similar to the process used in cement kilns in New Zealand, although this proposal includes significantly greater emissions controls than cement kilns.

The Plant will consume 1,000 tonnes per day of residual waste feedstock, consisting of Municipal Solid Waste² and Construction and Demolition Waste³ both of which are currently

² MSW is defined in the technical Guidelines for Disposal to Land, Waste Management Institute New Zealand, Revision 3 October 2022 as "Any non-hazardous, solid waste from household, commercial and/or industrial sources. It includes putrescible waste, garden waste, biosolids, and clinical and related waste sterilised to a standard acceptable to the Ministry of Health (MoH). All MSW should have an angle of repose of greater than five degrees (5°) and have no free liquid component. It is recognised that MSW is likely to contain a small proportion of hazardous waste from households and small commercial premises that standard waste screening procedures will not detect. However, this quantity should not generally exceed 200 ml/tonne or 200 g/tonne".

³ C&D Waste is defined in the technical Guidelines for Disposal to Land, Waste Management Institute New Zealand, Revision 3 October 2022 as "Non-putrescible, non-hazardous C&D wastes. Waste may be generated from the construction, renovation, repair, and demolition of structures such as residential and commercial buildings, roads, and bridges."

being sent to landfill. The residual waste feedstock is to be sourced primarily from Canterbury and Otago. It is estimated that this represents approximately 20% of the South Island's existing waste stream which is currently sent to landfill. Even once the measures set out in the draft 2023 *Te rautaki para | Waste strategy* are implemented, there will continue to be an adequate supply of residual waste generated in the South Island over the proposed life of the plant.

Residual waste is that portion of waste which is not suitable for recycling and for currently known / available / economic alternative product substitution. Examples include treated timber framing offcuts, demolition treated timber, window frames and doors, single use building weather protective wrapping, transport bundle and product synthetic ties, non-recyclable contaminated containers such as disused jerry cans for oil, agricultural chemicals, contaminated cardboards, used carpet / carpet offcuts, used mattresses, and obsolete / broken furniture obsolete clothing.

Waste will initially be delivered by road only. It is intended that once commercial arrangements with KiwiRail are concluded then waste will ultimately be delivered by both road and rail.

The waste feedstock will be required to specified waste acceptance criteria to ensure that recyclable material is diverted in accordance with the waste management hierarchy (which is not the case even for Class I landfills). The facility will not accept hazardous waste.

The energy recovered will be turned into 30MW of electricity and fed into the local electricity network for use by electricity consumers.

Because the waste to be used will include biomass material, it is estimated that approximately 60% of the electricity generated from the plant will be 'renewable electricity generation' as defined in the National Policy Statement on Renewable Electricity Generation 2011.

The furnaces will be connected to a seven stage flue gas treatment system which involves the following steps:

Table 8: Main flue gas treatment steps

Treatment Step	Treatment Description	Components removed
Step 1: SNCR	Selective non-catalytic reduction Injection of Ammonia (25%) direct into boiler fire box at 850 – 1100C	NO _x
Step 2: Semi-dry Deacidification	Spray drying of Slaked Lime solution (8%) into the flue gas stream	Acid components
Step 3: Dry Spraying	Injection of Slaked Lime	Acid components
Step 4: Activated Carbon Absorption	Injection of Activated Carbon	Dioxins & Heavy metals
Step 5: Filtration	PTFE filter bags	Particulates and reaction products as salt particles

Step 6: Wet Scrubber	NaOH wash solution	Acid components
Step 7: SCR	Selective catalytic reduction Spray 25% Ammonia solution	NO _x (convert to N ₂ & H ₂ O), decompose dioxins (PCDD and PCDF)

Fly ash will then be separately treated through a dedicated plasma flue gas treatment process.

Vitrified fly ash and bottom ash (excluding metals recovered at grate) will either be recycled as an aggregate in the construction industry or disposed in landfill.

Capacity of the Councils to process the application

SIRRL and its advisors have considered the staff reports which recommended the Council request the Minister to call in the application, together with the request itself from Environment Canterbury. The officers' reports noted that the benefits to the Councils of a call-in include: "The Council is able to call on more significant technical expertise and resources more generally", "It will provide the Council with better access to resources generally, including legal representation", and "Less draw on Council resources in terms of administration and processing staff".

Notwithstanding the comments in the letter to you from Environment Canterbury, it is clear from those reports and from the discussion by councillors at their meetings on 20 and 21 June 2023 that both council staff and councillors have formed the view that they do not have the capacity, nor do they wish, to process the application.



Te Runanga o
Waihao

Te Rūnanga o Waihao
26 Māori Road, RD 10, Waimate 7980
Email: waihao.manager@ngaitahu.iwi.nz
Phone: 03 689 4726

Hon. David Parker
Minister for the Environment
By email: david.parker@parliament.govt.nz

14 October 2022

Tēnā koe Minister Parker

WAIMATE WASTE TO ENERGY PROPOSAL - MANAWHENUA REPRESENTATION

Ko Graeme Lane toku ingoa - I am the Chair of Te Rūnanga o Waihao - the Ngāi Tahu papatipu rūnanga who are manawhenua and kaitiaki in our South Canterbury takiwā that includes Waimate District.

I am writing to you regarding the Energy from Waste plant proposal near Glenavy, known as 'Project Kea'. The company proposing this development has recently lodged resource consents with Environment Canterbury and the Waimate District council.

We are aware that you have recently received correspondence, dated 6 October 2022 from the community advocacy groups Zero Waste Aotearoa and Why Waste Waimate, as well as from Tom Williams, who claimed to be representing Te Rūnanga o Waihao. This correspondence requested that the Minister for the Environment considered enacting a 'call in' process for the consents for the proposed plant.

We now find ourselves in a difficult position, and it is unfortunate that we are now needing to send you this letter. We do, however, need to advise you that Tom Williams has no mandate to speak on behalf of Te Rūnanga o Waihao on this matter, and by signing off the letter as a Te Rūnanga o Waihao spokesperson, he has misrepresented his authority to do so. For clarity, Tom Williams is a whānau member with whakapapa to Waihao Marae. He is one of the members of our organisation, but has no mandate or authority to represent our rights and interests on our behalf in relation to Project Kea. Please accept sincere apologies on behalf of Te Rūnanga o Waihao for any confusion that this situation has created.

To further clarify, Te Rūnanga o Waihao has no alliance to the community advocacy groups that co-signed the letter that you received. Waihao has chosen to remain silent on our position to date on the potential merits or risks of a energy from waste plant within our takiwā, and are working closely with Waimate District Council and Environment Canterbury in considering the application, given the Treaty relationship that we have with these agencies.

We do appreciate the right of the community to act in whichever way they see fit on this matter, and wish them all the best in their endeavours.

As your Treaty partner, we ask that you disregard this letter as it relates to Te Rūnanga o Waihao. We will continue to follow the consenting process with our local territorial authority and regional council, which will likely include our consideration of whether to support a request to a call in. As mentioned, we have yet to form and communicate our position regarding this proposal, and we will make contact when appropriate.

Finally, please be advised that the only mandated representatives to speak on this matter are myself - for commentary or media queries - and Sara Severinsen as Lead of the Waihao Environmental Portfolio, for engagement or technical mahi associated with this particular project.

Please don't hesitate to make contact directly with any queries or matters of discussion. We remain committed to working in Treaty partnership with the Ministry, now and in the future.

Nāku noa, nā,

A handwritten signature in black ink, appearing to read 'Graeme Lane', written in a cursive style.

Graeme Lane

Chair

Te Rūnanga o Waihao

cc:

Rt Honourable Grant Robertson - Minister for Infrastructure

Eugenie Sage - Member of Parliament

Shawn Lewis - Ministry for the Environment

Sara Severinsen - Te Rūnanga o Waihao

Melissa Slatter - Te Rūnanga o Waihao



Te Runanga o
Waihao

Te Rūnanga o Waihao
26 Māori Road, RD 10, Waimate 7980
Email: waihao.manager@ngaitahu.iwi.nz
Phone: 03 689 4726

16/06/2023

By Email: aurora.grant@ecan.govt.nz and jonts.mckerrow@waimatedc.govt.nz

To: CEO ECan and WDC.

Te Rūnanga o Waihao understand the Canterbury Regional Council and Waimate District Council are requesting a Ministerial Call In of the resource consent applications lodged by South Island Resource Recovery Limited for a proposed Energy from Waste plant in Glenavy, South Canterbury, known as Project Kea.

Te Rūnanga o Waihao have received and reviewed a copy of the resource consent applications.

Te Rūnanga o Waihao is currently leading the mana whenua response on behalf of the three Papatipu Rūnanga potentially affected by the proposal (this includes ourselves, Te Rūnanga o Arowhenua, and Te Rūnanga o Moeraki).

Further to our letter to Canterbury Regional Council and Waimate District Council dated 11 October 2022, Te Rūnanga reconfirms that it supports the Councils' request for a Call In, for the following reasons:

1. The proposal is likely to be significant in terms of the effects on tangata whenua and Section 8 of the RMA.
 - 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.
 - Te Runanga o Waihao considers the following Treaty principles to be particularly relevant to the proposal:
 - The principle of *partnership*, including the duty to act reasonably, honourably and in good faith, to ensure the needs of both Māori and the wider community are met;
 - The principle of *mutual benefit or mutual advantage*;
 - The principle of *participation* including choice/options; and
 - The principle of *tino rangatiratanga*, which includes the protection and management of resources and other taonga according to Māori cultural preferences.
2. The proposal involves a significant use of natural and physical resources that have the potential to significantly impact tangata whenua.
3. There are potentially significant impacts on aspects of our Treaty Settlement, for example freshwater, mahinga kai, and taonga species.
4. It is Te Rūnanga's position that the decision makers need to have appropriate expertise to thoroughly test all the evidence provided and in particular consider a broad range of environmental and cultural effects, and understanding of the principles of Te Tiriti o Waitangi in relation to this 'new to New Zealand' technology.
5. Te Rūnanga would expect someone to be nominated to the Board of Inquiry with mātauranga Māori expertise and would welcome the opportunity to be involved in that process if appropriate.

I look forward to hearing the outcome of the Call In process and the next steps in relation to the processing of this application.

Nā,

Chairperson
Te Rūnanga o Waihao



6 October 2022

Minister David Parker
c/- Parliament
david.parker@parliament.govt.nz

Tēnā koe Minister Parker,

Urgent request to call-in Waimate Waste-to-Energy Incinerator resource consent application

We are writing to seek your urgent intervention to call-in the resource consent applications of South Island Resource Recovery Limited lodged with Environment Canterbury and Waimate District Council to build a waste-to-energy incinerator using your powers granted under Section 142 of the Resource Management Act.

Background of the project

- This incinerator would burn 365,000 tonnes/per annum composed of 50% mixed solid waste and 50% construction waste.
- The proposed location is on a floodplain in an area of intensive dairy farming on the outskirts of Waimate, South Canterbury. In July this year a large portion of the proposed site was under water due to flooding.
- The incinerator would produce 80,000 tonnes/annum of bottom ash, and 20,000 tonnes/annum of fly ash.
- The incinerator would be located adjacent to two regions that are polluted airsheds under Section 17(4) of the NESAQ, Waimate and Oamaru.
- Emissions from the incinerator include, among many other toxic contaminants, dioxins, furans, lead, mercury, arsenic, SO₂ and other unidentified heavy metals.
- In 2019, Waimate sent just 1280 tonnes of rubbish to landfill, at least 460 tonnes of which could have been diverted through better recycling and composting systems. To run the incinerator, Waimate would have to bring in 348,719 tonnes of rubbish a year, or 955 tonnes per day.
- The project threatens waste minimisation efforts, including efforts to remove organic waste, and will be a net contributor of CO₂.

Powers under Section 142 of the Resource Management Act

We bring the following specific issues to your attention in respect of the matters you may take into account when deciding whether to call in the application

Has aroused widespread public concern or interest regarding its actual or likely effect on the environment (including the global environment)

Public concern over this project is not limited to its current iteration. Instead, this project has a long history, starting on the West Coast, where company representatives were embroiled in a scandal. The Ministry for the Environment advised the government that the original incinerator proposal was an economic and environmental loser. The community of Waimate, the project's new proposed location, is organised in opposition to the project and has been conducting public meetings for the past year. The community is already reeling from the environmental degradation of the region, as Glenavy is now unable to drink their water for at least another year due to nitrate contamination. The kaitiaki for the waterways from the Great Divide to the 200 mile limit for Te Rūnanga o Waihao, the local marae close to Glenavy, has come out against the incinerator project.

Affects or is likely to affect or is relevant to New Zealand's international obligations to the global environment; and will result in or contribute to significant or irreversible changes to the environment (including the global environment);

This proposal would increase emissions by approximately 350 kt p/a CO₂e. This does not take into account transport emissions to the facility of the waste that would need to come from all over the South Island, nor the diesel fuel needed both to cold start the incinerator and as a co-feeder fuel to ensure adequate burn temperature. The company applying to build the incinerator seeks to argue that burning unsorted mixed waste that contains organic biomass is renewable, and aims to benefit from provisions in the RMA allowing Councils to take into account the “*extent that the use and development of renewable energy enables a reduction in the discharge into air of greenhouse gases*” while the company has no responsibility to account for the impact of the emissions they will make.

The company's application contains accounting that is pure greenwashing: it neither takes into account that most NZ landfills have methane gas capture systems, and that the Government has an aggressive programme of works underway to get organic waste out of landfills.

As you will be aware, changes to the RMA allowing climate change effects to be considered as part of the RMA process come into effect on 30 November this year. It is imperative that you use this application to set a clear precedent that climate polluting proposals that add to NZ's gross emissions will no longer be given consent.

The Intergovernmental Panel on Climate Change reports that each tonne of waste burnt produces up to 1.2 tonnes of carbon dioxide which can stay in our atmosphere contributing to global warming for decades.

In addition to the emissions profile of this incinerator, the proposed location on a floodplain adjacent to farms and food producing businesses is alarming. New Zealand's largest insured has just issued a report calling for an immediate end to building in flood-prone areas and the creation of a document that binds councils to avoid new development or intensification in places with more than one-in-50 year flood risk.

The failure by the government to exercise every opportunity to reduce climate emissions and mitigate climate change effects will give rise to the further socialization of climate costs resulting from this proposal.

Involves or is likely to involve technology, processes, or methods that are new to New Zealand and that may affect its environment

New Zealand has no waste-to-energy facilities. European countries are moving away from waste-to-energy for climate and ecological reasons. We should exercise an abundance of caution about the introduction of new technology that creates and exposes communities to toxic emissions, including heavy metals, that would *otherwise not exist* as an inherent part of their business model. Our environment and the people it supports cannot and should not wear the cost of that exposure for the benefit of private profit.

Affects or is likely to affect more than 1 region or district

The company anticipates that materials would be brought in Waimate from Central Otago, Dunedin and Christchurch.

We urge you in the strongest possible terms to call-in and decline this application. Your leadership on this matter is of critical importance at this time.

Ngā mihi mahana,

Dorte Wray
Zero Waste Network Aotearoa

Robert Ireland
Why Waste Waimate

Tom Williams
Te Rūnanga o Waihao

CC:

Rt Honourable Grant Robertson, Minister for Infrastructure
Eugenie Sage, Member of Parliament
Shawn Lewis, Ministry for the Environment

Appendix E: Draft directions

Ministerial direction to refer the South Island Resource Recovery Limited resource consent applications to a Board of Inquiry

Having had regard to all the relevant factors, I consider that South Island Resource Recovery Limited's (SIRRL) application for the resource consents required for the construction and operation of a waste to energy plant in the Waimate District (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 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) may affect or may be likely to affect a structure, feature, place, or area of national significance;
- d) are relevant to New Zealand's international obligations to the global environment;
- e) are likely to result in or contribute to significant or irreversible changes to the environment (including the global environment);
- f) involve technology, process, or methods that are new to New Zealand and that may affect its environment;
- g) are significant or are likely to be significant in terms of section 8 of the RMA;
- h) may assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions; and
- i) do or are likely to affect more than one region or district.

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

I understand that SIRRL needs an additional resource consent application for a water take for Project Kea. I therefore instruct the EPA under section 149D(2) of the RMA to delay giving public notice of any direction until this application for a water permit has been lodged.

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 Waimate District Council and Environment Canterbury 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

2023

Hon David Parker

Minister for the Environment

Ministerial direction to refer the South Island Resource Recovery Limited resource consent applications to the Environment Court

Having had regard to all the relevant factors, I consider that South Island Resource Recovery Limited's (SIRRL) application for the resource consents required for the construction and operation of a waste to energy plant in the Waimate District (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 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) may affect or may be likely to affect a structure, feature, place, or area of national significance;
- d) are relevant to New Zealand's international obligations to the global environment;
- e) are likely to result in or contribute to significant or irreversible changes to the environment (including the global environment);
- f) involve technology, process, or methods that are new to New Zealand and that may affect its environment;
- g) are significant or are likely to be significant in terms of section 8 of the RMA;
- h) may assist the Crown in fulfilling its public health, welfare, security or safety obligations or functions; and
- i) do or are likely to affect more than one region or district.

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

