

QLDC Council
27 November 2014

Report for Agenda Item: 9

Department
Infrastructure

9: Approval of draft Trade Waste Bylaw for public consultation

Purpose

- 1 To seek Council approval to commence a public consultation process for a Trade Waste Bylaw.

Recommendation

- 2 *That Council:*
 - a. **Approve** the form of the following for public consultation:
 - i. Summary of Statement of proposal;
 - ii. Statement of Proposal and for the Trade Waste Bylaw; and
 - iii. Proposed Trade Waste Bylaw
 - b. **Appoint** a committee of three councillors for the hearing of submissions on the Queenstown Lakes District Trade Waste Bylaw 2014.

Prepared by:



Ulrich Glasner
Chief Engineer
13/11/2014

Reviewed and Authorised by:



Peter Hansby
General Manager Infrastructure
13/11/2014

Background

- 3 Trade waste relates to all commercial wastewater that flows into the Council's wastewater system from all industrial and commercial premises, not from residential properties.
- 4 Like all Councils, QLDC has a legal obligation to manage its network of wastewater pipes and its wastewater treatment plant in a manner that meets environmental standards. In past months, there has been increasing concern from the Otago Regional Council regarding the number of uncontrolled discharges of sewer into water and onto land. Many of these discharges have been the direct result of fat build-ups in the network. In addition, in assessing the future operational costs of the new Project Shotover wastewater treatment plant, it has become apparent that effective control over pollutants and waste will be a key determinant in managing those costs and ensuring that QLDC meets environmental standards for discharge from the plant.
- 5 Recent events have demonstrated that we are currently unable to manage trade waste discharges into the public wastewater system solely through education and other voluntary means. This has a number of potentially adverse impacts: (a) it may increase Council's costs of treating wastewater; (b) it may put the health and safety of people and the environment at risk; and (c) it may result in enforcement action by ORC.
- 6 This report proposes that Council makes a trade waste bylaw to address these issues, and explains why it is considered that a trade waste bylaw is the most appropriate method of dealing with this problem.

Comment

- 7 The Bylaw is intended to:
 - a. Ensure that QLDC meets its legal obligations and addresses compliance issues raised by ORC;
 - b. Allocates costs in managing our network and plant to those creating the problem; i.e. "the polluter pays";
 - c. Protect the public wastewater system from damage and provide for its efficient and cost effective operation;
 - d. Protect the health of the community from potential adverse effects of harmful substances being discharged into the public wastewater system;
 - e. Protect the environment from adverse effects of harmful substances being discharged into the public wastewater system.
- 8 All trade premises will be governed by the Bylaw and all will require either a permitted or controlled consent. Permitted consents will be able to discharge trade waste subject to submitting sample test results showing that they comply with the specified standards for permitted trade wastes. Controlled consents will have conditions imposed to ensure that the trade waste is discharged in a manner that is compatible with the performance of the wastewater network. The bylaw also specifies a range of prohibited substances which may not be discharged to the wastewater network.

- 9 In administering the Bylaw, the Council will notify all trading premises connected to the wastewater system as to what can and cannot be discharged, as well as issuing permitted or controlled consents to discharge trade waste into the wastewater system.
- 10 Trade waste consent holders will have to pay fees for a consent and any sampling and testing that is required.¹ The level of these fees will be considered by Council at the time the Long Term Plan is considered.
- 11 Trade premises that do not comply with the Bylaw would be in contravention of regulations and may be subject to prosecution. The Bylaw also provides for the Council to close the wastewater connection to the premises for the purpose of the Council complying with its obligations under the regional plan rules or the resource consents held for the wastewater network.
- 12 The attached Statement of Proposal sets out the purpose of the Bylaw and how it will work. It also provides an enforcement plan for dealing with owners or occupiers of commercial premises that do not comply with the Bylaw. It is proposed that the Bylaw become operational from 1st August 2015. However, full implementation will take place over a period of twelve months from that date.
- 13 Consideration has been given to a range of options for addressing the perceived problems. Council has identified five possible options:

Option 1. Non-statutory

Reject the proposed Bylaw and consider the use of a non-statutory approach. This would not allow for a consistent approach to managing trade waste discharges, is inconsistent with legislation such as the Waste Minimisation Act 2008 and confines enforcement options in the case of inappropriate discharges to breaches of the Local Government Act 2002 and other primary legislation such as the Health Act 1956.

Option 2. Education

Public education is a useful tool, which is used in various enforcement situations. However, education alone is unlikely to be sufficient to enforce compliance

Option 3: No Bylaw with customer contracts

No bylaw in place and rely solely on customer contracts and existing legislative provisions. This option limits enforcement options to breaches of legislation, although supplements them with remedies for breach of contract. However, the customer contracts option provides limited recourse (essentially, only statutory or common law remedies) in the event of inappropriate discharges to the public wastewater system by those not under a contractual relationship.

¹ There will need to be an initial process to identify commercial premises which have no trade waste issues; i.e. commercial offices that have no waste discharges that are different to residential premises. These premises will not incur any fee from this process.

Option 4. Use the Building Act to enforce the use of grease traps

Whilst this option will ensure that new buildings have the right devices installed it does not provide sufficient flexibility when changes in building use occur and it does not provide the ability for the Council to enforce the correct use and maintenance of devices.

Option 5. Proposed Bylaw with discharge licences (Recommended)

Adopt the proposed Bylaw in principle and release for public consultation. This option will enable the cost effective management of Council's wastewater network, with the reduced potential for adverse effects on public health and safety and the environment from blockages and overflows caused by trade waste.

Businesses that discharge into the Council's wastewater network or waste treatment plants directly will be required to pay a fee for a trade waste consent licence. The fee levels will be based on volumes and concentrations, with a staged implementation concentrating initially on fat, oil and grease discharges. There will be three levels of control: permitted, controlled and prohibited.

The establishment of appropriate limits on contaminants through a licensing mechanism is important to ensure that the wastewater systems remain efficient and effective at treating trade wastes.

- 14 The table on the page following shows how each option deals with the identified problems.
- 15 The Bylaw is the only mechanism that addresses each of the problems either in full or partially.

Table 1: Benefits and options					
Benefit	Option 1. Non-statutory	Option 2. Education	Option 3. No bylaw with individual trade waste agreements	Option 4. No bylaw - use the building act	Option 5. Bylaw with discharge licences
Control of FOG1 will prevent blockages and reduce treatment costs	No	Partially	Partially	No	Yes
Council and commercial premises have a good understanding of discharge levels. Treatment devices are installed to meet permitted or controlled discharge levels. Less blockages and reduced treatment costs.	Partially	No	Partially	Partially	Yes
Council has a good level of confidence in data to produce educational material and if necessary carry out enforcement.	No	No	Partially	No	Yes
Increased awareness and accountability of trade waste problems	No	Partially	Partially	No	Yes
Council and commercial premises have a good understanding of discharge levels. Treatment devices are installed to meet permitted or controlled discharge levels	Partially	Partially	Partially	Partially	Yes
Public health is protected and the Council recovers the cost of removing blockages from those responsible	No	No	No	No	Partially
Building owners and commercial premises are aware of their compliance responsibility	No	Yes	Partially	No	Yes
Council has a good understanding of discharge quality and quantity delivered directly to the wastewater treatment plant and can recover the costs associate with this.	No	No	Partially	No	Yes
Commercial premises monitor their discharges, additional resources are provided and the Council recovers the costs associated with analysis.	Partially	Partially	Partially	No	Yes
Increased awareness and accountability of commercial premises in relation to trade waste problems	No	Partially	Partially	No	Yes
Businesses are able to comply without going out of business.	Yes	Yes	Yes	Yes	Partially
Reduced costs associated with sludge disposal or beneficial reuse	No	No	Yes	No	Yes
Improved ability to meet the discharge consent limits imposed on councils WWTPs2	No	No	Yes	No	Yes
Reduced damage to the network.	No	Partially	Partially	No	Yes
Greater capacity life in the wastewater network	No	No	Yes	No	Yes
1 - Fat, Oil and Grease					
2 - Wastewater treatment plants					

Financial Implications

16 It is intended that a phased approach be taken to implement the Bylaw with public education to industry groups to precede the licence provisions. Initially all trade premises (approximately 800 in the district) would be required to apply for either a permitted or controlled consent. This would require additional Council resources to process applications. It is estimated that this would be one full time equivalent person for a period of six months. Additional resources would also be required for monitoring and enforcement once the

Bylaw provisions have taken effect, which would require one full time equivalent person for the first year.

17 The cost of the additional resources would be covered in part by the charges to applicants. The rates would be based on the estimated time required by a suitably qualified person to assess each application plus any external costs such as sample testing. Any difference would be ratepayer funded, but it is intended to recover costs from licence applicants as far as possible.

18 There is currently no budget allocated for this activity, and provision will need to be made in the 2015 Long Term Plan.

Local Government Act 2002 Purpose Provisions

19 Section 146 of the Local Government Act 2002 provides for a Council to make a bylaw for the purpose of regulating trade wastes. Controlling the use of the wastewater network will also assist Council in preserving the life of the wastewater assets, so that Council can avoid incurring the costs of early asset renewal in advance of the activity management plans.

Council Policies

The following Council Policies were considered:

20 Policy on significance:

The matters set out in this report do not exceed the Council's existing significance policy thresholds. However, it is a requirement to consult the public using the special consultative procedure under section 156 of the Local Government Act 2002 when making a bylaw.

21 Three Waters Strategy 2011:

The proposed bylaw is consistent with the objectives of the three waters strategy to protect the Council's investment in the wastewater system.

22 Waste Management and Minimisation Plan 2011:

The proposed bylaw is consistent with the goals, objectives, policies and methods contained in the Waste Management and Minimisation Plan 2011 to reduce the harmful effects of waste and improve the efficiency of resource use.

Consultation

23 Section 148 of the Local Government Act 2002 which permits the Council to control trade waste by making a bylaw also imposes some particular consultation requirements for the making of a trade wastes bylaw. Specifically, Council must send a copy of the proposed bylaw to the Minister of Health. Council must also offer a minimum public consultation period of two months, and set out which trade wastes it is intended to control under the bylaw.

24 Section 156 of the Local Government Act must also be complied with (although Council may do both using a single process i.e. simultaneously). That section requires that when proposing to make a bylaw, the Council will use the special

consultative procedure. The Council will also undertake specified consultation including focus group meetings with particular industry groups that are expected to be directly affected by this proposed bylaw. This bylaw proposes that fees be imposed for the making and consideration of applications, as well as inspections and sampling of trade wastes.

- 25 It is intended to consult on the fee levels at the time that Council considers the Long Term Plan in March 2015. Therefore it is not intended to include the value of the proposed fees in the public consultation programme planned for the bylaw.

Publicity

- 26 Public notice of the submission period opening is required. It is also planned to run a series of “reminder” public notices seeking submissions in mid-February 2015 to engage with industry sectors that experience peak service demands over the Christmas period, and to engage with residents who are away during the Christmas and New Year holiday periods.

Attachments

- A Summary of Statement of Proposal – Trade Waste Bylaw
- B Statement of Proposal – Trade Waste Bylaw
- C Trade Waste Bylaw
- D Fact Sheet – frequently asked questions