

REVIEW OF LIQUID WASTE BYLAW: “COLLECTION AND TRANSPORTATION OF WASTE”

1. Purpose of Report

This paper reviews the Bylaw “Collection and Transportation of Waste”, as required by legislation and recommends actions for consulting on and making changes to this Bylaw.

2. Executive Summary

The “Collection and Transportation of Waste” Bylaw is one of two bylaws that regulate liquid waste in Wellington City (as shown in Table 1 below):

Table 1: Wellington City liquid waste bylaws

Bylaw	Aspects of liquid waste regulated	Deadline for reviewing Bylaw	Legislated deadline for making changes
Collection and Transportation of Waste Bylaw 1997 (CTW Bylaw)	Regulates private companies that collect, transport and discharge a narrow range of mixed liquid wastes from grease traps, commercial car washes, and septic tanks ¹ .	1 July 2012	1 July 2014
Trade Waste Bylaw 2004	Controls waste discharges that enter the Council’s waste water system directly from trade premises.	1 July 2014	1 July 2016

The reviews of these Bylaws are not priorities under the Regional Waste Management and Minimisation Plan. We are, however, legally required to have

¹ Does not regulate the main types of solid waste collected from households or businesses.

reviewed the CTW Bylaw by 1 July 2012 and to make any changes by 1 July 2014.

Before making any changes, we are required to undertake the Special Consultative Procedure. This consultation can take place any time between now and early 2014.

The review of the CTW Bylaw (outlined in this paper) has found no evidence of any problems that need immediate attention. Costs imposed on companies regulated under this Bylaw are also relatively low.

As there are no immediate changes required to the CTW bylaw, officers recommend the Trade Waste Bylaw is reviewed and then the special consultation for both liquid waste bylaws is combined and undertaken from late 2013 (to meet the 1 July 2014 deadline). Options in the paper for special consultation would include combining the two liquid waste bylaws into one to increase simplicity, transparency and integrate the regulation of liquid waste.

This would:

- rationalise the consultation and amendment process and hence reduce overall financial costs to the Council
- provide better consistency across regulating liquid waste as a whole
- allow more time to pursue common solutions to liquid waste regulation with other territorial authorities (TAs) in the Wellington Region, particularly with Hutt City Council (the wastes regulated under the CTW Bylaw are treated for final disposal in Lower Hutt)
- better synchronise with wider regional waste initiatives (including the scoping of a Joint Solid Waste Bylaw and possible merger of Wellington City and Porirua landfill operations in 2013)
- make use of information from up-coming reviews of waste water regulation by Auckland and Porirua councils.

This would be consistent with the Regional Waste Minimisation and Management Plan (RWMMP). In the RWMMP, all TAs in the Wellington Region have agreed to adopt more consistent and, where possible, joint approaches towards managing waste.

3. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Note that the Collection and Transportation of Waste Bylaw has limited scope in that it covers Wellington City only and cannot regulate waste after it crosses into Lower Hutt for treatment and disposal.*

3. *Agree to recommend to Council that special consultation on the Collection and Transportation of Waste Bylaw take place at the same time as for the Trade Waste Bylaw from late 2013.*

4. Background

Wellington City's liquid waste bylaws

The "Collection and Transportation of Waste" Bylaw is one of two bylaws that regulate liquid waste in Wellington City (as previously shown in Table 1).

The reviews of these Bylaws are not priorities under the Regional Waste Management and Minimisation Plan. We are, however, legally required to have reviewed the CTW Bylaw by 1 July 2012 and to make any changes by 1 July 2014.

Before making any changes, we are required to undertake the Special Consultative Procedure. This consultation can take place any time between now and early 2014.

How the CTW Bylaw regulates relevant waste

Unlike for the Trade Waste Bylaw, none of the waste types regulated by the CTW Bylaw are collected by the Council or accepted at Council-run sewerage systems or landfills.

Four tanker companies currently collect mixed liquid waste from grease traps, commercial car washes, and septic tanks from around Wellington and transport this to the private treatment plant (owned by Transpacific Technical Services) at Seaview in Hutt City District.

The CTW Bylaw was introduced in 1997 to minimise the risk of untreated discharges of this waste into waste water systems or other unsuitable sites (that relatively high treatment costs and transport distances might encourage). This was because such discharges could block sewerage pipes and/or contaminate open water or land.

The Bylaw requires any person or company collecting, transporting or disposing of mixed liquid wastes from grease traps, commercial car washes, or septic tanks to:

- be licensed
- store complete records of all such waste collected and discharged within Wellington City for at least three years (after each collection/dischARGE)
- within seven days of a request, provide the Council with any of these records.

A copy of this Bylaw is provided in Appendix 1.

5. Discussion

5.1 *The Problem*

The review has found no substantial evidence of any problems that the CTW Bylaw was intended to address (i.e. blockages to the waste water system or other unsuitable sites from the wastes this Bylaw regulates). There are nationally-prescribed penalties for unauthorised discharges of liquid waste. No penalties have been applied to operators in Wellington. The evidence suggests that there are no related problems requiring immediate attention under current arrangements.

There have been occasional unverified reports of unscheduled discharges to cleanfills (sites reserved only for non-polluting materials such as wood and brick). However there are some difficulties with collecting objective data on such problems and it is difficult to conclusively prove the origins of any blockages to sewerage pipes or contaminants onto open water or land. It should also be noted that the Bylaw covers Wellington City only and cannot regulate waste after it crosses into Lower Hutt for treatment and disposal and this waste is covered by Hutt City regulations.

The wastes regulated under the CTW Bylaw are often diluted with water, and whilst problematic if they are not correctly handled, are markedly less hazardous or toxic than classified Hazardous or Flammable wastes, or many other Special wastes.

Costs imposed on the companies regulated by this Bylaw are also relatively low (consisting of a \$185 annual licensing fee plus the above record-keeping requirements).

5.2 *Preferred - Option 1 - Combined Special Consultation from late 2013*

Given that there are no apparent problems that require immediate changes to the CTW Bylaw, officers recommend first reviewing the Trade Waste Bylaw and then combining special consultation on both Liquid Waste Bylaws from late 2013. Options in the paper for Special Consultation would include combining the two liquid waste bylaws into one to increase simplicity, transparency and integrate the regulation of liquid waste. Combining special consultation and the late 2013 timing would:

- rationalise the consultation and amendment process and hence reduce overall financial costs to the Council
- provide better consistency across regulating liquid waste as a whole
- allow more time to pursue common solutions to liquid waste regulation with other TAs in the Wellington Region, particularly with Hutt City Council (the wastes regulated under the CTW Bylaw are treated for final disposal in Lower Hutt). Hutt City have agreed to work with Wellington on this review
- be informed by wider regional waste initiatives (including the scoping of a Joint Solid Waste Bylaw and possible merger of Wellington City and Porirua landfill operations in 2013)

- make use of information from up-coming reviews of waste water regulation by Auckland and Porirua councils.

Under the latest Regional Waste Minimisation and Management Plan (RWMMP), all eight TAs in the Wellington Region have agreed to adopt more consistent and, where possible, joint approaches towards managing waste. The above approach would therefore be more consistent with the intent of the RWMMP and likely lead to more effective and integrated outcomes and than making piecemeal changes to each liquid waste bylaw in isolation from other TAs.

The timing for this preferred approach would be as follows:

Step	Action for CTW and Trade Waste Bylaws	Timing
1	Further engage with stakeholders (including the four tanker companies, commercial car washes, restaurants, environmental groups, companies discharging trade waste to waste-water system and other effected parties).	May 2012 to November 2013
2	Further research and engage with other TAs in the Wellington Region and with other TAs such as Auckland who will review liquid waste regulation.	May 2012 to November 2013
3	Present to the Strategy and Policy Committee a Statement of Proposal and draft Consultation paper on options for changing Bylaws.	Late November 2013
4	Undertake Special Consultation on any changes to both bylaws	December to mid - March 2014
5	SPC and Council approve final changes	May 2014

5.3 Option 2 - Separate Special Consultation

Under an alternative approach, we could report back to Strategy and Policy Committee with a Statement of Proposal and undertake consultation from August 2012, making changes to the CTW Bylaw this year.

This alternative approach, however, would be more resource-intensive than Option 1, given that special consultation would need to be undertaken twice rather than once.

Officers could present options for changing the CTW Bylaw from the review carried out to-date. However, this would be too soon to be informed by wider regional waste initiatives or incorporate work with other TAs on developing common solutions for liquid waste as a whole.

This approach could therefore reduce the effectiveness of any changes to bylaws and risk some inconsistencies between the two liquid waste bylaws from changing each one at a different time.

6. Other considerations

6.1 Consultation and Engagement

Full public consultation will take place under the Special Consultative Procedure. Officers have already met with the Council's Environment Reference Group and written to the four companies currently regulated by this Bylaw to ask whether there are any immediate issues that need addressing with respect to the waste that the CTW Bylaw regulates. To date, none of those parties have come back with any immediate issues.

6.2 Financial Considerations

The financial impacts arising from this review include:

- undertaking special public consultation; and
- notifying stakeholders of any changes to Bylaws.

As discussed above, financial costs are likely to be lower under the preferred option.

6.3 Climate Change Impacts and Considerations

There are no climate change impacts or considerations associated with this particular waste management work-stream.

6.4 Long-Term Council Community Plan Considerations

There are no LTCCP considerations.

7. Conclusion

This paper reports back on the review of the CTW Bylaw as required by legislation. The Council is asked to decide whether special public consultation on changes to the CTW Bylaw be combined with consultation on the Trade Waste Bylaw from late 2013 or take place from August 2012 in isolation.

Undertaking combined special consultation from late 2013 would likely lead to more effective and integrated outcomes and be more co-ordinated with wider regional waste initiatives. Overall financial costs would also be reduced by rationalising the process for consulting and making changes to Liquid Waste Bylaws.

This timeframe would also allow more time for officers in Wellington City Council and in other TAs within the Region (notably Hutt City Council) to work together on further developing options for changing both bylaws and enable officials to gain information from pending reviews by Auckland and Porirua Councils on waste regulation.

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SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

The proposal supports Council's overall vision of a Smart Capital. Resources will be used in a smarter and more integrated way by combining changes to the liquid waste bylaws that will be informed by wider regional waste initiatives.

2) Long Term Plan/Annual Plan reference and long term financial impact

Operational expenditure will be required to cover the review of the Trade Waste Bylaw and to undertake Special Consultation.

3) Treaty of Waitangi considerations

There are no Treaty of Waitangi implications.

4) Decision-making

This is not a significant decision. The report reflects the review of a Bylaw that regulates a sub-set of liquid waste.

5) Consultation

a) General consultation

All affected parties have been identified. Special consultation in addition to on-going stakeholder involvement will ensure that all relevant people can have their say around options for changing liquid waste bylaws.

b) Consultation with Maori

It is not yet apparent that mana whenua would be disproportionately impacted by changes to liquid waste bylaws. However, officers will specifically ensure that mana whenua have an adequate chance to have their say before and during special consultation.

6) Legal implications

Council's lawyers have been consulted during the development of this report.

7) Consistency with existing policy

This report raises no issues of inconsistency with existing policy.

COLLECTION, & TRANSPORTATION OF WASTE BYLAW 1997

The Wellington City Council hereby makes by way of special order the following bylaw pursuant to the Local Government Act 1974 and all other Acts or authorities enabling it on that behalf.

1. TITLE & COMMENCEMENT

1.1 This Bylaw may be cited as the 'Wellington Collection and Transportation of Waste Bylaw 1997'.

1.2 This Bylaw shall come into force on 12 November 1997 and shall apply throughout the district.

2. PURPOSE OF BYLAW

2.1 The general purposes of this Bylaw are:

- a. To regulate the collection and transportation of liquid and solid waste collected from:
 - grease traps
 - septic tanks
 - trade waste premises that would require a consent under the Trade Waste Bylaw 1992 if the trade waste was discharged to the Council's sewerage system
 - pre-treatment workswithin Wellington City.
- b. To regulate the transportation and discharge of liquid and solid waste from scheduled sources discharged in Wellington City.
- c. To provide for the licensing of persons who collect and transport liquid and solid waste from scheduled sources in Wellington City and / or discharge liquid and solid waste from scheduled sources at destinations within Wellington City.

3. INTERPRETATION

3.1 In this Bylaw

Act means the Local Government Act 1974 as amended from time to time.

Authorised officer means any person appointed by the Chief Executive Officer of the Wellington City Council for the purpose of administering and monitoring the regulation of this Bylaw.

Council means the Wellington City Council.

Destination means the exact location at which the liquid or solid waste is discharged or dispatched from the vehicle that has collected and transported the liquid or solid waste.

District means the district of the Wellington City Council as it may be defined from time to time by or pursuant to the Act.

Person includes a corporation sole, and also a body of persons, whether corporate or unincorporate.

Pre-treatment means any processing of trade wastes by any processes, works, structures, equipment or machinery intended to vary the quality of trade wastes, or remove noxious matters from any trade wastes prior to their discharge into the sewage system.

Pre-treatment works means any processes, works, structures, equipment or machinery which varies the quality of trade waste or removes noxious matters from the trade waste prior to its discharge into the sewage system.

Scheduled sources means liquid or solid waste collected from:

- a. Grease traps
- b. Septic tanks
- c. Trade waste premises that would require a consent under the Trade Wastes Bylaw 1992 if the trade waste was discharged into the Council's sewerage system
- d. Pre-treatment works.

Trade waste has the same meaning as in the Act.

Trade waste premises has the same meaning as in the Act.

Waste has the same meaning as in the Act.

4. CONTROL OF COLLECTION & TRANSPORTATION OF LIQUID & SOLID WASTE

4.1 No person shall collect and transport liquid or solid waste from scheduled sources located within the district of Wellington, except in accordance with a licence granted pursuant to this Bylaw.

4.2 No person shall discharge solid or liquid waste collected from scheduled sources at a destination within the district, except in accordance with a licence granted pursuant to this Bylaw.

5. APPLICATION FOR LICENCES

5.1 Any person who wishes to collect and transport liquid waste collected from scheduled sources located within Wellington City and / or discharge solid or liquid waste from scheduled sources at a destination within Wellington City shall apply to the Council for a licence.

5.2 An application to Council under clause 5.1 shall be accompanied by a licence fee, set in accordance with clause 12.

5.3 Before making its decision under clause 6.0 the Council may:

- a. require the applicant to submit further information necessary to assess the application;
- b. require the applicant to specify the number of employees, contractors or other agents associated with the applicant and require a separate licence to be applied for and to be held by any of those parties individually.

5.4 The Council must notify the applicant of its requirements under clause 5.3 within 10 working days of receipt of the application.

5.5 Applications for licences shall be made in the form approved from time to time by the Council.

6. GRANTING LICENCES

6.1 On receipt of an application for a licence under clause 5.1, the Council shall, within 20 working days of receiving the application or the information requested under clause 5.3 above (whichever is the later):

- a. grant the licence in accordance with the application;
- b. grant the licence with conditions;
- c. refuse the application and notify the applicant of the decision giving a statement of the reasons for refusal.

6.2 In considering an application for a licence, and in imposing any conditions the Council shall take into consideration the following matters:

- a. Whether the applicant's methods of collection and transportation of liquid or solid waste from scheduled sources are acceptable and meet industry standards.
- b. Whether the applicant is aware of and utilises the destinations available in and outside the district for the discharge of liquid and meet industry standards.
- c. Whether the applicant's proposed methods of reporting on the collection, transportation and destination of liquid or solid waste meet the requirements of this Bylaw.
- d. Whether the applicant has previously collected and transported liquid or solid waste from scheduled sources in a manner authorised by Council.
- e. Whether the applicant has previously had a licence cancelled or suspended under clause 9.0 of the Bylaw.
- f. Such other matters that are relevant to giving effect to this Bylaw.

6.3 Unless otherwise stated, each licence granted by Council under clause 6.2 shall include the following conditions:

APPENDIX 1

- a. A copy of the licence granted by council must be carried in each vehicle operated by the applicant under the licence at all times.
- b. A copy of the licence must be produced on demand to any authorised officer.
- c. A licence is not transferable and does not authorise any other person, other than employees, contractors or agents specified in the licence or subsequently notified to the Council and approved under clause 6.3(e) to operate under the licence.
- d. The licence holder shall keep and supply documents to Council in accordance with the requirements of part 8.0 of this Bylaw.
- e. All licence holders must advise Council of any change to the employees, contractors or agents authorised to operate under the licence and the Council has the right to vary the licence to allow for the change or to require a new licence to be applied for.
- f. That the administration fee set pursuant to clause 12 of this Bylaw:
 - shall be paid annually; and
 - in the first year shall be paid within 2 weeks of the licence being granted; and
 - in subsequent years shall be paid on the anniversary of the licence, or the renewal, provided that any such further administration fee payable under clause 12.4 is to be paid on demand.

7. DURATION OF LICENCES

7.1 Every licence shall continue in force:

- a. for 1 year, commencing with date of the issue of the licence;
or
- b. if an application for the renewal of the licence is made, until the application is determined.

APPENDIX 1

7.2 Clause 7.1(b) applies subject to:

- a. the required fee for a renewal being paid to Council; and
- b. clause 9.0 relating to the suspension and cancellation of licences.

7.3 The holder of a licence may apply for the renewal of the licence.

7.4 In considering an application for renewal and imposing any conditions on the renewal, the Council shall take into consideration the following matters:

- a. The matters listed in clause 6.0; and
- b. The manner in which the licensee has conducted itself under the licence.

7.5 After considering an application for renewal of a licence, the Council shall:

- a. Renew the licence on the conditions presently attaching to it; or
- b. Review the licence on different conditions as the Council thinks fit; or
- c. Refuse the licence.

7.6 On renewing the licence, the Council shall specify a date (being no later than 3 years after the date on which the renewal takes effect) on which the licence shall expire unless it is again renewed under this clause.

8. SUPPLY OF DOCUMENTS

8.1 Each licensee or its agent shall keep a complete record of all liquid and solid waste collected and transported;

- a. from scheduled sources located in the district; and
- b. from scheduled sources discharged at destinations within the district.

8.2 The records kept in accordance with clause 8.1 shall include for each vehicle operated under the licence:

APPENDIX 1

- a. Identification of the location of each scheduled source within Wellington City from which liquid or solid waste was collected, denoted by a unique number or system to allow compliance with clause 8.2(c).
- b. For each location identified under clause 8.2(a):
 - i. The time and date of collection.
 - ii. The volume collected.
 - iii. A description of the type of liquid or solid waste collected.
- c. For each discharge:
 - i. The time and date of discharge.
 - ii. The volume discharged.
 - iii. A description of the destination.
 - iv. A list of the unique numbers or other system adopted under clause 8.2(a) identifying the scheduled sources that made up the volume discharged.
- d. Identification of the operator or operators of the vehicle.

8.3 At the request of an authorised officer, each licence holder must provide its records kept in accordance with clause 8.0 within 7 days of such a request.

8.4 If following provision of records under clause 8.3, the Council seeks additional information, then the licence holder must provide that further information sought by Council within 7 days of the request being made.

8.5 The records required under clause 8.0 shall be completed in a form approved by Council and shall be stored by the licensee or its agent for 3 years.

9. CANCELLATION & SUSPENSION OF LICENCES

9.1 Council may cancel or suspend any licence granted under clause 6.1 or clause 7.5 of this Bylaw in the following circumstances:

- a. If a licence holder breaches any term of their licence.
- b. If a licence holder discharges liquid or solid waste to the Council's sewerage system without authorisation of the Council.
- c. If the licence holder is convicted of any offence under this Bylaw or in relation to any other activities associated with the collection, transportation and discharge of liquid or solid waste.
- d. If, in the opinion of Council, a licence holder is unfit to hold such a licence.

9.2 If a licence holder is cancelled or suspended under clause 9.0 then the licence holder shall surrender their licence to Council.

10. RIGHT OF OBJECTION

10.2 A licence holder may object to Council's decision under clause 9.1 to suspend or cancel a licence, by lodging an objection within 14 days of the receipt of Council's decision.

10.3 Any such objection must be in writing and set out the relevant factors which the applicant wishes Council to take into account reconsidering the application.

11. OFFENCES

11.1 Every person commits an offence who:

- a. Collects, transports or discharges liquid or solid waste without a licence in breach of clause 4.1 or 4.2 of this Bylaw.
- b. Fails to carry a licence and/or produce it on demand of an Authorised Officer in accordance with clause 6.3(b) of this Bylaw.

APPENDIX 1

- c. Fails to supply information requested by Council under clause 8.0 of this Bylaw.
- d. Fails to comply with the conditions of a licence granted under this Bylaw.

12. APPLICATION (INCLUDING RENEWAL) & ADMINISTRATION FEES

12.1 The Council may from time to time by resolution publicly notified, fix the following fees:

- a. Application fees.
- b. Renewal fees.
- c. Annual administration fees.

12.2 The amount of any application or renewal fee shall not exceed the reasonable cost of processing applications for licences and applications for renewal of licences.

12.3 The amount of any administration fee shall not exceed the reasonable cost of administering a licence under this Bylaw, including the cost of conducting such investigations as are necessary to monitor the compliance by the licence holder with the licence held.

12.4 Where a fee fixed in accordance with 12.1 is, in any particular case, inadequate to enable the Council to recover its actual and reasonable costs in respect of the licence concerned, the Council may require the holder of the licence liable to pay the fee, to also pay an additional fee to Council.

This Bylaw was made by the Wellington City Council by special order passed at a Council meeting on 6 August 1997 and (meantime having been publicly notified) confirmed at a meeting on 23 September 1997.