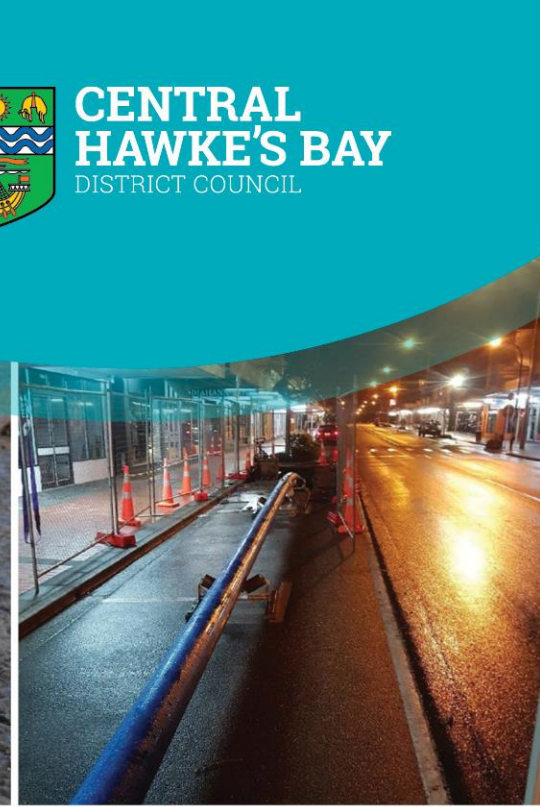




**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL



Statement of Proposal

Water Supply, Stormwater, Wastewater and Trade Waste Bylaw Review 2021

Water Supply, Stormwater and Wastewater

Public Consultation Period

01 March – 31 March 2021

Trade Waste

Public Consultation Period

12 February – 12 April 2021

Together we Thrive! E ora ngātahi ana!

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BACKGROUND

Council bylaws and policies are a set of rules or regulations that are created to control specific activities within the Central Hawke's Bay District. Bylaws and policies are a useful way of developing a local solution to local nuisance problems. Bylaws and policies focus on those issues which Council have determined can be dealt with appropriately using regulatory enforcement.

REASONS FOR THE PROPOSAL

1. Bylaws

The [Local Government Act 2002](#) (the Act) enables Councils to adopt bylaws for the following general reasons:

- To protect the public from nuisance;
- Protect, promote, and maintain public health and safety; and
- Minimise the potential for offensive behaviour in public places.

The Act also lists specific purposes for which Councils may make bylaws. These purposes include regulating activities such as trade wastes, solid wastes, keeping of animals and trading in public places. Council is also able to make bylaws to manage, regulate and protect its infrastructure, including reticulated wastewater, stormwater and water supply networks, cemeteries and parks and reserves from damage, misuse or loss. The Act also has special powers relating to the making of bylaws for alcohol control purposes.

Most bylaws, including those now subject to review, are made under the Local Government Act 2002. Some other Acts, such as the Dog Control Act 1996 also empower the Council to make bylaws on specific topics. Bylaws may be supported by accompanying policies.

The Act requires that a new bylaw is reviewed within 5 years of it being made.

2. Bylaw and Policy Review

In 2020, Council initiated a consolidated review of the following:

- 2018 [Drinking Water Bylaw](#)
- 2018 [Stormwater Bylaw](#)
- 2018 [Wastewater Bylaw](#)
- 2018 [Trade Waste Bylaw](#) and [Appendices](#)

3. The Review

The bylaws are intended to deliver on an integrated approach to three waters management in the District. Ensuring our approach aligns to, compliments and reflects the feedback we heard clearly from the community through Project Thrive, as well in the development of other projects such as the District Plan Review and the Integrated Spatial Plan 2020 – 2050.

These bylaws influence things like who can connect to our supplies, how much waste can be discharged, the requirement for water tanks at each property and how we manage stormwater.

Our current bylaws need to be refreshed to ensure they reflect the environmental and infrastructural demands of our time.

The new bylaws will inform how we approach asset management and durable infrastructure practices to support our sustainable water demand management plan and wastewater strategy. The impact of these bylaws is wide reaching – it ensures that step by step, we make positive changes which lead to smart growth while being environmentally sustainable.

4. Guiding principles for bylaw / policy review and development

The principles which have guided the review process are:

- i. That consideration was given to current bylaws and policies requiring review in advance of statutory review requirements.
- ii. A rolling programme of review, whereby groups of bylaws and policies are reviewed together.
- iii. The bylaws and policies selected for development and review were identified on the basis of the following matters:
 - a) Support and alignment with the district plan
 - b) Support the Revenue and Financing Policy to deliver a user pays model
- iv. The bylaws and policies subject to development and review will be made available for public consultation as one Statement of Proposal. The advantages being:
 - a) Cost and efficiency of process
 - b) Alignment and interaction between bylaws
- v. Each bylaw / policy focuses only on those matters that can, and will, be enforced by the Council
- vi. Unless required by statute, matters relating to fees and charges will be set by a separate annual special consultative procedure or by Council resolution.

5. Developing and amending a bylaw / policy

When developing or amending a bylaw / policy, Council must use the special consultative procedure and comply with section 86 of the Act if the bylaw concerns a matter identified in the Council's policy under section 76AA of the Act as being of significant interest to the public; or if the Council considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of, the bylaw. In this instance, the Council considers that the matters addressed by the bylaws require the use of the special consultative procedure as infrastructure assets relating to water, stormwater, and wastewater are identified as being of significant interest to the public in the Council's Significance and Engagement Policy.

Under the Local Government Act 2002, a bylaw must be made and reviewed by making the determinations required by section 155 of the Act. These are:

1. Identification of a perceived problem, and consideration of whether a bylaw is the most appropriate way of addressing the perceived problem (section 155(1) of the LGA 2002). In considering whether a bylaw is the most appropriate way to respond to a problem, the

Council must consider the other regulatory and non-regulatory tools that are available to it, including existing statute and public education.

2. If a bylaw is the most appropriate way of addressing the perceived problem, then the Council must decide before making the bylaw whether:
 - a. The bylaw is the most appropriate form of bylaw (section 155(2) (a)); and,
 - b. The bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA) (section 155(3))

The sections at the end of this statement of proposal set out the perceived problems relating to the different aspects of three waters management in the District. The Council considers that bylaws are the most appropriate way to address these issues, as bylaws allow the Council regulate behaviours that affect three waters management and the use of three waters systems in the District. The Council considers that the most appropriate way to respond to these particular problems is through revoking and replacing the existing bylaws so that new bylaws can more efficiently and effectively deliver on an integrated approach to three waters management in the District.

The Council does not consider that the new bylaws proposed give rise to any implications under NZBORA.

6. Other considerations

When Council makes or amends a bylaw, it needs to take into account the general law that applies to bylaws. These include:

a. Repugnancy

A bylaw is in effect a local law and is subservient to primary legislation. The bylaw cannot seek to override legislation determined at a national level. If a bylaw sought to override another statute or the common law, then the bylaw would be found to be invalid because it is repugnant to the general laws of New Zealand. Section 14 of the Bylaws Act 1910 states 'no bylaw shall be invalid merely because it deals with a matter already dealt with by the laws of New Zealand, unless it is repugnant to the provisions of those laws.' Each bylaw contained within this Statement of proposal is found not to be repugnant to any legislation.

b. Certainty

A bylaw must be certain. In other words, there must be adequate information as to the duties of those who are to obey it. Each bylaw contained within this Statement of Proposal provides adequate information on the duties and expectations of the Council, its stakeholders, and the community.

c. Reasonableness

The reasonableness of any bylaw is a major consideration. There is case law about what constitutes 'unreasonableness' in a bylaw context. Generally speaking, the following considerations are taken into account when looking at reasonableness:

The surrounding facts, including the nature and condition of the locality in which the bylaw takes effect, the danger or inconvenience it is designed to remedy, and whether or not public or private rights are unnecessarily or unjustly invaded.

A bylaw which unnecessarily interferes with public right without producing a corresponding benefit to the inhabitants of the locality in which it applies is deemed unreasonable.

All bylaws being developed within this Statement of Proposal have been found to be reasonable.

BACKGROUND TO THE BYLAW REVIEW

7. Pre-consultation

Council consulted informally about specific topics within the Water Supply Bylaw during August 2020. The information gathered during this pre-consultation informed the drafting of the Water Supply Bylaw and Stormwater Bylaw. For data from this pre-consultation process, see <https://www.chbdc.govt.nz/our-council/consultations/our-thriving-future/the-great-eight/>.

Council consulted informally about specific topics within the Trade Waste and Wastewater Bylaws during December 2020 and January 2021. The information gathered during this pre-consultation informed the drafting of the Trade Waste Bylaw. For data from this pre-consultation process, see <https://www.chbdc.govt.nz/our-district/projects/the-big-wastewater-story/>.

8. Stakeholder Engagement

As well as pre-consultation with the wider community, Council consulted with key stakeholders for specific bylaws. Their feedback informed the drafting of the relevant bylaws:

Bylaw	Key Stakeholders
Draft Wastewater Bylaw	General Community
Draft Trade Waste Bylaw	Industry Contributors, General Community
Draft Water Supply Bylaw	General Community, Developers
Draft Stormwater Bylaw	General Community

A schedule is a formal part of the bylaw and contains specific information to be read in conjunction with the bylaw. A schedule can only be changed using a formal process. These processes could either be through a Special Consultative Procedure, or through resolution of Council which requires Public Notification.

CONSULTATION PROCESS

Anyone can make a submission about the proposals described in this proposal document. This document is intended to be a summary of the key changes proposed to be made to each of the current bylaws through this review. Council's "Have Your Say" website (www.chbdc.govt.nz) includes additional information, including a tracked changes version of each of the draft bylaws and policy and a table for each of the draft documents that list all proposed changes and the reasons for those changes.

Hard copies of this Statement of Proposal, including the proposed new bylaws and tracked changes versions from the current bylaws and copies of the submission forms will be available, for the duration of the consultation period, from:

- Central Hawkes Bay District Council offices
- Council's website (www.chbdc.govt.nz)

Copies of the documents may also be obtained by contacting the Council on (06) 857 8060.

Submissions close at **5pm on the 31st March 2021** for the Water Supply, Stormwater and Wastewater bylaws and **5pm on the 12th April 2021** for the Trade Waste bylaw.

9. The Submission Process

The Water Supply, Stormwater and Wastewater bylaws contained in this document are open for public submission from **01 March to 31 March 2021**. The Trade Waste bylaw contained in this document is open for public submission from **12 February to 12 April 2021**.

This is your opportunity to let the Mayor and Councillors understand your views about the bylaw and policy proposals.

Operative bylaws and policies of Council may be found on the Council website, <http://www.chbdc.govt.nz/our-council/policies-and-bylaws/bylaws/> or viewed at Council's Administration Building in Waipawa, the Waipukurau Library and Service Centre, and the Waipawa Library.

Your submission or comments can be sent to Council by:

- Sending an email to facingthefacts@chbdc.govt.nz
- **Completing the online submission form**
- Completing the submission form at the end of this document and delivering it to:

Central Hawke's Bay District Council
32 Ruataniwha Street
Waipawa 4210

Or mailing it to:

Central Hawke's Bay District Council
PO Box 127
Waipawa 4240

Please state in your submission whether or not you wish to present your submission in person at a hearing.

Submitters should note that their submission will be copied and made available to the public after the submission period closes.

a. Hearing

A hearing will be held for those who wish to share their views with the Hearings Committee. The hearing is scheduled for the **13th and 14th April 2021**.

Council will contact submitters following the close of the submission period to confirm the time, date and venue for the Hearing.

10. What happens next?

Once the public consultation period has concluded, Council will determine a schedule for the hearing of submissions on bylaws in **April 2021**. Submitters will be advised of the hearing dates (anticipated to be **13th and 14th April 2021**), and those who have indicated that they wish to speak to their written submissions advised of their allocated speaking time. Council will consider all submissions received.

Submitters will be advised of the outcome of their submission following conclusion of the hearings process.

Long Term Plan Deliberations are proposed for **13th May 2021**.

The Long Term Plan and relevant Bylaws are anticipated to be adopted in **June 2021**.

PROPOSAL

The following sections provide a summary of:

- The purpose of each bylaw
- The perceived problems they seek to address
- The key changes proposed to the bylaw through this review
- Whether the proposed bylaw would likely give rise to concerns under the Bill of Rights Act 1990.

WATER SUPPLY BYLAW

Purpose

The purpose of the Water Supply Bylaw is to:

- a) Enable the Council to manage and provide public water supply services;
- b) Protect the public water supply network from damage, misuse, and interference;
- c) Protect the environment and health and safety of the people using the public water supply;
- d) Ensure the efficient use of water and improve water resilience during periods of water shortage/restrictions.
- e) Align with the wider ‘Sustainable Water Demand Management Plan’

Perceived Problems

The proposed new Water Supply Bylaw seeks to address the following perceived problems in the Central Hawkes Bay District:

1. Contamination of drinking water supplies (e.g. from poorly constructed connections to mains, backflow of contaminants into mains from private networks, damage to mains and connections) potentially resulting in sickness or deaths within the communities served.
2. Loss of water or service pressures to other customers (damage to mains and connections by other service suppliers, uncontrolled removal of bulk water from hydrants, removal of restrictors where fitted on unmetered supplies).
3. Uncontrolled high water usage such that Council exceeds permitted water take resulting in fines for consent breaches from Hawkes Bay Regional Council or damage to aquifers.
4. Customers on limited or restricted supplies running out of water.
5. Damage to reticulated services from contractors excavating or drilling in close proximity to services.

Key Changes to the Water Supply Bylaw

Table 1 summarises the key changes proposed through the proposed new bylaw compared to the existing Central Hawkes Bay District Water Supply Bylaw 2018 and the reasons for the changes. Any section or clause references in the table relate to the tracked changes version of the Water Supply Bylaw 2018 that is available on Council’s website.

Also available on the website is a table that shows all of the proposed changes to be brought about by this new bylaw, including section and clause references, and reasons for the changes (refer to “Proposed Changes to the Water Supply Bylaw”).

Table 1: Key Changes to the Water Supply Bylaw

Key Change	Reason for the Change
1. Inclusion of an introductory note including the Overarching Purpose, Objectives and Context of the new Bylaw	To set the scene for a holistic and integrated approach to all three of Council’s Water Services and meet Councils District Plan, Policies and Strategies

<p>2. Water tanks - Making dual purpose rainwater tanks mandatory for new urban residential dwellings</p>	<p>Rain water tanks will provide relief to the potable water network in times of peak demand, and allow people to continue watering their gardens when and if water restrictions are imposed. In addition, there is also a benefit from the retention of rain water in terms of reducing the amount of water entering the storm water network during rainfall events (refer storm water Bylaw relating to storm water retention devices).</p>
<p>3. Removal of requirement to provide water storage in rural areas for fire fighting</p>	<p>It is not common to use storage tanks for fire fighting. Voids warranty and adding no value to customers or FENZ.</p>
<p>4. Providing the Council with the ability to impose restrictions on water use</p>	<p>Restricting the use of water will enable Council to maintain an adequate supply of drinking water during, for example, a drought or emergencies. This includes the ability to restrict the filling of domestic swimming pools.</p>
<p>5. Expanding Council's ability to meter water usage for high users or to align with water sustainability outcomes</p>	<p>Our water is precious, and a range of tools are needed to manage its use. Meters are a valuable tool by which Council can measure how much water is being used; identify unaccountable water loss, provide information to users on how much water they are using; indicate to Council how it can plan for water use in the future.</p> <p>Councils existing bylaw provides for the installation of meters to manage high users only. Council wish, to expand the ability to meter where required for other water management criteria such as demand management, information capture, loss management etc. The proposed change does not mandate the installation of meters on any property at any time but merely provides Council with the ability to where necessary.</p>
<p>6. Water Safety</p>	<p>Backflow is one of the biggest risks to the water supply. It is a potential source of contamination that can seriously affect the quality and safety of our drinking water. Amendments are proposed to provide clarity on customer responsibility for backflow prevention to ensure the safety of the water network.</p>

Assessment against the New Zealand Bill of Rights Act 1990

Consideration has been given to the New Zealand Bill of Rights Act 1990. The proposed Central Hawkes Bay District Water Supply Bylaw 2021 will not give rise to any implications under the NZBORA and the limits imposed by this proposed bylaw is appropriate to the purpose of the bylaw.

STORMWATER BYLAW

Purpose

The purpose of the Stormwater Bylaw is to:

- a) To achieve a holistic and integrated approach to the management of stormwater as part of Council's overall three waters management.
- b) Minimise and control the discharge of Contaminants into the Public Stormwater Drainage Network.
- c) Minimise the effects of discharges from the Public Stormwater Drainage Network on the downstream receiving Environment.
- d) Manage the Public Stormwater Drainage Network, and the land, structures and infrastructure associated with that network, so as to protect the public from Nuisance and promote and maintain public health and safety.
- e) Enable the Council to meet relevant objectives, policies, standards and resource consents for discharges from the Public Stormwater Drainage Network to the receiving Environment.
- f) Protect the land, structures and natural features that make up the Public Stormwater Drainage Network.
- g) Prevent the unauthorised discharge of Stormwater into the Public Stormwater Drainage Network and ensure that Private Stormwater Drainage Systems are not causing a Nuisance or harm to the Council's networks infrastructure.
- h) Define the obligations of the Council, installers, Occupiers and the public in matters related to the discharge of Stormwater and management of the Public Stormwater Drainage Network and the administration of equitable costs and charges.

Perceived Problems

The Stormwater Bylaw seeks to address the following perceived problems in the Central Hawkes Bay District:

- a) Discharge of contaminants into the stormwater and drainage networks and systems.
- b) Damage to the Council's public stormwater and drainage networks by contractors and other parties.
- c) Non-compliance with Council's requirements for the design, construction and operation of stormwater works.
- d) Discharges exceeding the capacity of Council's stormwater and drainage network.
- e) Stormwater discharges leading to non-compliance of Council's resource consents.
- f) Cumulative adverse effects of multiple stormwater discharges as well as other discharges.

Key Changes to the Stormwater Bylaw

Table 2 summarises the key changes proposed through this proposed new bylaw compared to the existing Central Hawkes Bay District Stormwater Bylaw 2018.

Also available on the website is a table that shows all of the proposed changes to be brought about by this new bylaw, including section and clause references, and reasons for the changes (refer to “Proposed Changes to the Stormwater Supply Bylaw”).

Table 2: Key Changes to the Stormwater Bylaw

Key Change	Reason for the Change
1. Inclusion of an introductory note including the Overarching Purpose, Objectives and Context of the new Bylaw	To set the scene for a holistic and integrated approach to all three of Council’s Water Services and meet Councils District Plan, Policies and Strategies
2. Introduce Stormwater Management Devices and Stormwater Retention and Detention Device requirements along with the concept of Cleaner Production	Such procedures are compatible with more sustainable approaches to stormwater management and their use will be compatible with achieving the overarching purpose of the new Bylaw
3. Water tanks - Making dual purpose rainwater tanks mandatory for new urban residential dwellings	Rainwater tanks will have dual purpose, to attenuate and retain stormwater so it can be used to provide relief to the potable water network in times of peak demand and allow people to continue watering their gardens when and if water restrictions are imposed.
4. Expand and strengthen contents in respect to prevention of contaminant discharges to the stormwater and drainage networks and systems	Current Bylaw needs strengthening in this respect in order to protect the infrastructure, safety and health of people and the receiving environment
5. Inclusion of reference to Council’s operative stormwater discharge consents (issued by the Hawke’s Bay Regional Council) and the need for stormwater dischargers not to cause exceedance conditions in these consents	Reference to these consents is not included in the current Bylaw

Assessment against the New Zealand Bill of Rights Act 1990

Consideration has been given to the New Zealand Bill of Rights Act 1990. The proposed Central Hawkes Bay District Stormwater Bylaw 2021 will not give rise to any implications under the NZBORA and the limits imposed by this proposed bylaw is appropriate to the purpose of the bylaw.

WASTEWATER BYLAW

Purpose

The purpose of the Wastewater Bylaw is to promote and protect the health of communities and the environment, and to protect the wastewater drainage system from damage and misuse.

Perceived Problems

The Wastewater Bylaw seeks to address the following perceived problems in the Central Hawkes Bay District:

- a) If a defect notice is served on a premise (public, private or business property or building) and no action is taken by the owner, then there is nothing in the bylaw to enable Council to rectify the defect, other than through the onerous route of provisions in the LGA. This is particularly for addressing inflow and infiltration on private property.
- b) Inflow and infiltration are an issue in urban areas in the District. The stormwater bylaw and the wastewater bylaw cover this, but it is through Council processes that the ability to resolve I&I issues on private property needs to be managed and controlled.
- c) Caravan disposal points will be installed in the District. The current bylaw does not specifically cover these types of wastes.
- d) Wastewater disconnections can cause inflow of stormwater into the wastewater system. By capping them and having a record of a capped wastewater lateral in Council's system, this will assist with reducing inflow and infiltration (I&I), and for the next building connecting on that site for location of existing services.

Key Changes to the Wastewater Bylaw

Table 3 summarises the key changes proposed through this proposed new bylaw compared to the existing Central Hawkes Bay District Wastewater Bylaw 2018.

Also available on the website is a table that shows all of the proposed changes to be brought about by this new bylaw, including section and clause references, and reasons for the changes (refer to "Proposed Changes to the Wastewater Supply Bylaw").

Table 3: Key Changes to the Wastewater Bylaw

Key Change	Reason for the Change
1. Inclusion of an introductory note including the Overarching Purpose, Objectives and Context of the new Bylaw	To set the scene for a holistic and integrated approach to all three of Council's Water Services and meet Councils District Plan, Policies and Strategies
2. Format of the bylaw such as removing unnecessary headings, amending some of the language used in clauses and moving, condensing or deleting some clauses within the bylaw.	To improve readability and flow of the document by removing any duplication within the bylaw and with the Local Government Act and clarifying the intent of the bylaw.
3. A definition of tankered waste has been added into the bylaw and includes caravan disposal waste.	These are being installed in two locations in the district. Currently the bylaw does not cover caravan waste. This is now covered in the

	definition of tankered waste, defining it as domestic. The management and control of the caravan waste disposal points will be done through guidance on the Council website, and through Council processes.
4. Disconnections have been updated to include the need for them to be capped.	This will assist with the prevention of inflow into the wastewater network, and with locating the private drains for any future connection to the existing drain

Assessment against the New Zealand Bill of Rights Act 1990

Consideration has been given to the New Zealand Bill of Rights Act 1990. The proposed Central Hawkes Bay District Wastewater Bylaw 2021 will not give rise to any implications under the NZBORA and the limits imposed by this proposed bylaw is appropriate to the purpose of the bylaw.

TRADE WASTE BYLAW

Purpose

The purpose of the Trade Waste Bylaw is to control and monitor trade waste discharges into the wastewater system in order to:

- a) protect public health and the environment;
- b) protect the wastewater system infrastructure;
- c) protect wastewater system workers;
- d) ensure compliance with resource consent conditions related to the wastewater treatment plants;
- e) provide a basis for monitoring discharges from industry and trade premises;
- f) provide a basis for charging trade waste users of the wastewater system to cover the cost of conveying, treating and disposing of or reusing their wastes;
- g) ensure that the costs of treatment and disposal are shared fairly between trade waste and municipal dischargers;
- h) promote cleaner production;
- i) encourage waste minimisation; and
- j) encourage water conservation.

Perceived Problems

The Trade Waste Bylaw seeks to address the following perceived problems in the Central Hawkes Bay District:

- a) Discharge flow is currently estimated by using water use data. This may not be a true reflection of the trade waste flow. Currently the bylaw allows Council to stipulate the installation of a discharge flow meter, but other districts have mandatory requirements for discharge flow meters. Council proposes moving towards a mandatory discharge flow meters in the next bylaw review (by 2026). That way, for the duration of this bylaw, if traders are doing any modifications in the discharge area, they can include the installation of a discharge flow meter. Council needs to notify stakeholders of the intention to make them mandatory.
- b) The definition of trade waste, how they are classified i.e. permitted, conditional or prohibited and what the triggers are for each is not clear.
- c) The bylaw needs to provide for the fair allocation of the cost for the wastewater treatment plants (WWTP) and the operation of them. How fees and charges for trade waste discharges are categorised and calculated in the bylaw is unclear and confusing such as the formula for annual charges, as there is no definition for all the components that make up the formula. Capital contributions are currently identified in the bylaw as a mechanism for Council to charge, however it is not clear how these are to be calculated – this is a driver for the bylaw review, with the focus on “user pays”.
- d) The bylaw has no enforcement mechanisms other than the onerous provision under the Local Government Act 2002 (LGA). Currently it would be difficult to prove nuisance at the existing WWTPs, but in the future Council needs to tighten up on keeping traders compliant. By adding the provision of a Warning Notice, this allows Council to address consent breaches with a specific notice.

- e) Wastewater disconnections can cause inflow of stormwater into the wastewater system. By capping them and having a record of a capped wastewater lateral in Council’s system, this will assist with reducing inflow and infiltration (I&I), and for the next building connecting on that site for location of existing services.
- f) The bylaw is not very user friendly and difficult to follow. By simplifying it and supporting it with guidance documents and forms which will be available on Council’s website, it will make it easier for businesses and council staff to use.
- g) Trade waste has a direct impact on the sizing of the future treatment facilities, and the operational costs for the wastewater system. Currently trade waste dischargers are providing Council monitoring data in an ad hoc manner and is not representative making this difficult for Council to manage and understand the trade waste discharges. Providing dischargers with a consistent format to provide data to Council will mean Council can more accurately monitor and understand the trade waste discharges.

Key Changes to the Trade Waste Bylaw

Table 4 summarises the key changes proposed through this proposed new bylaw compared to the existing Central Hawkes Bay District Trade Waste Bylaw 2018.

Also available on the website is a table that shows all of the proposed changes to be brought about by this new bylaw, including section and clause references, and reasons for the changes (refer to “Proposed Changes to the Trade Waste Supply Bylaw”).

Table 4: Key Changes to the Trade Waste Bylaw

Key Change	Reason for the Change
1. Inclusion of an introductory note including the Overarching Purpose, Objectives and Context of the new Bylaw	To set the scene for a holistic and integrated approach to all three of Council’s Water Services and meet Councils District Plan, Policies and Strategies
2. Format of the bylaw such as removing unnecessary headings, amending some of the language used in clauses and moving, condensing or deleting some clauses within the bylaw.	To improve readability and flow of the document by removing any duplication within the bylaw and with the Local Government Act and clarifying the intent of the bylaw. Some clauses have been removed and will be included in a guidance note to support the bylaw. The application forms have also been removed and will sit on Council’s website.
3. The definition of trade waste has been clarified.	To simplify and clarify what is a trade waste.
4. Clarification around how the trade waste discharges will be classified, when an application is required, the application and decision-making process and the criteria that will be used.	The classifications and process are not clear. There are some businesses that are discharging trade waste into the wastewater system and Council is not able to monitor the loads and discharge volumes that are affecting the wastewater treatment plants as Council does not have a record of these dischargers. This means there is a larger flow and load of waste going

	<p>into the system than what the wastewater treatment plant has been designed to manage.</p> <p>Clauses have also been amended and new clauses included for each of the trade waste discharge classifications to provide more clarity around how these will be classified by Council. Some clauses within the bylaw were contradictory and therefore needed to be reviewed to clarify the intent. Such as if permitted then a consent is not required however, Council would like to keep a register of these.</p> <p>The bylaw was also unclear how tankered waste was being managed and this has also been clarified with a new conditions section specific to this activity.</p>
<p>5. The application, review and decision-making processes around trade waste discharges has been simplified.</p>	<p>The current wording was unclear and ambiguous around how these processes are intended to be undertaken. The bylaw has been restructured and reworded to simplify and provide clarity.</p>
<p>6. Sampling and monitoring clauses have been condensed and simplified.</p>	<p>Council needs to understand if the traders are discharging in an optimal way and will undertake audits against management plans to demonstrate compliance. Wording in the bylaw has been amended to clarify this intent.</p> <p>New clauses have been included to specify that the samples must be representative of the discharge to allow for variability of what it is discharging daily. Safe access to the site to monitor and obtain samples has also been included.</p> <p>Wording in the bylaw has been updated to make the need for representative samples explicit, and the mass limits already in the bylaw can be utilised through Council processes.</p>
<p>7. The use of smart meters has been included</p>	<p>Smart meters on flow meters allows for the efficient collection of data from the flow meters, and improving the accuracy of the data by removing the opportunity for human error.</p>
<p>8. Warning Notices have been included</p>	<p>Warning Notices allow the ability for Council to notify the Consent Holder of a breach of the conditions of their consent, and to state the timeframes to rectify the issue. This will be undertaken following the issue of a notice of the intention to undertake a review and why it is necessary. Discussions with the Consent Holder will be part of the process in order to understand the nature of any breaches, and actions required to prevent further breaches.</p>

	<p>A clause has been added to allow Council where Consent Holder actions are not sufficient following the issue of a Warning Notice, or three Warning Notices are issued in a 12 month period, the Consent to discharge can be cancelled.</p>
<p>9. A biochemical oxygen demand (BOD) limit has been included.</p>	<p>Currently there is no BOD limit, which means that a trader could discharge very strong waste in a small volume, and they would be considered permitted. The updated bylaw now includes a concentration limit.</p>
<p>10. New wording has been added in relation to pharmaceutical waste.</p>	<p>The Ministry of Health has been requesting Councils to add wording into trade waste bylaws to manage pharmaceutical waste. This is to protect the downstream biological treatment systems and the discharge environment.</p> <p>The specific reason cytotoxic waste is mentioned is because the advice in NZS 4304:2002 Management of healthcare waste is outdated and needs to be revised, and until it is the Ministry is managing the risk by requesting that local authorities prohibit its discharge.</p>
<p>11. The system of charging in respect of volume and strength of trade waste has been removed from the bylaw and will sit in Council's guidance and/or strategy documents to be developed alongside this bylaw.</p>	<p>The Council is following a user pays and fair allocation of cost model going forward.</p> <p>Council's schedule of fees and charges includes trade waste charges and is reviewed annually.</p> <p>The bylaw still includes a list of potential trade waste charges that can be implemented by Council. How these charges are calculated best sits outside of the bylaw such as capital contributions and annual charges. These can then be reviewed in line with Council's annual fees and charges process.</p> <p>A capital contribution calculator is being developed to determine the level of recovery for capital upgrades relevant to the upgrade, this is in addition to the operational recovery, which remains as set out in fees and charges.</p> <p>Council is required to determine and set the % of industry related cost to recover annually.</p>

Assessment against the New Zealand Bill of Rights Act 1990

Consideration has been given to the New Zealand Bill of Rights Act 1990. The proposed Central Hawkes Bay District Tradewaste Bylaw 2021 will not give rise to any implications under the NZBORA and the limits imposed by this proposed bylaw is appropriate to the purpose of the bylaw.

SUBMISSION FORM

A submission will be loaded onto our website and appended to the physical documents separately to support this statement of proposal and bylaw review process.