

3. PROPOSED WASTE HANDLING FACILITIES LICENSING BYLAW

Officer responsible City Water and Waste Manager	Authors Zefanja Potgieter, Resource Planner Solid Waste, City Water and Waste, DDI 941-8271 and John Buchan, Solicitor, Buddle Findlay.
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The purpose of this report is to table a draft new bylaw to license waste handling facilities, and to seek authorisation for the special consultative procedure for bylaws under the Local Government Act 2002 to be initiated.

BACKGROUND

The Council's Solid and Hazardous Waste Management Plan (Part 2) outlines various tools to achieve Part 1, the high level goals. One of these tools (Paragraph 6.6.3 (b)) is a bylaw to licence refuse stations to ensure that waste is sorted to agreed standards prior to disposal at the Kate Valley landfill.

On 26 August 2004 a report was presented to the Council recommending that a new bylaw was the most appropriate way to address the issues of (1) waste sorting at refuse station/waste handling facilities and (2) to ensure that waste minimisation levies are not only collected at Council owned facilities (Parkhouse Road, Metro and Styx) but also at any commercially run facilities that may be established in the future. As a result the Council resolved as follows:

- "1. That the Council resolves 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."*

The proposed bylaw forms an important tool supporting the Solid Waste RMF Proposal report as adopted by the Council on 26 August 2004, (although as noted in the August 2004 report the proposed bylaw is needed irrespective of the outcome of the RMF Proposal). In addition the proposed bylaw also demonstrates that the Council is making progress with implementing tools to maximise diversion and thereby minimise residual disposal to landfill, as required by the resource consents for the Kate Valley landfill.

This report presents the new draft bylaw, Attachment A, and the process for implementing it in terms of the provisions of the Local Government Act 2002, including the special consultative procedure.

THE PROPOSED WASTE HANDLING FACILITIES BYLAW

The proposed bylaw aims to: (1) promote resource recovery options by requiring all waste handling facilities (also called refuse stations) to extract from the waste stream those materials for which economic and realistic diversion options already exist and; (2) ensure that currently applicable waste minimisation levies are collected from all licensed waste handling facilities. In effect these levies have been applicable at Parkhouse Road, Metro and Styx Mill refuse stations since 1998 and this will remain so, however, if new commercially run operations are set up then this bylaw will ensure that the same waste levies would apply across the board to all licensed waste handling facilities.

In practice each site that prepares waste for disposal to landfill would in terms of its licence need to sort waste where economically and reasonably possible and divert such sorted materials from residual disposal. The Recovered Materials Foundation is well placed to assist with advice on all aspects of waste diversion and finding suitable markets. The bylaw also sets out diversion targets for various waste streams as agreed to by the community in its waste management plan. These targets are a factor for the Council to consider if and when the Council considers any minimum standards of sorting and diversion as provided for by the bylaw.

The proposed bylaw makes provision for the Council to consider appropriate minimum levels of sorting and diversion which could be made applicable to each waste handling facilities individually. It is, however, anticipated that setting these minimum standards may not be required if voluntary cooperation would achieve appropriate sorting and diversion levels.

The proposed bylaw provides for the Council to monitor and audit (1) the waste handling facilities, (2) all invoices and other documentation and (3) the performance of waste sorting on site. In addition it requires operators to collect valuable waste volume and other statistics for use by the Council in planning for waste diversion.

The proposed bylaw will not apply to sites that send materials to sites where further sorting or diversion takes place, neither does it apply to cleanfill sites which are subject to the Cleanfill Licensing Bylaw.

Key elements of the proposed bylaw are:

- No person may allow land or a facility to be used for the handling of waste unless the Council has granted a licence for that purpose and the waste operation is undertaken in accordance with the terms and conditions of the relevant licence.
- As a condition of the licence the operator shall pay to the Council on a regular basis, the waste minimisation levies (the same as that currently applying to all residual waste exiting Parkhouse Road, Metro and Styx Mill refuse stations for disposal). This levy is an allocation of costs incurred by the Council in implementing its waste management plan and acts as an incentive to encourage sorting and diversion.
- Site operators will collect and make available to the Council valuable waste flow information such as location of source, type of activity generating the material, volume of material etc, which are necessary to the Council for waste planning purposes.
- An audit procedure has been designed to ensure compliance with licence conditions including waste sorting targets and requirements. Such audit can be undertaken by the Council or its agent.
- Penalties are available for non-compliance.
- A nominal one-off licence fee of \$50 will apply, and the term of the licence would be 10 years.
- A threshold is recommended that excludes minor operations - ie below 50 tonnes per year.

LOCAL GOVERNMENT ACT 2002 REQUIREMENTS

Attachment B is the 'Statement of Proposal' as required by S.83 and S.86 of the Local Government Act 2002 which includes the proposed new bylaw.

The publication of the Statement of Proposal would entail the usual notices in the printed media with copies of a summary of the information contained in the Statement of Proposal together with the Statement of Proposal itself to be mailed to all parties identified as having an interest in the proposal, including refuse station site operators, carriers of waste materials to refuse stations etc. The Statement of Proposal will also be available for inspection at the Civic Offices and at all Council Service Centres.

THE PROCESS FROM HERE

The following process is proposed:

- The approval of this report, including the Statement of Proposal, by the Council on 23 September 2004.
- Public notification will take place on 2 October 2004. The period for public submissions will be from 2 October 2004 to 19 November 2004. This step is an obligation in terms of the Local Government Act 2002, but also an opportunity to hear from stakeholders and the general public in order to consider their views.
- A hearings panel will need to be appointed by the Council and that could be done at the Council meeting in November or December 2004.
- Consider all submissions in February 2005, including hearing from those submitters wishing to be heard in person. The panel will report directly to the Council.
- The final report will be considered by the Council in March 2005 (having considered all the submissions) when, if adopted by the Council, the bylaw would formally be made. This report will also address the provisions of S.155 (2) of the Local Government Act 2002, firstly to ensure that the Bylaw is in the most appropriate form, and secondly to determine if the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. In particular the bylaw cannot be inconsistent with the Act. As presently drafted the bylaw is not inconsistent with the Act.
- It is anticipated that the new Waste Handling Facilities Licensing Bylaw would come into effect on 1 April 2005, after that date it would be unlawful to operate a waste handling facility without a licence in terms of the proposed bylaw.

SUMMARY

The report recommends that the draft Christchurch City Waste Handling Facilities Licensing Bylaw 2005 be notified for public submissions and also contains the 'Statement of Proposal' as required in terms of the Local Government Act 2002. The draft bylaw is aimed at increasing resource recovery from refuse stations/waste handling facilities prior to sending waste for residual disposal, and applying a waste minimisation levy on materials received at all refuse station sites.

Committee

Recommendation: That the attached Statement of Proposal for the draft Christchurch City Waste Handling Facilities Licensing Bylaw 2005 be publicly notified and be subject to the Local Government Act 2002 special consultative procedure with public submissions to be made between 2 October 2004 and 19 November 2004, as set out in the report.