

**Submission Form 16 to the Otago Regional Council on consent applications**

This is a Submission on (a) limited notified/publicly notified resource consent application/s pursuant to the Resource Management Act 1991.

**Submitter Details:**

*(please print clearly)*

Full Name/s: Ōtokia Creek and Marsh Habitat Trust

Postal Address: 25 Bath Street, Brighton, Dunedin

Post Code: 9035

Phone number: Business:

Private:

Mobile:

Email address:

We wish to **OPPOSE** the application of:

Applicant's Name: Dunedin City Council

And/or

Organisation:

Application Number: RM20.280

Location: Smooth Hill Brighton

Purpose: Landfill

The specific parts of the application/s that my submission relates to are: *(Give details)*

- Discharge of water and contaminants from an attenuation basin and sediment retention ponds for the purpose of construction and operation of a Class 1 Landfill.
- Water permit to divert surface water within Ōtokia Creek catchment for the purpose of the construction of a Class 1 landfill, and to dam water within an attenuation basin.
- Land use consent to alter, reclaim and place structures on the bed of waterbodies and wetlands for road alignment works.

Our submission is *(include: whether you support or oppose the application or specific parts of it, whether you are neutral regarding the application or specific parts of it and the reasons for your views)*.

The Ōtokia Creek and Marsh Habitat Trust has been set up in 2020 to protect and restore the mauri of the Ōtokia catchment for the use and well-being of the Brighton community. We received funding from the ORC's EcoFund, and have planted over 2,000 native trees along the Ōtokia Creek and Marsh, have engaged with local school, built a small nursery and cut tracks to provide access to the Creek for walking, nature viewing and education (see <https://www.facebook.com/Otokiatrust>). A tributary of the Ōtokia Creek starts at the proposed landfill at Smooth Hill and flows into the Creek,

which meanders through a regional significant wetland (see ORC classification of the Lower Ōtokia Creek Marsh) and ends in the Surf Life Saving Brighton Beach. We, the trustees and members of the Ōtokia Trust, are **deeply concerned** about the DCC's application for a Class 1 Landfill in a network of wetlands at the headwaters of the Ōtokia Creek. In particular, we are concerned about the following:

- The **ecological effects are underestimated**. We are concerned that the effects of wetland reclamation are underestimated, especially the claim that 'no net loss' in biodiversity level will be achieved (see p. 64 ORC Notification Report). We are also concerned about the effect on threatened lizard and falcon populations. Aotearoa New Zealand has lost over 90% of its wetlands and the National Policy Statement for Freshwater Management (NPSFM) has been enacted to protect the remaining wetlands. Biodiversity is also declining and the Proposed Otago Regional Policy Statement points out that freshwater, including rivers, streams, lakes, groundwater systems and wetlands are a finite resource, which are critical to the environment, society and the economy (p. 74). The DCC's landfill application flies in the face of all national and regional efforts to protect our water ecosystems.
- We are **critical** of the **EIANZ** approach of assigning levels of effects in the DCC's Ecological Impact Assessment and do not believe they adequately capture the impact of the proposed wetland on the native fauna and flora.
- Recently, the Trust conducted **eDNA** sampling above the head of the Ōtokia Marsh to get a picture of the diversity of aquatic life present in the flowing creek. It confirmed a rich assemblage of native aquatic life, which will be negatively affected by leachate, even at low levels. See following two links for information held by the EPA:

<https://s3.ap-southeast-2.amazonaws.com/wilderlab.openwaters/reports/52667ae99eda08e9.html>

<https://www.epa.govt.nz/community-involvement/open-waters-aotearoa/newsletter/feature-2/?fbclid=IwAR3-4njGITKjn6dPDgs0l4LF3l0PV5pe6m43Qra0UkoC8typa0su9V8ifhl>

- The risk of leachate is inadequately assessed due to the **lack of long-term water monitoring**: The DCC's assessment on a flooding's impact on surface water flows is entirely based on a **single assessment** in July 2020 (p. 24; Appendix 9 – Surface Water Assessment Report). Our own long-term monitoring shows there have been 11 major flooding events of the 1% return period or greater in the last 8 years. Also, according to our data the amount of flood water that the landfill area contributes to the overall flood flow is around 20%, not the 1.6 % stated in the application document (data available on request).
- The **risk of leachate** is inadequately assessed due to the failure to account for **climate change**, fault lines and the effects of **persistent organic pollutants**.
- Climate change will lead to more frequent flooding and adverse weather events, the effects of which are ignored in the application. In 2022, a law will come into effect that requires the financial sector to disclose the impacts of climate change on their business and explain how they will manage climate-related risks [**Financial Sector (Climate-related Disclosure and Other Matters) Amendment Bill**]. The DCC fails to adopt good practice by declaring the climate risk for the proposed landfill.
- The DCC fails to adequately identify all fault lines relevant to the area of the proposed landfill (such as the Akatore fault line) (p.8 Appendix 6, Geotechnical Factual Report). These may significantly impact on the probability of a high-risk leachate event.
- Finally, the DCC fails to declare the long-term effects of persistent organic pollutants, which **NEVER** degrade and which will eventually enter the waterways long after the landfill's lifespan.

- We are deeply concerned about the **inter-generational legacy** of pollution that the proposed landfill will have, as well as the effect on the **intrinsic value and health** of the Ōtokia Creek
- Finally, the DCC's application does not consider the **social impact** on the Brighton community. Irrespective of whether leaching occurs or not, the **perceived risk** of leachate will have a huge impact on the well-being and recreational activities of the Brighton community. The Treasury's guide to cost-benefit analysis states that "...a cost benefit analysis that the Government is interested must identify all the economic (including social and environmental) impacts of decisions on people, whether or not they can be quantified" (our emphasis added) (The Treasury's Guide to Social Cost Benefit Analysis, p.3). The DCC's application fails to follow this best practice by ignoring the social impacts on the Brighton community.

We seek the following decision from the consent authority (*give precise details, including the general nature of any conditions sought*)

**Decline** a consent to operate a Class 1 landfill in the streambed of a tributary of Ōtokia Creek.

We:

- Wish to be heard in support of our/my submission**  
 ~~Not wish to be heard in support of our/my submission~~

If others make a similar submission, I/we will consider presenting a joint case with them at a hearing.

- ~~Yes~~  
 **No**

I **am not** a trade competitor\* of the applicant (for the purposes of Section 308B of the Resource Management Act 1991).

I, **am** directly affected by an effect as a result of the proposed activity in the application that:

- a) adversely affects the environment; and
- b) does not relate to trade competition or the effects of trade competition.

I, **do** wish to be involved in any pre-hearing meeting that may be held for this application.

I **do** request\* that the local authority delegates its functions, powers, and duties to hear and decide the application to 1 or more hearings commissioners who are not members of the local authority.

I **have not** served a copy of my submission on the applicant.

*Simon Laing* (Chairperson)

*Matthew York* (Secretary)

*Viktoria Kahui* (Treasurer)

*Andy Hutcheon* (Trustee)

*Claire Mauger* (Trustee)

14 November 2021

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**Signature/s of submitter/s**

*(or person authorised to sign on behalf of submitter/s)*

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(Date)

### **Notes to the submitter**

If you are making a submission to the Environmental Protection Authority, you should use [form 16B](#).

The closing date for serving submissions on the consent authority is the 20th working day after the date on which public or limited notification is given. If the application is subject to limited notification, the consent authority may adopt an earlier closing date for submissions once the consent authority receives responses from all affected persons.

You must serve a copy of your submission on the applicant as soon as is reasonably practicable after you have served your submission on the consent authority.

**Privacy:** Please note that submissions are public. Your name and submission will be included in papers that are available to the media and the public, including publication on the Council website. Your submission will only be used for the purpose of the notified resource consent process

If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in [Part 11A](#) of the Resource Management Act 1991.

If you make a request under [section 100A](#) of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

You may not make a request under section 100A of the Resource Management Act 1991 in relation to an application for a coastal permit to carry out an activity that a regional coastal plan describes as a restricted coastal activity.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

The address for service for the Consent Authority is:

**Otago Regional Council, Private Bag 1954, Dunedin, 9054**  
or by email to [submissions@orc.govt.nz](mailto:submissions@orc.govt.nz)