

# ORC Omnibus Plan Change - Plan Change 1

## Submission Reference no: 19

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**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 specific parts of the plan change (please detail below).

#### Notes

#### Clause

The specific parts of the plan change that my submission relates to are:

#### Notes

As per the attached submission

#### 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

Support

#### Notes

Support with amendments

#### Clause

The reason(s) for my views are:

#### Notes

As per the attached submission

#### Clause

What decision would you like the Environment Court to make?

#### Position

Approve the plan change with amendments

#### Notes

#### Clause

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

#### Notes

As per the attached submission

#### 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**

Authority to act:

**Position**

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

**Notes**

17 August 2020

Environmental Protection Authority  
Private Bag 63002  
Wellington 6140

Otago Regional Council  
Private Bag 1954  
Dunedin 9054

**SUBMISSION ON THE OTAGO REGIONAL COUNCIL PROPOSED PLAN CHANGE 1 (DUST SUPPRESSANTS AND LANDFILLS) TO THE REGIONAL PLAN: WASTE FOR OTAGO**

1. The Dunedin City Council (DCC) thanks the Environmental Protection Authority (EPA) for the opportunity to comment on proposed Plan Change 1 (Dust Suppressants and Landfills) to the Regional Plan: Waste for Otago (PC1).
2. The DCC acknowledges the issues the Otago Regional Council (ORC) seeks to address and supports the long-term goal of sustainable resource management in the Otago region.
3. The DCC manages a large network of transport infrastructure, including 695 km of unsealed roads, and operates the Green Island landfill for disposal of putrescible and special hazardous waste. The landfill consents expire in 2023 and a new landfill facility (Smooth Hill) is in the final stages of technical investigations required for resource consent applications to be made. The DCC is also responsible, under the Waste Minimisation Act 2008 (WMA), for promoting effective and efficient waste management and minimisation within its district.
4. As provider of these services, and with responsibility for waste management and minimisation, the DCC has a strong interest in the changes proposed in PC1 and welcome engagement with the ORC on this plan change.

**Plan Change 1**

5. The purpose of PC1, in tandem with Plan Change 8 to the Regional Plan: Water, is to strengthen the management of discharges in order to maintain, as a minimum, water quality in Otago, by:
  - (a) Introducing stricter controls on the use of dust suppressants (and particularly waste oil);  
and
  - (b) Improving minimum standards for landfills.
6. As noted in the Section 32 Evaluation Report, the Regional Plan: Waste was made operative in 1997 and has not been amended or reviewed since that time. The Report notes the Regional Plan: Waste will be received and incorporated into a new Land and Water Regional Plan, to be notified by December 2023. It states *“The original scope of PC1 was to address overlaps between the Water and Waste Plans, however once assessments of the overlaps began it became clear that there are structural and jurisdictional issues with the Waste Plan that make it difficult to resolve the main tensions between the plans without a full review. Accordingly, the*

*scope was then limited to issues with waste oil and landfills that were considered to be pressing environmental concerns”.*

7. Section 79 of the RMA requires a review of plan provisions every 10 years, and we encourage the ORC to undertake a full review, noting the Regional Plan: Waste is 23 years old.

### **Dust suppressants**

8. The key changes proposed by PC1 to Section 6, Hazardous Substances and Hazardous Wastes, are policies and rules that prohibit the use of waste oil - effective immediately from the date of notification of the plan change - and provide rules for use of alternative dust suppressants.

#### *Dunedin City use of dust suppressants*

9. The DCC uses waste oil as a dust suppressant on unsealed roads, and until the unexpected notification of PC1 had intended to apply it from November when dust suppression commences for the season. Approximately 10,000 litres of waste oil is used annually as a dust suppressant on unsealed roads, and the demand is increasing as more homes are being built in areas served by unsealed roads.
10. The DCC recognises that waste oil has a potential environmental impact in regard to run-off into waterways and when it breaks down into dust. However, when using waste oil, the DCC has been careful to ensure its application is minimised, that it contains low lead levels, and that it does not pond, or run off from the road.
11. The DCC is concerned about the transition from waste oil in terms of alternatives products available as trials have shown less efficacy, including, but not limited to; agriculturally derived Bio-oil blend, forestry by-products and co-polymer emulsion.
12. Use of alternative products will have a budget impact: the comparative cost increase from waste oil to an alternative product is at least threefold. The purchase of waste oil was due to be made in October 2020. This cost is unsubsidised by the NZ Transport Agency and unbudgeted for in the 2020-21 financial years. The DCC currently pays the entire cost of dust suppression. Other Councils' have this activity subsidised either partially or wholly by affected property owners.
13. The 10 Year Plan makes no provision for seal extensions, so permeant sealing of unsealed roads is not an immediate option. Options that may need to be considered are; user pays (either partial or whole), increased transportation budget, or provision of a decreased level of service to customers.

#### *Implications for waste oil disposal*

14. Prohibiting the use of waste oil as a dust suppressant has flow on effects for its ultimate disposal. There are no appropriate landfill facilities in Otago that can receive waste oil, and to do so is inconsistent with the *Technical Guidelines for Disposal to Land* prepared by the Waste Management Institute New Zealand (WasteMINZ), August 2018. In relation to the Green Island Landfill, receipt of bulk liquids (including those with oil at times) is likely to cease by 2022. Waste oil should be directed to an appropriate treatment and or recovery facility. Given the risk of increased illegal dumping (see paragraph 25(b)), ORC implementation of Policy 7.4.2 of

the Regional Plan: Waste - taking action against illegal landfills and waste dumping – will become critical with this proposal.

### **Landfills**

15. The key changes proposed by PC1 to Section 7 Landfills, are the addition of a policy (7.4.11) and amendment to consent information requirements (section 7.6.1.1) and assessment matters (section 7.6.1.2) to recognise the *Technical Guidelines for Disposal to Land*.

#### *DCC landfill activities*

16. Dunedin City's primary disposal facility for putrescible and special hazardous waste is Green Island Landfill, owned and operated by the DCC. This landfill commenced operation in the 1950's adjacent to Kaikorai Estuary. Resource Management Act 1991 (RMA) consents for its operation were granted in 1994, and these consents expire in Oct 2023. It is the DCC's intention to apply for an extension to these consents for a period of up to 5 years in order to fully utilise the existing consented airspace, while the proposed new Smooth Hill landfill is developed.
17. The Smooth Hill landfill site has long been designated in the operative Dunedin City District Plan, and the subsequent proposed Second Generation District Plan (2GP) for "Landfilling and Associated Refuse Processing Operations and Activities". The proposed Smooth Hill landfill will be a class 1 landfill with a capacity of approximately 6 million m<sup>3</sup> and an expected life, at current Dunedin disposal rates, of approximately 55 years. Dunedin's population is around 126,800 (2018 data) and is the largest metropolitan centre in the Otago Region. With the closure of Green Island, Smooth Hill landfill will be the only landfill in Dunedin (and potentially within 10 years, Otago) that can accept municipal solid waste. The DCC is the Requiring Authority for this landfill.

#### *Landfill policies*

18. The DCC is generally supportive of new landfill policy 7.4.11, and the changes to the information requirements in section 7.6.1.1 and assessment matters in section 7.6.1.2 as they provide clarity and are consistent with industry best practice. In particular, the DCC is supportive of ORC's proposal to adopt the *Technical Guidelines for Disposal to Land*. These technical guidelines are already used extensively within the waste sector but probably most notably in the North Island where the identification of all five classes of landfill are well established and supported.
19. However, proposed policy 7.4.11(a) requires both new and operating landfills to be subject to the *Technical Guidelines for Disposal to Land*. Operating landfills (e.g. Green Island) may be unable to meet the 2018 siting or design criteria for a Class 1 Landfill. In addition, if an existing facility seeks to extend their consents, then the siting criteria and aspects of the design would require exemption.

#### *Regionally significant infrastructure*

20. The DCC submits that the proposed Smooth Hill landfill as designated in the Dunedin 2GP is regionally significant infrastructure and should be identified and provided for as such in the Regional Plan: Waste. Detail for this request is given in Appendix 1.

### **Promoting effective and efficient waste management and minimisation**

21. The waste sector is going through a period of significant change as Central Government aligns environmental priorities with legislative policy change. Recent reviews of the WMA have considered the waste levy, mandatory product stewardship, container return scheme, and the collection of waste. The requirements of the WMA must impact the current provisions of the Regional Plan Waste, which are permissive in terms of enabling various types of waste disposal discharges.
22. Local government priorities for waste management have recently been finalised via the *Local Government Waste Management Manifesto 2020 Update*. These include:
  - (a) Review of the NZ Waste Strategy
  - (b) Introduction of a container deposit scheme
  - (c) Expansion of the waste disposal levy
  - (d) Official adoption of the waste data framework
  - (e) Declaration of mandatory product stewardship for plastic packaging, tyres, e-waste, agrichemicals and farm plastics
23. The DCC has adopted its *Waste Minimisation and Management Plan 2020* (WMMP) which recognises the benefit of working more collaboratively with the ORC. The WMMP is supported by a *2018 Waste Assessment* which aims to capture the various waste and resource recovery activities within the Dunedin's district, as required under the WMA. This ranges from waste minimisation education through to resource recovery and waste disposal activities and includes a forecast of future demand for services and facilities for the district.
24. The DCC is aware that the Ministry for the Environment (MfE) is working to identify all landfill operations within New Zealand and bring them in line with both the waste levy regime and contributing to the national waste data framework.
25. These national-level changes aim to benefit people and the environment by ensuring both are protected from the potential harmful effects of waste, providing our communities with more options for resource recovery and confidence in the provision of safe, well managed disposal facilities.

#### *Wider waste management issues impacted by the Regional Plan: Waste*

26. The Regional Plan: Waste is permissive with regards to cleanfills; offal pits; farm landfills; and green waste landfills, composting and silage. In addition, some of the provisions within the Regional Plan: Waste are not well aligned with the WMA and industry best practice. The DCC notes the ORC has not proposed any changes to these types of landfill rules in PC1.
27. The DCC raises the following concerns with respect to its WMA responsibilities:
  - (a) **Historic practices:** there are various landfilling activities in the wider Otago Region that are not operating to best practice with yet undiscovered environmental impacts. Some of these operations may be consented, but a significant number are likely to be

unconsented. Some landfills may be operating as permitted activities under the Regional Plan: Waste, but without monitoring or reporting requirements it is difficult to determine if they are operating in accordance with best practice. For many, there will be little or no record of the waste they contain and if any controls are in place to manage leachate. These legacy landfills may require ORC intervention and may also require land remediation in some cases.

Improving wider landfill management is supported by the DCC; however, engagement and collaboration between all agencies, waste industry stakeholders and iwi partners is required to understand the issues, barriers and opportunities.

PC1 provides the opportunity to update the explanations to Landfill Issues 7.2.2 and 7.2.3, relating to inappropriately sited landfills and landfills not being managed to appropriate standards. It also highlights the importance of ORC ensuring appropriate priority and adequate resourcing is given to implementing Regional Plan: Waste Policies 7.4.4, 7.4.5, 7.4.6 and 7.4.7 – relating to monitoring discharges, identifying waste inputs, ensuring appropriate management and upgrading or closing landfills – as identified in Methods 7.5.9, 7.5.10 and 7.5.11.

- (b) **Illegal dumping:** with imminent increases in the waste levy imposed on each class of landfill there will be an increased risk of levy avoidance. An increase in non-compliant landfilling activity and illegal dumping is likely, particularly in the short-term. This may also be exacerbated by the proposed prohibition of use of waste oil on roads. The ORC will need to ensure it appropriately prioritises and resources implementation of the Regional Plan: Waste Policy 7.4.2 and Method 7.5.14 – relating to taking action against illegal landfills and waste dumping.
- (c) **Classification:** all landfills in Otago should be identified and assigned the appropriate classification in accordance with the *Technical Guidelines for Disposal to Land*<sup>1</sup>.  
  
For example, the Regional Plan: Waste identifies and allows ‘green waste landfills’. Under the guidelines such landfills are ‘monofills’ that produce leachate and emit CO<sup>2</sup> and potentially methane to atmosphere, and they should be managed accordingly.
- (d) **Farm landfills and offal pits:** the permissive rule framework around these activities should be reconsidered against the WMA and industry best practice.
- (e) **Green waste landfills:** green waste landfills can cause environmental impacts that are more than minor as the green waste may be contaminated with chemical residue e.g. grass sprays, arsenic from wood ash and other non-compostable matter. Permitting such landfills also discourages the establishment of well-managed composting facilities in the Otago Region.
- (f) **Cleanfills:** under the *Technical Guidelines for Disposal to Land* cleanfills are considered to be a ‘Class 5 landfill’. While there are some good cleanfill operations in the Dunedin

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<sup>1</sup> Module 2 – Hazardous waste guidelines: landfill waste acceptance criteria and landfill classification

district that accept clean and inert waste materials from time to time, other operators are believed to be accepting non-inert wastes.

28. The DCC would strongly support landfills that are currently not consented, or are otherwise permitted, to be required to meet the requirements of the *Technical Guidelines for Disposal to Land*. As PC1 does not impose timeframes through policy, or amend any rules, it is presumed landfill activities would only be required to meet the *Technical Guidelines for Disposal to Land* as current consents expire. The DCC considers all operators should be required to meet those guidelines (subject to addressing an inability to comply with design and siting criteria for existing consented operations) over a 2-year time period. This approach would be consistent with Policy 7.4.7 of the Regional Plan: Waste, that seeks to upgrade or close existing landfills causing adverse effects.

### **Specific requests**

29. The DCC requests that:

- (a) A one year period is provided as a transition period to cease using waste oil as a dust suppressant;
- (b) The proposed Smooth Hill landfill be identified and provided for as Regionally Significant Infrastructure by inclusion of a new policy (7.4.12) that states “To provide for the Smooth Hill landfill, as designated in the Dunedin 2GP, as regionally significant infrastructure”;
- (c) The explanation to Landfill Issues 7.2.2 and 7.2.3 are updated to reflect current challenges;
- (d) Existing consented landfills are exempted from rule 7.4.11(a), in particular the design and siting aspects required under the *Technical Guidelines for Disposal to Land*;
- (e) Rule 7.6.10 Green waste landfills (permitted activity) and Rule 7.6.11 Green waste landfills (discretionary activity) be removed from the Regional Plan Waste;
- (f) Consistent with the purpose of PC1, to improve minimum standards for landfills, the Regional Plan: Waste is amended to support wider waste management issues in line with the Waste Minimisation Act 2008 and other industry best practice, in particular permitted landfilling rules for cleanfills; offal pits and farm landfills; and
- (g) Any other necessary or consequential amendments are made to give effect to this submission.

Yours sincerely,



Aaron Hawkins  
**Mayor of Dunedin**



## APPENDIX 1: SMOOTH HILL LANDFILL AS REGIONALLY SIGNIFICANT INFRASTRUCTURE

1. It is noted that Proposed Plan Change 1 (PC1) to the Regional Plan: Waste (Waste Plan) and Proposed Plan Change 8 (PC8) to the Regional Plan: Water (Water Plan) have been jointly notified as the "Omnibus Plan Change". Both seek to address water quality issues, PC1 by improving minimum standards for landfills and PC8 by strengthening and clarifying policy direction for discharges. While the DCC is submitting on both PC1 and PC8, they require separate submissions to be made. However, both PC1 and PC8 are discussed here.
2. PC8 proposes an amendment to policy 10.4.2 of the Water Plan so that it will refer to "nationally or regionally significant infrastructure" rather than "nationally or regionally important infrastructure" as it currently does. The current wording is inconsistent with the phrase "nationally or regionally significant infrastructure" which is used in the Partially Operative Otago Regional Policy Statement (PORPS) and other resource management legislation.
3. The regional plans must give effect to a regional policy statement (section 67(3) RMA). The proposed amendment to policy 10.4.2 of the Water Plan gives effect to policy 4.3.2 of the PORPS which says:

### ***Policy 4.3.2 Nationally and regionally significant infrastructure***

*Recognise the national and regional significance of all of the following infrastructure:*

- a) Renewable electricity generation activities, where they supply the National Grid or local distribution network;*
- b) National Grid;*
- c) Electricity sub-transmission infrastructure;*
- d) Telecommunication and radiocommunication facilities;*
- e) Roads classified as being of national or regional importance;*
- f) Ports and airports and associated navigation infrastructure;*
- g) Defence facilities;*
- h) Rail infrastructure;*
- i) Municipal infrastructure.*

4. However further consequential amendments to the Water Plan and amendments to the Waste Plan are also required.
5. The DCC is the requiring authority for the Proposed Smooth Hill Landfill which is designated in the Operative Dunedin City Plan and the proposed 2GP for "Landfilling and Associated Refuse Processing Operations and Activities". DCC seeks that the Smooth Hill Landfill be recognised as "regionally significant infrastructure".
6. The proposed amendment to policy 10.4.2 of the Water Plan will refer to "nationally or regionally significant infrastructure", however there is no definition of such infrastructure in the Water Plan, nor is any infrastructure identified as being nationally or regionally significant in the Water Plan or the Waste Plan.

7. Policy 10.4.2 of the PORPS refers to "municipal infrastructure" therefore it is appropriate to include a landfill for which a local authority is the requiring authority.
8. As regional plans are forward looking documents, "regionally significant infrastructure" is not limited to infrastructure which has already been constructed and can include proposed infrastructure.
9. This would not be the first landfill to be described as "regionally significant infrastructure". The Kate Valley landfill is described as key strategic infrastructure in the Hurunui District Plan. The Canterbury Regional Policy Statement then defines "regionally significant infrastructure" to include key strategic infrastructure which includes facilities, services and installation which are of "greater than local importance".
10. Regional plans are identified in the PORPS as one of the methods for recognising the regional significance of infrastructure, and owing to the title of "regionally significant infrastructure" it is appropriate to include this in a regional plan such as the Waste Plan.
11. The current landfill at Green Island is likely to come to the end of its functional life sometime between 2023 and 2028.
12. The DCC has embarked on the Waste Futures Project to develop an improved comprehensive waste management and diverted material system for Dunedin, including future kerbside collection and waste disposal options.
13. The proposed Smooth Hill landfill will be a class 1 landfill with a capacity of approximately 6 million m<sup>3</sup> and an expected life, at current Dunedin disposal rates, of approximately 55 years.
14. Dunedin's population is around 126,800 (2018 data) and is the largest metropolitan centre in the Otago Region. With the closure of Green Island, Smooth Hill landfill will be the only landfill in Dunedin that can accept municipal solid waste. There are two other landfills in the Otago region, Mt Cooee in Clutha District and Victoria Flats in the Queenstown Lakes District. Both are predicted to reach capacity within the next 10 years, leaving the region without a landfill if Smooth Hill is not constructed.
15. The Smooth Hill site has been designated since the early 1990's. The DCC intends lodging resource consent applications for this project soon.
16. It is submitted that the proposed Smooth Hill landfill, as designated in the Dunedin 2GP, is regionally significant infrastructure and should be identified as such in both the Waste Plan and Water Plan.