



QUEENSTOWN LAKES DISTRICT COUNCIL

STATEMENT OF PROPOSAL

TRADE WASTE BYLAW

Submissions close at 12 noon on 6 March 2015

PUBLIC NOTICE

TRADE WASTE BYLAW

Pursuant to Sections 83, 86 and 156 of the Local Government Act 2002; public notice is given that the Queenstown Lakes District Council resolved at its meeting on 27 November 2014 to invite submissions on the proposal to adopt a new Trade Waste Bylaw

The bylaw relates to all trade wastes.

The Statement of Proposal including a copy of the proposed Trade Waste Bylaw will be available for public inspection from Friday 5 December 2014 at no cost, from:

- Either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmore Street, Wanaka
- Any Council library within the Queenstown Lakes District.
- The Council website – www.qldc.govt.nz

Submissions on the Statement of Proposal will be received up until:

12:00 noon on Friday 6 March 2015

All submissions must be in writing and addressed to:

Submission – Trade Waste Bylaw
Queenstown Lakes District Council
Private Bag 50072
10 Gorge Road
Queenstown
New Zealand
EMAIL:services@qldc.govt.nz

Submissions may also be made electronically on the Council Website www.qldc.govt.nz
Please note that personal information forms part of the public consultation process for the proposal and as such will be reproduced as an attachment to a publicly available Council agenda and will remain on the Council minute records.

Adam Feeley
CHIEF EXECUTIVE OFFICER

QUEENSTOWN LAKES DISTRICT COUNCIL - TRADE WASTE BYLAW

1. INTRODUCTION

In accordance with sections 83, 86 and 156 of the Local Government Act 2002, Queenstown Lakes District Council gives notice through this Statement of Proposal of its intention to adopt and implement a new bylaw to be known as the "Queenstown Lakes District Council Trade Waste Bylaw". This Statement of Proposal outlines the reasons for the proposed Trade Waste Bylaw and provides a summary of the relevant considerations taken by Council in developing the proposed bylaw.

2. BACKGROUND

Queenstown Lakes District Council owns and maintains the District's wastewater system including sewer pipelines, treatment plants and pump stations from all serviced property boundaries to wastewater treatment facilities. The Council has identified that it is currently unable to manage trade waste discharges into its wastewater system, resulting in high levels of contaminants such as fat, oil and grease being discharged, which have caused blockages and sewage overflows.

There are approximately 460 food businesses operating in the district. Although the majority of these have grease traps or grease converters, many of these do not appear to be of sufficient size for the operation of the business or are not maintained at a level to ensure the efficiency of the trap. The costs of clearing the wastewater network as a result of trade waste should be met by the businesses discharging these trade wastes and not ratepayers.

Council has a pro-active assessment programme in place to minimise the likelihood of overflows caused by trade waste, through the use of CCTV, and has identified 15 kilometres of priority areas to be assessed in the current financial year at an annual cost of over \$100,000.

3. PROPOSED BYLAW

Overview:

The key features of the proposal are that:

- Council will prohibit some wastes from the wastewater network.
- Council will licence all premises discharging trade waste.
- Conditions of a licence will require that the premises are required to test their trade waste and submit a report specifying whether that waste complies.
- Council will implement a monitoring programme to check each premises for compliance with the trade waste bylaw.
- Enforcement of non-compliance is to be by way of prosecuting the discharger and/or by disconnecting the premises from the Council's wastewater network.
- The cost of non-compliance, i.e. a breach of the proposed new bylaw, will be met by those who damage or misuse the wastewater asset.
- A trade premises will be required to pay an application fee, and an annual inspection fee. These fees will be set as part of the Council's Long Term Plan process.
- The bylaw is proposed to come into effect on 1 August 2015.

Purpose

The purpose of the proposed bylaw is to:

- protect the health and safety of the community from potential adverse effects of harmful substances discharged to the public wastewater system;

- protect the environment from adverse effects of harmful substances discharged to the public wastewater system;
- protect the public wastewater system from damage and provide for its efficient operation;

4. BENEFITS/COSTS

- To ensure the protection of the Council's staff and contractors and the general public.
- To protect the ability of the Council to meet the requirements of the Resource Management Act 1991 and in particular its resource consents for the discharge of treated sewage (and also the placement of sludge and biosolids on land).
- To protect the investment in the existing and any further infrastructure, treatment plant and disposal facilities.
- Address all aspects of wastewater drainage including issues arising from Acts and legislation.
- To ensure trade waste dischargers consider, and where appropriate and practicable implement waste minimisation and cleaner production techniques to reduce the quantity and improve the quality of their trade waste discharges, thereby assisting the Council to meet the targets of the New Zealand Waste Strategy.
- To foster consistency between wastewater authorities with respect to trade waste requirements.
- To protect the infrastructure from damage and misuse.
- To assist Council staff in achieving compliance in a fair and straight forward manner
- To bring into line with the new Local Government Act legislation, the new penalties of up to \$200,000.
- The cost of non-compliance, i.e. a breach of the proposed new bylaw, will be met by those who damage or misuse the asset.
- Less environmental pollution.

5. PROPOSED FEES

It is proposed that all commercial premises apply to the Council to gain either a 'permitted' or 'controlled' trade waste consent. It is anticipated that in the majority of cases where a 'permitted' trade waste consent is granted the application cost would be in the region of \$150 per application. Where additional time is required to process an application for a 'controlled' trade waste consent the cost is estimated to be up to \$1,000. 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.

The breakdown of fees could include any of the following items:

1. License application (approximately \$110/hour)
2. Inspection costs (approximately \$110/hour)
3. Sampling costs for FOG only (\$80)
4. Written approvals of changes to license (approximately \$110/hour)

It is proposed that the fees would be set each year as part of the Council's Annual Plan process.

6. ENFORCEMENT

It is proposed that there will be a staggered enforcement plan, to reflect the implementation of the proposed bylaw and the issues to be addressed in the bylaw, to enable businesses to amend current practices, with an outcome of self-regulation and compliance prior to the full implementation of the bylaw.

The proposal is to encourage self-compliance, in accordance with Council's

Enforcement Strategy, followed by enforcement as necessary. Table 1 provides an overview of the options available to monitor and maintain compliance with the proposed bylaw.

Table 1 – Enforcement options

Option	Description	Outcome
Self- Compliance	Businesses undertake regular sampling of their business discharge to ensure the levels comply with the proposed bylaw levels permitted.	Sampling results to be sent to Council Engineer for assessment. Non-compliance may lead to additional monitoring at the business owners cost in accordance with the bylaw fee schedule.
Programmed monitoring	Council undertake routine monthly monitoring of businesses discharging fats, oil and grease (FOG)	Sampling to be undertaken at the business owners costs. Non-compliance with the proposed bylaw will lead to increased sampling.
Non-Compliance Monitoring	Council undertakes monitoring of business found to be non-compliant.	Continue to monitor and to consider additional enforcement action.
Disconnection	Where serious or continued non-compliance is established, to consider the removal of the permitted or controlled trade waste licence and disconnection from the wastewater network.	Consider prosecution and to remove the immediate issue of non-complying trade waste levels in the network.
Prosecution	Where Non-compliance with the bylaw continues, prosecution is considered in consideration of the Enforcement Strategy and Prosecution policy.	Compliance with the bylaw to reduce the incidence of excess FOG and other trade waste in the network.

7. STATUTORY REQUIREMENTS

Part 8, sub-part 1 of the Local Government Act 2002 (LGA2002) sets out the powers that allow local authorities to make Bylaws:

- To protect, promote and maintain public health and safety (section 145);
- For the purpose of waste management and trade wastes (sections 146(a)(ii) and 146(a)(iii))
- To manage, regulate against, or protect from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure under the control of the Council including wastewater drainage, and sanitation (section 146(b)(iii)).

Section 148 of the LGA2002 includes special requirements for bylaws relating to trade waste which specifies:

- Provide a copy of the bylaw to the Minister of Health for comment (section 148(1));

- Give at least two (2) months in advance public notice of Council's intention to make a bylaw (section 148(2));
- Notices must inform the public to which trade wastes the proposed bylaw will relate, where copies of the bylaw may be inspected and invite representations from owners or occupiers of trade premises in the district (or any other class of owner or occupier that the Minister of Health specifies) that will be considered by the Council (sections 148(3) and 148(4))
- Maintain a register of the particulars of owners and occupiers of trade waste premises who register for this purpose with the Council and ensure that they are provided with copies of the notice (section 148(5)).

Section 155 of the LGA 2002 sets out the determinations of appropriateness Council needed to consider in making this Bylaw:

- Whether a new Bylaw is the most appropriate way of addressing the perceived problem; and
- Whether the new Bylaw is in the most appropriate form; and
- Whether the new Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. If there are implications under the Act, the Bylaw must be amended to remove any inconsistencies.

In addition the LGA2002 specifies that Council must use the special consultative procedure when making bylaws section156(1).

8. PERCEIVED PROBLEMS

In accordance with section 155 of the Local Government Act 2002 the council has identified the following problems to be addressed:

- Council is unable to meet its discharge consent conditions and regional plan rules
- Council is unable to protect the performance of the wastewater network
- Council is unable to protect the life of the wastewater system.

The initial priority area of focus involves fat, oil and grease discharges. There have recently been a number of incidents caused by fats, oil and grease which have caused blockages and sewage overflows which have resulted in costs to Council to water blast its network.

For reasons summarised below, it has been concluded that:

- a bylaw is the most appropriate way of addressing the perceived problem; and
- the proposed "bylaw" is the most appropriate form of bylaw; and
- the proposed bylaw gives rise to no adverse implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

9. DETERMINATION OF APPROPRIATENESS

Consideration has been given to a range of options for addressing the perceived problem. 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.

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 Councils 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 Councils wastewater network or waste treatment plants directly will be required to pay a fee for a trade waste consent licence. The fees levels will be based on volumes and concentrations, with a staged implementation concentrating initially on fat, oil and grease discharges.

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.

10. NEW ZEALAND BILL OF RIGHTS ACT

The Council has determined whether the proposed Trade Waste Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (BORA). It is Council's view that, in accordance with Section 5 of the Bill Of Rights Act, this is a reasonable limit prescribed by law that can be "demonstrably justified in a free and democratic society" and is a reasonable response to the issue of unregulated trade waste discharge into the Council's wastewater network.

11. FORM OF BYLAW

The proposed Trade Waste Bylaw is based on the Trade Waste Model Bylaw - NZS 9201 Part 23, 2004) by New Zealand Standards. The Model Bylaw has undergone an extensive review process and provides a strong framework for developing a new bylaw that is consistent with national best practice, and the New Zealand Standards that apply to the management of trade waste.

12. PUBLIC CONSULTATION PROCESS

Any person or organisation may make submissions to this proposal to adopt a Trade Waste Bylaw. A longer time period has been allowed for people or organisations to make submissions due to the consultation period falling over the holiday season.

The Local Government Act 2002 (LGA2002) prescribes the use of the special consultative procedure to make bylaws, however in the matter of trade waste bylaws the LGA2002 prescribes an extended special consultation procedure that allows the Council to consult the diverse communities in the District. Section 148(1) requires that a copy of the draft Bylaw be sent to the Minister of Health for comment.

The following dates represent the key times in the consultation programme:

27 November 2014	Council adopts the proposed bylaw and resolves to undertake public consultation following the special consultative procedure
6 December 2014	Advertisement in Otago Daily Times and Southland Times
8 December 2014	Send a copy of the bylaw to the Minister of Health
10 December 2014	Advertisement in Mirror
11 December 2014	Advertisement in Wanaka Sun
Late February 2015	Re-advertise in Otago Daily Times, Southland Times, Mirror and Wanaka Sun
6 March 2015	Submissions close
30 March – 3 April 2015	Submissions heard by a subcommittee of Councillors (to be confirmed)
30 June 2015	Council considers outcome of consultation process. Adoption of bylaw.
1 August 2015	Public notice of final decision (if Council resolve to adopt the bylaw)

The Bylaw comes into effect subject to the above.

13. AVAILABILITY OF CONSULTATION DOCUMENTS

The Statement of Proposal including a copy of the proposed Trade Waste Bylaw will be available for public inspection from Friday 5 December 2014:

- at either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmere Street, Wanaka
- at any Council library within the Queenstown Lakes District.
- on the Council website – www.qldc.govt.nz

Submissions on the Statement of Proposal will be received up until:

12:00 noon on Friday 6 March 2015

The Council would prefer that all parties intending to make a submission set those submissions out in writing and email them to services@qldc.govt.nz or submit them to QLDC, Private Bag 50072, Queenstown, no later than 6 March 2015. The

Council will then convene a hearing, which it intends to hold between 30 March – 3 April 2015, at which any party who wishes to do so can present their submission in person. Equal weight will be given to written and oral submissions.

The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.

Every submission made to the Council will be acknowledged in accordance with the Act, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.

Section 82 of the Local Government Act sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

14. MAKING AN EFFECTIVE SUBMISSION

Written submissions can take any form (e.g. Email, letter). An effective submission references the clause(s) of the proposed Bylaw you wish to submit on, states why the clause is supported or not supported and states what change to the clause is sought.

Submissions on matters outside the scope of the Bylaw cannot be considered by the Hearings Panel.

Please note that personal information forms part of the public consultation process for the proposal and as such will be reproduced as an attachment to a publicly available Council agenda and will remain on the Council minute records.

Council is seeking feedback from the community and trade waste producers on this Proposal. The owners and occupiers of premises that contribute to trade waste may register their names and contact particulars with the Council to receive copies of the public notice. In providing feedback the Council would encourage submitters to include details on why they have adopted the view that they have.

Adam Feeley
CHIEF EXECUTIVE

Attachment 1: Proposed Queenstown Lakes District Council Trade Waste Bylaw.
Attachment 2: Problem and benefits assessment

Table 1: Problem and benefits analysis								
Problem	Objectives	Focus	Benefit	Is a bylaw the best way of addressing the problem	Is this the most appropriate form of bylaw	Does this give rise to any implications under the New Zealand Bill of Rights	Alternative	
1	Blockages in recent years have caused overflows into the environment.	Prevent blockages	Focus on discharge levels for commercial premises in terms of Fat, Oils and Grease e.g. permitted at 100g/m ³ of discharge and prohibited above 100g/m ³	Control of FOG will prevent blockages and reduce treatment costs	Yes	Yes	No	Individual trade waste agreements
2	No regulatory requirement for commercial premises to install treatment devices prior to discharge which means the Council cannot carry out enforcement.	Commercial premises monitor discharge into the Council's sewerage system and install treatment devices to meet the permitted or controlled discharge levels.	Education/communication. Adoption of a bylaw, commercial premises carry out monitoring and install treatment devices.	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.	Yes	Yes	No	Individual trade waste agreements
3	Location and effectiveness of treatment devices in commercial premises is unknown.	Council has an understanding of trade waste customers	Develop a list of trade waste customers	Council has a good level of confidence in data to produce educational material and if necessary carry out enforcement.	Yes	Yes	No	Individual trade waste agreements
4	Commercial premises are not aware of their discharge levels or the problems they may cause	Increase awareness and accountability of commercial premises in relation to trade waste problems	Education and sampling	Increased awareness and accountability of trade waste problems	Yes	Yes	No	Individual trade waste agreements and a communications campaign
5	Council is unaware of discharge levels from individual premises	Commercial premises are required to monitor discharge into the Council's sewerage system and install treatment devices to meet the permitted or controlled discharge levels.	Education and sampling	Council and commercial premises have a good understanding of discharge levels. Treatment devices are installed to meet permitted or controlled discharge levels	No	No	No	Individual trade waste agreements
6	Council cannot recover the cost of overflows or damage to sewerage infrastructure from those responsible	Council is able to recover costs associated with removing blockages.	Prevent blockages from illegal discharges	Public health is protected and the Council recovers the cost of removing blockages from those responsible	Yes	Yes	No	Litigation
7	Unknown compliance responsibility because some multi-occupancy buildings have only one discharge point.	Council has an understanding of trade waste customers	Develop a list of trade waste customers	Building owners and commercial premises are aware of their compliance responsibility	Yes	Yes	No	Individual trade waste agreements
8	Unknown discharge quantity and quality of wastewater discharged directly to the plant by third parties.	Set permitted, controlled and prohibited discharge levels for discharge directly into the wastewater treatment plant. Measure quality.	Focus on discharge levels for third parties discharging directly into the wastewater treatment plant in terms of Fat, Oils and Grease e.g. permitted at 100g/m ³ of discharge and prohibited above 100g/m ³	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.	Yes	Yes	No	Council carries out it's own measuring or through individual trade waste agreements
9	Insufficient resources or infrastructure to monitor trade waste discharges	Commercial premises are required to monitor discharge into the Council's sewerage system. Council to provide additional resource. Costs of analysis are recovered through application for consent.	Cost of additional resources would need to be neutral.	Commercial premises monitor their discharges, additional resources are provided and the Council recovers the costs associated with analysis.	Yes	Yes	No	Ratepayer funded or through individual trade waste agreements
10	Council hasn't discussed particular problems with commercial premises which are obviously causing blockages	Increase awareness and accountability of commercial premises in relation to trade waste problems	Education/communication. Adoption of a bylaw, commercial premises carry out monitoring and install treatment devices.	Increase awareness and accountability of commercial premises in relation to trade waste problems	No	No	No	Communications
11	Unknown impact on businesses from the introduction of a trade waste bylaw	Ensure charging is fair and that the costs of monitoring and installation of treatment devices is not prohibitive.	Education, consequence. Set up a fair charging system	Businesses are able to comply without going out of business.	Yes	Yes	No	Feasibility study
12	Contamination levels from discharge affect the quality of sludge produced at the wastewater treatment plant which results in high disposal or 'beneficial use' costs	Ensure the quality of discharge results in sludge with low contamination levels to enable beneficial reuse of sludge or low cost disposal options	Focus on discharge levels for third parties discharging directly into the wastewater treatment plant in terms of Fat, Oils and Grease e.g. permitted at 100g/m ³ of discharge and prohibited above 100g/m ³	Reduced costs associated with sludge disposal or beneficial reuse	Yes	Yes	No	Pre-treatment or through individual trade waste agreements
13	New discharge consent parameters are difficult to meet	Assist treatment plants to process wastewater and produce biosolids of a guaranteed quality	Focus on understanding and then controlling trade wastes that may affect the operation of the WWTP's	Improved ability to meet the discharge consent limits imposed on councils WWTPs	Yes	Yes	No	Individual trade waste agreements or a higher spec treatment facility
14	Damage to the network from trade wastes	Protect from damage and provide for the efficient operation of the wastewater network	Focus on understanding and then controlling trade wastes that may damage the wastewater network	Reduced damage to the network.	Yes	Yes	No	Individual trade waste agreements
15	Expensive treatment plants are being built to handle high wastewater loads	Encourage waste minimisation and reduced water use	Focus on encouraging reduced water use and wastewater production	Greater capacity life in the wastewater network	Yes	Yes	No	Individual trade waste agreements

