


9. CLEANFILL LICENSING BYLAW 2008



General Manager responsible:	General Manager City Environment, DDI 941-8608
Officer responsible:	City Water and Waste Manager
Author:	Zefanja Potgieter, Asset and Network Planning

PURPOSE OF REPORT

1. The purpose of this report is to recommend the making of the Christchurch City Council Cleanfill Licensing Bylaw 2008, and to amend delegations relating to the current bylaw.

EXECUTIVE SUMMARY

The Bylaw

2. On 11 October 2007 the Council considered a proposed new Cleanfill Licensing Bylaw. The Executive Summary from the report before the Council at that time explained the following:
 - “2. *The Cleanfill Licensing Bylaw 2003 came into effect on 1 March 2004 and is due for a review in terms of the provisions of the Local Government Act 2002. In addition the disposal levy provisions in this bylaw became redundant when the Council suspended collecting levies under this bylaw subsequent to the High Court judgement end of March 2006 relating to the Waste Handling Facilities Bylaw 2005. The review process also includes recommendations to make some minor changes to the list of materials that can be disposed of at cleanfills, plus some formatting and wording improvements. It is considered appropriate to revoke the current Bylaw and adopt a new Bylaw, rather than simply amend the current Bylaw, given the amendments being made, and the fact that the new Bylaw, once adopted, will also apply to the Banks Peninsula wards (the current bylaw does not). A list of factors to consider when assessing new licence applications have also been added – clause 3.3.*
 3. *The attached draft bylaw also includes a new provision for an annual monitoring fee to be paid by licence holders – an amount of \$3,470 (plus GST) per site to be revised from time to time. Since the cessation of the levies the monitoring costs have been rates funded. It is furthermore proposed to increase the licence application fee for new licences from \$50 to \$250 (plus GST).*
 4. *Non-statutory consultation with cleanfill site licence holders has taken place during the last 12 months in the process of developing the new bylaw.”*
3. At the 11 October 2007 meeting the Council resolved:
 - “(a) *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 manage cleanfill sites and regulate disposal at all cleanfill sites and the collection of specified waste data.*
 - (b) *There are no inconsistencies between the draft Christchurch City Cleanfill Licensing Bylaw 2007 and the New Zealand Bill of Rights Act 1990, and the draft Bylaw is in the most appropriate form.*
 - (c) *The attached Statement of Proposal and Summary of Information for the draft Christchurch City Cleanfill Licensing Bylaw 2007 be publicly notified, and be distributed to cleanfill site operators and relevant construction and waste industry organisations for the Local Government Act 2002 special consultative procedure.”*
4. During the special consultative procedure period, 17 October to 21 November 2007, no submissions were received and therefore there was no need to appoint a hearings panel.
5. The bylaw is therefore submitted to the Council in the same form as the special consultative procedure version, with the recommendation that it be adopted as is, and that it becomes effective on 1 July 2008 as the Christchurch City Council Cleanfill Licensing Bylaw 2008.

Delegations

6. There are delegations made under the 2003 Bylaw which also need to be amended and new delegations made in relation to the new Bylaw (to also come into effect on 1 July 2008). Currently the Council Hearings Panel has the following power delegated to it:
- “The powers under clause 3.5(b) of the Christchurch City Cleanfill Licensing Bylaw 2003 and under clause 12 of the Christchurch City General Bylaw 1990 to determine whether or not any licence issued under the Christchurch City Cleanfill Licensing Bylaw 2003 should be revoked or suspended.”*
7. The City Water and Waste Manager is also currently delegated the following powers:
- “10. All of the Council’s powers under clauses 3.1 and 3.3 of the Christchurch City Cleanfill Licensing Bylaw 2003; and
11. The power to issue and serve upon the holder of any licence issued under clause 3.1 of the Christchurch City Cleanfill Licensing Bylaw 2003 a notice, pursuant to clause 12(1) of the Christchurch City General Bylaw 1990, calling on that person to show cause why that person’s licence should not be revoked or suspended; and
12. The power to initiate any prosecution for any offence against the Christchurch City Cleanfill Licensing Bylaw 2003, together with the power to make any decision on any matter relating to such prosecution; and
13. The power to apply to the District Court for an injunction restraining any person from committing a breach of any provision of the Christchurch City Cleanfill Licensing Bylaw 2003; and
14. The power to take enforcement action against any person who breaches any such injunction and to make any decision in any matter relating to such action.”
8. These powers are still applicable under the new Bylaw, as clauses 3.1 and 3.3 still apply to the granting of licences. There are also delegations to enforcement officers “for the purpose of detecting offences against the Christchurch City Cleanfill Licensing Bylaw 2003” which will also need to be amended to refer to the new Bylaw.

STAFF RECOMMENDATION

It is recommended that the Council resolve:

- (a) To adopt the Christchurch City Council Cleanfill Licensing Bylaw 2008 which is attached to this report and which is to come into force on 1 July 2008.
- (b) To advertise the adoption of the Bylaw in “The Press” and the “Christchurch Star” on Saturday 3 May 2008 and other suitable community newspapers at or close to that time.
- (c) To amend the delegation to the Council Hearings Panel on page 13 of the delegations register so that from 1 July 2008 it reads:

“The powers under clause 3.7(b) of the Christchurch City Council Cleanfill Licensing Bylaw 2008 and under clause 12 of the Christchurch City General Bylaw 1990 to determine whether or not any licence issued under the Christchurch City Council Cleanfill Licensing Bylaw 2008 should be suspended or cancelled.”

- (d) To amend the delegations to the City Water and Waste Manager on page 34 of the delegations register so that from 1 July 2008 they read:
- “10. The Council’s power to grant licences under clauses 3.1 and 3.3 of the Christchurch City Council Cleanfill Licensing Bylaw 2008; and*
 - 11. The power to issue and serve upon the holder of any licence issued under clause 3.1 of the Christchurch City Council Cleanfill Licensing Bylaw 2008 a notice, pursuant to clause 12(1) of the Christchurch City General Bylaw 1990, calling on that person to show cause why that person’s licence should not be revoked or suspended; and*
 - 12. The power to initiate any prosecution for any offence against the Christchurch City Council Cleanfill Licensing Bylaw 2008, together with the power to make any decision on any matter relating to such prosecution; and*
 - 13. The power to apply to the District Court for an injunction restraining any person from committing a breach of any provision of the Christchurch City Council Cleanfill Licensing Bylaw 2008; and*
 - 14. The power to take enforcement action against any person who breaches any such injunction and to make any decision in any matter relating to such action. (and delete the repeated delegations in paragraphs 18 to 22)”*
- (e) To amend all other delegations to enforcement officers in the delegations register concerning the enforcement of the Christchurch City Cleanfill Licensing Bylaw 2003 to refer to the Christchurch City Council Cleanfill Licensing Bylaw 2008 from 1 July 2008.