

2. INTERPRETATION OF COUNCIL WASTER-PAYS RESOLUTIONS

Officer responsible
Director of Legal & Secretariat Services

Author
Peter Mitchell, DDI 941-8549

The purpose of this report is to assist the Council regarding the interpretation of various resolutions it has passed in relation to the proposed introduction of waster-pays with regard to the supply of black rubbish bags, and in particular with reference to the resolution passed by the Council at its Annual Plan meeting on 15 July 2003.

I understand there is some difference of view amongst elected members as to the meaning of that 15 July 2003 resolution and whether or not the Council has already resolved to move to zero bags in 2004/05, 2005/06 and thereafter. This report is intended to set out the background for Councillors regarding this matter and provide advice as to the interpretation of that resolution.

In quoting extracts from minutes below I have not quoted the resolutions in their entirety but those parts of the resolutions which, in my view, are relevant to this report.

PREVIOUS COUNCIL RESOLUTIONS

The issue of the introduction of a waster-pays system for black rubbish bags was considered at the Council's Annual Plan meeting in April 2002.

(a) 8 April 2002 Meeting

At that draft Annual Plan meeting the Council considered a recommendation from the Annual Plan Subcommittee which referred to a report from the City Waste and Water Manager on options for replacing the present rates-funded refuse bags system with a waster-pays system.

That report detailed a number of options for reducing the refuse bags to each household as well as the impact of each option on forecast rate increases.

The Subcommittee's view was that the Council should move to a resident-funded scheme (with residents directly purchasing their own bags or purchasing stickers) in 2003/04.

The Subcommittee recommended that the forward budget be prepared on the basis of cessation of the delivery of rates-funded black bags in 2003/04 and that the Sustainable Transport and Utilities Committee investigate and recommend to the Council the preferred methodology for future household collection of refuse.

However at that April 2002 meeting the Council resolved in part:

"1. That the forward budget be prepared on the basis of the delivery of 52 rubbish bags."

(b) 16 July 2002 Meeting

At this Annual Plan meeting the Council considered a report from the Annual Plan Subcommittee which stated in part:

"The subcommittee is therefore proposing that, with effect from 2004/05, residents be required to purchase black bags or stickers at a price which reflects the cost of collection and disposal. The last provision on rates-funded bags would be in April 2003 to cover the 2003/04 year."

It is recognised that there will need to be significant public consultation and education on this proposal before it could be implemented. As proposed start date is July 2004, plenty of time will be available for adequate consultation. Provision of a budget of \$200,000 to support this is proposed."

The Council then resolved:

"1. That the Council change to the "waster-pays" system for rubbish bags, with effect from 2004/05, on the following basis:

- (a) *Comprehensive public consultation and information supported by a budget of \$200,000 in 2003/04.*
- (b) *Integration to solid waste strategy and statutory waste management plan to be revised this year, to show how the waster-pays system forms part of the action plans to be incorporated into the strategy."*

In my view the effect of the Council's July 2002 resolution is that the Council would change from supplying 52 rubbish bags per annum (as resolved by the 8 April 2002 meeting) to supplying no rubbish bags (as resolved by the 16 July 2002 meeting). The Council in effect adopted the Subcommittee's position as reflected in the statement in its report "... with effect from 2004/05, residents be required to purchase black bags or stickers..."

(c) **Council meeting 25 March 2003**

At its Annual Plan meeting on 25 March 2003 the Council resolved:

- "1. That the Sustainable Transport and Utilities Committee "investigate and report" on all aspects of the kerbside collection of refuse based on:
 - (a) *A staged introduction of "waster-pays" for refuse bags over two or three years.*
 - (b) *The introduction of a rates-funded wheelie bin for all households, later in 2004, initially for the collection of green waste only and later to also include household putridable waste.*
 - (c) *Additional ways of dealing with the household organic waste (such as enhanced home composting methodology).*
- 2. *That the Council undertake a special consultative procedure from October 2003 on the issue of household waste removal which clearly sets out the cost and benefits of each option.*
- 3. *That the Council budget for the provision of 26 rubbish bags in the 2003/04 year."*

Here the Council has shifted its position from zero rubbish bags from 2004/05 (as per the 16 July 2002 resolution) to 26 rubbish bags based on "... a staged introduction over two or three years."

The reference to "two or three years" is not clarified by any supporting report. It is assumed it refers to the 2005/06 or 2006/07 financial years.

It is also not clear what effect this 25 March 2003 resolution has on the 16 July 2002 resolution. Was it intended to augment it, or was it intended to replace it. The former view could be contended for given the use of the phrase "waster-pays" in both resolutions.

At its May 2003 meeting the Council considered a report from the Sustainable Transport and Utilities Committee which advised that with regard to resolution 2 above the Council would need to address the issue of public consultation through the 2004 Long Term Council Community Plan, subsequent to the proposed special consultative procedure in Oct 2003. In August the Council then agreed to an amended timetable which combined the October 2003 special consultative procedure with the public consultation for the 2004 Long Term Council Community Plan.

(d) **Council Annual Plan meeting: 15 July 2003**

At this meeting the Council considered a report from the Annual Plan subcommittee which stated in part:

"Over the past 12 months the Council has been considering a proposal to reduce household waste by cutting the numbers of rates-funded rubbish bags being allocated to Christchurch properties. In the February 2003 Annual Plan deliberations the Council favoured a staged reduction of rate-funded rubbish bags (e.g. moving from 52 bags per property per year to 26 bags and to zero bags over consecutive years)".

The Subcommittee recommended that the Council "proceed with the proposed staged introduction of waster-pays."

At the 15 July meeting Councillor Withers moved an amendment:

“That the Council proceed with the proposed staged introduction of waster-pays on the basis that this is in line with the previous Council resolution on 25 March 2003, which did not resolve for zero bags in 2004/05 and 2005/06.”

When put to the meeting this amendment was lost.

The meeting then resolved by a majority that the recommendation made by the subcommittee *“that the Council proceed with the proposed staged introduction of waster-pays”* be passed as the Council’s resolution.

I refer to my comments above regarding the lack of clarity concerning the 25 March 2003 resolution and these comments apply equally to the 15 July 2003 resolution. In my view the use of an example in the Subcommittee’s report (connoted by the words in brackets beginning “eg moving from 52 bags...”) means that there is no clear basis in the 15 July resolution for reaching a clear view as to the Council’s intentions.

FUTURE STEPS

Given that this issue needs to be before the public in the 2004 Long Term Council Community Plan, in my opinion, the existing resolutions are insufficiently clear to include a proposal in that Plan.

My advice is that the Council should reconsider this issue before the end of this year so that a clear and unambiguous resolution can form the basis of a proposal to be put before the public.

The Council needs to decide whether its proposal in the LTCCP will be:

- (i) To introduce zero rates-funded rubbish bags, with the last delivery of 26 rubbish bags being in April 2004;
- (ii) To have the last delivery of 26 bags in April 2005 and zero rates-funded rubbish bags thereafter;
- (iii) To have the last delivery of 26 bags in April 2006 and zero rates-funded rubbish bags thereafter; or
- (iv) To have 26 bags delivered from April 2004 and thereafter.

Staff

Recommendation: That the Council resolve to adopt (i), (ii), (iii) or (iv) above.

The Chair moved *“That option (ii) be adopted”*.

The Mayor moved by way of amendment:

- “1. That option (iv) be adopted.*
- 2. That a policy on dealing with cases of hardship be developed as a matter of urgency and be part of the consultation process.”*

The amendment was seconded by Councillor Corbett and when put to the meeting was declared **carried** on division no 1 by 8 votes to 3, the voting being as follows:

For (8): Councillors Anderton, Austin, Condon, Corbett, Crighton, Harrow, Wright and the Mayor.

Against (3): Councillors Ganda, O’Rourke and James.

Recommendation:

- 1. That option (iv) be adopted.
- 2. That a policy on dealing with cases of hardship be developed as a matter of urgency and be part of the consultation process.