

**BEFORE THE WAIPA DISTRICT COUNCIL AND WAIKATO REGIONAL
COUNCIL**

**TOKANUI HOSPITAL DEMOLITION, REMEDIATION AND LANDFILL
UPGRADES**

Under the

Resource Management Act 1991

In the matter of

resource consent applications by Toitū Te Whenua
Land Information New Zealand under section 88 of
the Act for demolition and remediation works, and
landfill upgrades, in respect of the former Tokanui
Hospital site

**CLOSING LEGAL SUBMISSIONS ON BEHALF OF TOITŪ TE WHENUA LAND
INFORMATION NEW ZEALAND**

31 October 2025

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MAY IT PLEASE THE HEARING PANEL:

INTRODUCTION AND SUMMARY

1. At the hearing on 29 September 2025 (**Hearing**) counsel for Toitū Te Whenua Land Information New Zealand (**Applicant** or **LINZ**) presented detailed legal submissions to the Panel in support of the proposed demolition, removal and remediation works at the former Tokanui Hospital site (**Site**) and works to the existing closed landfill (together, the **Project**).
2. In short, LINZ's case is that the Project – which has been designed, staged and consulted on to ensure tangata whenua¹ views and tikanga considerations are at its forefront – is environmentally sound and future-focussed with minimal adverse effects and significant positive effects.
3. Counsel and LINZ's witnesses explained that the Project will:
 - (a) through the Landfill Application², have water quality and ecological benefits, resilience and flooding benefits, improve Wharekōrino Stream (**Stream**) flow and fish passage, deliver significant reductions in the (already limited) leachate discharges and deliver riparian planting enhancements, all of which help reduce cultural effects on the Wharekōrino Stream and recognise and provide for Te Mana o te Wai;³
 - (b) through the Remediation Application⁴, enable the return of the Site to the Ngāti Maniapoto Post Settlement Governance Entity (**PSGE**), Te Nehenehenui Trust (**TNN**), in a remediated state (as required by the Ngāti Maniapoto Deed of Settlement (**Deed**)) which will enable future developments and rural uses of the land; and
 - (c) more generally, result in aquatic and terrestrial ecological enhancements as well as economic and social benefits (associated with increases in local jobs and upskilling during the construction phase, and future employment and economic opportunities once the

¹ This phrase is used for the closing submissions. During the hearing Mr Nigel Ngahiwi stated that he did not support the use of mana whenua as no one holds mana over the whenua. The phrase was used in the CIA and had then been used by LINZ since. The RMA uses the phrase tangata whenua, which is defined as, in relation to a particular area, means the iwi, or hapu, that holds mana whenua over that area. Mana whenua is defined in the RMA as customary authority exercised by an iwi or hapu in an identified area.

² LINZ's application for resource consents enabling works to the existing closed landfill on the Site.

³ Noting that Objective 1 of the National Policy Statement for Freshwater Management 2020 does not apply to the application under the Resource Management (Freshwater and Other Matters) Amendment Act 2024.

⁴ LINZ's application for resource consents for demolition, removal, and remediation works at the Site.

Site has been restored to a state where it is safe and suitable for use for agricultural, rural and other purposes).

4. The Hearing was originally scheduled for two days; however, it was efficiently managed and all parties had presented by the end of the first day. Prior to the Hearing's adjournment the Panel helpfully encouraged further discussions with tangata whenua who submitted⁵ (**Submitters**) and with the two Councils (Waikato Regional Council (**WRC**) and Waipā District Council (**WDC**)). The resulting discussions – while not altering the overall positions adopted as to the consents – were constructive in providing further clarity on the different roles, and pathways forward, for tangata whenua, LINZ and TNN.
5. These closing submissions do not repeat LINZ's opening submissions, but instead:
 - (a) respond to matters raised during the Hearing (either by Submitters, the Panel, WRC or WDC; and
 - (b) address conditions, following LINZ's 14 October 2025 hui (**Hui**) with Submitters and non-submitters and meetings with WRC and WDC on 15 and 16 October 2025.⁶
6. As an initial point, LINZ wishes again to acknowledge the involvement of tangata whenua (both Submitters and non-submitters) and TNN throughout the development of the Project and through this consenting process. LINZ acknowledges the wider frustrations expressed during the Hearing relating to the acquisition of the Site under the Public Works Act 1908 (**PWA 1908**)⁷, the history of the Site's use and the Deed and the role of TNN. However, as stated by the Panel Chair, those matters cannot be addressed in this forum and the Panel's role is solely to decide on the resource consent applications before it.
7. Nevertheless, a considerable amount of time has been spent over the past several years corresponding, meeting and working with tangata whenua (including the Submitters) with a view to better understanding their concerns

⁵ As well as TNN, who was also a submitter, but who had, prior to the Hearing, confirmed in writing that their concerns had been met pending finalisation of appropriate conditions.

⁶ As set out in counsel reporting memorandum dated 17 October 2025 (**Reporting Memorandum**).

⁷ The version that was in force in 1910 (when the land on which the Site lies was acquired to use for the Tokanui Hospital), as per [3.1] of the Cultural Impact Assessment (Appendix B1 to the Remediation AEE).

and priorities so that these can help shape a robust and forward-looking Project that will:

- (a) be environmentally sound and deliver significant benefits (with minimal adverse effects);
 - (b) be sensitive to, and incorporate, tikanga and the views of tangata whenua; and
 - (c) provide for future generations.
8. The Project before the Panel meets those matters and consent should be granted for both Applications.

Structure of these submissions

9. These submissions address:
- (a) key cultural / tikanga matters raised by submitters at or following the hearing, including:
 - (i) the interrelationship between this consenting process under the Resource Management Act 1991 (**RMA**), the Maniapoto Claims Settlement Act 2022 (**Settlement Act**) and the PWA 1908 (and current Public Works Act 1981 (**PWA**));
 - (ii) the implications of a decline of the consents, as sought by Submitters;
 - (iii) engagement;
 - (iv) cultural induction, karakia and cultural monitoring;
 - (v) the hybrid multi-criteria analysis (**MCA**) and Mauri Model approach (**Hybrid Approach**) that was undertaken;
 - (vi) urupā on the Site; and
 - (vii) shifting soil from Pokuru to Tokanui;
 - (b) other matters raised by submitters (including site-specific remediation standards (**SSRS**) and soil testing, funding, bat management plan (**BMP**) and other specific concerns raised by Mr Gordon Thomson);

- (c) matters relating to LINZ's archaeological authority (**Appendix EB6**⁸);
- (d) other matters raised by the Panel regarding:
 - (i) how the existing resource consents work together and what they require;
 - (ii) a comparison between the works LINZ is required to do under its existing resource consents to ensure compliance (in relation to the existing landfill) and the works proposed under the Landfill Application;
 - (iii) comments made by Dr Sean Finnigan relating to the "*generally not contaminated*" state of the Site⁹;
 - (iv) a comparison of the SSRS proposed through the Project and the relevant standards under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (**NES-CS**);
 - (v) the extent of the existing landfill located on AgResearch-owned land;
 - (vi) elevated zinc levels in the toilet block area; and
 - (vii) requests for updated plans and drawings, including showing the culvert / Stream; and
- (e) conditions.

CULTURAL / TIKANGA MATTERS

Interrelationship between RMA, Settlement Act and PWA / PWA 1908

Introduction

10. Many of the issues raised by the Submitters at the Hearing related to the history of the Site, its acquisition by the Crown (under the PWA 1908) and its inclusion in the Deed¹⁰ as a deferred selection property which TNN can elect to purchase.

⁸ Attached to the evidence of Ms Emily Buckingham; this is not re-attached to these submissions.

⁹ In relation to Figure 11 of Dr Finnigan's evidence at [63]-[64].

¹⁰ Which was entered into by Maniapoto, TNN and the Crown on 11 November 2021.

11. One of the key themes expressed by the Submitters was that it was not for TNN to receive and decide the future of the Site but rather for them as tangata whenua (or Ahi kā), and that the land should be returned to those tangata whenua / Ahi kā hapū, not TNN.¹¹ This is notwithstanding:
- (a) TNN's role as the mandated PSGE for Maniapoto; nor
 - (b) the terms of the Deed and the Settlement Act which establish clear legal requirements and processes.
12. Acknowledging the significance of these matters for the Submitters, as recognised by the Chair, these are not matters that either LINZ, or the Panel under the RMA, can address. This appeared to be accepted by Submitters at the Hearing.
13. However, TNN has been clear that "*we defer to mana whenua as kaitiaki of the area to address any cultural concerns*".¹² This was acknowledged by the Submitters at the Hearing who agreed that tangata whenua could accordingly take the lead in relation to the cultural protocols, karakia and Cultural Management and Monitoring Plan (**CMMP**), including providing input into the relevant conditions.
14. This allowed the issues raised during the Hearing to move to a forward-looking focus in relation to consent conditions, despite the Submitters remaining firm in their position that the Site should return to them (and therefore opposing the Project because it facilitates the return of the Site to TNN under the Deed). This is discussed further below in relation to the Hui.

Maniapoto Claims Settlement Act 2022

15. The Panel was interested in the role of TNN, its mandate, appointment process, its cultural 'identity' and its role in relation to the Site. As stated in opening submissions,¹³ TNN:
- (a) represents Maniapoto as an iwi authority for the purposes of the RMA; and
 - (b) is the mandated PSGE under the Settlement Act.

¹¹ Some of the submitters also stated they had not had direct talks with TNN and wanted to meet with TNN to discuss the future of the Site.

¹² TNN statement of evidence at 1.

¹³ LINZ's opening legal submissions at [74].

16. In terms of its Treaty settlement history, in 2016, Maniapoto entered into negotiations with the Crown to negotiate a comprehensive settlement of all Maniapoto historical Treaty of Waitangi claims. On 5 December 2016, the Maniapoto Māori Trust Board (**MMTB**) received a mandate from iwi members to represent Maniapoto in Treaty settlement negotiations with the Crown.¹⁴ This mandate was recognised by the Crown on 14 December 2016.¹⁵
17. The Deed was negotiated by the Crown and the MMTB. At ratification, the initialled Deed was presented to Maniapoto and it was supported by 84% of voters.¹⁶ TNN was supported by 83% of voters to receive the redress and manage the settlement redress on behalf of Maniapoto as its mandated PSGE.¹⁷
18. The Maniapoto Claims Settlement Bill was subsequently introduced to Parliament on 3 December 2021. The Bill was unanimously supported by all MPs who spoke at the Third Reading, and it received Royal Assent on 27 September 2022.¹⁸
19. Relevantly, the Settlement Act:
 - (a) dissolved the MMTB;¹⁹ and
 - (b) vested all of the assets and liabilities of the MMTB in the trustees of TNN.²⁰

TNN's Trust Deed and trustees

20. TNN's Trust Deed records that TNN was established to act on behalf of and in the beneficial interests of Maniapoto to:²¹
 - (a) advance the cultural, social, environmental and economic aspirations of Maniapoto;
 - (b) uphold and protect the mana whakahaere of Maniapoto; and

¹⁴ The majority of valid votes cast (72.01%) supported the Maniapoto Māori Trust Board representing Te Iwi o Maniapoto for this purpose. Deed of Settlement, Deed of Mandate (dated 5 December 2016) at 17.

¹⁵ Letter from Hon Christopher Finlayson (then-Minister for Treaty of Waitangi Negotiations) and Hon Te Uruoa Flavell (then-Te Minita Whanaketanga Māori) to R. Tiwha Bell (Chairman of MMTB) dated 14 December 2016. The letter did acknowledge, however, that there were "some differing views in the claimant community in regards to your mandate".

¹⁶ Deed of Settlement, cl 1.89.1.

¹⁷ Deed of Settlement, cl 1.89.2.

¹⁸ (21 September 2021) 762 NZPD 12314-12339.

¹⁹ Maniapoto Claims Settlement Act 2022, s 206.

²⁰ Maniapoto Claims Settlement Act 2022, s 208.

²¹ Te Nehenehenui Trust Deed (17 October 2021) at Preamble at (c) of the <https://tenehenehenui.iwi.nz/3d-flip-book/te-nehenehenui-trust-deed/>.

- (c) empower the mana of Maniapoto.
21. TNN is currently made up of 14 trustees:
- (a) seven Ngā Kura Tau trustees;²²
 - (b) six Ngā Kura Rere trustees who are elected by all adult registered members;²³ and
 - (c) one Te Kura Kaumātua trustee who is appointed by all trustees.²⁴
22. The trustees hold office for a term of three years and have a range of powers, including to receive or accept, or make any disposition of, any real property, including any interest of any type in real property.²⁵ This includes property that TNN can elect to be transferred to TNN under the Deed and Settlement Act, such as the former Tokanui Hospital.

Tokanui Hospital and the Deed

23. The former Tokanui Hospital site is included in the Deed and comprises four separate deferred selection properties (described as areas 1 to 4 in the property redress schedule to the Deed).²⁶ A deferred selection property is Crown-owned land provided as commercial redress in a deed of settlement that a governance entity may elect to purchase within a specified period.
24. Through the Deed, Maniapoto, TNN and the Crown agreed that:
- (a) each Tokanui Hospital deferred selection property requires certain demolition and remediation before it can be made available for TNN to purchase;²⁷
 - (b) a staged deferred selection process will apply to each Tokanui Hospital deferred selection property to allow for the Crown to carry out the required demolition and remediation works in stages prior to the deferred selection period in respect of each Tokanui Hospital deferred selection property commencing, as set out in part 9 of the property redress schedule;²⁸

²² Who are elected by the adult registered members who have selected Whare o Te Nehenehenui as their primary Whare o Te Nehenehenui for the purposes of Kura Tau elections on their iwi registration form. See clause 3.2(a) of the second schedule of the Te Nehenehenui Trust Deed (17 October 2021).

²³ Te Nehenehenui Trust Deed (17 October 2021) at sch 2, cl 3.2(b).

²⁴ Te Nehenehenui Trust Deed (17 October 2021) at sch 2, cl 3.2(c).

²⁵ Te Nehenehenui Trust Deed (17 October 2021) at sch 2, cl 2.6(a). The definition of 'property' in the Trust deed is: "*all property (whether real or personal) and includes choses in action, rights, interests and money*".

²⁶ Deed of Settlement, Property Redress Schedule at Part 4, Subpart C.

²⁷ Deed of Settlement, cl 6.14.1.

²⁸ Deed of Settlement, cl 6.14.2.

- (c) once the Crown has completed the required demolition and remediation works for each Tokanui Hospital deferred selection property, the deferred selection period will commence and TNN will have two years to elect to purchase each property;²⁹ and
- (d) if TNN elects to purchase a property, on the settlement date of the purchase, the Crown **must** transfer the property to the trustees of TNN and TNN must pay to the Crown an amount equal to the transfer value of the property.³⁰

25. The requirements of the Deed in relation to the Site, and the novel nature of the remediation works required, were addressed in opening submissions.³¹

AgResearch land and the Deed

26. To the south and east of the Site lies land owned and used by AgResearch for a dairy research farm (**Tokanui Farm**). The Deed addresses the Tokanui Farm, and the significance of the land on which it sits to Maniapoto,³² stating:

Ngāti Maniapoto and AgResearch (...) have been working together to establish an agreed valuation and conditions of a possible sale to determine the feasibility for the governance entity to purchase this farm. This is subject to the outcome of the section 40 Public Works Act 1981 offer back, if required, and AgResearch requirements for the timing of sale.

27. This land is relevant because part of the existing landfill associated with the former Tokanui Hospital (and the subject of the Landfill Application) is currently located on the AgResearch land. There are also archaeological and cultural sites located on the AgResearch land. These matters are addressed in more detail below and in the 30 October 2025 FTL memo from Dr Finnigan to Ms Emily Buckingham attached as **Appendix A**.

Legal position in relation to the future 'management' of the Site

28. During the Hearing, the mandate for TNN was questioned, with Submitters asserting it was Crown-created and had no basis in tikanga. Matters of tikanga in relation to mandates and settlements are not for LINZ to weigh in on (nor the Panel). However, as set out above, a claims settlement process

²⁹ Deed of Settlement, cl 6.14.2.

³⁰ Maniapoto Deed of Settlement, Property Redress Schedule at cl 5.4.1.

³¹ LINZ's opening legal submissions at [22]-[23].

³² Deed of Settlement, cls 1.75 and 1.76.

was undertaken between Maniapoto and the Crown, and as a result of that settlement TNN was established.

29. TNN has a clear mandate, voted on by iwi members, to receive the redress and that redress is set out in the Deed (and summarised above). That redress provides for the transfer to TNN, and required demolition works, but does not specify what the Site's future use will or may be. That is a matter for TNN to determine, and it is beyond what LINZ and the Panel (under the RMA) can (or should) be involved in. This appeared to be acknowledged by the Submitters at the Hearing.

Treaty settlements generally

30. Section 8 of the RMA requires the Panel to "*take into account*" the principles of the Treaty of Waitangi. One of the core Treaty principles is the principle of redress, which provides that the Crown has an obligation to provide redress for past breaches of the Treaty. As explained above, the Deed settled the historical Treaty of Waitangi claims of Maniapoto.

31. Treaty settlements are a mechanism to implement the principle of redress.³³ As stated in *Ngāti Whātua Ōrākei Trust v Attorney-General (No 4)*:³⁴

The context of Treaty settlements also directly invokes the duty to provide redress, and right to receive redress, for breaches of the Treaty. It is the primary reason for the Crown's Treaty settlement endeavours. And it may cut against aspects of the other duties. There may be circumstances in which the balance of Treaty considerations means the Crown has to make a decision in relation to Treaty settlements that is inconsistent with the tikanga of one iwi or another. (emphasis added)

32. Accordingly, LINZ submits that section 8, while not directive, is a very important consideration in this case given that the Applications are intended to give effect to a Treaty settlement.

Public Works Act (1908 and 1981)

33. During the Hearing the PWA / PWA 1908 was raised several times by submitters in relation to, in summary:

(a) the Site's historical acquisition under the PWA 1908;³⁵ and

³³ *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 (CA).

³⁴ *Ngāti Whātua Ōrākei Trust v Attorney-General (No 4)* [2022] NZHC 843; [2022] 3 NZLR 601 at [67].

³⁵ Oral submissions of Mr Thomson, Mr Nigel Ngahiwi and Mr Niketi Toataua.

- (b) PWA requirements for remediation of land when it is returned to Māori, including in relation to a rural use³⁶ and/or 'clean earth' standard.³⁷
34. As pointed out by the Panel Chair during the Hearing, matters relating to PWA / PWA 1908 and Deed processes are outside the scope of what can be determined in an RMA consenting hearing. In this case, there is a Deed, a PSGE (TNN) and an agreed (and legislated) process for demolishing and removing buildings and remediating land prior to offering it back to TNN for purchase. That is the context in which the Panel must operate.
35. Accordingly, while acknowledging the honestly held and very genuine views of the Submitters, and the mamae felt, matters relating to the PWA / PWA 1908 and Deed are not matters that can be lawfully resolved through an RMA process. The High Court has been clear that when considering a resource consent application the Court (or Panel) is *"not engaged at Part 2 of the RMA in a process of conferring, declaring or affirming tikanga-based rights, powers or authority per se whether in State law or tikanga Māori (...)* The jurisdiction to declare and affirm tikanga based rights in State law rests with the High Court and/or the Māori Land Court."³⁸
36. In this case, therefore, the Panel has no lawful ability to decline the Applications on the grounds of who the Site should return to.
37. That does not mean, of course, that cultural and tikanga effects are not relevant. RMA decision-makers must engage with *"tikanga Māori where necessary and relevant to the discharge of express statutory duties"*³⁹ and, as set out in opening submissions, the Panel will need to consider and weigh the evidence it has heard from the submitters on cultural matters in light of the RMA and planning framework and the relevant case law principles.⁴⁰

Implications of a 'decline'

38. At the Hearing, the outcome sought by the Submitters was clear and unanimous: *"a big fat no"* to granting the two Applications.⁴¹ The opposition appears to be driven primarily because of the historical acquisition of the land by the Crown and its subsequent return to TNN. Because the Project

³⁶ Oral submissions of Mr Thomson.

³⁷ Oral submissions of Mr Ngahiwi and Mr Sam Roa.

³⁸ *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd* [2020] NZHC 2768 at [67].

³⁹ *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd* [2020] NZHC 2768 at [68].

⁴⁰ LINZ's opening legal submissions at [83]-[84].

⁴¹ Noting there were different views expressed at the 14 October hui, as discussed below under *"Engagement"*.

enables that return, they cannot support it; doing so would amount to endorsing an outcome that they, and their descendants, could not accept.

39. LINZ recognises that this is not a straightforward matter for the Submitters to grapple with, especially when historical grievances and internal differences of opinion are at play. LINZ also acknowledges the *"conflict"* alluded to by TNN *"between cultural integrity and environmental risk. No option is without harm, but the harms differ in kind"*.⁴² However – and noting its stated deferral to 'mana whenua' on cultural effects – TNN went on to acknowledge *"the significant progress that has been made in terms of the cultural support proposed for the project"* and noted, *"we are satisfied that the measures proposed address our concerns, while acknowledging that this does not predetermine any final outcome."*⁴³
40. In contrast, at the Hearing Ms Yvonne Waho opposed the consents sought on the basis of the Site's acquisition under the PWA, the subsequent damage done to te taiao (including the awa, wetlands, puna, kokopu, koura and eels) and the mamae felt as a result of those actions and that damage.
41. However, a decline of the consents would fail to recognise and provide for, and would not have particular regard to, the specific matters she raised. The consents (including those sought in the Landfill Application as well as the Remediation Application) will enhance the future environment at the Site and significantly move the environment towards that sought by Ms Waho and the other Submitters.
42. Similarly, in expressing his opposition to the consents being granted Mr Nigel Ngahiwi presented an analogy of changing into dirty socks with moving soil/rubbish from part of the Site to another. That analogy would apply equally if soil/rubbish were shifted from the Site altogether and taken to another rohe (in Auckland), which is what would happen if the Project involved the full removal of all waste (including existing waste from the existing closed landfill) as some Submitters sought. In either scenario the problem (soil/rubbish) does not vanish, it is simply moved.
43. Mr Ngahiwi also did not confront the consequences of a decline of the consents. That is:

⁴² TNN submission to WRC at [8]; and TNN submission to WDC at [5].

⁴³ TNN statement of evidence at 1.

- (a) if the Landfill Application is declined, then the existing landfill (and the existing waste within it) remains but **without** the environmental benefits associated with the proposed upgrades; and
 - (b) if the Remediation Application is declined, then no remediation or removal will take place and the land will not be converted into a suitable state for the benefit of present and future generations.
44. These are issues the Panel questioned Ms Hayley Thomas (WDC's reporting officer) on during the Hearing. Ms Thomas confirmed her recommendation, as set out in her section 42A report, that the district consents sought through the Landfill Application be declined on the basis that cultural effects had not been sufficiently mitigated.
45. The Chair put it to Ms Thomas that, on the basis of what was heard from the mana whenua submitters at the Hearing, the mamae that exists is as much to do with the existing landfill (and the existing waste within) as it is to do with the Project.⁴⁴ Therefore declining the consents sought would not solve the problem, it would simply delay it for another day (until 2035, when the existing consents expire).
46. In the meantime LINZ would continue to be subject to its maintenance obligations under the existing consent conditions but would not be able to implement the upgrades proposed, and therefore the environmental and cultural benefits associated with those upgrades would not be realised. This is addressed further below and in Dr Finnigan's memorandum (**Appendix A**).
47. As set out in the Reporting Memorandum, LINZ's understanding is that Ms Thomas' view remains that the landfill upgrade consents should be declined.⁴⁵ LINZ strongly disagrees. Already, the engagement undertaken as part of this Project has required a significant amount of time and effort on the part of tangata whenua who (in spite of the views heard at the Hearing by a small number of Submitters) have expressed a desire to progress these works. LINZ does not anticipate these views fundamentally changing. WDC's approach of 'kicking the can down the road', while washing its hands of addressing the significant cultural effects raised by Ms Waho, is clearly contrary to sustainable management, relevant section 6, 7 and 8 requirements, the Ko Tā Maniapoto Mahere Taiao, Maniapoto Environmental

⁴⁴ LINZ would argue it is more to do with the existing landfill than the Project, on the basis of discussions with mana whenua outside of the Hearing, as discussed below.

⁴⁵ Reporting Memorandum at [13(a)].

Management Plan (**Maniapoto EMP**)⁴⁶ and case law.⁴⁷ Unfortunately, Ms Thomas failed to:

- (a) undertake a careful and detailed examination of what are the real issues; and
- (b) then unpack, test and address them, as necessary, under the RMA.⁴⁸

48. The Panel faces the same dilemma that TNN addressed in its submission.⁴⁹ The Submitters sought decline of the consents. But that outcome supports the status quo and leaves remaining the significant adverse cultural effects they raised (while also delaying the return of the Site under the Deed and the Settlement Act which is the driver of the opposition).

49. As Mr Matthew Bradley stated during questioning, this is now the third attempt to remediate the Site. Enough time and money have been spent; it is time to remediate the Site, deliver the significant benefits and enable the land to be purchased and transferred if TNN decide to do so.

50. In making its decision, the Panel must apply the RMA framework. It is obligated to recognise and provide for, and have regard to, the **relevant** cultural matters expressed above. It must also take into account the principles of the Treaty of Waitangi (the historical claim of Maniapoto is settled by the Deed⁵⁰). Having been told how significant the RMA effects are the Panel cannot wash its hands of the issues but must engage with them.⁵¹

51. In that vein:

- (a) the **technical evidence** is clear; the remediation and improved landfill will reduce existing adverse effects and enhance the environment; and
- (b) in relation to **cultural effects** (both physical and metaphysical):
 - (i) the Site's use and contamination has resulted in significant adverse cultural effects;

⁴⁶ Actions 24.2.2.1(i) and (j) of the Maniapoto EMP are to "undertake remedial work at closed landfill sites where leaching of contaminants is occurring, or could occur, to prevent contamination of groundwater, waterways, and coastal waters" and "ensure disposal facilities are designed and managed to ensure no leaching to or contamination of the environment".

⁴⁷ *Te Rūnanga o Ngāti Whātua v Auckland Council* [2024] NZHC 3794.

⁴⁸ *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38 [2014]; 1 NZLR 593; *Port Otago Limited v Environmental Defence Society Incorporated* [2023] NZSC 112 [2023]; 1 NZLR 205; and *Royal Forest and Bird Protection Society of New Zealand Incorporated v New Zealand Transport Agency* [2024] NZSC 26; [2024] 1 NZLR 241.

⁴⁹ TNN Submission to WRC at [5]; and TNN Submission to WDC at [5].

⁵⁰ Deed of Settlement, cl 4.3.

⁵¹ *Te Rūnanga o Ngāti Whātua v Auckland Council* [2024] NZHC 3794.

- (ii) tangata whenua have been involved in the preparation of the Phase 1 CMMP, and will be invited to participate in the updating of that CMMP (provided for in conditions);
 - (iii) LINZ has prepared, in consultation with tangata whenua, conditions that ensure they are given the opportunity to deliver cultural monitoring, karakia and other cultural protocols throughout the implementation of the Project (discussed further below); and
 - (iv) this approach will ensure that the cultural effects relevant to the RMA are appropriately addressed.
52. The Panel therefore may, and indeed it is submitted (given the issues in play, and to achieve the purpose of the RMA) **must**, grant the consents as sought by LINZ (subject to conditions).

Engagement

Concerns raised at the Hearing

53. At the Hearing mixed messages were received from Submitters on the engagement they felt they had received from LINZ throughout the Project's development and consenting process.
54. On the one hand, the involvement of TNN in the engagement process seemed to be a concern to some, with Mr Ngahiwi asking, "*why is TNN first?*" and expressing dissatisfaction about the representation on TNN, its "*rebranding so they could receive settlement*" and the lack of kōrero from TNN down to the hapū.
55. Other concerns raised related to the Hybrid Approach and the involvement of hapū in the scoring⁵² (discussed below), pressure received from LINZ during the sign-off of the Cultural Impact Assessment (**CIA**)⁵³, general concerns around the preparation of the CIA and a lack of endorsement by the wider Tokanaui Action Rōpu (**TAR**)⁵⁴ and concerns around the venue for Hui.⁵⁵
56. On the other hand, Mr Gordon Thomson also acknowledged several times, in a positive manner, the engagement and work undertaken by Mr Bradley and the LINZ team throughout the process, noting "*Matt and his team have bent*

⁵² Raised by Mr Toataua.

⁵³ Raised by Mr Roa.

⁵⁴ Raised by Mr Roa.

⁵⁵ Raised by Mr Ngahiwi and later (post-hearing) by Mr Roa in relation to the 14 October Hui.

over backwards to engage" and that LINZ is "the only one who brings anything to [the hapū] with truth."

57. LINZ has provided extensive information to the Panel on the engagement it has undertaken, which is not repeated here, however in light of the concerns shared during the Hearing there are several matters that LINZ would like to clarify and/or correct.
58. First, for completeness TNN's involvement in the process is set out above, and any matters of disagreement or communication between TNN and Maniapoto hapū are not for LINZ to weigh in on.
59. Second, Mr Samuel Roa asserted during the Hearing there was pressure from LINZ for the CIA to be signed off in order to meet deadlines, noting that Mr Kaawhia Muraahi was in hospital for the signing-off of the CIA.
60. There were deadlines that needed to be met to comply with the Deed's requirements.⁵⁶ However, the timeline for finalising the CIA (it was approved in December 2021) does not align with when Mr Muraahi was in hospital, which was during the engagement for waste disposal options in July 2023.⁵⁷ LINZ unequivocally rejects any suggestion that undue pressure was placed on members of TAR in the signing off of the CIA. More broadly, to the extent there is discord between TAR and the hapū that TAR represents/represented as to the preparation of the CIA, that is an internal iwi matter and not for LINZ to comment on (beyond the information already provided to the Panel in evidence), however it is noted that this matter arose at the October hui, during which members of TAR noted the *"robust review and approval process"* undertaken in preparing the CIA.⁵⁸
61. Finally, concerns around the venue for the various hui that have been held have been responded to via emails shared regarding the 14 October Hui (attached as **Appendix B**⁵⁹). As explained by Ms Kim Wepasnick to Mr Robert Te Huia⁶⁰, the library has been selected for hui *"as several hapū are involved in this mahi, and we've wanted to ensure we're not seen as*

⁵⁶ Maniapoto Deed of Settlement, Property Redress Schedule at cl 9.15.1 required the Crown to *"no later than two years following settlement date"* apply for *"all necessary consents required for the demolition and remediation works, and if relevant, the existing and/or new disposal sites"*.

⁵⁷ As shown in the 13 July 2023 email sent from Mr Bradley to mana whenua, including Mr Thomson, included in the collated documents attached as Appendix F.

⁵⁸ 14 October 2025 Hui minutes (Appendix C) at 4.

⁵⁹ Duplicative and irrelevant emails have been redacted.

⁶⁰ Director of TAR Block Ltd – Kaumatua/Ngāti Paretekawa who did not submit or attend the Hearing but did attend the 14 October Hui.

favouring engagement with one over another." Mr Te Huia accepted that response.⁶¹

14 October Hui

62. On 14 October 2025, LINZ convened a hui with mana whenua representatives invited.⁶² Two submitters (Mr Thomson and Mr Niketi Toataua) were in attendance, as well as a number of others who were notified of the Applications but did not make a submission.
63. As set out in the Reporting Memorandum, while the Hui did not result in any confirmed proposal for the cultural monitors or the CMMP, it was useful in:
- (a) reiterating (notwithstanding the messaging during the Hearing) that there is tangata whenua support for the Project (for example, Mr Thomson's statement that *"the demolition and remediation has to be done"* and asking LINZ *"how can we help?"*⁶³) and in particular that there is a general desire to stop talking, about the Project, taking up mana whenua time and actually start it;
 - (b) confirming 'next steps' and dates, in particular the reporting back to LINZ, by 14 November 2025, following hapū discussions on the appropriate entity to undertake cultural support on the Project; and
 - (c) sharing the draft cultural monitoring conditions and receiving initial feedback, which has been taken into account in the conditions.
64. The Hui minutes (including attendance), which have been circulated, are attached as **Appendix C**.
65. LINZ also acknowledges the email that was sent by Mr Roa to the Panel on 20 October 2025 and subsequently forwarded on. The matters raised in Mr Roa's email have been thoroughly canvassed already (including in these submissions); therefore, LINZ does not have anything further to add other than it looks forward to hearing from tangata whenua by 14 November regarding the entity that will be responsible for the Project's cultural support.

⁶¹ Appendix B at 5.

⁶² The invitation to that Hui was provided with the Reporting Memorandum.

⁶³ Appendix C at 3.

Cultural induction, karakia and cultural monitoring

66. As set out in the Reporting Memorandum, LINZ had hoped that the Hui would enable the CMMP to be updated and confirmed and the entity for undertaking cultural support works to be confirmed, which did not eventuate.
67. There is now an agreed process and timeframe for progressing that workstream, and in the meantime LINZ has proposed conditions that:
- (a) require LINZ to *"invite"* Ngāti Paretekawa, Ngāti Paia, Ngāti Ngutu and Ngāti Huiao (or representatives from those hapū in the case of the WDC consents) to:
 - (i) (for the WDC consents) nominate a representative/representatives to deliver a cultural induction and karakia and to review and recommend updates to the Phase 1 CMMP, following which there is a staged process for incorporating any responses received (or otherwise explaining why recommendations have not been incorporated);⁶⁴ and
 - (ii) (for the WRC consents) appoint up to four cultural monitor(s) to undertake cultural monitoring of any ground disturbance within the waahi tapu areas identified in the Waahi Tapu Investigation, removal of native trees over 4 metres in height, and works in Stream (with LINZ covering agreed costs);⁶⁵ and
 - (b) require *"any archaeological work [to] be undertaken in conformity with any tikanga Māori protocols agreed to by the consent holder and any appointed Cultural Monitors/Kaitiaki, so long as the legal requirements of [LINZ's Archaeological Authority] are met."*⁶⁶ Archaeological authority conditions are addressed further below.
68. These conditions have been carefully crafted to:
- (a) allow for ongoing tangata whenua discussions to take place over the next several weeks while at the same time allowing closing submissions to be filed and conditions to be confirmed (ie no specific entity or person is 'locked into' the conditions);

⁶⁴ Appendix D at conditions 8-11.

⁶⁵ Appendix E at schedule 1, condition 5.

⁶⁶ Appendix D at condition 14; and Appendix E at AUTH146952.01.01, condition 47, AUTH146952.06.01 at condition 39, and AUTH146952.07.01 at condition 18.

- (b) ensure there is a clear process for LINZ to follow in involving tangata whenua representatives, while at the same time enabling LINZ to comply with its consent conditions even if cultural monitors and/or updates to the CMMP are not confirmed by hapū (which is their prerogative); and
 - (c) ensure tangata whenua either are (or are given the opportunity to be⁶⁷) in 'the driving seat' in terms of the identification of any cultural effects that may arise and how these may be appropriately addressed.
69. LINZ's final set of proposed conditions, including WDC conditions 8-11 (CMMP) and 12-14 (archaeology and accidental discovery protocols), WRC Schedule One condition 4 (cultural monitoring) and WRC AUTH146952.01.01, condition 47 (archaeological works)⁶⁸, are set out in **Appendices D** (WDC conditions) and **E** (WRC conditions). These are also addressed below under "*Conditions*".

Hybrid Approach

- 70. During the Hearing Mr Toataua raised concerns with the use of the Hybrid Approach during the Project's development. His key concerns were that he did not get an opportunity to see the documents, he was not as involved in the process as he would have expected given the 'Mauri Model' used and was not involved in the scoring.
- 71. Commissioner Davies also commented on "*a disconnect between mana whenua sign off in MCA process and what we're hearing today*".
- 72. These matters are responded to in some detail below, supported by documentation (some of which is already before the Panel and some of which is appended to these closing submissions).
- 73. An important point of clarification, at the outset, is that LINZ did not use the Mauri Model for the Project. As Ms Wepasnick's evidence discusses,⁶⁹ a 'hybrid' process tailored to the Site was used which was based on generic MCA tools, UK frameworks and guidance, the Mauri Model and a range of Māori environmental assessment and performance indicator tools, and the assessment criteria provided to TNN and the Joint Ministers.⁷⁰

⁶⁷ Noting LINZ cannot compel a third party's involvement.

⁶⁸ and AUTH146952.06.01 at condition 39, AUTH146952.07.01 at condition 18.

⁶⁹ Ms Wepasnick evidence at [26(b)(ii)] and [67]-[79].

⁷⁰ Ms Wepasnick evidence at [73].

74. The Hybrid Approach used for the Project had components of the Mauri Model (such as how the scoring was applied) but included other criteria (eg social, economic and environmental) that were also scored.⁷¹
75. In response to Mr Toataua's comment that he could not see the reports, **Table 1** sets out the stakeholder engagement that was undertaken on the Horizontal Infrastructure Assessment (**HIA**), and Demolition Waste Disposal Options (the matters that were subject to Joint Ministerial decisions)⁷² and the contaminated land and all other reports. The emails and other documents relating to that engagement are collated and included as **Appendix F**.⁷³ LINZ were advised that communication would be dispersed or communicated to relevant parties within mana whenua groups.

Stakeholder	Report	Date
<i>HIA and Waste Disposal Options</i>		
TNN	HIA	6 June 2023 ⁷⁴
Robert Te Huia, John Halling & Maria Maniapoto (TAR Block Limited)	Disposal Options Assessment A3	23 June 2023 ⁷⁵
Gordon Thomson and June Elliot (Ngāti Paia)	Disposal Options Assessment A3	26 June 2023 (and follow up email of 29 June 2023) ⁷⁶
Robert Te Huia, John Halling & Maria Maniapoto (TAR Block Limited)	HIA	3 July 2023 ⁷⁷

⁷¹ Some of which remains commercially sensitive.

⁷² As set out in Table 4 of the HIA.

⁷³ Duplicate and irrelevant emails have been redacted.

⁷⁴ Appendix F at 1.

⁷⁵ Appendix F at 3.

⁷⁶ Appendix F at 2.

⁷⁷ Appendix F at 3.

Stakeholder	Report	Date
Gordon Thomson and June Elliot (Ngāti Paia)	HIA	3 July 2023 ⁷⁸
Gordon Thomson, June Elliot, Kaawhia Te Huia (from hospital), John Thomson	Disposal options & HIA	13 July 2023 ⁷⁹
Maria Maniapoto (TAR Block Limited)	HIA	13 July 2023 ⁸⁰
TNN	HIA – final scope confirmation	1 Aug 2023 ⁸¹
Public Hui	Project update planning	18 August 2023 (<i>email dated 1 August 2023 to Maria Maniapoto regarding the hui planning</i>) ⁸²
Contaminated land and all other reports		
Mana whenua (including Mr Toataua) invited to the Objective Connect workspace 'Tokanui Contaminated Land Investigations (shared) folder	Contaminated lands	7 December 2023 (<i>noting Mr Toataua previewed 2 of the 19 reports in the folder on 8 December and 14 December 2023</i>). ⁸³

⁷⁸ Appendix F at 5.

⁷⁹ Appendix F at 5.

⁸⁰ Appendix F at 7.

⁸¹ Appendix F at 9.

⁸² Appendix F at 8.

⁸³ Appendix F at 13-18.

Stakeholder	Report	Date
Public hui (Mr Toataua invited but not in attendance)	ROR report on contaminated soils	30 April 2024 (<i>see email dated 7 May 2024</i>) ⁸⁴
Public hui (Mr Toataua attended)	ROR report on contaminated soils	21 May 2024 (<i>see email dated 8 May 2024</i>) ⁸⁵
Website	LINZ website updated to include 21 reports proactively released under the Official Information Act	27 May 2024 ⁸⁶
Website	All reports previously on website replaced with the consent applications and other documents relating to the Project (~95 documents)	14 May 2025 ⁸⁷

Table 1: stakeholder engagement on reports

76. Section 5.1 of the Horizontal Infrastructure Report prepared by Fraser Thomas Limited (**FTL**)⁸⁸ includes a flowchart summarising the assessment process undertaken for the HIA.
77. The cultural criteria and indicators for scoring used in the options analysis for the Disposal Options Assessment⁸⁹, HIA, and Remedial Options Report⁹⁰ were taken from:
- (a) Table 5 (Cultural Impacts) in the CIA;⁹¹ and

⁸⁴ Appendix F at 10.

⁸⁵ Appendix F at 10.

⁸⁶ Appendix F at 19.

⁸⁷ [Reports and documents | Toitū Te Whenua - Land Information New Zealand](#)

⁸⁸ Appendix I to the Remediation Application.

⁸⁹ An excerpt of which is appended to Ms Wepasnick's evidence as Appendix KW1.

⁹⁰ Appendix K5 to the Remediation Application.

⁹¹ Appendix B1 to the Remediation Application at 49.

- (b) discussions and learnings from the cultural induction and the Waahi Tapu investigation.⁹²

78. The indicators were presented for comment at the 18 August 2023 hui along with the preliminary scores of the Disposal Options Assessment and the HIA.⁹³ Additionally, cultural 'constraints' were added as per the areas identified in the Waahi Tapu Investigation, which was finalised on 5 July 2023.
79. There was *"strong support of the hybrid MCA approach to the assessment of options"* voiced at the 21 May 2024 ROR-follow up hui.⁹⁴

Urupā on the Site

80. During the Hearing Mr Ngahiwi stated that *"the only thing that should remain [on the land] is the urupā"*, and that everything else – including buildings – must be removed. Setting the paradox between this statement and the implications of Mr Ngahiwi's *"big, fat no"* to the grant of consents aside, it is unclear which urupā Mr Ngahiwi was referring to.
81. The Assessment of Environmental Effects (**AEE**) for the Remediation Application (**Remediation AEE**) refers to *"an unidentified urupā within the hospital grounds"*⁹⁵ however the presence of this urupā was based on anecdotal discussions with mana whenua and LINZ has not found any conclusive evidence of the existence of an urupā within the Site's boundary. There are, however, several urupā located **near** the Site, as set out at section 3.2 of the Remediation AEE.
82. In any case, should evidence of an urupā be discovered during the Project's constructions or earthworks, LINZ will comply with the CMMP and archaeological discovery conditions which will ensure appropriate tikanga protocols are implemented.

Shifting soil from Pokuru to Tokanui

83. Mr Thomson raised concerns with shifting soil from the Pokuru 1B block (where the Site is located) to the Tokanui 1B1 block, noting *"we don't have a say there"* and that the Stream is significant as a boundary marker.

⁹² See *Waahi Tapu Investigation and Cultural Induction Summary* (June 2023) appended to the CIA (and Appendix F to the Iwi Engagement Report (Appendix D to the Remediation Application)).

⁹³ Appendix C.1 to the Iwi Engagement Report (Appendix D to the Remediation Application).

⁹⁴ Iwi Engagement Report at 36.

⁹⁵ Remediation AEE at [3.1.5] and [3.1.6].

84. LINZ understands the land to which Mr Thomson was referring is the land east of the Stream, being Tokanui 1B1 block (where the existing disposal site is located). The CIA was prepared in relation to the entire Site (including the Tokanui 1B1 block⁹⁶) and no other hapū with mana whenua links to that block were identified through the CIA process. Nor has there been any indication, up until Mr Thomson raised it at the Hearing, that there were any other hapū holding mana whenua status over the Tokanui 1B1 block.

OTHER MATTERS RAISED BY SUBMITTERS

85. In addition to the matters above, various other concerns were raised by the Submitters during (or after) the Hearing relating to the SSRS, soil testing, bat management, funding, and a number of discrete issues mentioned by Mr Thomson. These are responded to below.

SSRS and soil testing

86. Dr Finnigan gave evidence that:
- (a) currently *"the Site has a relatively small volume (considering the scale of the site) of identified soil contamination, classified as being low-moderate level"*,⁹⁷
 - (b) the majority of the soil proposed to be disposed of in the existing on-site landfill *"is in fact suitable for a wider range of land uses, including various rural residential and agricultural land uses"*, therefore *"encapsulating this material on-site is a cautious, conservative approach"*,⁹⁸
 - (c) the Project will enable the Site to be returned to land *"suitable for rural and rural residential activities"*,⁹⁹
 - (d) the SSRA undertaken by HAIL Environmental established remedial standards – in accordance with the Deed's requirements – defining a *"rural residential remediation standard" for 85% of the Site and "managed remediation standard" for no more than 15% of the Site"*,¹⁰⁰ and

⁹⁶ See, for example, Map 1: Tokanui Hospital Site, CIA at 20. This identifies the "Closed landfill" to the east of the Stream as sitting within the "Tokaui Hospital Site Boundary" shown in red.

⁹⁷ Dr Finnigan evidence at [89].

⁹⁸ Dr Finnigan evidence at [178].

⁹⁹ Dr Finnigan evidence at [3] and [9].

¹⁰⁰ Dr Finnigan evidence at [61] and Table 1 (Site-specific Soil Contaminant Remedial Standards).

- (e) **low level** contamination is defined as *"exceed[ing] the [SSRS] but not the Site-Specific Managed (SSM) Remedial Standard"* and **Moderate level** contamination is defined as *"exceed[ing] the SSM Standard"*.¹⁰¹

87. Mr Thomson raised concerns about the prospect of returning the land to a *"rural residential standard"* instead of a *"rural use standard"*.
88. As Dr Finnigan explained (in response to a question from the Panel), the proposed rural residential remediation standard requires a **lower** level of contamination to remain than would be required by the most stringent of the Ministry for the Environment (MfE) NES-CS guidelines.¹⁰² As explained by Dr Finnigan in his memo attached as **Appendix A**.¹⁰³

This means that the Site, post-remediation works, will be remediated to an appropriate – and the most stringent – standard, suitable for all rural land uses, even more stringent than the most conservative scenario (25% home grown produce consumption) under the current NESCS guidelines.

The rural residential land use 25% produce consumption guideline is also the most conservative NESCS land use scenario across all land uses. Complying with (and, in fact, going beyond) that guideline means that should the land zoning be changed in the future, to residential, recreational or commercial/industrial, the site will be suitable for these uses post-remediation works.

89. Dr Finnigan explained during the Hearing that the SSRS were determined by Dr Dave Bull having considered numbers from various different sources (including the NES-CS and another MfE database that factors in overseas guidelines). The Panel was told that Dr Bull *"picked the lowest number he could find."*
90. While this approach may increase Project costs, LINZ recognises that it better responds to cultural concerns raised in the CIA and by mana whenua submitters in opposition.
91. As described by the Chair during Mr Thomson's oral submission, *"A rural residential remediation standard is the gold standard, because it means there is food production going on on-site as well as people living there."*

¹⁰¹ Dr Finnigan evidence at [74].

¹⁰² Ministry for the Environment *Users' guide: National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health* (1 April 2012) at 84-85, Table B1.

¹⁰³ Appendix A at 10.

92. In response to Mr Ngahiwi's assertion that soil testing and the results *"don't go far enough"*, LINZ has undertaken extensive investigations across the Site as set out in the two Applications. The associated reports are available publicly on the LINZ website and the Councils' websites. This includes:
- (a) the Horizontal Infrastructure Report¹⁰⁴, detailing the HIA which included pavement test pits;¹⁰⁵
 - (b) the Coal Tar Investigation Report¹⁰⁶, which covers *"comprehensive additional road material sampling/lab testing investigations undertaken by FTL in May - July 2024"*;¹⁰⁷
 - (c) Contaminated Land Reports¹⁰⁸ which cover investigations, testing and sampling undertaken by Opus, AECOM, WSP, 4Sight, FTL and HAIL Environmental over the period 2015-2024;
 - (d) the Intrusive Investigation Report and PSI¹⁰⁹ which presented *"the results of a desktop study, site walkover, intrusive testpit and trench investigations, laboratory sampling and analysis, as well as a landfill construction/risk assessment"*;¹¹⁰
 - (e) archaeological assessments,¹¹¹ which involved visual inspections and soil auger tests.¹¹²

Bat Management Plan

93. Mr Toataua questioned the need for a BMP as, in his experience, these are often *"introduced to stop projects"*.
94. The Remediation AEE explains that a BMP has already been prepared for the Project due to the recorded presence of long-tailed bats on site¹¹³ and is primarily proposed to ensure compliance with the Wildlife Act 1953. The BMP prepared for the Project was provided to WRC as part of LINZ's response to a section 92 further information request.¹¹⁴ Accordingly LINZ

¹⁰⁴ Appendix I to the Remediation AEE.

¹⁰⁵ HIR at [6.1].

¹⁰⁶ Appendix J to the Remediation AEE.

¹⁰⁷ Executive summary, page i.

¹⁰⁸ Appendix K to the Remediation AEE.

¹⁰⁹ Appendix C to the Landfill AEE.

¹¹⁰ Appendix C.1 to the Landfill AEE at 3.

¹¹¹ Appendix H to the Landfill AEE.

¹¹² Appendix H1 to the Landfill AEE at 9.

¹¹³ Remediation AEE at [4.6.6].

¹¹⁴ WRC s92 response at 18.

proposes retaining WDC Condition 15 relating to the BMP on the basis the work has already been done.

Funding

95. Following the Hearing LINZ was forwarded an email sent from Ms Waho to the Panel regarding *"a government fund specifically established to support the remediation of legacy contaminated sites and vulnerable landfills"*.
96. As Ms Waho points out in her email, only councils may apply for that funding therefore it is not available to LINZ.
97. In addition, the fund Ms Waho refers to (the Contaminated Sites and Vulnerable Landfills fund (**CSVLF**)) does not cover *"projects that would be more appropriately funded by other funding sources, including government agencies"*.¹¹⁵ In the present case, the Crown is liable for the contamination and LINZ has allocated funding for the management of legacy contaminated sites where the Crown has accepted liability

Other matters raised by Gordon Thomson

98. A number of other matters were also raised by Mr Thomson at the Hearing, and LINZ's responses are as follows:
- (a) Mr Thomson stated he was not aware that works were proposed to Culverts 2 and 3 in the northwest corner of the Site and does not understand the basis for this, noting it is potentially a leachate site. The Culvert 2 and 3 works were raised at the site walkover on 1 July 2025 which Mr Thomson attended.¹¹⁶ Furthermore, as set out in the Landfill AEE, the culvert works will result in partial daylighting of the Stream which will:¹¹⁷
- (i) have positive effects on the water quality, ecology, and the overall amenity of Stream;
- (ii) allow for improvement to fish passage; and
- (iii) enable a better connection to an upstream section of the Stream, whilst maintaining important flood detention functions (importantly, eliminating the risk of Culvert 3 leaks or failure,

¹¹⁵ Ministry for the Environment *Contaminated Sites and Vulnerable Landfills Fund* (2 October 2025). [Contaminated Sites and Vulnerable Landfills Fund | Ministry for the Environment](#).

¹¹⁶ Appendix MB1 to Mr Bradley's evidence at 18-20 and 43.

¹¹⁷ Landfill AEE at [6.12].

which is currently the most significant long-term liability risk of the landfill);

- (b) The removal of Culvert 2 is also detailed in the Remediation AEE and, as set out in **Appendix A**.¹¹⁸

The removal of Culvert 2 will significantly lower flood levels adjacent to the landfill and restore approximately 30m of stream. This is considered important in relation to recent severe flooding events in NZ, increased awareness of climate change issues and associated predicted increases in rainfall, compared with when the landfill consents were granted in 2000.

- (c) Mr Thomson also stated he had not been aware of the proposal to take rubble from the road for reuse, however the precise nature of his concern was unclear; reusing material in this way was clearly signalled in the Remediation AEE¹¹⁹ and is a standard (and sustainable) construction method;
- (d) Mr Thomson referred to the Mokoroa Pā (nurse's home) as a significant place, a point which was also touched on by Mr Roa. This Pā is well known to LINZ, was identified in the archaeological assessment as one of the areas in respect of which archaeological monitoring is recommended¹²⁰ and falls within the area that will require archaeological monitoring under the WDC and WRC conditions (set out above). It was also one of the focus points of the Waahi Tapu Investigation and will therefore be subject to cultural monitoring in accordance with WDC Condition 8;
- (e) Mr Thomson queried the Project's truck movements, noting he is not familiar with the areas which are proposed to be used for depositing soil. As confirmed in **Appendix A**, *"Area A1 of the existing disposal site is to have landfill material from Area A2/H transferred into it as part of works relating to Culvert 3 and the new stream reclamation"*¹²¹; and
- (f) in terms of truck movements:
 - (i) traffic generation (including the use of trucks and trailers) associated with the Remediation Application is set out in the

¹¹⁸ Appendix A at 5.

¹¹⁹ Remediation AEE at [4.5.1].

¹²⁰ Remediation AEE at [3.1.6]; and Map 1 appended to Appendix F to the Remediation AEE (Archaeological Assessments / Authorities).

¹²¹ Appendix A at 12.

Remediation AEE at 4.6.4 and in the Integrated Traffic Assessment (ITA)¹²² which concluded:¹²³

The number of trips generated during decommissioning has been calculated to be in the order of 21 vehicles in the peak hour. The traffic volumes generated by the proposed demolition are within the carrying capacity of the surrounding road network and temporary. This is likely to be less than what was previously generated by the hospital. As such, no adverse effects are anticipated on the surrounding road network as a result of traffic generated by the proposed demolition. Overall, it is concluded that there are no traffic engineering or transport planning reasons to preclude approval of the proposed demolition;

(ii) in terms of the Landfill Application, the AEE found:¹²⁴

Should this Landfill Upgrade Application be granted, the traffic generation from the Remediation Application would significantly reduce. Most traffic movements required to transport materials to and from the landfill will be internal to the site as material is proposed to be moved between the hospital site and the landfill area;

(iii) **Appendix A** states:¹²⁵

If this material [that is proposed to be shifted to Area A1] was removed from Agresearch land and taken off-site for disposal to a Class 1 landfill, this would involve an estimated 25 truck and trailer loads, travelling to the nearest Class 1 facility being at Hampton Downs, some 96km away. This would have associated traffic and environmental impacts (e.g. noise, carbon dioxide and particulate emissions).

ARCHAEOLOGICAL AUTHORITY MATTERS

99. Mr Toataua and Ms Waho objected to the removal of the accidental discovery protocol condition. This was only removed in light of Archaeological Authority No 2025/381, which was granted after the Applications (and previous versions of conditions) were lodged. The intent was not to avoid any discovery processes, but rather to avoid duplication with the archaeological authority (as is standard practice) and enable a more efficient,

¹²² Appendix N to the Remediation AEE.

¹²³ ITA at 10 (conclusion).

¹²⁴ Landfill AEE at [4.6.3].

¹²⁵ Appendix A at 12.

streamlined process. However, conditions relating to archaeological discovery and works have been reinserted to aid certainty and provide comfort to Submitters.

100. LINZ currently holds the following archaeological authorities:

(a) Authority No 2024/018, expiring 14 August 2028;¹²⁶

(b) Authority No 2025/381, expiring 25 February 2030.¹²⁷

101. In **Appendix D**, LINZ proposes Conditions 12-14 regarding archaeological discovery. Condition 12 requires that all earthworks are undertaken in accordance with Archaeological Authority No 2025/381:

All earthworks that may affect any archaeological sites must be undertaken in accordance with Archaeological Authority No 2025/381 issued by Heritage New Zealand Pouhere Taonga on 25 February 2025, or any replacement Archaeological Authority

102. Condition 13 relates to the protocol for if any kōiwi (human remains) are encountered. Condition 14 requires, subject to the legal requirements of Archaeological Authority No 2025/381, that any archaeological work must be undertaken in conformity with any agreed tikanga Māori protocols.

103. These conditions have been agreed between Ms Buckingham and Ms Thomas.

104. The equivalent proposed conditions in **Appendix E** are set out above in footnote 66, however as noted in **Appendix E** WRC retains the view it had at the hearing and prefers its standard archaeological condition to LINZ's proposed archaeological discovery condition. WRC's standard condition requires WRC, Heritage New Zealand Pouhere Taonga (**HNZPT**) and local iwi to be notified when archaeological artefacts are discovered. Notably, it does not contain any cross-reference to Archaeological Authority No 2025/381.

105. LINZ maintains its position and prefers the approach set out above. Where an archaeological authority exists, case law indicates the authority takes precedence over RMA conditions in regard to archaeological matters.¹²⁸

¹²⁶ Appendix F to the Remediation AEE. This has now been effectively superseded by 2025/381.

¹²⁷ Appendix EB6 to Ms Buckingham's evidence.

¹²⁸ *Chief Executive of the Ministry of Agriculture and Forestry v Waikato Regional Council* (2006) EnvC Auckland A133/06, 17 October 2006; *Greymouth Petroleum Ltd v Heritage New Zealand Pouhere Taonga* [2016] NZEnvC 11; [2016] NZRMA 105; and *Te Ara Rangatu o Te Iwi o Ngati Te Ata Waiohū Inc v Attorney General of New*

LINZ has been mindful of the precedence of the archaeological authority when drafting these conditions and considers it is both unnecessary to duplicate requirements already covered by the authority and important to avoid any conflict between the conditions and the authority. In other words, the condition must speak to, or align with, the authority.

106. In any case, the Panel (and WRC) can be assured that any potential archaeological or cultural effects that may arise through the Project's archaeological discovery will be appropriately managed through:

- (a) the archaeological authority, which requires:
 - (i) HNZPT to be advised before on-site archaeological work commences and staff to be appropriately briefed;
 - (ii) monitoring of archaeological sites by an HNZPT-approved archaeologist (with a representative sample of archaeological evidence encountered to be investigated);
 - (iii) the authority to be exercised in accordance with the Site Instruction (2025) attached to the application;¹²⁹
 - (iv) where kōiwi are encountered, all work within 5 metres to cease and HNZPT, Police, TNN and Ngāti Paretekawa to be notified and to determine next steps;
 - (v) any archaeological work to be undertaken in conformity with any tikanga Māori protocols agreed between LINZ, TNN and Ngāti Paretekawa; and
 - (vi) post-works reporting to HNZPT; and
- (b) WDC Conditions 12-14 and the equivalent WRC conditions¹³⁰ which require:
 - (i) earthworks that may affect archaeological sites to be undertaken in accordance with Archaeological Authority No 2025/381 (or any replacement);

Zealand [2018] NZHC 2550. Further, in various cases conditions have specifically noted that they would no longer apply, and be superseded, by any works covered by an archaeological authority - see for example *Waka Kotahi NZ Transport Agency v Manawātū-Whanganui Regional Council* [2020] NZEnvC 192.

¹²⁹ Which may require a 'stop work' in the event significant material or a significant pā is encountered.

¹³⁰ Above n 66.

- (ii) the same kōiwi protocols as included in Archaeological Authority No 2025/381, expanded to include Ngāti Paia, Ngāti Ngutu and Ngāti Huiao; and
- (iii) that any archaeological work must be undertaken in conformity with any tikanga Māori protocols agreed to by the consent holder and any appointed Cultural Monitors/Kaitiaki, so long as the legal requirements of Archaeological Authority No 2025/381 (or any replacement Archaeological Authority) are met; and
- (c) WDC Condition 8(d), which includes "*Discovery protocols for taonga/artefacts and kōiwi*" as one of the categories for inclusion in the CMMP.

OTHER MATTERS RAISED BY THE PANEL

107. The Panel raised a number of technical matters throughout the Hearing, which LINZ (and Dr Finnigan) have considered and responded to below and in:

- (a) the memorandum from Sean Finnigan (FTL) to Emily Buckingham (SLR) dated 30 October 2025 titled "*Former Tokanui Hospital: Post-Hearing Responses*" (**Appendix A**); and
- (b) the updated drawing sets (**Appendix G** and **Appendix H**).

Assessment of existing consents

108. During the Panel's questioning of Dr Finnigan, a query was raised about the existing consents. **Table 2** sets out the existing consents related to the Site, which were provided to the Panel by Ms Buckingham during the Hearing via email.

Resource Consent	Relates to existing landfill?	Status	Description	Commenced	Expiry
AUTH102269.01.01	Yes	Current	Discharge leachate into land in circumstances that may	17/04/2000	10/03/2035

Resource Consent	Relates to existing landfill?	Status	Description	Commenced	Expiry
			result in contaminants entering groundwater		
AUTH102270.01.01	Yes	Current	Divert & discharge stormwater into the Wharekōrino Stream	17/04/2000	10/03/2035
AUTH102271.01.01	Yes	Current	Discharge contaminants to air	17/04/2000	10/03/2035
AUTH102272.01.01	Yes	Current	Undertake earthworks within 5 metres of the Wharekōrino Stream	17/04/2000	10/03/2035
AUTH971371.01.01	No	Current	Discharge stormwater to the Wharekōrino Stream	16/09/1997	1/09/2032

109. Dr Finnigan briefly comments on compliance in **Appendix A** as well in relation to condition 10 of AUTH102269.01.01, reiterating the point made in evidence¹³¹ that *"whilst some leachate seepage into the stream has been confirmed from regular monitoring, the boron levels in the stream are well within the [ANZECC] guideline (...) Hence, the remedial works required under condition 9 of the existing consent would have benefit but are not*

¹³¹ Dr Finnigan evidence at [68(b)].

considered necessary to comply with conservative stream receiving environment criteria."

Comparison of existing consents and proposed landfill works

110. The Panel requested an explanation of the works LINZ is required to do under its existing consents (in order to comply) alongside what is being proposed through the Landfill Application.
111. Section 3.0 of **Appendix A** sets out the comparison requested, together with commentary on the benefits of implementing the proposed upgrades (compared with simply complying with the existing consents). These benefits relate to:
- (a) **Capping:** lower impermeability and greater "productive soil" depth;
 - (b) **Ponding/settlement/subsidence:** reduced frequency and extent of future localised repair works as a result of capping;
 - (c) **Groundwater:** significantly reduced leachate generation and contaminant migration from landfill to stream;
 - (d) **Medical waste removal:** reduction in health and safety risks; removal of culturally offensive material off-site to an approved facility;
 - (e) **Culvert 3 works:** elimination of significant risk associated with 44 to 65-year-old current culvert (including leaky joints and pipe failure and associated risks to long-term human health and the environment);
 - (f) **Transfer of material from AgResearch land:** material will be transferred to an area for which LINZ has responsibility in perpetuity and then appropriately encapsulated and capped, reducing rainfall infiltration through them and hence leachate generation (that would ultimately discharge to the Stream), and minimising transport related emissions compared with off-site disposal;
 - (g) **Transfer of low-moderate contaminated material to northern disposal area:** material will be appropriately encapsulated and capped, reducing rainfall infiltration through them and hence leachate generation, and minimising transport related emissions compared with off-site disposal;

- (h) **Environmental monitoring:** minimal change to existing monitoring programme; potential/actual environmental effects will continue to be monitored; and
- (i) **Riparian planting:** new and expanded riparian planting will have amenity, aesthetic and environmental benefits.

Meaning of "generally not contaminated"

- 112. During the Hearing the Chair questioned Dr Finnigan on the meaning of "*generally not contaminated*" contained in Dr Finnigan's evidence at [64] and with reference to Figure 11.
- 113. Dr Finnigan responded to these questions during the Hearing, however has provided a more detailed response at section 4.0 of **Appendix A**.

SSRS versus NES-CS

- 114. The SSRS, and how they compare with the NES-CS, were raised during the Hearing both by the Chair (in questions to Dr Finnigan) and by Mr Thomson (in relation to the "*rural use standard*").
- 115. Dr Finnigan's explanation during the Hearing – expanded on in **Appendix A** – is set out above in these submissions.
- 116. The key points are that:¹³²
 - (a) the Site will be remediated to a **more stringent** standard than that required under the NES-CS Users' Guide¹³³ '25% produce consumption guideline' for rural residential land use (which itself is currently the most conservative NES-CS land use scenario), meaning it is suitable for all likely rural land uses; and
 - (b) this means that should the land zoning be changed in the future, to residential, recreational or commercial/industrial, the Site will be suitable for these uses post-remediation works.

Disposal of landfill extent on AgResearch land

- 117. Section 6.0 of **Appendix A** responds to Commissioner Cooke's queries about whether the fill material in the small area of land owned and operated

¹³² Appendix A at 10-11.

¹³³ Ministry for the Environment *Users' guide: National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health* (1 April 2012).

by AgResearch¹³⁴ should be transferred into Area A1 of the existing disposal site (ie within the Site boundary) or disposed of off-site, in light of PAH levels in this material.

118. In summary, Dr Finnigan considers:

- (a) the PAHs are present at low levels, and their presence and concentrations do not warrant this material being disposed of off-site to a Class 1 landfill;
- (b) the other fill proposed to be transferred (including construction and demolition waste) also do not warrant their disposal off-site to a Class 1 landfill based on the samples taken; and
- (c) relocating the material to within the Site boundary is appropriate because:
 - (i) if it remained on AgResearch land, LINZ would need to seek approval from AgResearch to extend the groundwater diversion trench into their land in order to avoid groundwater passing through this material, which would produce leachate that would ultimately discharge to the Stream;
 - (ii) it 'tidies up' the boundary anomaly and enables LINZ to retain responsibility for it (noting the material arose from the former hospital); and
 - (iii) there would be associated traffic (more truck movements), noise and emissions adverse effects if it were taken off-site to a Class A landfill (which as above, is not warranted).

Elevated zinc levels in the toilet block area

119. Dr Finnigan was also questioned during the Hearing on the zinc results for the toilet block, including how the sampling strategy was designed and how data was compiled. This is addressed in section 7.0 of **Appendix A**.

¹³⁴ As explained in Appendix A, this area was formerly used as part of the hospital disposal site due to a misalignment between the fence line and legal boundaries.

Updated plans and drawings

120. Finally, the Panel asked for updated plans clearly showing the new stream (approximately 105m downstream from the existing). Attached are updated versions of:

- (a) the Remedial Action Plan drawing set, with the bowling green¹³⁵ and toilet block¹³⁶ remedial works (described in the *"Additional Structures Memo"* (**Appendix SF1**)) added (**Appendix G**); and
- (b) the landfill drawing set (Issue set 7) which annotates the length of replacement Culvert 3 and the new stream section in response to Commissioner Cooke's comments (**Appendix H**).

CONDITIONS

121. As stated above, LINZ's final sets of recommended conditions are attached as **Appendix D** (WDC conditions) and **Appendix E** (WRC conditions). There is a considerable amount of alignment between LINZ and the two councils (indeed, full alignment with WDC) on conditions which has been the result of close engagement and productive discussions in the period since the Hearing was adjourned.
122. Where changes suggested by WDC, WRC or the Panel have been adopted by LINZ, those are incorporated in the appendices accordingly and are not addressed in these closing submissions (other than the key conditions at issue – relating to the CMMP, cultural monitoring and karakia, and archaeological works).
123. Where there is disagreement between LINZ and WRC, that is recorded in a comment bubble on the relevant condition with the parties' respective positions set out. As above, there is no remaining disagreement between WDC and LINZ on the appropriate conditions.

¹³⁵ Appendix G, Drawing 33097/R61, Rev A, at 61 (PDF page reference).

¹³⁶ Appendix G, Drawing 33097/R60, Rev A, at 60 (PDF page reference).

DATED this 31st day of October 2025

A handwritten signature in blue ink, appearing to read 'D. Allen', with a large, sweeping loop at the end.A handwritten signature in blue ink, appearing to read 'Esther Bennett', with a large, sweeping loop at the end.

David Allen / Esther Bennett

Counsel for Toitū Te Whenua Land
Information New Zealand
Buddle Findlay
(Applicant)

APPENDICES (PROVIDED SEPARATELY)

Appendix A – Memorandum from Sean Finnigan (FTL) to Emily Buckingham (SLR) dated 30 October 2025 titled *"Former Tokanui Hospital: Post-Hearing Responses"*

Appendix B – Collated emails regarding 16 October 2025 hui

Appendix C – Final hui minutes

Appendix D – Final proposed district conditions

Appendix E – Final proposed regional conditions

Appendix F – Collated emails on hybrid MCA process and reports engagement

Appendix G – Updated Remedial Action Plan drawing set

Appendix H – Updated landfill drawing set (Issue set 7)