

19. PROPOSED LICENSING OF WASTE HANDLING FACILITIES

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The purpose of this report is to recommend that the mechanism of a new bylaw be used for the licensing of waste handling facilities (including existing refuse stations) in Christchurch (a) to regulate waste sorting to achieve a level playing field regarding diversion of recoverable materials from the waste stream, and (b) to ensure that waste levies are collected at all waste handling facilities (including those commercially owned) for waste that is not diverted but landfilled.

BACKGROUND

The Council owns three refuse stations, operated by City Care Ltd under a service contract, where waste sorting and consolidation occurs, with the residual waste going to Burwood Landfill. All municipal waste passing through these sites and going to the Burwood Landfill incurs a waste minimisation levy. (Note that this levy is to fund the Council's Waste Minimisation Fund which in turn finances various waste reduction activities and the Business Development Fund administered by the Recovered Materials Foundation.) There is some commercial refuse sorting and consolidation occurring in the city, which could be integrated with the Council-owned refuse stations to optimise efficiencies and maximise waste minimisation, as reported in the April 2004 report to Council "*Solid Waste RFI – investigation of RMF and City Care proposals*".

One of the recommendations from this report reads

"5 That staff explore whether it is appropriate to develop a bylaw to licence refuse stations and waste sorting facilities"

Currently no mechanism exists whereby the Council can regulate waste sorting or collect the waste levy from privately run refuse stations. Such a mechanism is considered essential if the Council wants to sustain progress towards achieving the goals in its Solid & Hazardous Waste Management Plan 2003. Furthermore the 1998 Memorandum of Understanding for the new Regional Landfill (Kate Valley) requires the Council and other shareholder councils sending waste to Kate Valley, to take all practicable and financially viable steps to divert waste from the waste stream before landfilling.

It is therefore important that the Council, as the major territorial local authority shareholder in the Kate Valley Landfill establishes suitable processes to ensure that appropriate levels of refuse sorting at refuse stations takes place in the City taking into account the financial viability of recovery options.

The Council's Solid & Hazardous Waste Management Plan Part 2 (which forms part of the Council's LTCCP) identifies various tools to achieve the Part 1 goals. One of these tools is the licensing of waste sorting stations (refuse stations).

LOCAL GOVERNMENT ACT 2002

Section 155 of the Local Government Act 2002 ("the Act") obligates the Council to determine whether the making of a bylaw is "*the most appropriate way to address the perceived problem*", which in this particular instance is to achieve optimal recovery and/or diversion of material at waste sorting facilities and to ensure that waste passing through commercial waste handling facilities to landfill also incurs waste levies as does waste passing through Council waste handling facilities.

Section 77 of the Act requires the Council, in the course of a decision making process on new objectives, to seek to identify and assess all reasonably practicable options for the achievement of the objectives. It is considered that the following options exist:

- (a) Do nothing i.e. allow refuse stations to continue sorting and consolidating waste without regulation or controls;
- (b) Seek voluntary cooperation;
- (c) Make a bylaw obliging refuse stations to obtain a licence in order to continue operating, with the licence conditions requiring appropriate sorting of refuse, and the payment of a waste levy to the Council.

Consideration of above options:

(a) **Retain the status quo (do nothing):**

With the anticipated establishment of additional commercially owned refuse sorting stations (in addition to Council owned facilities) it is considered necessary to establish a level 'playing field' for all parties and that appropriate control/regulation of waste diversion be established to ensure universal payment of levies. Doing nothing will not achieve this. Refuse generated in the city could be disposed of without incurring the waste minimisation levy. This option is not recommended.

(b) **Voluntary cooperation:**

Under a voluntary scheme a refuse station operator has no requirement or obligation to collect a waste minimisation levy on behalf of the Council or to sort refuse. This option has the disadvantage of no actual control and creates considerable uncertainty as to what is required by the refuse station operators. This will not create a level playing field for all parties and lacks the value of a regulatory tool – that of a strong signal of a commitment towards higher sorting requirements. Again this option is not recommended.

(c) **A new bylaw:**

This is considered to be the most appropriate tool to ensure that the waste levy is collected and appropriate levels of waste sorting are employed by all site operators both Council owned and commercially owned. It indicates commitment to higher standards and ensures a level playing field. It is also a logical progression along the path of improved environmental performance in the waste sorting industry. Furthermore, this option would advance accountability, ensuring that appropriate practices are in place. The major players in the RFI proposal referred to above would also be the main parties affected by this proposal, and at this stage there appears to be some support for the concept of a bylaw to regulate waste sorting in the city. Therefore, it is recommended in this report that the Council formally determines that a bylaw is the most appropriate way to deal with this issue.

THE PROCESS FROM HERE

Section 78 of the Act requires the Council to give consideration to the views and preferences of persons likely to be affected by or have an interest in the decision. This will be achieved through the statutory special consultative procedure.

Assuming that the Council determines that a bylaw is the most appropriate way of dealing with the issues in this report, then the process from here would be as follows:

- (a) Documents, including a draft of the proposed bylaw, will be prepared in accordance with Section 83 of the Act.
- (b) A report will be submitted to the September 2004 Sustainable Transport and Utilities Committee and Council meetings incorporating a draft of the proposed bylaw and meeting other statutory requirements, including authorising the draft bylaw to be notified for public submissions.
- (c) The special consultative procedure under the Act (from 30 September to 5 November) will then follow seeking public submissions from persons likely to be affected by or have an interest in the decision. A Hearings Panel to be appointed by the Council at its December 2004 meeting will hear all submissions during February 2005.
- (d) A final report by the Hearings Panel directly to the March 2005 Council meeting will report on the special consultative procedure and hearings, when the Council would determine whether or not the bylaw is made.

LEGAL COMMENT

The Council's Legal Services Unit and Buddle Findlay (John Buchan) have both been involved in determining the bylaw introduction process described in this report and are satisfied it complies with the new Local Government Act 2002.

SUMMARY

The report sets out the reasoning for licensing all waste handling facilities (including existing refuse stations) and recommends that a bylaw is the most appropriate way to ensure the ongoing collection of waste minimisation levies and to regulate waste sorting to achieve increased diversion of waste away from disposal in accordance with the Council's Solid & Hazardous Waste Management Plan 2003.

Staff

- Recommendation:**
1. 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 collecting waste minimisation levies and regulating waste sorting at all waste handling facilities.
 2. That a further report be submitted in September 2004 to the Council outlining the draft proposed bylaw as well as the statutory consultation process.

Chairman's

Recommendation: That the above recommendation be adopted.