

## 8. REVIEW OF TRADE WASTE BYLAW 2000 AND RELATED POLICIES AND CHARGES

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### PURPOSE OF REPORT

1. The purpose of this report is to recommend commencing a public consultation process to review the 2000 Trade Waste Bylaw, and related policies and charges.

### EXECUTIVE SUMMARY

2. The Local Government Act 2002 requires the review of all existing bylaws by 2008. This report focuses on the 2000 Trade Waste Bylaw and related trade waste policies and charges, which have been reviewed to align with the Standards NZ Model Trade Waste Bylaw. Following a Council seminar on 9 May 2006, the report recommends commencing a statutory two month public consultation period.

### STAFF RECOMMENDATIONS

It is recommended:

- (a) That the Council resolve that it has determined that, as is required in terms of Section 155 of the Local Government Act 2002:
  - (1) a bylaw is the most appropriate way to address the management of discharges from trade waste;
  - (2) the form of draft bylaw is the most appropriate form; and
  - (3) there are no inconsistencies between the draft Trade Waste Bylaw 2006 and the New Zealand Bill of Rights Act 1990.
- (b) That the attached Statement of Proposal for the draft Trade Waste Bylaw 2006, the Draft Trade Waste Bylaw 2006 itself, and the Draft Trade Waste Policy and Schedule of Charges 2006 be approved to be publicly notified subject to the Local Government Act 2002 special consultative procedure with public submissions to be made between 7 June 2006 and 7 August 2006, with the hearing of submissions to take place as set out in the report.
- (c) That a Trade Waste Bylaw Hearings Panel be appointed to hear submissions as set out in the report.

## **BACKGROUND ON REVIEW OF TRADE WASTE BYLAW 2000 AND RELATED POLICIES AND CHARGES**

3. Trade waste relates to all commercial wastewater that flows into the Council's sewer system from all industrial and commercial premises, therefore not from residential properties. The Council has had a trade waste bylaw since 1968, and the current bylaw has been in operation since 2000.
4. The reasons for having a trade waste bylaw include:
  - Protecting the environment
  - Protecting the sewer system infrastructure
  - Protecting sewer system workers
  - Ensuring compliance with consent conditions by providing a structure for control and monitoring of industrial discharges
  - Ensuring fair apportionment of costs between residential and trade waste dischargers
  - Promoting water conservation, waste minimisation and cleaner production.
5. The Local Government Act 2002 requires the review of all existing bylaws by 2008, and with the amalgamation of Christchurch City with Banks Peninsula a revised new bylaw would apply one set of incentives and rules to the whole of the enlarged municipal area - Banks Peninsula has not had an operative trade waste bylaw in place to date. In addition to the 2000 Trade Waste Bylaw the Council also has an operative 'Trade Waste Policy and Schedule of Charges' which has been reviewed annually, and which has therefore been included in the current review process.
6. Some good news examples achieved under the existing bylaw include:
  - (a) As a result of bylaw enforcement a vegetable wash company which exceeded the suspended solid consent limit, with adverse impacts on the Belfast treatment plant, took action and put in place a water recycling plant resulting in virtually no discharge and no disposal cost, plus reducing their cost for potable water substantially.
  - (b) The levels of certain heavy metal levels in biosolids have been reduced over time to such an extent that it is now below (better than) the Class A New Zealand Biosolids Guideline standard. This has been achieved through bylaw enforcement and pre-treatment facilities.

## **REVIEW OF BYLAW, POLICY AND CHARGES**

7. The Local Government Act 2002 process for the review of a bylaw includes a preliminary step in terms of Section 155 where the Council has to determine whether a bylaw is the most appropriate way of addressing the situation ie in this instance regulating trade wastes to achieve the outcomes set out in paragraph 4. Section 155 also applies to the review of an existing bylaw, not just to the making of a new bylaw.
8. In order to comply with Section 155 there are three theoretical options:
  - (a) Let the current bylaw lapse and do nothing. This is clearly unacceptable.
  - (b) Work co-operatively with industry with no bylaw or regulation back-up. This option is not recommended as there has been an effective bylaw in place in Christchurch since 1968.
  - (c) Have in place a regulatory tool such as the review of the 2000 Trade Waste bylaw. At local government level bylaws have proved to be an effective tool in general, including the management of trade waste in particular.

9. In order to comply with Section 155 the Council needs to formally resolve that a bylaw is the most appropriate way to deal with trade waste in the Christchurch area, and if so that this form of bylaw is the most appropriate form and that it is not inconsistent with the New Zealand Bill of Rights Act 1990. Regarding the 'most appropriate form' requirement, the attached Draft Bylaw follows the Standards New Zealand Model bylaw for trade wastes which has already been widely adopted in line with the recommendations contained in the 2000 New Zealand Waste Strategy.
10. A bylaw of this type may give rise to possible implications concerning the Council's power to make determinations in respect of a person's rights, obligations, or interests protected or recognised by law, as identified in section 27 of the New Zealand Bill of Rights Act 1990. Where the Council has such a power it must observe the principles of natural justice. Nothing in this Bylaw is inconsistent with section 27 or any other provision of the New Zealand Bill of Rights Act 1990.
11. Reasons for the current review of the 2000 Bylaw and related policy and charges include:
  - (a) new treatment processes at the wastewater treatment plant providing higher levels of treatment;
  - (b) changing the measurement of organic strength to industry standard;
  - (c) addressing issues relating to fats, oil and grease in certain discharges;
  - (d) recent availability of waste tracking systems for liquid waste;
  - (e) the availability of the *Guidelines for safe application of biosolids to land in New Zealand*;
  - (f) providing a basis for including Hazardous Substances and New Organisms Act 1996 requirements; and
  - (g) reviewing some dated definitions in the existing bylaw.
12. Key changes of the review include:
  - (a) The bylaw will apply to all of Christchurch including Banks Peninsula
  - (b) Increases of less than 6.9% in trade waste charges for consented dischargers
  - (c) Adopting 95 percentile metal concentrations in compliance with the *Guidelines for safe application of biosolids to land in New Zealand*
  - (d) New requirements for all permitted dischargers to be registered and to pay an annual connection fee of \$112.50
  - (e) Increased application fees for consent holders
  - (f) Changes to the existing charging formula:
    - (i) Changing to a 3 year rolling average from a 6 year rolling average for flow measurement
    - (ii) Changing from the current 6 year rolling average to the most recent year's organic load and solids calculations
  - (g) Requiring tankered waste to comply with an approved waste tracking system.
  - (h) Change the measurement of organic strength in discharges from BOD (biochemical oxygen demand) to COD (chemical oxygen demand)
    - (i) Adopt the industry standard for measuring suspended solids
    - (j) Progressively reduce the peak to off-peak ratio from the current 3:1 to an eventual 1.5:1 in 2009/10 and onwards
  - (k) Requiring all dental service facilities to provide amalgam management procedures.
  - (l) Phase out the domestic equivalent allowance for industry over a six year period as from 1 July 2005.

13. Attachment A contains a graph that compares Christchurch's existing charges and proposed new charges with other urban centres in New Zealand and Australia indicating a position close to the median.
14. All stakeholders will have a statutory two month period in which to make submissions on the proposed bylaw and related policies and discharges, as set out below. As Banks Peninsula trade waste dischargers will for the first time be operating under a trade waste bylaw, staff have met with some key stakeholders in the Lyttelton area.
15. Process from here:
  - *Councillor seminar was held on 9 May*
  - Council meeting to authorise public consultation – 1 June
  - Special consultative procedure (public consultation) in terms of the Local Government Act 2002 from 7 June to 7 August. As a statutory requirement the Ministry of Health will also be provided with a copy of the proposed bylaw in order to comment.
  - Hearing of submissions scheduled for 14 August.
  - Council meeting in September to receive the report from the Hearings Panel and consider adopting the Draft Trade Waste Bylaw 2006 and the Draft Trade Waste Policy and Schedule of Charges 2006, with a suggested date of operation of 1 October 2006.
16. A hearings panel (suggested to consist of three elected members) needs to be appointed by the Council on 1 June for a the hearing of submissions on 14 August, with 15 August being a reserve day if needed.
17. The attachments to the report are:
  - Attachment A: Comparison of charges in major centres
  - Attachment B: Statement of Proposal as required by Sections 83 and 86 of the Local Government Act 2002.
  - Attachment C: The Draft Trade Waste Bylaw 2006.
  - Attachment D: The Draft Trade Waste Policy and Schedule of Charges 2006.

#### **SUMMARY**

18. The attached draft Bylaw, and Policy and Schedule of Charges will result in changed compliance standards for certain customers. In addition there are limited increases of up to 6.9% for discharges, and new or higher administration charges for certain customers. The overall costs for customers remain in the median range for cities in New Zealand and Australia. Approval of this report will commence a statutory public consultation process with final determination in September.