

ORC Omnibus Plan Change - Plan Change 1

Submission Reference no: 16

Bridget Irving/Derek McLachlan, **Big Stone Forests Limited**



Submitter Type: Not specified

Source: Email

Overall Notes:

Clause

Are you a trade competitor?

Position

I am a person who would not gain an advantage in trade competition through this submission

Notes

Clause

What are you submitting on? You can submit on specific parts of Plan Change 1 or the whole plan change.

Position

I am submitting on the whole plan change.

Notes

Please see documents attached

Clause

What is your view on the Plan Change 1 or the specific parts listed above? Please select one, if you have multiple views state clearly in the notes box below.

Position

Multiple views

Notes

Please see documents attached

Clause

The reason(s) for my views are:

Notes

Please see documents attached

Clause

What decision would you like the Environment Court to make?

Position

Approve the plan change with amendments

Notes

Please see documents attached

Clause

The reasons form my view and/or any amendment(s) I am seeking are:

Notes

Please see documents attached

Clause

Do you wish to be heard in support of your submission? All submissions will be considered by the Environment Court. Please indicate if you wish to be heard in support of your submission.

Position

I wish to be heard in support of my submission

Notes**Clause**

Please indicate your choice(s) below. If you do not indicate your intention to call experts, you can change your mind later and decide to call experts to give evidence in relation to your submission, provided you do so in time to meet any procedural direction the Environment Court might make.

Position

If others make a similar submission I/we would consider presenting a joint case with them at a hearing

Notes**Clause**

Authority to act:

Position

I confirm I have the authority to sign this submission on behalf of the submitter

Notes

SUBMITTER: BIG STONE FOREST LIMITED ('BSFL')

1. This is a submission on Plan Change 1 ('PC1') as notified by the Environmental Protection agency on 6 July 2020.
2. BSFL could not gain an advantage in trade competition through this submission.
3. BSFL wish to be heard in support of this submission and are happy to present jointly with other parties seeking the same relief.

REASONS FOR SUBMISSION

Background

4. Big Stone Forest Limited own a property at Big Stone Road, Brighton. Big Stone Road is located in close proximity to 'Smooth Hill' which is referred to in the Section 32 analysis of the Otago Regional Council:

"In addition to the topics above, ORC became aware that Dunedin City Council was preparing a resource consent application for a new landfill at Smooth Hill. Staff identified that the provisions in the Waste Plan for landfills were more than 20 years old and out of step with current best practice. Given the longterm nature of landfills, it was considered important to address the issues with the Waste Plan to assist with decision-making on any consent application lodged before the new LWRP is notified."

5. The section above is read in conjunction with the purpose of PC1:

"In tandem with PC8, the overall purpose of PC1 is to strengthen the management of discharges in order to maintain, as a minimum, water quality in Otago. It does this by introducing stricter controls on the use of dust suppressants (and particularly waste oil) and improved minimum standards for landfills in order to reduce the adverse effects of these activities."

6. BSFL is concerned that a landfill at Smooth Hill will generate adverse effects on surrounding residents and the environment.

7. In relation to both BSFL's property and the wider community, BSFL are particularly concerned about adverse effects associated with odour, water contamination (particularly given the location of water ways in the site that drain to coastal marine environment), potential for contamination of private domestic water supply, effects on indigenous species that occupy the site and amenity values.
8. Given the nature of rural-residential development that has established around the Smooth Hill since it was first identified as a potential site for a landfill it is no longer an appropriate site for a landfill. We are aware that other landfills around the Country have faced ongoing challenges in managing odour and other effects on neighbours. The Regional Plan policy and rule regime needs to reflect the inevitability of these conflicts, and provide appropriate guidance on how to manage them.
9. PC1 is designed to give effect to two Objectives of the Regional Plan: Waste:
 - (a) Objective 7.3.1: To avoid, remedy or mitigate the adverse environmental effects arising from the discharge of contaminants at and from landfills;
 - (b) Objective 7.3.2: To eliminate illegal, uncontrolled, unmanaged, poorly managed and poorly located landfill sites.
10. Objective 7.3.1 seeks to address effects arising from discharges to and from Landfills. Objective 7.3.2 is directed at *inter alia* the siting and management of landfills.
11. BSFL support the implementation of best practice guidelines for siting, design, construction, operation and management of new and operating landfills in accordance with *Minimisation Institute New Zealand's Technical Guidelines for Disposal to Land* (August 2018) ('**The Guidelines**').¹ Guidelines will help inform appropriate management of landfills, however, their implementation should also be informed by appropriate policy guidance within Regional Plan: Waste and ensuring that they are appropriately located in the first instance. No amount of management can overcome a poor location.

PC1 – The Guidelines

¹<https://www.wasteminz.org.nz/pubs/technical-guidelines-for-disposal-to-land-april-2016/>

Preliminary Assessment

12. A new Policy 7.4.11 has been included which seeks to minimise the adverse effects of discharge from new and operating landfills by requiring that new and operating landfills are located and operated in accordance with the Guidelines.
13. To understand the consequences of PC1, we must refer directly to the Guidelines:
 - (a) The Guidelines manage 'environment' effects which includes 'amenity' values;
 - (b) Section 4.4 provides the relevant considerations when assessing the appropriate landfill siting. The assessment of these matters is a 'balancing' exercise and all factors are unlikely to be satisfied:
 - (i) Geology; Hydrology; Surface Hydrology; Site Stability; Environmentally Sensitive Areas; Compatibility With Surrounding Land Uses; Topography; Climactic Conditions; Access And Traffic; Leachate Management; Landfill Gas Management; Community Issues; End Of Land Use.

[Emphasis identifies the matters that address particular concerns of the submitter]

Preliminary Assessment

14. Guidelines recommend non-technical matters such as local social, cultural and amenity values should be assessed before detailed technical investigations are undertaken at the site. The preliminary assessment includes the following matters:
 - (a) location of site neighbours;
 - (b) access to the site and potential traffic effects, including the location of main haul routes (this can prove to be a key siting consideration in many instances);
 - (c) location of any sites of cultural significance including, rivers, streams, marae, ancestral land, waahi tapu and other taonga (some of these sites may not be readily identifiable);
 - (d) potential for nuisances associated with odour, vermin, birds and flies, noise, litter, dust and visual effects; and
 - (e) location of sites of historical significance.

Compatibility with Surrounding land uses

15. The Guidelines seek to ensure adequate separation distances and/or buffer areas to help preserve the amenity of surrounding areas, or avoid unwanted impacts from landfill operations. The requirement for, and extent of, buffer areas should be determined on a site-specific basis. Where possible, the buffer area should be controlled by the landfill operator. When assessing compatibility with surrounding land uses, the following factors are identified:
- (a) existing property boundaries and ownership;
 - (b) statutory planning constraints including:
 - (i) zoning (the protection of amenity associated with residential, commercial or rural zones from nuisances associated with odour, vermin, birds and flies, noise, litter, dust and visual effects; or failure of containment, leachate collection or landfill gas systems), and
 - (ii) land designated for a special purpose (for example hospitals or schools);
 - (c) airport safety² ;
 - (d) the impact of site features such as topography;
 - (e) the impact of prevailing weather conditions; and
 - (f) proximity to sites of cultural or historical significance.

Community Issues

16. Community issues are not just a preliminary matter, and when assessing compatibility with surrounding land uses, the following factors are identified:
- (a) design life of the landfill;
 - (b) nuisances associated with odour, vermin, birds and flies, noise, litter, dust and visual effects;
 - (c) the potential effects of failure of containment, leachate collection or landfill gas systems;

² The CAA 'Guidance Material for land use at or near airports' (2008) notes that the International Civil Aviation Organisation (ICAO) Bird Control and Reduction Manual recommends that [municipal solid waste landfill] sites be located no closer than 13 kilometres from the airport property

- (d) protection of local amenity values;
 - (e) traffic effects;
 - (f) health risks;
 - (g) cultural issues;
 - (h) heritage issues;
 - (i) loss of property values;
 - (j) long term compliance with consent requirements; and
 - (k) end use of the site.
17. The Guidelines introduce a broad range of matters that address residential amenity and environmental concerns, however these are not incorporated directly into Regional Plan: Waste. Therefore BSFL seek specific recognition of these values as matters for consideration when assessing the location of any new landfill. This removes a layer of interpretation and provides direct guidance within the Regional Plan.
18. PC1 also takes the same approach with respect to existing landfills and new landfills. This is considered inappropriate. It may be necessary to simply manage issues that arise in relation to existing landfills, but more appropriate to avoid them through good site selection when considering a new landfill. The proposed policy risk conflating the approach to these different circumstances.
19. PC1 fails to consider whether the Guidelines are the most appropriate way to give effect to the Objectives of the Plan (i.e. to eliminate poorly located landfills). To this extent the proposed provisions within PC1 are inadequate and the section 32 analysis should have revealed this.

SUMMARY OF SUBMISSION

20. BSFL opposes PC1 for the following reasons:
- (a) PC1 does not achieve the Objectives of The Regional Plan Waste (in particular, Objectives 7.3.1 and 7.3.2);
 - (b) The section 32 assessment is incomplete; and

- (c) PC1 does not achieve the purpose of the Resource Management Act 1991;

RELIEF SOUGHT

21. BSFL seeks the following amendments:

- (a) Add a new Policy 7.4.11A as follows:

7.4.11A Manage the effect of discharges from new landfills by:

- (a) ensuring site selection avoids the establishment of new landfills in proximity to existing land uses that are sensitive to the effects of the landfill; then
- (b) designing, constructing, operating and managing new landfills in accordance with the Waste Minimisation Institute New Zealand's Technical Guidelines for Disposal to Land (August 2018).

22. Policy 7.4.11 is amended as follows:

7.4.11 To minimise the adverse effects of discharges from operating landfills by requiring that:

- (a) the siting, design, construction, operation and management of new and operating landfills is in accordance with the Waste Minimisation Institute New Zealand's Technical Guidelines for Disposal to Land (August 2018) and
- (b) a site-specific management plan is prepared and implemented in accordance with the Waste Minimisation Institute New Zealand's Technical Guidelines for Disposal to Land (August 2018) that includes (but is not limited to):
- i. methods for leachate management, collection, treatment and disposal;
 - ii. methods for stormwater capture and control from both off-site and on-site sources; and
 - iii. methods to minimise contamination of the receiving environment; and
 - iv. controls to manage hazardous waste and avoid any discharge of hazardous wastes or the leaching of contaminants from hazardous wastes; and

- v. Methods to protect local amenity values; and
- vi. Methods to avoid adverse effects on surrounding land uses.

23. Rule 7.6.1 controls the establishment and operation of landfills (as a discretionary activity). Council is not restricted in the matters they can consider when assessing an application to establish a landfill, however the plan provides guidance on relevant assessment matters through Rule 7.6.1.2. BSFL seeks the addition of the following assessment matters:

- (a) Odour control;
- (b) Potential contamination of soil or water;
- (c) Means to monitor the above;
- (d) The extent to which the landfill proposal reflects the industry standard for landfills, as represented in the Waste Management Institute New Zealand's Technical Guidelines for Disposal to Land (August 2018), ~~Ministry for the Environment Landfill Guidelines 1994, or their update or other industry standards which are current at the time of application for a resource consent;~~
- (e) The location of the landfill relative to any water body, areas prone to erosion, inundation or subsidence, and areas of cultural, conservation or historic significance;
- (f) The characteristics, composition and volume of substances being discharged and of any likely by-products occurring from the degradation of these substances;
- (g) The characteristics of the receiving environment including the current and likely future uses of that environment;
- (h) The mitigation measures, safeguards, and contingency plans to be undertaken to prevent or reduce the actual and potential adverse environmental effects;
- (i) Provisions for the handling of any noxious waste, including medical waste, and the degree of pre-treatment that will be required prior to accepting such wastes; and
- (j) The landfill ~~development and~~ management plan or landfill closure plan prepared for the site;
- (k) Whether a proposed landfill is appropriately located to avoid establishment near existing land uses that are sensitive to the effects of the landfill;
- (l) Local amenity values.

24. Inclusion of a new rule to directly implement proposed policy 7.4.11A as follows:

Rule 7.6.1.X: Any new landfill within 2km of any residential dwelling is a non-complying activity.

25. Any other relief that avoids adverse effects, and adverse effects on residential amenity.

Dated 17 August 2020

A handwritten signature in blue ink, appearing to read "Bridget Lewis". The signature is written in a cursive style with a large initial 'B'.

Solicitor for Submitter

B Irving/D McLachlan