

10 December 2021

Closure of Waikanae Transfer Station

I refer to your letter to the Office of the Ombudsman dated 23 August 2021. We understand that you were advised to seek Council comments on the matters set out in your letter and at that point, depending on the response you could take up any outstanding concerns with the Office of the Ombudsman.

Your concerns relate to:

(a) the decision by Council to close the Waikanae Transfer Station;

(b) the refusal by Council to accept a notice of motion relating to the closure of the transfer station to be considered at a meeting of the Waikanae Community Board at its meeting of 10 August 2021.

Council Decision to Close Waikanae Transfer Station

Adequacy of consultation

You consider that the Waikanae community was not adequately consulted on the decision to close the recycling centre and the decision was made with no recourse to any remedial action. The community was allowed no input into the decision.

You have also indicated that there was no separate public notification of this, local papers were silent on the issue and very few people actually knew about the proposal. You state that those participants who did know about the proposal were not in favour of it and the written submissions to the Long-term Plan were all against the closure.

We disagree that the Waikanae community was not adequately consulted on the decision. The proposal was addressed in the Council's Long-term Plan consultation document (refer page 69). There were two separate Council workshops held on the issue that were open to members of the public. During the Long-term Plan submission process Council received a significant number of submissions from ratepayers. Approximately 54 people responded specifically about the closing of the site, either through the actual questions that were asked in the consultation document or in another question that related to waste minimisation. As a result of community feedback Council was well aware that the decision to close the transfer station was controversial and not supported by all ratepayers.

You have also pointed out that Council attempted to justify the closure by stating that a survey was held, maintaining that as 64% of users had kerbside recycling, the provision of a recycling facility was inefficient and ineffective

Council notes that the survey that was carried out was only one mechanism for obtaining feedback on the proposal to close the transfer station.

You have also referred to section 97(2)(b) of the Local Government Act which requires that a consultation document be provided where a withdrawal of service occurs.

Section 97 only applies in relation to a decision to alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the local authority, including a decision to commence or cease any such activity.

Council does not regard the provision of recycling services at the Waikanae transfer station as a significant activity. On this basis Council was not required to undertake the additional requirements set out in section 93E.

Despite this, we note that Council did include the matter within its Long-term Plan consultation document and seek specific comments around the proposed reduction in service levels arising from the proposed closure of the Waikanae transfer station.

In our view there was considerable consultation on the proposal to close the Waikanae Transfer Station.

Council workshops on Waikanae Transfer Station

For the record we do not agree with the concerns you have raised regarding the Council workshop.

Council workshops are an important part of Council's governance arrangements and provide a forum for staff to present information to elected members outside of a Council meeting, to support the decision-making that occurs at Council meetings. For the avoidance of doubt, no resolutions or decisions are made at workshops; however, workshops provide a forum for elected members to discuss complex matters and elected members may provide staff with a "steer" or "direction" to facilitate Council business that occurs in Council meetings.

In the context of a Long-term Plan process, Council workshops are required in order that elected members can direct staff as to what particular options they would like costed up. This is important as there is a significant amount of time required to undertake the necessary financial modelling of the rates that are required to fund the activities set out in the Long-term Plan. In order to provide the necessary guidance to staff, the chair may use straw polls. These are not formal votes and do not bind Councillors. However, Councillors are aware that council staff only have limited capacity to model different options so there is some pressure to limit the number of options that are costed up. Standing orders do not apply to workshops and as such, your comment that the Chief Executive was seeking to override standing orders is incorrect.

The vote on the closure of the Waikanae Transfer Station took place at the Council meeting on 24 June.

Once the Long-term Plan was adopted and rates struck at the Council meeting on 24 June, Council must proceed in line with the Long-term Plan unless there is a conscious decision to depart from it.

11 July Public Meeting in Waikanae

We have no comments in relation to the public meeting that was held in Waikanae on 11 July 2021.

29 July Council Meeting

You note that at the 29 July Council meeting Cr Elliott attempted to move a notice of motion requesting that the recycling centre remain open until a review was completed. We do not have any records of that notice of motion but by that time the Mayor had directed staff to prepare a report about district wide recycling options.

10 August 2021 Waikanae Community Board Meeting

You refer to the 10 August 2021 Waikanae Community Board Meeting where Cr Prvanov attempted to move a notice of motion requesting that a "staff report is prepared for the Waikanae Community Board and KCDC Councillors within the next 2 months to cover the reasons for the closing of the Waikanae Recycling Facility, as well as outlining a plan to provide a viable alternative recycling facility in Waikanae in the near future".

This notice of motion was rejected on the basis that the community board was not the appropriate forum for considering matters relating to the transfer station. The decision to close the transfer station was a matter for Council (falling within its delegations and not the delegations of the Waikanae Community Board) and had been the subject of considerable discussion at Council.

In relation to the specific request within the notice of motion, the Waikanae Community Board do not have the delegation to request that Council staff prepare a report nor request a plan relating to the alternatives to the closure of the Waikanae Recycling Centre.

In response to her request Cr Prvanov was also advised that the Mayor had requested a report to look at rural recycling options, across the district. She was advised that this was part of the recommendations from the waste task force and is being addressed.

We do not accept that the Chief Executive was seeking to ignore or deny representation by avoiding community requests. Notices of motion provide an important avenue for representation at Council's committees and boards; however, consideration must also be given to delegations and other matters set out in the governance structure and standing orders to ensure the effective conduct of Council business.

Council's view is that there was extensive consultation on the closure of the Waikanae Transfer Station and consideration given to the views of residents across the district. While the proposed closure was not supported by a number of Waikanae residents, ultimately Councillors voted in favour of the closure of the transfer station when they adopted the Long-term Plan.

Council Vote to Close Transfer Station

You claim that there has not been a vote to close the recycling station in a full Council meeting.

This is incorrect. The proposal to close the transfer station was voted on when Council adopted the Long-term Plan.

We trust this response addresses the matters you have raised.

Yours sincerely

A handwritten signature in blue ink, consisting of a series of connected, somewhat irregular loops and peaks, resembling a stylized 'T' followed by a series of 'm'-like shapes.

Tim Power
Chief Legal Advisor