

Open Meeting

To	Policy & Regulatory Committee
From	TN Harty General Manager Service Delivery
Date	13 June 2016
Prepared by	M Mould Waters Manager
Chief Executive Approved	Y
DWS Document Set #	1535351
Report Title	Submissions on the Proposed Trade Waste and Wastewater Bylaw 2016

I. EXECUTIVE SUMMARY

On 14 March 2016 Council resolved to consider and approve the Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016 for public notification and consultation. This was undertaken in accordance with section 83 of the Local Government Act 2002 (special consultative procedure provisions).

The proposed Bylaw was notified for public consultation on 23 March 2016 and submissions closed on 23 May 2016. Public notices to this effect were placed in the Waikato Times, North Waikato News, Franklin County News and Raglan Chronicle. In addition to this, a summary document and information on how to make a submission were sent to all trade waste consent holders within the district, and information was provided on Council's website.

In total, four submissions have been received on the proposed bylaw, with two submitters indicating that they wish to be heard. The Associate Minister of Health had no comments on the content of the bylaw and in accordance with section 148 of the Local Government Act 2002 (Trade Waste Bylaw) provisions did not require further parties to be consulted. Other changes to the bylaw are proposed to retain consistency with Hamilton City Council's Trade Waste and Wastewater Bylaw.

The purpose of the Committee meeting to be held on 29 June 2016 is to hear and consider submissions on the Proposed Waikato District Trade Waste and Wastewater Bylaw 2016.

The following documents are included as appendices to this report:

- Appendix 1 - A summary report incorporating staff comments on submissions to the Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016.
- Appendix 2 - Copies of Original Submissions on the Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016.

2. RECOMMENDATION

THAT the report of the General Manager Service Delivery be received;

AND THAT pursuant to sections 83 and 150 of the Local Government Act 2002, the Committee consider and, where requested, hear submissions on the notified Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016;

AND FURTHER THAT subject to any amendments, the proposed bylaw will be considered by the Committee at its meeting on 29 June 2016, with a view to recommending the Waikato District Council Trade Waste and Wastewater Bylaw 2016 for adoption at the Council meeting on 11 July 2016.

3. BACKGROUND

As a result of the amalgamation with part of the Franklin District Council in 2010, Council currently has two trade waste bylaws. There is currently no bylaw for wastewater. A bylaw to manage trade waste and wastewater in the District was determined to be the most appropriate way to address these issues identified:

- Controlling what is discharged - trade waste, tankered 'septage' waste and residential wastewater.
- Complying with resource consents.
- Minimising blockages and overflows.
- Providing capacity for growth.
- Encouraging waste minimisation and recovering costs.
- Reducing stormwater inflow and groundwater infiltration.
- Controlling deterioration of the network.
- Clarifying Customer/Contractor responsibilities.

The proposed bylaw has been developed in consultation with Hamilton City Council and with staff from Council's Strategy, Waters and Legal teams, as well as the Trade Waste Shared Services Team and key stakeholders.

3.1 CONTENT OF THE BYLAW

The bylaw is made under the Local Government Act 2002 and the Health Act 1956.

Section 145 of the Local Government Act 2002 provides for making of bylaws by local authorities for the purpose of:

- a) Protecting the public from nuisance;
- b) Protecting, promoting and maintaining public health and safety; and
- c) Minimising the potential for offensive behaviour in public places.

Section 146 of the Local Government Act 2002 provides for local authorities to make bylaws in relation to a) (iii) regulating trade wastes and b) (iii) managing, regulating against or protecting from damage, misuse, or loss or for preventing the use of infrastructure associated with wastewater.

Section 148 of the Local Government Act 2002 includes special requirements for bylaws relating to trade waste. The proposed bylaw needs to be provided to the Minister of Health for comment. The public consultation process needs to be at least two months. Copies of the proposed bylaw must be sent to owners/occupiers of trade premises.

The Health Act 1956 (s64 (1)) states that:

“Every local authority may, for the purposes of this Act, make bylaws for (a) improving, promoting, or protecting public health, and (y) generally, for the more effectual carrying out of any of the provisions for this Act relating to the powers and duties of local authorities.”

The Health Act also states (s23) that:

“Subject to the provisions of this Act, it shall be the duty of every local authority to improve, promote, and protect public health within its district, and for that purpose every local authority is hereby empowered and directed – (e) to make bylaws under and for the purposes of this Act or any other Act authorising the making of bylaws for the protection of public health.”

3.2 PRE-CONSULTATION CARRIED OUT

Feedback was sought from internal stakeholders, conditional trade waste consent holders, Hamilton City Council, Waipa District Council and Ministry of Health/Public Health Unit and Iwi representatives during the issues identification stage. This feedback informed the drafting of the proposed Trade Waste and Wastewater Bylaw 2016.

3.3 PROPOSED BYLAW

On 23 March 2016, the proposed bylaw was publicly notified in accordance with section 83 of the Local Government Act 2002, with submissions closing on 23 May 2016. During the submission period four submissions were received. All submissions were received electronically via Online Submissions.

A summary document was produced and distributed to trade waste consent holders, as well as key stakeholders, and it was available on Council's website.

A copy of each submission for the proposed Trade Waste and Wastewater Bylaw 2016 is provided as Appendix I of this report in numerical order of submitter number with an accompanying staff comment.

Council must consider each submission, and make a determination on each of the issues raised. Each submitter is entitled to be informed of the outcome of their submission, including the reasons for the decision.

All submissions to the proposed Trade Waste and Wastewater Bylaw 2016 have been acknowledged and each submitter will receive a written response following Council's adoption of the Trade Waste and Wastewater Bylaw 2016.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Trade Waste and Tankered Waste sections of the bylaw are based on the Standards NZ Model Trade Waste bylaw (2004) with clauses updated where necessary to reflect best practice and address current problems. The Standards NZ Wastewater Model Bylaw (1999) was not considered to adequately address the issues for Waikato District (as outlined in the pre determination report) and other more recent bylaws were used as a basis for the wastewater section (ie Auckland Water and Wastewater bylaw 2014, Hauraki Consolidated Bylaw 2014, and Waipa Wastewater Bylaw 2011).

Key changes include simplifying the bylaw and removing unnecessary schedules, adding new sections to address wastewater issues, and updating the trade waste and tankered waste sections to reflect best practice. Expected benefits of the proposed bylaw are improved consistency across the district and sub-region, clearer requirements, reduced blockages and overflows, better control over fat, oil and grease, and reduced damage to the wastewater system.

4.2 SUMMARY OF SUBMISSIONS RECEIVED

Submitters commented on a variety of issues included in the proposed bylaw. While each submission point is addressed in Appendix I, the main points of concern include:

- Wastewater causing malodourous gases prohibited.
- Removal of the reference to the liquid and hazardous waste code of practice for tankered waste disposal.
- Requirement for all trade waste dischargers to have a consent or approval notice.
- Unclear wording in the prohibited characteristics schedule.

Submissions to the Hamilton City Council Trade Waste and Wastewater Bylaw are due to be considered in July. To maintain consistency with the Hamilton City Council Trade Waste and Wastewater Bylaw the following other changes to our bylaw are proposed:

- Clarify that Table 5 in Schedule 1A only applies to liquid waste from pharmacies.
- The timeframe for reporting non-compliances in clause 8.10 (g) is increased from one working day to three working days. Clarify that this does not apply to situations such as spills.
- Add to clause 8.13 (b) “For the avoidance of doubt, Schedule 1A of this bylaw applies to existing consents except to the extent that the consent conditions specifically provide for a different limit”.
- Add mass limits for BOD and COD to Permitted Characteristics Schedule 1A and add commentary “It is sufficient to comply with either the concentration limit or the mass limit”.
- Clarify that the grease trap sizing guide in Schedule 2 is relevant to food retailing businesses only.
- Remove “Heavy Solids which settle faster than 50mm/minute” from Prohibited Characteristics Schedule 1B.

- Some parts of the bylaw are difficult to read and understand. Some wording changes are proposed to address this without changing the meaning of the clauses or the legal robustness of the bylaw.

Making the Bylaws consistent allows businesses to better operate within the sub region and the staff that apply the Bylaws provide more efficient service.

5. CONSIDERATION

5.1 FINANCIAL

It is not envisaged that the proposed Bylaw will require any extra funding over that which is currently provided in operational budgets.

Review of fees and charges associated with the bylaw will follow the special consultative procedure and will be incorporated into Council's fees and charges schedule.

5.2 LEGAL

Section 155 of the LGA requires a local authority to undertake an assessment before commencing the process of making a bylaw. The review process identified what the perceived problems were and determined that the use of a bylaw is an appropriate mechanism to assist in trade waste and wastewater management in the Waikato District.

Section 155A (2) of the Local Government Act 2002 compels the Council to consider whether a proposed bylaw is the most appropriate form of bylaw. The proposed bylaw has been shaped to focus on readily identifiable problems and customised to suit the particular circumstances of the Waikato District. It is therefore concluded that the proposed bylaw is the most appropriate form of bylaw.

Section 148 of the Local Government Act 2002 has special requirements for trade waste bylaws. The Associate Minister of Health, the Hon Peter Dunne, advised on 28 April 2016 that he had no comments on the content of the proposed bylaw and did not require any other parties to be consulted.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

Staff recommend that fees and charges associated with trade waste and wastewater within the district be solely managed through Council's Schedule of Fees and Charges.

Having bylaws aligned across the sub-region is a key objective of the Sub-Regional Three Waters Strategy. Bylaw consistency makes implementation by the Shared Services Trade Waste team more efficient and is less confusing for businesses with multiple sites.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

The Proposed Trade Waste and Wastewater Bylaw 2016 triggers Council's Significance and Engagement Policy as the Special Consultative Procedure was required and undertaken. The Engagement Plan is summarised in Table 1.

Table 1 – Engagement Plan Summary

Highest levels of engagement	Inform <input type="checkbox"/>	Consult <input type="checkbox"/>	Involve <input checked="" type="checkbox"/>	Collaborate <input type="checkbox"/>	Empower <input type="checkbox"/>
Consent Holders Ministry of Health Hairdressers Waikato Tainui Other Councils	Specific letters were sent to key stakeholders including consent holders and hairdressers. Letter requesting approval was sent to Minister of Health. Public notices. Information was provided on website. Staff worked closely with Hamilton City Council staff.				

Table 2 summaries which external stakeholders have been engaged with.

Table 2 – External Stakeholder Summary

Planned	In Progress	Complete	
		✓	Internal
		✓	Waikato-Tainui/Local iwi
		✓	Ministry of Health
		✓	Trade Waste Consent Holders
		✓	Hairdressers
		✓	Hamilton City Council and Waipa District Council

6. CONCLUSION

The proposed Trade Waste and Wastewater Bylaw 2016 have been notified for public consultation. Four submissions were received and are summarised in this report. Changes to the bylaw under consideration by Hamilton City Council will also be considered to retain consistency between the bylaws within the sub-region. The Associate Minister of Health has approved the content of the bylaw and does not require any other parties to be consulted. Council will decide the final bylaw following consideration of all submissions.

7. ATTACHMENTS

The following documents are included as appendices to this report:

- Appendix 1 - A summary report incorporating staff comments on submissions to the Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016.
- Appendix 2 - Copies of Original Submissions on the Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016.
- Appendix 3 - Revised Waikato District Council Trade Waste and Wastewater Bylaw 2016 (incorporating suggested changes as a result of submissions).