

Christchurch City Council Trade Waste Bylaw 2015

BYLAW REVIEW (SECTION 155) REPORT

Introduction

1. The Council's [Trade Waste Bylaw 2015](#) (the bylaw) places controls on trade waste discharges in order to protect the public wastewater network, including the wastewater treatment plant. Regulating trade wastes also protects the stormwater network, public health and the environment.
2. Trade wastes are discharges to the wastewater network resulting from trade activities at commercial and industrial premises. These discharges can contain characteristics that need to be managed due to the risk they present to the maintenance and operation of the wastewater network. Examples of these characteristics include chemicals, fats, solids and the flow or volume of the discharge. A trade waste consent is required for these types of discharges.
3. The bylaw sets the framework for trade waste consents and provides the basis for associated charges and monitoring.
4. The wastewater system is also regulated more generally by the Council's [Water Supply and Wastewater Bylaw 2022](#).
5. The purpose of this document is to fulfil the legislative requirements for the review of the bylaw, particularly the considerations required by section 155 of the Local Government Act 2002 (LGA). It summarises the legislative underpinnings, main issues and bylaw amendments proposed.

Summary of the legislative requirements for the bylaw review

Bylaw	Christchurch City Council Trade Waste Bylaw 2015
Empowering legislation	The bylaw is made under sections 145 and 146 of the Local Government Act 2002 (LGA) which, relevant to trade waste, empower the Council to make bylaws: • for the purpose of regulating trade wastes (s.146(1)(a)(iii)); and • to protect, promote and maintain public health and safety (s.145(b)).
Bylaw adoption date	The bylaw was adopted on 26 November 2015 and came into force on 1 December 2015.
Bylaw history	The Council made a bylaw to regulate trade wastes in 2000, under the Local Government Act 1974. The bylaw was reviewed in 2006 and subsequently in 2015, in accordance with the requirements of the Local Government Act 2002. Earlier bylaws to regulate trade wastes were made by the former Christchurch Drainage Board. ¹
Timing for bylaw review	The review must be completed by 26 November 2025 to comply with the 10-year LGA bylaw review requirement (section 159). The next local election is in October 2025, therefore this review needs to be completed prior to the end of the current Council term.

¹ The Christchurch Drainage Board Bylaw No.2 Trade Wastes 1966 and the Christchurch Drainage Board Bylaw no.2 Trade Wastes Amendment Bylaw 1971.

Process for bylaw review	• The process for reviewing a bylaw is similar to the process for making a bylaw. • The Council must make a series of determinations to complete the review, as set out in the LGA under section 155 (<i>Determination whether bylaw made under this Act is appropriate</i>) and section 160 (<i>Procedure for and nature of review</i>). • In accordance with section 155, the Council must determine the following: • whether or not a bylaw is the most appropriate way of addressing a perceived problem; and • if the Council decides that a bylaw is (still) appropriate, whether the bylaw is the most appropriate form of bylaw; and • whether or not the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). • If the Council wishes to make changes to the bylaw, it must undertake consultation on the proposed changes. If it does not want to make changes, it must still consult on the proposal to retain the current bylaw (section 160).
Consultation	• The general requirements for consultation on bylaws (section 160 and 156) apply to this bylaw review. In essence, they require consultation using the special consultative procedure (section 83) if the matter is of high significance; or otherwise, consultation in accordance with section 82 of the LGA. • The review of this bylaw, and the proposed changes have been assessed as medium significance, and therefore, consultation will be in accordance with section 82 of the LGA. • In addition, there are some specific requirements for consultation on trade waste bylaws, set out in section 148 of the LGA. These are: • a copy of the proposed bylaw must be sent to the Minister of Health for their comment, prior to making the bylaw; • public notice of the intention to make the bylaw must be given, including where to obtain copies of the proposed bylaw and of the ability to provide feedback; • the consultation period must be kept open for a minimum of 2 months for owners and occupiers of trade premises; • the Council must consult with any person the Minister of Health specifies; and • all registered trade waste dischargers must be directly notified of the intention to make the bylaw, the opportunity to provide feedback, and where to obtain a copy of the proposed bylaw. • Section 148(7) allows for a single process to be used to comply with both section 156 and 148 consultation requirements. On this basis, we will undertake a consultation under section 82, and consultation with consent holders and the Minister of Health under section 148, concurrently.
Next steps	• The accompanying Council report recommends that the Council adopts the proposed amended bylaw for consultation. • Consultation is planned for November 2024 through to January 2025, with hearings to follow in March 2025. • The final bylaw is expected to be adopted by the end of July 2025.

Offence, penalty and enforcement

6. Every person who breaches the Trade Waste Bylaw 2015 commits an offence. The Council can take a prosecution for bylaw offences, with the penalty being a fine on conviction of up to \$200,000.²
7. There are no infringement powers (instant fines) available at present for any breaches of this type of bylaw made under the Act.³ However, there are a range of other enforcement options and tools available under the Act (for example, removing works in breach of a bylaw, serving an injunction to cease an activity, recovering costs from damage⁴).
8. Additionally, Council officers have tools under other legislation, such as the Resource Management Act 1991, the Building Act 2004, and other Council bylaws to help address any issues.
9. In most instances, the Council's first approach to enforcement is communication to ensure the bylaw, and what it requires, is understood. Enforcement options as described above may be used when this educative approach does not lead to a remedy.

What this review has considered

10. The review of the Trade Waste Bylaw 2015 has looked at whether:
 - the bylaw is still needed;
 - the bylaw is as clear and enforceable as possible;
 - the bylaw is doing what is enabled by legislation and complies with all relevant legislation;
 - legal matters relating to the bylaw, including the required assessment of any New Zealand Bill of Rights Act 1990 implications;
 - the bylaw is fit for purpose, and whether new clauses are required; and
 - any changes to legislation, regulation or policy that may impact on the bylaw.

Most appropriate way to address perceived and actual problems

11. The LGA requires that an assessment is undertaken to determine whether a bylaw is the most appropriate way of addressing the perceived problems.⁵
12. Prior to making the first trade waste bylaw in 2000, and then subsequent reviews in 2006 and 2015, the Council considered the problems and issues that needed to be addressed. For the purpose of this review, the Council has considered the issues the 2015 bylaw regulates for. At a high level, these include:
 - protecting wastewater network infrastructure, including controlling and monitoring discharges to the wastewater network, and providing a framework for trade waste consents;
 - protecting the stormwater network;
 - protecting public health;
 - protecting the environment;
 - protecting those who work with the wastewater system and/or treatment plant; and
 - promoting cleaner production, including waste minimisation and water conservation.

² Sections 239 and 242 of the Local Government Act 2002.

³ The Act provides for infringement offences to be made by Regulation, but to date, no regulations have been passed to this effect.

⁴ See sections 162, 163, 175 and 176 of the Local Government Act 2002.

⁵ Local Government Act 2002, section 155(1).

13. Amendments to the bylaw in the 2015 review (other than minor amendments) included:
 - reducing the permitted concentrations of animal and vegetable fats to help reduce the incidence of problems when these are discharged to the wastewater system, such as overflows, blockages, environmental or public health consequences;
 - better controls over the discharge of tankered wastes, in anticipation of the planned tankered waste facility at the wastewater treatment plant;
 - provision for trade waste agreements in addition to, or in place of, a trade waste consent; and
 - strengthened provisions relating to failure to pay trade waste charges.
14. On the whole, the underlying matters identified above are still relevant and require the existing bylaw provisions to be retained. It has been in place for some time and has been working well. The extent of the controls is considered appropriate (unless otherwise noted in this report).
15. In some instances, existing provisions of the current bylaw:
 - (a) are overly complex or unclear as to their effect, and should be re-worded for clarity or to improve enforceability
 - (b) contain terms, definitions and references to documents which are outdated or no longer relevant, and should be updated.
16. Some emerging or new issues, and changes in best practice have been identified as matters that should be addressed in this bylaw. These are:
 - The amount of inorganic mineral solids (e.g.: sand, soil, clay) in the wastewater network. These materials do not degrade and can cause damage to pipes, increase the risk of blockages, and are expensive to remove.
 - The increased requirement on the Council to improve the quality of stormwater discharged from the network to the receiving environment has resulted in the Council needing to consider a pathway for some dewatering discharges, in exceptional circumstances, to be made to the wastewater network.
 - The emerging concerns regarding the presence of polyfluoroalkyl substances (PFAS) in the wastewater network and the environment.
 - A need to ensure the new tankered waste discharge facility (opened in 2016) is protected and that the regulatory controls in the bylaw for tankered waste are adequate and reflect best practice.
 - The bylaw is not clear or certain on the standard permitted volume limit.
 - There is no term of duration on permitted consents. Without an expiry date, there is no guaranteed point where the Council would review whether the consent is still required, appropriate and fit for purpose.
 - Gaps in application considerations and processing.
17. In undertaking this review, the Council has considered whether a bylaw is the most appropriate way of addressing the perceived problems. Each of the perceived problems identified were assessed for suitability for bylaw regulation. Other options, such as other regulatory tools or public education were also considered.
18. In addition to the recommended changes described in the [clause by clause analysis](#), staff gave consideration to a number of other issues and possible bylaw provisions. Proposals considered but not included, are:

- Increasing the minimum size requirement for grease traps;
 - Septicity of wastewater as a result of retaining the discharge on site for a prolonged duration of time;
 - The inclusion of permitted limits for liquid pharmaceutical waste; and
 - The specific prohibition of cytotoxic waste, in anticipation of a possible future change to New Zealand Standard 4304.
19. The above issues and proposals were not included because they were considered not to meet the requirements for regulation via a bylaw, or are already regulated to some extent, either by the bylaw or other regulation.

Most appropriate form of bylaw

20. The most appropriate form of bylaw is one that:
- is up to date and fit for purpose;
 - helps achieve the Council's Strategic Priorities, Community Outcomes, the goals of Te Wai Ora o Tāne: the Integrated Water Strategy and other strategic planning documents;
 - helps ensure the Council's obligations under legislation and resource consents are met;
 - is not inconsistent with other Council bylaws;
 - allows for exceptions and special circumstances;
 - is within the legal power of the Council to make bylaws under s.145 and s.146 of the Act; and
 - is not inconsistent with the New Zealand Bill of Rights Act 1990 (NZBORA).
21. The form of this bylaw has been considered through this review process. It is noted that the Bylaw has been modelled on the New Zealand Standard Model Bylaw for Trade Waste (2004), and modified to suit local circumstances.
22. As amending the bylaw is considered to be the most appropriate approach, staff have prepared a [clause-by-clause analysis](#) of the 2015 bylaw, assessing each clause and setting out the reasons for any proposed amendments.
23. In undertaking analysis of the current bylaw, three main options were identified with respect to most bylaw clauses: retaining the current provision, amending the provision, or making a new provision. In considering which of the options is the most appropriate, the following questions were considered:
- does the clause address an identified problem or is it necessary for effective management of trade wastes and their impacts on the wastewater system;
 - does it provide an appropriate level of control;
 - is it consistent with other Council bylaws;
 - is it specific and easy to interpret for the public and Council officers; and
 - is this provision enforceable?
24. Staff concluded that most clauses are still fit for purpose, with some with amendments, new additions to regulate emerging issues, and rewording or updates to terminology required for clarity and enforceability. The specific wording changes and new additions are discussed in the clause-by-clause analysis that accompanies this report.

25. The proposed amended bylaw (the draft Trade Waste Bylaw 2025) has been prepared based on the recommendations in the clause-by-clause analysis. The draft bylaw now also aligns with the Council's standard bylaw template, which assists with readability and understanding of bylaws through the use of a standardised format.

Proposed changes to the bylaw

26. The following is a summary of the key proposed changes to the bylaw:

Reducing the amount of inorganic mineral solids permitted in trade waste discharges – Schedule 1A.2.4

Inorganic mineral solids, such as clay, sand, and silt have been increasing in wastewater since the earthquakes, partly as a result of activities associated with construction, such as dewatering or hydro excavation. They are also found in trade waste discharges from activities such as concrete manufacturing or stone masonry.

These materials are problematic for the wastewater network because they do not break down and can cause damage to pipes and increase the risk of blockages in the network. These inorganic mineral solids need to be removed from the wastewater network, and they are expensive to remove.

At times, and in line with best practice, the Council has placed stricter limits on these materials within discharges as a special condition of the trade waste consent. It is possible to remove inorganic mineral solids by filtration or settling prior to discharge to the network, and this is a common practice undertaken by existing dischargers, where required.

The draft bylaw proposes to introduce a permitted limit of 100g/m³ of inorganic mineral solids within trade waste discharges, formalising the permitted limit in the bylaw. It is not proposed to change the maximum permitted concentration of total suspended solid in trade waste discharges, which is 600g/m³. This change only affects the subset of inorganic mineral solids.

The proposed new requirement is set out in Schedule 1A.2.4. Other new clauses to support the proposed change are:

- a definition of inorganic mineral solids (clause 5(1)); and
- transitional provisions which require existing dischargers to comply with this requirement within 12 months, after the bylaw takes effect (clause 37(5)).

This proposal aligns with the limit in place for the discharge of total suspended solids to the stormwater network. Therefore consent holders are familiar with the pretreatment process required to treat the wastewater down to a compliant level.

Placing stricter limits on the discharge of inorganic mineral solids in trade waste will help to protect wastewater infrastructure and the treatment processes and will benefit the maintenance of the network. By placing the limit in the bylaw in addition to individual consent conditions, it will help to set the expectation from the outset that inorganic mineral solids should be managed by the discharger.

Prohibiting Persistent Organic Pollutants and Polyfluoroalkyl Substances – Schedule 1B.2.2

Persistent Organic Pollutants (POPs) are a group of chemicals that are highly resistant to degradation and remain in the environment for extended periods of time. POPs can travel long distances from their source, often being found in areas where they have never been used.

There are emerging environmental and health concerns regarding polyfluoroalkyl substances (PFAS), which are a specific type of POP. Knowledge and understanding of PFAS, including the effects on people and the environment, is still evolving.

PFAS include a large group of manufactured compounds that are used in the range of industrial and consumer applications, often as surfactants, coatings and treatments to repel oil, grease and water. A notable source of PFAS in the environment is from the historic use of fluorinated firefighting foams. PFAS in firefighting foams were banned in 2006.

In 2017, the Ministry for the Environment launched a programme to help councils and landowners to investigate the extent of PFAS contamination in New Zealand, and to guide them on managing this emerging contaminant. Primary responsibility for investigating and managing PFAS contamination lies with the regional council. The Environmental Protection Authority has a guidance level of PFAS concentration and daily mass limit that has been adopted by a few Councils across NZ.

As products are disposed of, PFAS are discharged into the environment from wastewater treatment plants and landfills. The Council has noted levels of PFAS at the wastewater treatment plant and is wanting to address any intentional discharges containing significant amounts of these compounds.

Wastewater treatment plants are generally ineffective at treatment and removal of these chemicals, and if discharged to wastewater, they are ultimately discharged unchanged into the receiving environment.

The draft bylaw proposes to list POPs, including PFAS, perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA) as a prohibited trade waste in Schedule 1B.2.2. This means the Council would generally refuse any application to discharge trade waste containing these chemicals.

It should be noted that there is an avenue for consent for trade wastes containing any of the substances contained in Schedule 1B of the bylaw (prohibited wastes), but only in circumstances where the prohibited characteristic can be removed or otherwise treated to a level where the Council is satisfied that it is safe for discharge to the wastewater network through a conditional trade waste consent. The standard of pre-treatment required for PFAS is very high, and would require that the substances are removed from the trade waste by specialised filtration.

PFAS are used in a wide range of consumer products. This change is not intended to address any miniscule amounts that may be inadvertently discharged through domestic activities or the use of household products.

Prohibiting the intentional discharge of these chemicals within trade waste is one way the Council can help to prevent further discharge of POPs, PFAS, PFOS and PFOA to the environment.

Introducing a maximum term of duration for permitted consents – clause 15

Permitted consents are granted for trade waste discharges which are low volume (less than 1,245m³ per year) and which meet all of the discharge characteristics outlined in Schedule 1A of the bylaw. Examples of consent-holders that typically fit into this category are hairdressers, commercial kitchens and washpads. The district has just over 1,200 permitted consents, with a large number of these being restaurants and takeaways. Monitoring of this type of consent is not undertaken on a regular basis.

Restaurants discharge high amounts of fats and solids which can cause blockages in our wastewater network. Pretreatment is required in the form of grease traps to help prevent this. Grease traps need to be kept in good working order by regular maintenance to ensure the contaminants are removed from the wastewater being discharged.

The bylaw provides for permitted consents to be granted indefinitely (i.e. no expiry date). Although this category of consent is lower-risk, the perpetual nature of the consents is not conducive to ensuring that the consent holder is keeping their pretreatment devices or processes in good working order, and that the consent remains appropriate and fit for purpose.

The draft bylaw proposes to set a consent duration of up to ten years on permitted consents (clause 15(1) and (2)). Additional bylaw changes supporting this amendment are:

- a new requirement for permitted consent holders to notify the Council if there is a change of ownership or a change of use (clause 15(4)).
- transitional provisions providing that all existing permitted consents will be reviewed within ten years in order to add a term of duration to the consent (clause 37(4)).

The proposed bylaw change will provide assurance that all permitted consents are periodically checked to determine whether the consent is still required, whether it is fit for purpose, and to ensure best practices are carried out in site. Confirming the appropriate conditions are in place for the nature of the discharge, and that the conditions are being met, is beneficial both for the operation and maintenance of the wastewater network, and for the consent holder in terms of preventing any damages or blockages to private drains.

Improvements to application processing and decision-making

In the course of processing trade waste applications for consents in recent years, staff have identified there are some gaps in the bylaw provisions and improvements which could be made. These are:

Removing application processing times – clause 13(1):

The current bylaw (clause 13(1)) sets out that the Council will make a decision on a consent application within 15 working days (or such greater time as may be allowed by the Council). The purpose of including this in the current bylaw is to communicate target processing timeframes to applicants.

The bylaw is not the most appropriate tool in this instance. There are no statutory timeframes for processing trade waste consents. The consent application processing timeframe is not a matter the Council needs to regulate, particularly when the Council is both the regulator and the only party that the requirement applies to.

Although the majority of applications are processed within 15 working days, consideration of an application could justifiably take longer in some cases to ensure all relevant decision-making criteria have been sufficiently considered.

It would be more appropriate to communicate the expected consent processing timeframes to the applicant in a non-regulatory manner i.e. on the application form, on the Council's website, or in written or verbal advice from a trade waste officer.

The draft bylaw proposes to remove the reference to a decision being made within 15 working days. This includes changes in clause 13(1) and 11(2).

This approach aligns with other approvals granted under the Council's bylaws, including approvals to connect to the water supply, wastewater and stormwater networks; and the granting of an Industrial Stormwater Discharge Consent.

Considerations may include wider matters, including meeting LGA requirements – clause 12:

The criteria a trade waste consent application is considered against, as set out in the current bylaw, is largely focussed on biophysical considerations. There are other considerations which may be relevant, such as compliance with legislation or regulations and social and cultural factors. In particular, any decision made by the Council, including any approval or consent decision made under any bylaw, must comply with the decision-making requirements of the LGA⁶. In some circumstances, this could include seeking advice and views from mana whenua to inform the Council's decision on an application if it is identified that the proposed discharge may have potential cultural impacts.

It is proposed to strengthen this clause in the bylaw by including reference to these potential considerations for completeness, and to clarify for the applicant or any other person reading the bylaw, that these are potential considerations.

The proposed changes are reflected in clause 12(1), 12(1)(u), 12(1)(v), 12(1)(w) and the associated explanatory note. Supporting changes, which provide for conditions on consent on the basis of these considerations, are proposed in clause 14(1)(x) and 14(1)(y).

Reasons for refusal – clause 13(3):

The current bylaw sets out that the Council is not obliged to accept any trade waste (clauses 4(2) and 8(2)). Staff have identified that it would be useful to more clearly outline the types of reasons why the Council may decline an application, to help strengthen the decision-making processes and to provide clarity and certainty for both the applicant, and the authorised person considering the application.

The proposed clause covers the following reasons for refusal:

- the discharge may give rise to wastewater overflows;
- insufficient capacity to accommodate the discharge;
- the discharge may compromise the Council's levels of service;
- the discharge may compromise the Council's ability to comply with its discharge consent;
- protection of the wastewater network, the health and safety of any person, or the environment;
- protection of Taonga and ensuring tikanga processes are observed; and
- any other matters considered under clause 12 (consideration criteria) which cannot be addressed or managed to the satisfaction of the Council.

The proposed new clause largely aligns with a similar refusal clause in the wastewater section of the Water Supply and Wastewater Bylaw 2022.

⁶ Local Government Act 2002, sections 76-79 and 81.

Clarification on the requirement for trade waste consents for dewatering activities in some circumstances – clause 10

The Council's regulatory requirements around the acceptance of dewatering discharges is not easily understood or set out.

Dewatering is the removal of groundwater or surface water from excavation, tunnelling, trenches, stream diversions and sediment control devices, and is usually done by pumping. In most cases, the water from dewatering is discharged to the stormwater network.

The activity is regulated under the Land and Water Regional Plan and resource consent may be required from the regional council. Regardless of whether the activity requires resource consent, it will also require a written approval from the Council to discharge the water to the stormwater network. This approval is considered and granted under the Council's [Stormwater and Land Drainage Bylaw 2022](#).

The Council's resource consent to discharge stormwater from its network into the receiving environment (Comprehensive Stormwater Network Discharge Consent, CSNDC)⁷ was granted in 2019 and placed increased responsibilities on the Council to reduce contaminants and improve the quality of stormwater. As an indirect result of this regulatory change, in limited circumstances, some dewatering discharges are considered not suitable for discharge to the stormwater network due to contaminants contained in the water. This includes discharges from contaminated sites, such as those where the prior site activity is listed on the Hazardous Activities Industry List (HAIL), or where there is potential for contamination from the wastewater network. Such discharges are considered for acceptance to the wastewater network as trade waste instead.

Dewatering to trade waste, where required, contributes to achieving the objectives of the CSNDC.

The Council's Water Supply and Wastewater Bylaw 2022 already requires⁸ that no discharge, including water from dewatering, may be made to the wastewater network without the Council's approval under that bylaw, or the Trade Waste Bylaw 2015. However, the current trade waste bylaw is not clear regarding the requirement for a trade waste consent for dewatering discharges, or when this might be required.

It is recommended the Trade Waste Bylaw is updated to reflect the change in practice and to align with the Water Supply and Wastewater Bylaw 2022. This is not a substantive change from an operational perspective.

The proposed changes to the bylaw include:

- a specific requirement for trade waste consent for dewatering activities, along with an explanatory note to describe when this requirement would apply (clause 10(1)(c)).
- The definition of the terms 'dewatering', 'groundwater', and 'surface water' in clause 5(1) to make the proposed addition to the bylaw easier to interpret and enforce.
- A minor amendment to the definition of 'trade waste' in clause 5(1) to include water from dewatering, so that the relevant clauses apply.

⁷ The Comprehensive Stormwater Network Discharge Consent – CRC231955

⁸ See clause 31 of the [Christchurch City Council Water Supply and Wastewater Bylaw 2022](#).

Improvements related to tankered waste discharges

The Trade Waste Reception Facility (TWRF) at the Christchurch Wastewater Treatment Plant (CWTP) became operational in 2016, after the bylaw was last reviewed. Staff have reviewed the provisions in the bylaw related to tankered waste to ensure they are reflecting current and best practice.

Staff have identified some areas where bylaw provisions could be improved in relation to tankered waste. These include:

- Specifying certain bylaw provisions apply to tankered waste consents where it could be beneficial for the avoidance of doubt, e.g.:
 - control of the discharge of tankered waste into the wastewater network - cl.6(1)(d);
 - application requirement - cl.10(1)(b);
 - decision on application – cl.13(1)(c);

While these matters are technically already covered due to the definition of ‘trade waste’, the inclusions are recommended for ease of understanding the bylaw.

- Adding tankered waste as a separate category of discharge to reflect how consents are categorised operationally (clause 8(1)(c)).
- Minor updates to the definition of tankered waste (cl.5(1)).
- Changes to clause 17: Tankered Waste, which include:
 - Specifying the types of waste that are accepted to TWRF;
 - A requirement to provide the necessary connections to the discharge point;
 - A requirement to adhere to any conditions of entry to the CWTP (for example, wearing personal protective equipment (PPE));
 - An ability to refuse acceptance of certain types of discharges;
 - An ability to recover costs for any damages;
 - Removing provisions that are no longer relevant; and
 - Other minor wording changes for clarity or to update terminology.

These proposed changes will help to ensure that:

- the Council’s new TWRF is appropriately protected from misuse and damage;
- the treatment processes are not disrupted; and
- workers that operate the CWTP, or deliver tankered waste, are safe.

Clarifying permitted discharge volume limits within the bylaw – Schedule 1A.2.1

The Council categorises trade waste discharges based on the volume and characteristics of the discharge (how much and what it contains). The annual permitted volume limit is not set in the bylaw, but the standard operating practice is a limit of 1,245m³ per year.

The draft bylaw proposes to include this permitted volume limit in Schedule 1A.2.1 for clarity and certainty. It also proposes to include a supporting explanatory note for ease of interpretation of how the limit applies to a typical work week, or on a daily basis.

27. In addition to the key changes described above, there are also a number of wording changes proposed, most of which are intended to clarify the current 2015 provisions and do not otherwise significantly change the level of regulation of trade wastes. Full details of all proposed changes are outlined in the clause-by-clause analysis document which accompanies this report.
28. The proposed changes to the bylaw are appropriate in form. The final form of the bylaw will be determined after the Council has heard and considered submissions as part of the consultation process.

New Zealand Bill of Rights Act Implications

29. The New Zealand Bill of Rights Act 1990 (NZBORA) protects the freedoms and rights that are fundamental to a free and democratic society.
30. As part of the bylaw review process, the LGA requires the Council to assess whether the bylaw gives rise to any implications under NZBORA.⁹ The intent of NZBORA considerations in bylaw development is to ensure that bylaws do not unreasonably limit the right to certain freedoms. No bylaw may be made which is inconsistent with NZBORA.¹⁰
31. The NZBORA specifically identifies four types of civil and political rights, these are:
 - life and security of the person;
 - democratic and civil rights (which includes freedom of expression and freedom of movement)
 - non-discrimination and minority rights;
 - search, arrest and detention.
32. NZBORA also provides that *“the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”* In other words, rights are not absolute. Individual freedoms are necessarily limited by membership of society and by the rights of others and the interests of the community.
33. The intent of the proposed Trade Waste Bylaw 2025 is to protect infrastructure and protect public health. It restricts the types and quantities of industrial and commercial wastes that can be disposed of to the wastewater system. The NZBORA implications of this bylaw are limited.
34. The right to be secure against unreasonable search or seizure is a protected right in the search, arrest and detention section of NZBORA. Unreasonable search arguments could be raised in relation to the provision for authorised officers to enter any premises believed to be discharging trade wastes in order to take readings, measurements, samples, observe accidental occurrences or clean up, or otherwise monitor or inspect the premises discharge (clause 33).
35. However, the LGA specifically provides for powers of entry:
 - for the purpose of detecting a breach of bylaw (s.172);
 - in cases of emergency (i.e.: threatening loss of life, injury, damage to property, damage to the environment, or danger to any works or adjoining property) (s.173); and
 - for anything a local authority is empowered to do under the Act (s.171);
36. Clause 33 of the bylaw is drafted on the basis of the LGA provisions, and as such are considered tested and reasonable powers of entry.
37. Staff consider that the proposed Trade Waste Bylaw 2025 does not give rise to any implications under the NZBORA, nor is it inconsistent with NZBORA.

Bylaw review options

38. The options considered as a whole are:
 - **Do not review the bylaw at this time:** This is not the preferred option because the bylaw is legislatively due for review by 26 November 2025. If it is not reviewed now, this deadline will not be met.

⁹ Local Government Act 2002, section 155(2)(b).

¹⁰ Local Government Act 2002, section 155(3).

- **Review and retain the current bylaw:** This is not the preferred option because the bylaw does not adequately address some emerging and existing issues. The Council is required to consult on the bylaw review, irrespective of whether there are any changes or not. It is worthwhile using this opportunity to address issues.
- **Amend the current bylaw:** This is the preferred option. There are a number of emerging issues that fall within the scope of this bylaw and could be addressed by with bylaw amendments.
- **Revoke the current bylaw and not replace it:** This is not the preferred option because trade waste discharges place additional load on the wastewater network and can also negatively impact on the infrastructure, treatment processes and the resulting discharge to the environment after treatment. These effects need to be effectively managed.

The bylaw provides a valuable regulatory tool to manage trade wastes that enter the public wastewater network, ensuring public infrastructure is protected and environmental standards are met. The majority of the matters the bylaw controls for, are not adequately regulated by legislation.

Revoking the bylaw would remove the option of enforcement action for a wide range of actions that could cause damage or disruption to the operation of the wastewater network. It would rely on voluntary compliance, and would be less effective.

The result of this review suggests the best approach is for the Council to amend the current Trade Waste Bylaw 2015 and rename it the Trade Waste Bylaw 2025. This approach reflects the limited number of proposed changes and the significance of their effect. The draft Trade Waste Bylaw 2025 is not fundamentally changing the nature of what the Council regulates in respect of trade wastes.

Conclusion

39. Having reviewed the Trade Waste Bylaw 2015, and in terms of section 155 of the LGA, staff find that the proposed amended Trade Waste Bylaw 2025:
 - is the most appropriate way of addressing the perceived problems related to trade waste in the district;
 - is the most appropriate form of bylaw; and
 - does not give rise to implications under the NZBORA, nor is it inconsistent with the NZBORA.
40. The recommendations in the Council report to adopt the draft Trade Waste Bylaw 2025 for consultation align with the determinations required by the LGA, as above.