

# Report / Decision on a Resource Consent Application

(Sections 95A, 95B and 104 / 104C)

Application number:	RMA/2024/2050
Applicant:	Ecogas Limited Partnership
Site address:	17 - 21 Aruhe Road
Legal description:	Lots 37 - 39 DP 572509
Zone:	Industrial Heavy
Overlays and map notations:	Christchurch International Airport Protection Surfaces, 220kV National Grid
Road classification:	Local
Activity status:	Restricted discretionary
Description of application:	Organics processing facility

## Proposed activity

Resource consent is sought to construct and operate an organics processing facility at 17 - 21 Aruhe Road. The proposal is described in detail in the application at Section 5 and Appendix 5. Section 5.1 sets out the key aspects and is reproduced below for ease of reference. Italics represent text taken verbatim from the application.

*The proposed development of the site includes:*

- *Site access from Aruhe Road;*
- *Weighbridge;*
- *A Processing Building to be utilised as the primary delivery location for incoming feedstock and for the pretreatment of feedstock;*
- *Biomass fuel building;*
- *External drive-through bays for delivery of liquid feedstock or load out of liquid biofertilizer;*
- *Anaerobic digestion ('AD') process infrastructure: 2x hydrolysis (inlet) tank, 4x digestion tanks, 2x liquid fertiliser (outlet) tank;*
- *Digestate treatment, screening and pasteurisation;*
- *Biogas treatment equipment and pipework;*
- *Enclosed gas flare;*
- *Combined heat and power ('CHP') biogas generator;*
- *Biogas boilers;*
- *Green organics chipping and processing;*
- *Green organics and digestate fibre dryer;*
- *Site office and amenities;*
- *Paved yard areas;*
- *Stormwater management;*
- *Raw stormwater tank; and*
- *A fire water tank.*

In addition, it is noted that at Sections 5.6 and 5.7 that:

- *The AD process for the Ōtautahi Christchurch facility is estimated to produce up to 1,800 Nm<sup>3</sup>/hour of biogas once fully realised and that the facility use the biogas to produce electricity to power the site with the excess sent to the national grid; and*
- *A biofilter will be used to treat the air collected within the processing building, biomass fuel building and the exhaust air from the fibre dryer to remove odorous contaminants prior to release into the surrounding environment. This is discussed more fully in the air discharge resource consent application which has been lodged with Environment Canterbury.*

Consent for discharges to air is being sought concurrently from the Canterbury Regional Council.

## Description of site and existing environment

The application site and surrounding environment are described in Section 4 of the application. I adopt the applicant's description and note the following additional points:

- The site is a listed HAIL site (E1 - Asbestos products manufacture or disposal); and
- There are a number of relevant underlying resource consents for this site, including RMA/2020/2032, RMA/2022/163, RMA/2022/2363 and RMA/2022/1172.

Activity status
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#### Christchurch District Plan

The site is zoned Industrial Heavy in the Christchurch District Plan. Resource consent is required as follows:

Activity status rule	Standard met	Reason	Matters of control or discretion	Notification clause
7.4.2.3 RD1	7.4.3.2	11 cycle parks are proposed where the standard is 27 parks.	7.4.4.3	No clause
7.4.2.3 RD1	7.4.3.10	The proposal is a high trip generator (with a floor area of 9279m <sup>2</sup> - where the standard at 7.4.3.10 is 5000m <sup>2</sup> and the standard at 7.4.4.18 is 10000m <sup>2</sup> ).	7.4.4.18 (1) - (4)	Shall not be limited or publicly notified.
8.9.2.3 RD1	8.9.2.1 P1	Earthworks of 22300m <sup>3</sup> are proposed where the standard is 1000m <sup>3</sup> /ha (on a 2.9ha site). Earthworks up to 0.88m are proposed (bund) where the standard is 0.6m.	8.9.4	Shall not be publicly notified.

For completeness I note that:

- Section 6.1 of the District Plan relates to noise. The application includes an assessment in that regard from Marshall Day Acoustics Limited. That finds the proposal compliant with the relevant standards. It has been reviewed by the Council's Environmental Health team who accept that assessment.
- Rule 8.9.2.1 P3 requires that earthworks between 6 and 12m from the foundations of a National Grid transmission line support structure not exceed 3m in depth. The application advises that earthworks would be compliant in this regard.
- Section 11 of the District Plan relates to utilities. While the proposal includes sending spare electricity to the National Grid, the facility is not considered a utility as defined in the Plan.
- Section 4 of the District Plan manages hazardous substances near the National Grid or in the Woolston Risk Management Area. The proposal is compliant in those regards. I would also note that rules refer to use and storage and disposal and not manufacture (which the proposal would be doing).
- With respect to 16.5.4.1.3 RD3, this non-compliance has already been consented via RMA/2022/163.
- The activity falls generally within the definition of *Industrial activity* in the Plan (below also), specifically with respect to the manufacture of biogas and/or processing of (waste) products. Product is not a term defined in the Plan. The Oxford English Dictionary defines product (relevantly) as *An object produced by a particular action or process; the result of mental or physical work or effort*. I would suggest that the primary purpose of the facility is to recycle waste products, with manufacture of biogas secondary, though remaining significant in terms of fuelling the plant. It is my view that recycling waste product is processing of product and also that biogas is a product that is being manufactured.

Aspects of the proposal also fall within the definition of *Heavy industrial activity* in the District Plan (see below), notably clauses (c), (k) and/or (j) which include storage of refuse and some dissolution or burning of waste product.

Both Heavy industrial activities and Industrial activities are permitted in the Industrial Heavy zone subject to built form standards in Section 16.5.2 and, because the site is within the South West Hornby Outline Development Plan area (ODP), Section 16.5.4.

With respect to the standards, and noting that built form standards in 16.5.4 override those in 16.5.2 where there is conflict:

- The site is not within 20m of a Residential zone, Rural zone, or Marshs Road, therefore, there is no maximum height limit;

- The site does not have a boundary with a Residential zone or a Rural zone, is not in Wigram and does not adjoin Lot 1 DP 64487 (187 Marshs Road). There are, therefore, no internal boundary setback, recession plane, or outdoor storage requirements.
- The site does not have a boundary with a Residential zone, Rural zone, Marshs Road and is not at 330 Springs Road. There is, therefore, no landscaping requirement.
- RMA/2022/2363 provided global consent within this ODP area for a 1.5m setback. This relates to Rule 16.5.4.2.2 which previously required a 20m setback.
- The site does not have a boundary with an Open Space or Specific Purpose zone and therefore there are no amenity screening requirements.
- With respect to Rule 16.5.4.1.1 P1, P3 and RD1, I am advised that construction of the required collector road (A) and minor arterial road (B) has commenced.
- While the site is within the 'rural wastewater irrigation area' on the ODP, the proposal is not for a rural activity and no irrigation of water from industrial processes is proposed.
- With respect to 16.5.4.1.3 RD6, while the proposal is ahead of the completion of Spine Road C, that road is not within the application site.
- The application does not take access directly from Marshs or Shands Roads and is not within the 'Area subject to wastewater discharge restrictions' in planning maps.

### Industrial activity

means the use of land and/or buildings for manufacturing, fabricating, processing, repairing, assembly, packaging, wholesaling or storage of products. It excludes high technology industrial activity, mining exploration, quarrying activity, aggregates-processing activity and heavy industrial activity.

### Heavy industrial activity

means:

- a. blood or offal treating; bone boiling or crushing; dag crushing; fellmongering; fish cleaning or curing; gut scraping and treating; and tallow melting;
- b. flax pulping; flock manufacture or teasing of textile materials for any purpose; and wood pulping;
- c. storage and disposal of sewage, septic tank sludge or refuse;
- d. slaughtering of animals; storage, drying or preserving of bones, hides, hoofs or skins; tanning; and wool scouring;
- e. the burning of waste oil in the open air or in any combustion processes involving fuel-burning equipment;
- f. any other processes involving fuel-burning equipment, which individually or in combination with other equipment, have a fuel-burning rate of up to 1000 kg/hr;
- g. the open burning of coated or covered metal cable or wire, including metal coated or covered with varnish, lacquers, plastic or rubber;
- h. any activity with the potential to discharge asbestos to air, including the removal or disposal of friable asbestos, except where it complies with the [Health and Safety in Employment \(Asbestos\) Regulations 1998](#) and is supervised and monitored by Occupational Safety and Health staff;
- i. burning out of the residual content of metal containers used for the transport or storage of chemicals;
- j. the burning of municipal, commercial or industrial wastes, whether by open fire or the use of incinerators for disposal of waste;
- k. any industrial wood pulp process in which wood or other cellulose material is cooked with chemical solutions to dissolve lining, and the associated processes of bleaching and chemical and by-product recovery; and
- l. crematoriums and embalming services.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES)

The application site has been identified as HAIL land therefore the NES applies. The application includes a Site Validation Report from Eliot Sinclair at Appendix 3. It finds that contaminants are (now) below the applicable standard in Regulation 7 and therefore the proposal is permitted. Council's Environmental Health team have accepted that assessment.

Written approvals [Sections 95D, 95E(3)(a) and 104(3)(a)(ii)]

No written approvals have been provided with the application.

NOTIFICATION ASSESSMENT

Adverse effects on the environment and affected persons [Sections 95A, 95B, 95E(3) and 95D]

As a restricted discretionary activity, assessment of the effects of this proposal is limited to the matters of discretion for the rules breached - specifically at Rules 7.4.4.3, 7.4.4.18(1) - (4) and 8.9.4.

## Transport

The proposal is not compliant with the Transport chapter of the District Plan as follows:

- 11 cycle parks are proposed where the standard is 27 parks.
- The proposal is a high trip generator (with a floor area of 9279m<sup>2</sup> - where the standard at 7.4.3.10 is 5000m<sup>2</sup> and the standard at 7.4.4.18 is 10000m<sup>2</sup>).

The relevant matters of discretion are at Rules 7.4.4.3 and 7.4.4.18 (1) - (4) respectively.

The application includes at Section 7.5.2 and Appendix 6. That has been reviewed by David McGonigal (Transport Network Planner with the Council). His advice, in summary, is:

- ...basic Integrated Transport Assessment was submitted in support of the application under Rule 7.4.2.3 (RD1) and this has been reviewed
- For the proposed development a total of 27 cycle parking spaces would be required, 9 spaces for visitors and 18 spaces for staff, however 11 cycle parking spaces are provided. This non-compliance is acceptable considering the rural location of the development and a significant proportion of the development GFA being storage tanks. Of the 11 bicycle parking spaces, 9 should be covered and available for staff with the remainder being for visitors.

I accept and rely on the above other note that the cycle parking is shown as covered on the plans. On that basis, I conclude that effects would be less than minor in this regard.

## Earthworks

The proposal is not compliant with the general earthworks provisions in Chapter 8 of the District Plan, as follows:

- Earthworks of 22300m<sup>3</sup> are proposed where the standard is 1000m<sup>3</sup>/ha (on a 2.9ha site).
- Earthworks up to 0.88m are proposed (bund) where the standard is 0.6m.

The relevant matters of discretion are at Rule 8.9.4, in particular at clauses (1), (3), and (6).

The application includes at Section 7.5.1 and Appendix 7. That has been reviewed by Jan Bochow (Engineer with the Council). Mr Bochow is of the view that the proposal is acceptable (with respect to stability and nuisance) subject to conditions.

The applicant has confirmed that earthworks are compliant with separation distances to electricity infrastructure.

Finally, while the bund would be elevated above existing ground level, it is not expected that that would be a space utilised regularly, materially reduced potential for overlooking. Adjoining sites are not particularly sensitive (as, for example, might be the case in residential neighbourhoods).

Given the above, I conclude that effects would be less than minor, subject to conditions.

## Other matters

The Council is in receipt of correspondence from an interested party. They are concerned that their operations may be compromised by the storage of methane and consequential risk of explosive impacts. The Plan, as set out above, does not provide scope for the Council to consider this issue or other issues besides the identified earthworks and transport non-compliances.

It is possible there may be wider public interest in the activity also and so I consider it appropriate to consider whether special circumstances arise pursuant to s95A(9). In addition to the limited scope available to the Council in this instance (as above), hazardous substances are managed via the Hazardous Substances and New Organisms Act and regulated by the authorities below (sourced from the Environmental Protection Agency website). Where the diagram shows Council's are the regulator, that refers to district councils. The proposed complies with the relevant District Plan rules and so can be considered to appropriately protect people and the environment in non-workplaces.

Activities must also comply with Health and Safety at Work (Hazardous Substances) Regulations 2017, the Gas Act 1992 and the Building Act 2004.

Given the above, I do not consider special circumstances exist.

	 Hazardous substance rules to PROTECT PEOPLE from WORKPLACE activities <small>SET UNDER HSW ACT</small>	 Hazardous substance DISPOSAL rules and rules to protect the ENVIRONMENT in WORKPLACES* <small>SET UNDER HSWO ACT</small>	 Hazardous substance rules for IMPORTERS, MANUFACTURERS and SUPPLIERS** <small>SET UNDER HSWO ACT</small>	 Hazardous substance rules to PROTECT PEOPLE and the ENVIRONMENT in NON-WORKPLACES <small>SET UNDER HSWO ACT</small>
Regulator	<b>WORKSAFE</b>	 Environmental Protection Authority Te Mana Rauhi Taiao	 Environmental Protection Authority Te Mana Rauhi Taiao	 Environmental Protection Authority Te Mana Rauhi Taiao
Enforced by	<b>WORKSAFE</b>	<b>WORKSAFE</b>	 Environmental Protection Authority Te Mana Rauhi Taiao	<b>COUNCILS***</b>

## Conclusion

Effects would be less than minor, subject to conditions. Those conditions have been agreed by the applicant.

### Notification tests [Sections 95A and 95B]

Sections 95A and 95B set out the steps that must be followed to determine whether public notification or limited notification of an application is required.

PUBLIC NOTIFICATION TESTS – Section 95A	
<i>Step 1: Mandatory notification – section 95A(3)</i>	
➤ Has the applicant requested that the application be publicly notified?	No
➤ Is public notification required under s95C (following a request for further information or commissioning of report)?	No
➤ Is the application made jointly with an application to exchange reserve land?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of these apply – section 95A(5)</i>	
➤ Does a rule or NES preclude public notification for all aspects of the application?	No
➤ Is the application a controlled activity?	No
➤ Is the application a boundary activity?	No
<i>Step 3: Notification required in certain circumstances if not precluded by Step 2 – section 95A(8)</i>	
➤ Does a rule or NES require public notification?	No
➤ Will the activity have, or is it likely to have, adverse effects on the environment that are more than minor (discussed above)?	No
<i>Step 4: Relevant to all applications that don't already require notification – section 95A(9)</i>	
➤ Do special circumstances exist that warrant the application being publicly notified?	No

In accordance with the provisions of section 95A, the application must not be publicly notified.

LIMITED NOTIFICATION TESTS – Section 95B	
<i>Step 1: Certain affected groups/persons must be notified – sections 95B(2) and (3)</i>	
➤ Are there any affected protected customary rights groups or customary marine title groups?	No
➤ If the activity will be on, adjacent to, or might affect land subject to a <a href="#">statutory acknowledgement</a> - is Te Rūnanga o Ngāi Tahu an affected person in this regard?	No
<i>Step 2: If not required by Step 1, notification is precluded if any of the following apply – section 95B(6)</i>	
➤ Does a rule or NES preclude limited notification for all aspects of the application?	No
➤ Is this a land use consent application for a controlled activity?	No
<i>Step 3: Notification of other persons if not precluded by Step 2 – sections 95B(7) and (8)</i>	

➤ Are there any affected persons under s95E, i.e. persons on whom the effects are minor or more than minor, and who have not given written approval (discussed above)?	No
<i>Step 4: Relevant to all applications – section 95B(10)</i>	
➤ Do special circumstances exist that warrant notification to any other persons not identified above?	No

In accordance with the provisions of section 95B, the application must not be limited notified.

Notification recommendation

That, for the reasons outlined above, the application be processed on a non-notified basis pursuant to sections 95A and 95B of the Resource Management Act 1991.

Reported and recommended by: Andrew Long, Senior Planner

Date: 19 September 2024

Notification decision

That the above recommendation be accepted for the reasons outlined in the report.

Commissioner:

Name: Nathan O’Connell

Signature: 

Date: 25 September 2024

SECTION 104 ASSESSMENT

Actual and potential effects on the environment [Section 104(1)(a)]

The adverse effects on the environment are assessed in the preceding section 95 discussion, and that assessment is equally applicable here. Overall, I consider that the effects on the environment are able to be mitigated through compliance with recommended conditions such that they will be acceptable.

Relevant objectives, policies, rules and other provisions of a Plan or proposed plan [Section 104(1)(b)(vi)]

Regard must be had to the relevant objectives and policies in the Christchurch District Plan. Chapters 7 (Transport) and 8 (Subdivision, development and earthworks) contain relevant objectives and policies. They seek, in particular:

- ❖ A safe and efficient transport network; and
- ❖ That people and property are protected during and after earthworks, including in relation to nuisance effects, land stability, and that key infrastructure is protected.

Having regard to the assessment of effects above, and in my opinion, the application is consistent with the relevant objectives and policies.

Relevant provisions of a National Environmental Standard, National Policy Statement, Regional Plan, Regional Policy Statement or Coastal Policy Statement [Section 104(1)(b)]

The National Environmental Standard for managing contaminants in soil to protect human health is relevant to this application and is discussed above.

The District Plan gives effect to the relevant higher order documents referred to in s104(1)(b), including the Regional Policy Statement and Regional Plans. As such, there is no need to specifically address them in this report.

## Part 2 of the Resource Management Act [Section 104(1)]

Taking guidance from the most recent case law<sup>1</sup>, the District Plan is considered to be the mechanism by which the purpose and principles of the Act are given effect to in the Christchurch District. It was competently prepared through an independent hearing and decision-making process in a manner that appropriately reflects the provisions of sections 5 - 8 of the Act. Accordingly, no further assessment against Part 2 is considered necessary.

## Section 104(3)(d) notification consideration

Section 104(3)(d) states that consent must not be granted if an application should have been notified and was not. No matters have arisen in the assessment of this application which would indicate that the application ought to have been notified.

## Section 104 Recommendation

That, for the above reasons, the application be granted pursuant to Sections 104, 104C, 108 and 108AA of the Resource Management Act 1991, subject to the following conditions:

1. The development shall proceed in accordance with the information submitted with the application, including the stamped approved plans entered into Council records as RMA/2024/2050.
2. All earthworks shall be carried out in accordance with a site specific Erosion and Sediment Control Plan (ESCP to be provided), prepared by a suitably qualified and experienced professional, which follows the best practice principles, techniques, inspections and monitoring for erosion and sediment control contained in Environment Canterbury's Erosion and Sediment Control Toolbox for Canterbury <http://esc Canterbury.co.nz/>. The ESCP must be held on site at all times and made available to the Council on request.
3. The consent holder must notify Christchurch City Council no less than three working days prior to works commencing, (via email to [rcmon@ccc.govt.nz](mailto:rcmon@ccc.govt.nz)) of the earthworks start date and the name and contact details of the site supervisor. The consent holder shall at this time also provide confirmation of the installation of ESCP measures as per the plan referred to in Condition + above.
4. Run-off must be controlled to prevent muddy water flowing, or earth slipping, onto neighbouring properties, legal road (including kerb and channel), or into a river, stream, drain or wetland. Sediment, earth or debris must not fall or collect on land beyond the site or enter the Council's stormwater system. All muddy water must be treated, using at a minimum the erosion and sediment control measures detailed in the site specific Erosion and Sediment Control Plan, prior to discharge to the Council's stormwater system. *Note: For the purpose of this condition muddy water is defined as water with a total suspended solid (TSS) content greater than 50mg/L.*
5. No earthworks shall commence until the ESCP has been implemented on site. The ESCP measures shall be maintained over the period of the construction phase, until the site is stabilised (i.e. no longer producing dust or water-borne sediment). The ESCP shall be improved if initial and/or standard measures are found to be inadequate. All disturbed surfaces shall be adequately topsoiled and vegetated or otherwise stabilised as soon as possible to limit sediment mobilisation.
6. Dust emissions shall be appropriately managed within the boundary of the property in compliance with the *Regional Air Plan*. Dust mitigation measures such as water carts, sprinklers or polymers shall be used on any exposed areas. The roads to and from the site, and the site entrance and exit, must remain tidy and free of dust and dirt at all times.
7. All loading and unloading of trucks with excavation or fill material shall be carried out within the subject site.
8. Any surplus or unsuitable material from the project works shall be removed from site and disposed at a facility authorised to receive such material.
9. Any public road, shared access, footpath, landscaped area or service structure that has been damaged, by the persons involved with the development or vehicles and machinery used in relation to the works under this consent, shall be reinstated as specified in the [Construction Standard Specifications](#) (CSS) at the expense of the consent holder and to the satisfaction of the Council.

<sup>1</sup> *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316



10. This development will require an alternative firefighting water source to ensure an adequate firefighting water supply. The developer must submit the reticulated fire water demand for the final design to [WaterCapacity@ccc.govt.nz](mailto:WaterCapacity@ccc.govt.nz) for review as part of the building consent process. Any modifications to the reticulated water demand identified by the Three Waters Unit must be incorporated into the final design.

#### Advice Notes

- This resource consent will lapse five years from the date it is issued unless it is given effect to (i.e. the activity is established) before then. Application may be made under Section 125 of the Resource Management Act 1991 to extend the period for giving effect to the resource consent, and this must be submitted prior to the consent lapsing.
- Monitoring will be carried out to ensure the conditions are complied with and that the development proceeds in accordance with the plans and details which were submitted with the application.

The Council will require payment of its administrative charges in relation to monitoring, under section 36 of the Resource Management Act 1991. The monitoring programme administration fee and initial inspection fee will be charged to the applicant with the consent processing costs. If more than one inspection, or additional monitoring activities (including those relating to non-compliance with conditions), are required, the additional time will be invoiced to the consent holder when the monitoring is carried out, at the applicable hourly rate. The current monitoring charges are outlined on the [Resource Management Fee Schedule](#).

- This resource consent has been processed under the Resource Management Act 1991 and relates to District planning matters only. You will also need to comply with the requirements of the Building Act 2004 and any other legislative requirements (including but not limited to Environment Canterbury Regional Plans, health licence, liquor licence, archaeological authority, certificate of title restrictions such as covenants, consent notices, encumbrances, right of way or easement restrictions, landowner approval where required).
- For more information about the building consent process please contact our Duty Building Consent Officer (phone 941 8999) or go to our website <https://ccc.govt.nz/consents-and-licences/>.
- If the proposal involves the construction or alteration of a vehicle crossing, a Vehicle Crossing Application to the Council's Transport Unit is required. Please refer to our webpage for more information: <https://ccc.govt.nz/transport/legal-road/vehiclecrossing>
- Please note that a development contribution may be required under the provisions of the CCC Development Contributions Policy applicable at the time of application. The Council requires Development Contributions to be paid prior to the issue of the Code Compliance Certificate for a building consent, commencement of a Resource Consent, the issue of a section 224 certificate for a subdivision consent, or authorisation of a service connection.
- Development contribution requirements are as defined in Council's Development Contributions Policy established under the Local Government Act 2002. Full details of the policy are available from our website at [www.ccc.govt.nz/consents-and-licences/development-contributions/](http://www.ccc.govt.nz/consents-and-licences/development-contributions/). If you have any queries in relation to this matter, please contact one of our Development Contribution Assessors on phone (03) 941 8999 or email [developmentcontributions@ccc.govt.nz](mailto:developmentcontributions@ccc.govt.nz).

Reported and recommended by: Andrew Long, Senior Planner

Date: 19 September 2024



Section 104 Decision

That the above recommendation be accepted for the reasons outlined in the report.

- I have viewed the application and plans.
- I have read the report and accept the conclusions and recommendation.

Commissioner:

Name: Nathan O'Connell

Signature: 

Date: 25 September 2024