



20. 11. 2003

**CLEANFILL BYLAW LICENSING SUBCOMMITTEE
9, 10 AND 30 OCTOBER 2003**

**A meeting of the Cleanfill Bylaw Licensing Subcommittee
was held on Thursday 9 October 2003 at 9am and was reconvened at
9.30am on Friday 10 October 2003 and Thursday 30 October 2003 at 1pm.**

PRESENT: Councillor Denis O'Rourke (Chairman) and
Councillors Sally Buck and Barry Corbett.

The Subcommittee reports that:

PART A - MATTERS REQUIRING A COUNCIL DECISION

1. CLEANFILL LICENSING BYLAW

The purpose of this report is to advise the recommendations of the Cleanfill Bylaw Licensing Subcommittee regarding the adoption of the new Cleanfill Licensing Bylaw.

BACKGROUND

In April 2003 the Council adopted the Solid and Hazardous Waste Management Plan 2003 which contains ambitious targets for achieving its Goal and Vision. The Vision states:

"That the whole community will manage solid waste in ways that:

- *Avoid irreversible damage to the physical environment,*
- *Minimise the adverse effects of solid waste management generally,*
- *Use waste as a resource,*

with a Goal of Zero residual disposal of solid waste."

The waste management plan also identifies various targets, including a cleanfill disposal target:

"To promote that only inert material is disposed of in cleanfills around Christchurch in accordance with Ministry for the Environment guidelines." In addition the plan also identifies a strategy to licence cleanfill sites.

The bylaw proposed in this report is therefore the conclusion of a process flowing from the Waste Management Plan, which in turn is a requirement under the Local Government Act 1974.

Following the adoption of the Waste Management Plan in April 2003, the Council took the first step towards the making of a proposed new cleanfill licensing bylaw when it resolved on 24 July 2003:

"That the Council resolve that it has determined that, as is required in terms of Section 155 of the Local Government Act 2002, a bylaw is the most appropriate way to address the issues of;

1. (a) *Resource recovery of materials from cleanfill sites, and*
(b) *Levying a waste minimisation contribution on materials disposed of at cleanfill sites.*
2. *That a further report be submitted in August 2003 to the Council outlining final details of the bylaw and the process for implementing it."*

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On 28 August the Council took the second step towards making the bylaw when it resolved:

- "1. That the attached Statement of Proposal (Draft Christchurch City Cleanfill Licensing Bylaw 2003) be publicly notified and be subject to the Local Government Act 2002 special consultative procedure with public submissions to be made between 30 August 2003 and 1 October 2003, as set out in the report and that submissions be considered/heard by a Subcommittee on 9 October 2003.*
- 2. That a Subcommittee consisting of the Chairman, Councillor Denis O'Rourke and Councillors Sally Buck and Barry Corbett be appointed to hear and consider all submissions and report its recommendations direct to the 23 October 2003 Council meeting."*

The present report is the third and final step in the legal process for making the new bylaw.

CONSULTATION PROCESS

As reported in the August 2003 report, early discussions were held with cleanfill site owners before the legal bylaw making process started. The formal request for written submissions resulted in more than a hundred submissions being received. Submitters were invited to discuss their submissions with the hearing panel (Councillors Buck, Corbett and O'Rourke) on 9 October 2003. Attachment A is a summary of, and commentary on, the main points raised by submitters.

The hearings panel met on 10 October 2003 to discuss all the submissions and in response to various submissions a number of substantial changes were recommended by the panel and it decided to circulate the amended proposed bylaw to submitters who attended the hearing for any additional comments before reporting to the Council. A further meeting of the panel was therefore held on 30 October 2003 to discuss the additional comments received. The attached bylaw contains the final recommendations of the panel to the Council.

The hearings were good natured and constructive with many helpful suggestions from submitters. These were valuable to the panel in formulating the changes contained in the attached bylaw.

The hearings panel also considered that in order to reduce compliance and monitoring requirements for licence holders, the option of working together with Environment Canterbury in this regard be further explored as they are already undertaking monitoring of cleanfill sites for Resource Management Act consent compliance purposes. A report on this issue will be submitted to the February 2004 meeting of the Council. At the February meeting a further report will be tabled dealing with any required delegations flowing from the bylaw.

THE PROPOSED NEW CLEANFILL LICENSING BYLAW

The proposed bylaw is attached as Attachment B and it is recommended that it come into effect on 1 March 2004. It requires all sites receiving cleanfill for disposal to be licensed by the Council, and conditions of the licence include certain requirements including:

- Payment of a proposed \$9 per cubic metre levy on specified construction and demolition materials (including materials from roading works).
- Natural hardfill materials excluded from the bylaw.
- Cleanfill operators to receive levies on behalf of the Council.
- Cleanfill operators to collate data for the Council on volumes, source, composition.
- Site operators to be paid for performing these services.
- Operative from 1 March 2004.

As required under the Local Government Act 2002, enquiries have been made to ascertain if there are any implications arising under the New Zealand Bill of Rights Act 1990 as a result of making the bylaw. The Council's solicitors, Buddle Findlay, have confirmed that no such implications arise.

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OTHER OUTCOMES FROM THE SUBMISSIONS PROCESS

During consideration of the submissions it was pointed out by various submitters that the Council itself should take steps to improve its own performance. The panel therefore recommends that those Units with responsibility for infrastructural asset management be requested to incorporate waste minimisation objectives into their triple bottom line reporting and that City Streets Unit in particular set targets for waste minimisation and resource recovery for materials utilised in road construction and maintenance.

Given that only 20% of the volume of material excavated from local quarries presently returns as cleanfill the panel recommends that the Environment Services Unit be requested to report on the current quarry rehabilitation requirements and other related issues of the City Plan.

In November 2002 the Council resolved to establish a separate Waste Minimisation Fund for the Council as from 1 June 2004. All levies collected from waste going to landfill and cleanfills will be held in this fund. It would be an added incentive for the waste material recovery industry if the fund is potentially available to fund innovative new proposals for recovery of materials, over and above use of the fund by the Council itself. It is therefore recommended that a report be prepared by the City Water and Waste Unit with a proposal on this principle and how it could operate, including bidding for funding from agencies and operators outside of the Council.

If the recommendations below are adopted, a workshop with cleanfill site operators will be held to address implementation arrangements for the bylaw.

PREPARATIONS FOR THE LICENSING PROCESS

Cleanfill site owners will incur costs in performing data and levy collection services on behalf of the Council as acknowledged in the draft bylaw. It is recommended therefore that site operators be paid for these services, and pending adoption of this bylaw, a process will commence whereby an independent financial consultant will be contracted to determine (after consulting with site owners) a fair payment proposal for consideration by the Council in February 2004. Funding from approved budgets is available for the setting up of systems for auditing records and enforcement of the bylaw.

SUMMARY

The attached Cleanfill Licensing Bylaw is an innovative step forward in addressing resource recovery from cleanfill sites and providing additional funding for waste minimisation initiatives. All legal requirements to make this bylaw have been completed and it is recommended that the Council make the bylaw, to come into effect on 1 March 2004.

Subcommittee

- Recommendations:**
- 1 That the Council resolves that it has now determined, as required by section 155(2) of the Local Government Act 2002, that the bylaw attached as Attachment B:
 - (a) Is the most appropriate form of bylaw to address the issues of resource recovery from cleanfill sites and the levying of waste minimisation contributions on material disposed of at cleanfill sites, and
 - (b) Does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
 2. That the Council resolves that the bylaw attached as Attachment B, being the Christchurch City Council Cleanfill Licensing Bylaw 2003, now be made and that the seal of the Council be affixed to the bylaw as appropriate.

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3. That those Units with responsibility for infrastructural asset management incorporate waste minimisation objectives into their triple bottom line reporting and that City Streets Unit in particular sets targets for waste minimisation and the resource recovery for materials utilised in road construction and maintenance.
4. That the Environment Services Unit be requested to report on the City Plan requirements on quarry rehabilitation including reviewing the site rehabilitation requirements.
5. That the City Water and Waste Unit be requested to report on proposals for the operation of the Waste Minimisation Fund.

The meeting concluded at 2.35pm.

CONSIDERED THIS 20TH DAY OF NOVEMBER 2003

MAYOR