

REPORT

TO: Chief Executive Officer

FOR: Council Meeting – 10 December 2008

FROM: Bylaw Analyst

DATE: 1 December 2008

SUBJECT: **Adoption of the draft Selwyn District Council Trade Waste Bylaw 2009 and Selwyn District Council Wastewater Drainage Bylaw 2009 for the Purpose of Consultation**

1. RECOMMENDATION

- (i) That Council adopt for the purposes of public consultation the draft Selwyn District Council Trade Waste Bylaw 2009 and the Selwyn District Council Wastewater Drainage Bylaw 2009 as attached to this report together with their corresponding Statement of Proposal and Summary of Information.**
- (ii) The Council seeks submissions on the draft Selwyn District Council Trade Waste Bylaw 2009 and the Selwyn District Council Wastewater Drainage Bylaw 2009 in accordance with Section 156(1) and Section 148 (special requirements for bylaws relating to trade wastes of the Local Government Act 2002 and other relevant sections relating to Special Consultative Procedures for bylaws.**
- (iii) That a sub-committee consisting of Council staff and Councillors Stewart, Doyle, Hasson, Morten and Barnett consider submissions and report back to Council at the 10 June 2009 Council meeting for adoption of the final Selwyn District Council Trade Waste Bylaw 2009 and the Selwyn District Council Wastewater Drainage Bylaw 2009.**

2. PURPOSE

The purpose of this report is to:

- (a) Present the proposed new Selwyn District Council Trade Waste Bylaw 2009 and the Selwyn District Council Wastewater Drainage Bylaw 2009 for consideration and put in place the special consultative procedures necessary to adopt the bylaw.**
- (b) Recommend the appointment of a Bylaw Subcommittee consisting of Councillors and Council staff to hear and consider any submissions made on the proposed new Selwyn District Council Trade Waste Bylaw 2009 and the Selwyn District Council Wastewater Drainage Bylaw 2009.**
- (c) The bylaw must go through a pre-determined consultative process, which is a requirement for Council under Section 83 of the Local Government Act (LGA) 2002. Other stakeholders and interested parties also need to be consulted such as the Ministry of Health as part of this process.**

3. SIGNIFICANCE ASSESSMENT/COMPLIANCE STATEMENT

The intention to adopt the proposed new bylaw has been assessed against the Significance Policy.

The Local Government Act 2002 requires that the Special Consultative Procedure is required to be used when making amending or revoking any bylaw made under the Act and there are additional requirements for bylaws relating to Trade Waste (Section 148 LGA 2002) and for implementing a new Trade Waste Uniform Annual Charge.

Proposed Selwyn District Council Trade Waste Bylaw 2009

The bylaw aims to control trade waste discharges into the Selwyn District wastewater system in order to protect Council infrastructure and to ensure protection of the Council's staff, contractors, the community and the wider environment. The bylaw allows provides for an equitable spread of costs between domestic and trade discharges.

There will be additional costs to the individual trade waste industry particularly if the trade waste industry is identified as a "conditional" consent. Currently if an industry is discharging trade waste they are only contributing to the wastewater uniform annual charge. Where an industry is identified as "conditional" charges relating to both volume and chemical characteristics will apply.

Dependent upon the volume of trade waste that may be discharged to the Council wastewater system there could be financial implications to Council in terms of the existing infrastructure if a large trade waste industry were to request access to discharge trade waste to the Council wastewater scheme. Rolleston is an area that is of particular interest.

This is a new proposed bylaw for trade waste for the Selwyn District.

Proposed Selwyn District Council Wastewater Drainage Bylaw 2009

The matters being considered are considered to be significant in terms of the Council's Policy on Significance and therefore may have an impact or consequence on the affected persons (being a large number of persons) that is substantial.

This is a new proposed bylaw for wastewater drainage for the Selwyn District.

4. HISTORY/BACKGROUND

The draft bylaws has been modelled on the New Zealand Standard General Model Bylaws and adapted to suit the Selwyn District Council.

Selwyn District Council Trade Waste Bylaw 2009

The proposed Selwyn District Council Trade Waste Bylaw 2009 sets out the conditions under which the Council will accept discharge of Trade Waste into the Council wastewater system. This is a new bylaw for Selwyn District.

Local authorities are not obliged to collect, treat and dispose of trade waste however Councils in New Zealand accept Trade Waste in order to protect the environment, promote business and employment.

It must be noted that a condition of the Resource Consent at the "Pines" Wastewater Plant in Rolleston is that a Trade Waste bylaw is implemented.

Selwyn District Council Wastewater Drainage Bylaw 2009

The proposed Selwyn District Council Wastewater Drainage Bylaw 2009 sets out the conditions under which the Council will accept discharge of domestic wastewater into the Council wastewater system. This is a new bylaw for Selwyn District.

5. PROPOSAL

Selwyn District Council Trade Waste Bylaw 2009

Draft Bylaw

The Bylaw Analyst has developed the proposed Selwyn District Council Trade Waste Bylaw 2009 in consultation with Council staff representing the Asset Management Department, Building and Regulatory Department. Chris Davies of OPUS Consultants also assisted in this process.

Legal advice has been sought on the proposed new bylaw and any further amendments suggested resulting from this has been incorporated as necessary.

A copy of the proposed new bylaw is attached to this report (Appendix One).

Identification of Trade Waste Industries

Currently, the method adopted in identifying trade waste users is by using a 5m³/day water threshold cut off point. This threshold is a generally accepted trade waste user cut off point around New Zealand. All water users that exceed the 5m³/day mark are automatically classified as a trade waste user.

Preliminary analysis on water use has identified 13 potential trade waste industries in the Selwyn District who could require a trade waste consent (Refer to Table One). No trade waste users under the 5m³ water use threshold have currently been identified.

Table One:

<u>Township</u>	<u>Number of potential trade waste customers</u>
Rolleston	8
Lincoln	5
Leeston	0
Total	13

Please note that the above list is indicative only and will be subject to change. Table One indicates the number of possible trade waste customers as at 27 November 2008.

It has also become apparent that some properties are not connected to a Council water supply but do discharge to the Council sewer system. These properties will be classified as trade waste customers and have formed part of this analysis.

Identifying the purpose of water use at the specified location address is difficult for a desktop exercise. Methods which are used to try to identify the purpose of the location's premises (e.g. residential, business, agricultural irrigation, school etc.) include physical site inspection, aerial photography, local knowledge and also having a drive about to obtain a general indication of activities going on in the area.

Sampling Analysis

Subsequent to confirming a property is a trade waste customer, the Council will determine whether they are a permitted or conditional consent or prohibited entirely from discharging trade waste.

Fees and Charges

A new trade waste uniform annual charge (UAC) system requires to be implemented.

The proposed charging system will identify the trade waste customers which use less than 5m³ of water per day (permitted consents), major trade waste customers who use greater than 5m³ of water per day (conditional consents) and residential users (non trade waste).

Trade waste customers who would be charged a set trade waste uniform annual charge only are permitted consents. These customers do not require consent if they comply with less than 5m³ per day of discharge and meet the physical and chemical characteristics of Schedule 1A within the bylaw (refer to Appendix One).

The major trade waste customers who do not meet the permitted criteria (<5m³ and physical and chemical characteristics of Schedule 1A of the bylaw) would be charged on a transparent and equitable user pays basis based on volume and the chemical characteristics of their trade waste discharge. These customers are defined as “conditional” consents as per Schedule 1B of the bylaw.

Residential customers who do not discharge trade waste would continue to be charged the wastewater UAC however this charge should also be reviewed.

The proposed trade waste UAC and the current wastewater UAC requires further discussion with the Asset Manager Water and the Corporate Services Manager. Preliminary discussions with the Corporate Services Manager indicated that this process could form part of the LTCCP and the new trade waste UAC could be implemented effective 1 July 2009.

Preliminary Consultation

On 20 October 2008 the Council held a public presentation on Trade Waste for key stakeholders and interested persons. This presentation was presented jointly by Council and OPUS. The presentation was advertised in the local paper via Council Call. Additional to this, persons associated directly with the industrial area Izone Drive in Rolleston were also specially invited to attend. Five persons attended the presentation including members of Izone Drive and Agresearch.

Additional to this a presentation for Council staff and Councillors was also held on 20 October to provide Council staff and Councillors with an understanding of the draft proposed bylaw and to answer any questions that they may have prior to the special consultative procedure occurring in early 2009.

Both presentations were well received with the majority of questions relating to the 5m³ threshold and the proposed Trade Waste UAC.

Additional to these presentations a consultation flyer has been compiled. This consultation flyer will be made available on the Council website, advertised in the Council Call section of the Selwyn Times and available in hard copy format at each Council service centre.

The identification of trade waste industries has commenced and site meetings will be organised by Council with the potential trade waste industries in the very near future.

Selwyn District Council Wastewater Drainage Bylaw 2009

The Bylaw Analyst has developed the proposed Selwyn District Council Wastewater Drainage Bylaw 2009 in consultation with Council staff representing the Asset Management Department, Building Department and Regulatory Department.

Legal advice has been sought on the proposed new bylaw and any further amendments suggested resulting from this has been incorporated as necessary.

A copy of the proposed new bylaw is attached to this report (Appendix Two).

6. STATEMENT OF PROPOSAL AND SUMMARY OF INFORMATION

As part of consultative process a Statement of Proposal and Summary of Information for the bylaw needs to accompany the release of the proposed new bylaw detailing the nature, reasons, statutory requirements, benefits/costs, options, consultation and submissions process pertaining to each draft bylaw. This enables the public to be fully informed about the process leading to final adoption.

The Statement of Proposal and Summary of Information for the proposed new bylaws is attached to this report (Appendix Three).

The Statement of Proposal details the options available to Council in reviewing the bylaws which are as follows;

Options Available to Council

1. **Do Nothing** – The Council has responsibilities to protect the drainage systems provided by the Council from damage and to prevent nuisance from poorly maintained drainage systems. This option is not supported by the Council.
2. **Rely on other methods (public education)** – this option is not seen as being practical as it would mean the Council will have no statutory authority to protect the public asset and would be relying on the co-operation of several different parties. As there are potential environmental problems and because clear rules about what is permitted, with penalties, which can be enforced if those rules are broken are required, the option to rely on other methods is not supported.
3. **Proceed with the review** – The implementation of a new bylaw will ensure that all parties are aware of their responsibilities in terms of current management and operating best practices. A bylaw is considered necessary because of the potential damage to Council infrastructure and the health and safety of Council staff and the general public.

This Statement of Proposal has been prepared on the basis that Council wishes to proceed with Option 3: **Proceed with the review** to formulate a proposed new bylaw.

Proposed Timeline for Consultation

The consultation for the proposed Selwyn District Council Wastewater Drainage Bylaw 2009 will be carried out in conjunction with the proposed Selwyn District Council Trade Waste Bylaw 2009.

Two months consultation is required when consulting for a Trade Waste bylaw therefore it was felt that the two separate bylaws should be notified together.

Timeline	<ul style="list-style-type: none">• Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009
10 December 2008 (Council meeting)	<ul style="list-style-type: none">• Adoption of the draft Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009
10 January 2009 Bylaw advertised	<ul style="list-style-type: none">• Advertise for public submissions to the draft Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009
10 March 2009 Submissions close	<ul style="list-style-type: none">• Written submissions close at 4:00pm at SDC service centres
6/7 April 2009 (to be confirmed) Submissions hearing	<ul style="list-style-type: none">• Hearings of submissions on the draft Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009 by a subcommittee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston

Timeline	<ul style="list-style-type: none"> Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009
10 June 2009 (to be confirmed) (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009 at its ordinary Council Meeting
13 June 2009 (to be confirmed)	<ul style="list-style-type: none"> Public notification on the adoption of the Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009 by Council and its commencement date
24 June 2009* (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009 by Council at its ordinary Council Meeting
1 July 2009	<ul style="list-style-type: none"> Commencement date of new Selwyn District Council Trade Waste Bylaw 2009 and Wastewater Drainage Bylaw 2009

** It is viewed that written submissions should be reviewed and heard if requested by an appointed subcommittee of Council staff and Councillors. From this process, amendments or changes to the draft bylaw can be incorporated for the consideration of Council to adopt the bylaw at its meeting of 10 June 2009. If it is the view of the subcommittee that the draft bylaw cannot be presented at that time for adoption or if there are further considerations identified by the Council at the meeting of 10 June 2009, this shall be reported back to Council including recommendations on how to proceed or the final bylaw will be sent for adoption at the Council meeting of 24 June 2009.*

7. VIEWS OF THOSE AFFECTED/CONSULTATION

(a) View of those affected/consultation:

The general public will be invited to make submissions on the proposed new bylaws. Specific groups and organisations will be invited to submit directly as identified relevant to the bylaw. These are listed in the Statement of Proposal and could include for example the Ministry of Health.

Public consultation on the bylaws will be undertaken between 10 January 2009 and 10 March 2009. Two months for consultation is required when consulting for a Trade Waste bylaw therefore it was felt that the two separate bylaws should be notified together.

Notification measures will include utilising the Public Notices in the Press, Council Call and other local community papers were considered appropriate.

On receipt of submissions a Bylaw Subcommittee consisting of Councillors and Council staff is proposed to be convened to consider and hear the submissions made on the proposed new bylaws. Based on these deliberations the proposed new bylaws will be amended as necessary and reported to Council.

(b) Maori implications:

The Council considers that the public notification and opportunity for submission process in January-March 2009 will provide adequate opportunity for public response, including Maori.

8. COMMUNITY OUTCOMES

- Appendix Four provides a review of the Community Outcomes and the 5 Waters Activity.
- The long term provision of community water supply, wastewater, stormwater, land drainage and water races the "Five Waters" is vitally important to the Selwyn District and a responsibility of Selwyn District Council. These are all identified as significant activities within the LTCCP.

- (c) Council has already acknowledged the importance of sustainability through the adoption of seven sustainability principles.

9. NEGATIVE IMPACTS

The only negative impact will occur with the possible financial costs to the trade waste customers as currently they are only contributing to the wastewater UAC.

The bylaws are unlikely to negatively impact on the community as a whole or on the Council activities and will assist in the long term sustainable management of wastewater sites.

10. RELEVANT POLICY/PLANS

The New Zealand General Model Bylaw templates and Council policies have been considered as part of the review process.

11. LEGAL IMPLICATIONS

NZ Bill of Rights:

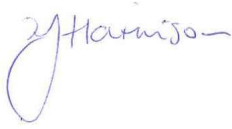
- Council have obtained legal advice to ensure that the proposed new bylaws are consistent with the NZ Bill of Rights Act 1990.
- The review of these bylaws is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions and the final consideration being made by an elected Council.

12. FUNDING IMPLICATIONS

- The recommendations contained in this report do not have any significant funding implications in terms of the bylaws however Council do need to consider employing a Trade Waste Officer (this could either be contracted externally or managed in house) to approve and monitor the Trade Waste consents.
- A new Trade Waste uniform annual charge and review of the current Wastewater uniform annual charge needs to be considered as part of this process.
- An application fee for a trade waste consent needs to be determined. This application fee will include the cost to the applicant for the Council to carry out the preliminary sampling that is necessary as part of the application process.

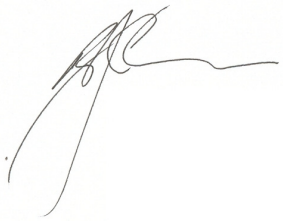
13. HAS THE INPUT/IMPACT FROM/ON OTHER DEPARTMENTS BEEN CONSIDERED?

- The Asset Management Bylaw Analyst has developed the proposed new bylaws with Council staff representing Asset Management, Building and Regulatory and with the assistance of Susan Newell and Kerry Smith of Buddle Findlay (Council Solicitors).

A handwritten signature in blue ink, appearing to read 'K J Harrison'.

K J Harrison
BYLAW ANALYST

ENDORSED FOR AGENDA

A handwritten signature in black ink, appearing to read 'R J Anderson'.

R J Anderson
ASSET DELIVERY MANAGER

APPENDIX ONE

PROPOSED NEW SELWYN DISTRICT COUNCIL TRADE WASTE BYLAW 2009

APPENDIX TWO

PROPOSED NEW SELWYN DISTRICT COUNCIL WASTEWATER DRAINAGE BYLAW 2009

APPENDIX THREE

STATEMENT OF PROPOSAL SUMMARY OF INFORMATION

APPENDIX FOUR

COMMUNITY OUTCOMES (06-16 LTCCP) AND 5 WATERS ACTIVITY CONTRIBUTION (09-19 LTCCP)

Community Outcome	How the 5-Waters Activity Contributes
<p>Environment Air, land, water and general environment to be kept in a healthy condition.</p> <p>A living environment where the rural theme of Selwyn is maintained.</p> <p>Access to community and public health services.</p> <p>Social Co-ordination of community/social services.</p> <p>A safe living environment.</p> <p>Educated community.</p> <p>Economic Business friendly environment.</p> <p>Effective and accessible transport system.</p> <p>Cultural An ability to experience cultural activities.</p>	<ul style="list-style-type: none"> Water demand is managed to ensure that water takes can be sustained with minimal adverse effect on the source water environment – rivers and groundwater. Community wastewater and stormwater collection and disposal systems are provided to address potential cumulative effects of individual disposal systems. Wastewater and stormwater collection and disposal systems are managed to prevent unauthorised discharges. Wastewater and stormwater are treated and disposed of such that any adverse effect on receiving environment are minimised. Maintenance of the modified environment through continued provision of land drainage systems. The open channel water race and land drainage systems contribute to the rural character of the District. NA NA Reliable provision of safe drinking water supplies and effective removal and disposal of wastewater and stormwater contribute to public health Water supplies are provided for fire fighting in designated Fire Districts. NA 5-waters services are provided in support of commercial/agricultural activity. Drainage systems are provided to prevent/minimise damage and economic loss due to flooding. NA Services are provided to support cultural and heritage sites and activities. Services are managed to avoid adverse impacts on sites of cultural or heritage significance. Heritage values associated with the 5-Waters activity are protected and preserved, e.g. land drainage, water races.