



Statement of Proposal to Adopt a Nelson City Council Wastewater Bylaw (Bylaw No. 224)

June 2014

**This document constitutes the Statement of Proposal for the purposes of
Section 83(1)(a) of the Local Government Act 2002.**

1. Introduction

- 1.1. The Nelson City Council Trade Waste Bylaw 2007 is due to expire in October 2014.
- 1.2. Adopting a replacement wastewater bylaw will enable the Council to continue to avoid impacts on the wastewater network, and to minimise risks to public health and to soil and water.
- 1.3. The draft bylaw is attached to this Statement of Proposal. The draft bylaw consists of the existing Trade Waste Bylaw 2007 with proposed changes shown in strikethrough and underlining.

2. Proposal

- 2.1. Council proposes to adopt a Nelson City Council Wastewater Bylaw 2014 (Bylaw No. 224).
- 2.2. In accordance with section 86 (2) of the Local Government Act 2002, when adopting a bylaw the Council is required to include the following in the Statement of Proposal:
 - a) A statement that the proposed bylaw is to be adopted;
 - b) The reasons for the proposal; and
 - c) A report of any relevant determinations by Council under section 155 of the Local Government Act 2002.

3. Reasons for the proposal to adopt a Wastewater Bylaw

- 3.1. Adopting a Wastewater Bylaw will enable the Council to control discharges to the wastewater network. Aspects of discharges which need to be managed include:
 - the volume
 - speed of discharge
 - timing of the discharge
 - presence of any hazardous substances
 - reactivity with other wastes
 - potential impacts of the discharge (after treatment) on the receiving environment
 - pre-treatment prior to discharge.
- 3.2. The draft Wastewater Bylaw also seeks to avoid the discharge of stormwater to the wastewater network. The reason for this is to avoid exceeding the capacity of the wastewater system, which can result in overflows of sewage into the environment.
- 3.3. The bylaw enables the Council to require premises discharging to the wastewater network to maintain their grease, silt or oil traps in an operable condition. This helps to avoid discharges of grease, silt and oil, as they can impact on the functioning of the wastewater system.

- 3.4. Flow metering and compliance monitoring is provided for in the draft bylaw, as well as the ability to charge for discharges to the wastewater system.
- 3.5. The Council proposes to remove the details of fees and charges from the bylaw, and to manage this through the Annual Plan/Long Term Plan process instead. This will provide greater consistency with the process for setting other fees and charges. Providing the trade waste application form on the website and through the Customer Service Centre instead of in Schedule E of the bylaw will make it more accessible. Both of these amendments will enable administrative changes to be made without triggering a review of the bylaw.

4. The Proposed Option and Options Considered

- 4.1. In developing a draft Wastewater Bylaw, the Council considered how best to address the issues identified in section 3 of this Statement of Proposal.

- 4.2. **Option A**

Council's preferred option is to adopt a new Wastewater Bylaw that controls wastewater from both domestic and commercial premises, and that does not include the details of the charging regime or trade waste application form. Broadening the bylaw to become the "Wastewater Bylaw" would enable the Council to use the bylaw to regulate wastewater from all properties in Nelson and avoid uncertainties about whether the bylaw applies to public institutions such as schools, hospitals, retirement homes, and police and defence installations. The details of this option are further outlined in section 3 of this Statement of Proposal.

- 4.3. **Option B**

Council also considered the status quo option of adopting a new Trade Waste Bylaw that only controls waste from commercial premises, as is the case with the Trade Waste Bylaw 2007. The disadvantages of this option are that it is not clear whether it covers public institutions and it does not provide the ability to control contaminants and stormwater entering the wastewater system from domestic sources.

- 4.4. **Option C:**

Another option is to not have a wastewater bylaw. This option is the least acceptable because it removes the Council's ability to regulate discharges to the wastewater system. Adverse impacts on the functioning of the wastewater system has potential to significantly impact on public health and the wider environment.

5. Ability to make bylaws related to wastewater

- 5.1. Section 146(b)(iii) of the LGA specifically states that a territorial authority may make bylaws for its district for the purposes of managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with wastewater, drainage, and sanitation.

6. Section 155 of the Local Government Act 2002

- 6.1. Section 155 (1) of the Local Government Act 2002 requires a local authority to determine whether a bylaw is the most appropriate way of addressing a perceived problem.
- 6.2. It is not a legal requirement to have a wastewater bylaw. However, as outlined in section 3 of this Statement of Proposal, there is a need to manage the type and volume of discharges to the wastewater network, to prevent damage to the wastewater system, because this has potential to impact on public health and the wider environment.
- 6.3. Section 155 (2) states that if a local authority has determined that a bylaw is the most appropriate way of addressing the perceived problem, it must, before making the bylaw, determine whether the proposed bylaw –
- a) Is the most appropriate form of bylaw, and
 - b) Gives rise to any implications under the New Zealand Bill of Rights.
- 6.4 The draft Wastewater Bylaw 2014 is the most appropriate form of bylaw because it meets the following tests:
- It is authorised by statutory authority under section 146(b)(iii) of the Local Government Act 2002
 - It is not repugnant to the general laws of New Zealand
 - The bylaw is certain and provides clear direction
 - The bylaw is reasonable
 - The bylaw is not overly restrictive, onerous on any person, or impractical.

7. Does the Proposed Bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990

- 7.1 Part 2 of the New Zealand Bill Of Rights Act (the "Act") sets out 20 rights that are affirmed and protected, subject to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society" (section 5 of the Act). The draft Wastewater Bylaw does not impose restrictions on any of the rights listed in the Act.

8. Submissions

- 8.1. Any person or organisation is welcome to make a submission on this Statement of Proposal to adopt a Nelson City Council Wastewater Bylaw (Bylaw No. 224). Council will be taking account of all submissions made when it decides on the final content of the Wastewater Bylaw.
- 8.2. Submissions must be received by Council no later than 4.00pm on Friday, 20 August 2014.
- 8.3. A submission form is available on the Nelson Council website www.nelson.govt.nz or can be obtained from Nelson City Council.

8.4. Submissions can also be sent in letter or email form and should be:

Posted to: Wastewater Bylaw Consultation
 Nelson City Council
 PO Box 645
 Nelson 7040

Or emailed to: submissions@ncc.govt.nz

Please state in your submission whether or not you wish to speak at a hearing in support of your submission.

- 8.5. Submitters should note that their submission will be copied and made available to the public after the submission period closes.
- 8.6. Council will contact all submitters (who wish to be heard) in writing to advise the confirmed time, date and venue of the hearing.
- 8.7. All enquiries should be directed to Phil Ruffell, Senior Asset Engineer – Utilities on telephone 545-8739 or by email to phil.ruffell@ncc.govt.nz.

9. Related Documents

- 9.1. The Nelson City Council Draft Wastewater Bylaw (Bylaw No. 224) is attached to this Statement of Proposal. Additional copies are available to view or download from the Nelson City Council website www.nelson.govt.nz (search phrase = draft wastewater bylaw).
- 9.2. Copies of the Nelson City Council Draft Wastewater Bylaw (Bylaw No. 224) are available free of charge from the customer service centre at Civic House, or on request.