

**Open Meeting**

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	5 February 2016
<b>Prepared By</b>	C Clarke Roding Manager
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140816
<b>Report Title</b>	<b>Road Naming Policy</b>

**1. Executive Summary**

The existing Road Naming Policy (May 2013) has been identified as requiring a review. Recent developments requiring roads to be named have tested the existing policy and found that it lacks clarity of process, sufficient guidance and community input. Following two workshops with Council, staff have reviewed the policy and made amendments to reflect Councillors views. Staff now seeks approval of the revised policy from the Policy & Regulatory Committee.

**2. Recommendation**

**THAT the report of the General Manager Service Delivery – Road Naming Policy - be received;**

**AND THAT the Committee approves the reviewed Road Naming Policy.**

**3. Background**

The existing road naming policy (policy) was introduced in May 2013. There have been a number of instances since that time where Developers and Council staff have required further clarification on a number of matters, such as:

- (a) Naming private roads;
- (b) The process for naming multiple roads in an area;
- (c) The “Approved List” of road names and how they are established, maintained and reviewed;
- (d) Consultation with Iwi, Community Boards, Community Committees and Community Groups;
- (e) Ward Councillor and Council Roding Asset Team roles and responsibilities; and
- (f) The guidelines for selection of road names.

## 4. Discussion and Analysis of Options

### 4.1 Discussion

A number of practical issues with the application of the existing policy lead to a requirement for a review. Councillor workshops were held in March and October 2015 to seek feedback from Councillors on the current policy and the issues associated with it.

At the workshops, the following matters were raised:

- Neighbouring districts affected by duplicate road naming

Currently the Council's Roding Team check neighbouring districts for duplicate named roads. These districts include Hamilton City Council and Waipa District Council.

The Council's Roding Team are unaware of any historical conflicts which require checking against Auckland Council, Hauraki, Matamata-Piako and Otorohanga District Councils.

- Lodging, consultation and Road Name approvals

The current policy does not make it clear when developers should be proposing road names and the processes which need to be followed in order to gain approval from Council's Infrastructure Committee.

The revised policy provides a much clearer process for Developers and Council to follow by selecting the option to either use a road name from an "Approved List" or follow an alternative process to gain approval of road names.

As part of this review, internal consultation has been undertaken with the Development Engineering Team to ensure advice on the road naming process is provided at the time of new development proposals. Resource Consents for new roads will include advisory notes requesting that road names are submitted 6 months in advance of 224(c) issue.

The Infrastructure Technical Specification (ITS) is currently under review and it is recommended to include a Road Naming requirement before issuing of 224c has been proposed. This will mean that a Road Name is required before titles are issued and therefore ensures responsibility on the Developer to start this process early.

- Road Name directory availability

A current list of Road Names in the district will be provided at the June and December reports to Infrastructure Committee. The updated Road Name directory list will be held electronically and distributed to all Ward Councillors before this bi-annual Infrastructure Committee meeting.

- Consultation requirements

Historically there have been a number of issues regarding community/stakeholder engagement with regards to proposing new road names. The guidelines have been updated to provide consultation requirements when making a request to name a road. Evidence will need to be provided from local iwi, Community Boards, Community Committees and Community Groups as directed by the Ward Councillors. A list of all Community Boards, Committees and Groups has been included in the policy for clarity.

- Establishing, maintaining and administration of the Road Naming "Approved List"

In some cases there have been approved road name lists for some wards/areas, which have made the selection process easier. It is proposed to develop Approved Road Name Lists for all areas to make the process simpler for those who wish to select off the list. In order to establish the Approved List it is proposed that Ward Councillors consult with Iwi, Community Boards, Community Committees and Community Groups to establish a tentative list that the Council's Roding Team will check against the guidelines before reporting to the Infrastructure Committee. If names are approved by the Infrastructure Committee, the names become part of the Approved List for a ward/area and no further approvals are required. The Policy provides direction as to how the list will be maintained on an ongoing basis.

Iwi consultation can be co-ordinated by the Waikato District Council Iwi and Community Partnership Manager should this be required.

- Improved guidelines criteria for selection of Road names

Some areas name streets in accordance with a theme (eg Ngaruawahia uses royal references in a number of streets). The revised policy recognises this and the revised guidelines indicate a preference to reflect the established theme, if identified in the area. Weighting of categories has been introduced to give a relative importance and enables names to be ranked in order of merit. Names may fit more than one category and could include: History, Culture, Geography, Theme, or a Noteworthy Person.

### **Summary of suggested changes**

1. Incorporation of the guidelines in the Road Naming Policy.
2. Community Boards, Community Committees and Community Groups defined.
3. Approved Name list formalisation process.
4. Approved Name list requirement set to 20 names minimum at any one time.
5. Consultation step removed on current Road Naming Policy 2013 for point 2c) "The Roding Operations Unit will report to the Community Board or Community Committee for comment on the proposed road names". Proposed change will require Developers to consult with the Community Boards/ Committees/ Groups by direction of the Ward Councillors.
6. Change Existing Road Names requirement of 90% approval from responses received reduced to 80% required approval.

7. Inclusion of Iwi consultation requirement in **section 3.1**. "Iwi Consultation can be co-ordinated by Waikato District Council Iwi & Community Partnership Manager." as in **section 2.1(a)**.
8. Guidelines include Weighting Categories and Description.

## 4.2 Options

There are two options for the Policy & Regulatory Committee to consider as follows:

Option 1: Continue operations under the existing Road Naming Policy (May 2013) and apply the criteria set out within the document.

This option is not recommended as the current policy does not provide the detail to address the concerns raised by Council developers and staff.

Option 2: To approve the revised Road Naming Policy in order to provide further clarification on consultation and the approval process.

This approach is consistent with feedback received at the Councillor workshops.

## 5. Considerations

### 5.1 Financial

Policy reviews are included within the function of Council's Roading Team therefore costs are included within current budgets.

The effect of having Roads Named before section 224(c) completion will mean that these road names can be lodged with Land Information New Zealand on one occasion only. Currently new roads have been given an informal name before the approved name process has been completed. Having the road name approved prior to S224(c) means avoidance of unnecessary registration duplication.

## 6. Consultation

The following stakeholders have been/or will be consulted:

Planned	In Progress	Complete	
		✓	Internal
			Community boards/Community committees
			Waikato-Tainui/Local iwi
			Households
		✓	Councillor Workshops

Consultation has been undertaken with relevant internal staff and Councillor Workshops have been held on 24 March 2015 and 19<sup>th</sup> October 2015. Once approved staff will discuss the new policy with the groups outlined within the policy to ensure they understand their involvement in the process.

**7. Conclusion**

The current Road Naming policy does not provide sufficient detail and clarity for Developers and Council. The reviewed policy will provide a clearer process with specific guidelines to be followed. It is therefore recommended that the proposed Road Naming Policy be approved.

**8. Attachments**

- Existing Road Naming Policy May 2013
- Reviewed Policy December 2015 (for approval)

# Road Naming Policy

Policy Owner	General Manager, Service Delivery
Policy Sponsor	Roading & Transport Committee
Approved By:	Policy Committee
Approval Date:	13 May 2013
Resolution Number	WDC1305/06/6
Effective Date	May 2013
Next Review Date:	May 2014

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## Scope

This Policy applies to

- the naming of new or previously unnamed Public Roads;
- changing the name of an existing Public Road; and
- the naming of Private Roads

## Objectives

To outline the requirements for naming roads, in rural and urban locations and on private land.

## Related Documents/Legislation

HCC Development Manual  
WDC Heritage Policy

## Application

Waikato District Council  
Service Delivery Group  
General Public

## Policy Review

This policy will be reviewed annually.

## Policy Statement(s)

The Council will seek to use road names as a way of recognising significant history of an area. (Refer also to the Heritage Policy.)

- I. Community Boards or Community Committees are encouraged to consult iwi and develop an “Approved List of Road Names” for that particular community.
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2. The Roding Operations Unit will check the list against the “Guidelines for the Selection of Road Names” (contained in the “Road Naming” SOP) to ensure that they are suitable for use.

Naming an **Urban** Road for the First Time

This is normally triggered by a developer request.

- a) Where an “Approved List of Road Names” is available, the subdivision developer shall be invited to choose from that list or submit a written request to use up to three other names, including the reasons why they want the names to be used.
- b) Where an “Approved List of Road Names” **is not available**, the subdivision developer shall submit three names in order of preference in writing. The developer’s submission shall include the reasons why they want a particular name or names to be used. The Roding Operations unit will check the proposed names against the “Guidelines for the Selection of Road Names” to ensure compliance, and consult with the relevant ward councillor.
- c) The Roding Operations Unit will report to the Community Board or Community Committee for comment on the proposed road names.
- d) The proposed name is presented to the Roding & Transport Committee for approval.
- e) The Roding Operations Unit will report to Council twice yearly (in June & December) with a list and diagram of all new road names confirmed over the previous 6 months.

Naming Private Roads and Right Of Ways for the first time

This is normally triggered by a developer request.

- a) Private Roads shall be named (at the cost of the developer), if there are 6 or more lots gaining access from them. Developers may name a private road if there are 5 or fewer lots gaining access from them, at the cost of the developer.
- b) The subdivision developer shall submit three preferred names in writing. The developer’s submission shall include the reasons why they want a particular name or names to be used. The Roding Operations unit will check the proposed names against the “Guidelines for the Selection of Road Names” to ensure compliance.
- c) The Roding Operations Unit will report to Council twice yearly (in June & December) with a list and diagram of all new road names confirmed over the previous 6 months.
- d) Private Road Signs shall have blue lower case lettering with initial capitals lettering on a white background and shall have a supplementary ‘Private Access’ plate with blade height of 75mm attached to the bottom edge of the of the street name plate. All other sign attributes shall comply with the Hamilton City Development Manual Volume 3, Part 3, Section 14.

Altering Road Names or Naming Unnamed Existing Roads (Urban, Rural, & Private.)

This is normally triggered by a ratepayer.

1. If an “Approved List of Road Names” is available (**Urban areas only**), the applicant should be asked to choose a new name(s) from this list or submit a written request to use another name. The applicant must provide full details of why they want to alter the existing name, reasons for choosing the alternative name and evidence of support from other residents.
2. Where an “Approved List of Road Names” is not available, the applicant shall submit up to three alternative names for consideration by Council. The applicant shall provide full details (in writing) of why they want to alter the existing name and the reasons behind the alternative name(s) requested.
3. If the name complies with the “Guidelines for the Selection of Road Names”, staff will consult with the local Ward Councillor and Community Board/Committee for agreement or comment, before reporting to the Roding Committee to advise of the suggested name change(s) and to seek their approval to proceed with public consultation on the proposal.
4. Staff will carry out public consultation in accordance with standard procedures, including direct notification of all owners and occupiers in the affected street or road. Submissions on the proposed change are to be made to Council within twenty (20) working days.
5. In the event of an unfavourable response from owners and occupiers (less than 90% in favour), the Roding Operations Manager will recommend to the Roding & Transport Committee that the name remain unchanged.
6. If a 90% approval is gained from the responses received, the Roding Operations Manager will recommend to the Roding & Transport Committee that the name be approved.
7. The Roding & Transport Committee will consider reports and make recommendations to Council.

*[Previous Policies - WDC06/11/11/13, WDC07/12/05/11/12 & WDC09/03/08/11/4 ]*



# Road Naming Policy

Policy Owner	General Manager, Service Delivery
Policy Sponsor	Infrastructure Committee
Approved By:	Policy Committee
Approval Date:	TBC
Resolution Number	
Effective Date	TBC
Next Review Date:	October 2018

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## Scope

This Policy applies to:

- the naming of new or previously unnamed Public Roads;
- changing the name of an existing Public Road; and
- the naming of Private Roads

## Objectives

The objectives of this policy are to ensure that:

- Clear guidance of the criteria and process for road naming is provided to Council employees, subdivision developers, Community Boards/Committees/ Groups and the general public.
- Council meets the requirements of the Local Government Act 1974.
- Communities and local iwi have input into road naming.
- Adequate consultation is undertaken with Community Boards/ Committees/ Groups.

## Related Documents/Legislature

Hamilton City Council – Infrastructure Technical Specification  
 WDC Heritage Strategy  
 Local Government Act 1974 – s319A  
 Manual of Traffic Signs and Markings - Part 1 Section 7 Guide Signs (Design, Policy, Location)  
 Road Naming Policy (2013)  
 Guidelines for selection of road names

## Application

This Policy applies to the following parties:

Waikato District Council - Service Delivery Group, Consents, Planning and Strategy  
 General Public  
 Subdivision Developers

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## Definitions

### Public Road

Has the same meaning as road in the Local Government Act 1974 (s315)  
Public Roads are maintained by the Council.

### Private Road

Has the same meaning as private road in the Local Government Act 1974 (s315)  
Private Roads are not maintained by the Council.

The following definitions include the different types of road titles which could apply to both public and private roads:

<b>Avenue</b>	wide straight roadway or street usually planted either side with trees
<b>Boulevard</b>	once a promenade on the side of demolished fortifications; now applied to any street or broad main road
<b>Close</b>	a small quiet residential road or street
<b>Court</b>	an enclosed, uncovered area opening off a street(s)
<b>Crescent</b>	a crescent shaped street
<b>Drive</b>	a main connecting route in a suburb
<b>Glade</b>	tree covered street or a passage between trees
<b>Glen</b>	in a narrow valley
<b>Grove</b>	a road lined with houses and often trees, especially in a suburban area
<b>Hill</b>	applies to a feature rather than a route
<b>Lane</b>	a narrow road or way between buildings, hedges, fences, etc.
<b>Place</b>	an open square lined with houses in a town
<b>Quay</b>	along the waterfront
<b>Road/Street</b>	route of way between places
<b>Terrace</b>	a street along the face or top of a slope
<b>View</b>	a street with a view
<b>Way</b>	a path or route

### Subdivision Developer

A person, consultant or agent who is in the process of undertaking a subdivision development whereby subdivision resource consent is applicable.

### Approved List

A list of road names which have been pre-selected by Community Boards, Community Committees, Community Groups, Iwi and approved by the Infrastructure Committee.

### Community Boards, Committees and Groups

A list of Community Boards, Committees and Groups is as follows:

Community Boards	Community Groups	
Huntly	Eureka	North East Waikato
Ngaruawahia	Glen Afton/Pukemiro	Newstead
Onewhero- Tuakau	Glen Massey	Pokeno
Raglan	Gordonton	Rangiriri
Taupri	Horongarara	Tamahere
	Horsham Downs	Tauwhare
<b>Community Committee</b>	Matangi	Te Kowhai
Meremere	Port Waikato Residents & Ratepayers	
Te Kauwhata	Whatawhata Residents & Ratepayers	

## Policy Statements

All road names require approval by the Infrastructure Committee. This includes all road names to be included on the Approved List.

### Naming Public Roads

Public Roads to be vested in Council shall be named (at the cost of the developer).

Public Road Signs shall be in accordance with Manual of Traffic Signs and Markings - Part I Section 7 Guide Signs (Design, Policy, Location)

### Naming Private Roads

Private roads shall be named (at the cost of the developer) where there are 6 or more lots gaining access. If there are 5 or fewer lots gaining access, the developer may use the number with lettering suffix A-E or suggest a private name as per **section 1.2**.

Private Road Signs shall have blue lower case lettering with initial capitals lettering on a white background and shall have a supplementary 'Private Access' plate with blade height of 75mm attached to the bottom edge of the street name plate. All other sign attributes shall comply with the Manual of Traffic Signs and Markings.

## I. Making a Request for Road Name(s)

### I.1 Using a road name from the "Approved List"

- (a) Where an "Approved List" is available, the subdivision developer shall be invited to choose from that list and submit a written request to Council's Roading Asset Team.

**Note:** It is advised that the subdivision developer discusses their road name selection with the Roading Asset Team to ensure the road name has not already been used (and not yet taken off the list) or is proposed to be used by another subdivision developer.

## **1.2 Request for Road Name not from the “Approved List” of Road Names**

- (a) Where an “Approved List” is not available or the subdivision developer wishes to choose their own road names, the developer shall follow the guideline included in **section 3** of this policy and make a request to Council’s Roding Asset Team. Council’s Roding Asset Team shall then follow procedure as set out in **section 2.3**.
- (b) Council’s Roding Asset Team shall ensure the request is complete before proceeding with the process for name approval, as set out in **section 3** below. Should the request require further information, Council’s Roding Asset Team shall contact the subdivision developer by phone, email or in writing.

## **2. Infrastructure Committee Procedure**

### **2.1 Establishing Road Names onto the “Approved List”**

- (a) Ward Councillor’s shall consult with Community Boards, Community Committees, Community Groups and local Iwi, in accordance with Guidelines **section 3.2**, to establish a tentative list of road names. Tentative names are to be checked by the Roding Asset Team then submitted and approved by the Infrastructure Committee before inclusion on the “approved list”. Iwi consultation can be co-ordinated by Waikato District Council Iwi & Community Partnership Manager. The Ward Councillor’s shall hold the “approved list”.

All road names, once approved by the Infrastructure Committee and included on the “approved list” do not require any further approvals from the Infrastructure Committee.

- (b) The “approved list” shall be reviewed from time to time as appropriate by the Community Boards/ Committees/ Groups to ensure the list comprises a sufficient number of road names (i.e. more than 20 names at any one time).

### **2.2 Altering Existing Road Names**

- (a) In the event an existing road requires renaming, a request shall be made by either the general public or Council in accordance with section 2.3.
- (b) Where the request is being made by the general public for the alteration, they shall be responsible for undertaking consultation with both the residents of the road to be renamed and the ward councillors. The ward councillors will advise whether further consultation is required with the Community Board/Committee before making the amendment request to Council.
- (c) Where the request for amendment is being made by Council, Council’s Roding Asset Team shall undertake consultation with all owners and occupiers in the affected street or road; the local Ward Councillors; and Community Board/ Committees/ Groups before reporting to the Infrastructure Committee.
- (d) In the event of an unfavourable response from owners and occupiers (less than 80% in favour), the road name shall remain unchanged.
- (e) If 80% approval is gained from the responses received, Council’s Roding Asset Team will recommend to the Infrastructure Committee that the name be approved.

### **2.3 Road Name Requests to the Infrastructure Committee**

- (a) Upon receiving a request as set out in **section 1.2** from either a subdivision developer, or as required by Council (if there is a road name change required), a report (in accordance with the Guidelines in **Section 3** shall be prepared by Council's Roding Asset Team recommending approval from the Infrastructure Committee.
- (b) In the case of no support from the Community Board/ Committees/ Groups the Infrastructure Committee will make final decision on approving the Road Name(s).
- (c) Upon approval of a road name Council's Roding Asset Team shall notify external agencies (i.e. Land Information New Zealand, Emergency Services).
- (d) Council's Roding Asset Team will report to Council twice yearly (in June & December) with a list and map of all new road names confirmed over the previous 6 months. An updated Road Name directory shall also be provided before this meeting.

## **3. Guidelines and Criteria for Selection of Road Names**

### **3.1 Making a request to Council's Roding Asset Team**

All requests for road names shall be in writing and submitted to Council's Roding Asset Team. All requests shall include the following details (as applicable):

- (i) Three proposed road names (using guidance below); and
- (ii) The reasons the subdivision developer wants to use these options (see guidance below); and
- (iii) Evidence to support the reasons outlined above in criteria (ii) (if applicable); and
- (iv) Evidence of consultation with local iwi; and
- (v) Evidence of consultation with Community Boards, Community Committees and Community Groups, as directed by the Ward Councillors.

### **3.2 When considering options for road names, the following criteria must be taken into account:**

- (a) Names should be brief (i.e. restricted to one word only) and be easily and readily pronounced. Identical sounding names with different spelling are to be avoided.
- (b) Names should not duplicate any existing district roads and preferably any name occurring within surrounding districts, including Hamilton.
- (c) The length of the name should desirably not exceed 12-15 characters. The use of hyphens to connect parts of names should in most cases be avoided and the name written either as one word or as separate words where established by usage.
- (d) Short names should be chosen for short streets for mapping purposes.

- (e) Reasons for a road name may include but is not limited to: political, historical (including Maori or early settler), memorial, social or economic, natural features, outstanding events or persons as categorized in **section 3.3** below.

### **3.3 Weighting Categories and Description**

The following categories have been afforded a weighting based on their importance with respect to road name selection. The higher the weighting afforded (i.e. 3), the higher the importance.

#### **History – Weighting 3**

- (a) The name of a historical family, event, industry or activity associated with the area. Such names may include early settlers and early notable families.
- (b) The family name of the former owner of a farm or property or the name of the farm or property may be used if a historical context is established.

#### **Culture – Weighting 3 (*Cultural significance to Maori or culture other than Maori*)**

- (c) The category includes the name of a Maori heritage precinct, site or track or traditional appropriate name for the area.
- (d) All Maori names are to be submitted to an Iwi representative to ensure that they are appropriate; spelt correctly, interpreted correctly and are not offensive to Maori.
- (e) Joint non-Maori/Maori names will not generally be considered.

#### **Geography – Weighting 2**

- (f) The category includes local geographical, topographical, geological and landscape features.
- (g) Local flora and fauna also included in this category eg. Trees, plants and animals that is widespread and plentiful in the area.
- (h) Views must be readily identifiable.

#### **Theme – Weighting 2 (*Common or established themes in the area*)**

- (i) Where more than one road is being created in a development, a common theme is recommended for the names.
- (j) Where there is an established theme in the area, new road names should reflect this theme.
- (k) Proposed themes for a new subdivision must be submitted to council for approval.

#### **Noteworthy Person – Weighting 1**

- (l) Persons who have made a notable contribution to the area of the District. The contribution may be in conservation, community service, sport, arts, military, commerce, local government or other activity.
- (m) Names from local war memorials will be considered where appropriate. Permission of surviving relatives should be obtained where appropriate.

## **Policy Review**

This policy will be due for review in 2018.

[Previous Policies - WDC06/11/11/13, WDC07/12/05/11/12 & WDC09/03/08/11/4 ]

### **Open Meeting**

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	26 January 2016
<b>Prepared By</b>	R Marshall Reserves Planner
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1139874
<b>Report Title</b>	<b>Land Acquisition Criteria</b>

## **1. Executive Summary**

Council occasionally receives ad hoc requests for the purchase of land for community use purposes, which have not been contemplated or budgeted for in the Long Term Plan. A Council Workshop was held on 5 October 2015 to discuss the issue of ad hoc approaches and the impact this has on the organisation.

Council is not in a position to fund and action every request for land purchase. Each request that arises needs to be looked at on a case by case basis using an agreed selection criteria. This report proposes an approach and a criteria for analysing the opportunities for dealing with ad hoc land purchase requests.

## **2. Recommendation**

**THAT the report of the General Manager Service Delivery – Land Acquisition Criteria - be received;**

**AND THAT the Land Acquisition Criteria and process contained within this report be adopted;**

## **3. Background**

Council owns or administers over 900 land parcels, which are held for a variety of uses and purposes.

These landholdings are in a mixture of ownership status including fee simple, reserves classified under the Reserves Act 1977 and endowment (held in trust for specific purposes).

Council has multiple functions in the area of land management. It undertakes land acquisition and disposal of properties and manages properties which have been land banked for development (for future public use), for public works, greenspace or recreation purposes.

In larger towns where structure plans are in place, Council usually anticipates land requirements for public works, reserves and greenspace through these plans and processes are in place to fund and purchase any that are not already in council ownership.

Occasionally the community will identify an opportunity that requires land, and approach Council to acquire that land. Historically these types of requests have tended to be informal, and have generally focused on a perceived rather than substantiated community need. Requests have not always been supported by a robust proposal or business case and a considerable amount of staff time has been required to investigate and develop the proposal to the point where it can be considered by Council.

Council holds no funds for unplanned land purchases. Each request should be looked at on a case by case basis using a robust selection criteria and should only be pursued where there is a clear current or future benefit to the community.

The Significance and Engagement Policy places robust obligations on Council to consider in this regard. In the very early stages of any proposal, community interest and likely financial impact need to be fully understood before any formal decision making occurs, and if necessary for that to be reconsidered as a proposal develops.

A Council Workshop was held on 5 October 2015 to discuss the issue of ad hoc approaches and the impact this has on the organisation. Staff suggested a criteria for discussion during the workshop. Following some minor amendments the criterial approach was supported by Councillors.

The suggested criteria for acquisition is listed below:

1. Is the acquisition funded in the Long Term Plan?
2. Is the acquisition aligned with a strategic document?
3. Is the acquisition required for a public work currently?
4. Is there a need for protection of values on the land?
5. Does the community desire the land i.e. is it linked to a funded project which is endorsed as a priority by a community board/committee?

If none of the above criteria are met then the request will be rejected and not proceed past concept phase. If Council support this approach, a process checklist will be developed for staff to implement. Dealing with ad hoc community requests will also be included as part of a report to be presented to Council later this year on the strategy for the acquisition and disposal of land.

#### **4. Options**

There are two options available.

##### Option One – adopt the criteria for acquisition

The criteria will provide guidance to staff when dealing with one off requests from the community for the acquisition of land that has not been contemplated or budgeted for within the Long Term Plan. This will ensure a fair and consistent approach is applied to such requests.



This option is recommended.

#### Option Two – not adopt the criteria for acquisition

Without criteria in place it is difficult and time consuming for staff to respond to land acquisition requests.

This option is not recommended.

## **5. Considerations**

### **5.1 Financial**

In usual circumstances, Council anticipates land requirements for public works, reserves and greenspace through structure planning. Budgets and processes to accommodate these requirements are agreed through the Long Term Planning process or an Annual Plan.

Under the Local Government Act 2002, and supported within the Significance and Engagement Policy, Council is specifically required to consider the degree to which:

- Decisions or proposals in excess of 7.5% of operating expenditure would result in a 5% or more increase to rates that are charged to all properties in the district, including the General rate and the Uniform Annual General Charge, which has not been provided for in the Long Term Plan.
- Decisions or proposals which would result in a new or increased targeted rate of more than 10% of existing rates, per property.
- Decisions or proposals relating to capital expenditure in excess of 7.5% of operating expenditure, which has not been provided for in the Long Term Plan.

This supports the need for a robust selection criteria.

### **5.2 Legal**

Council's Property Policy provides that land may be acquired at a price that is within ten percent of the price, as assessed by market valuation, unless otherwise resolved by Council.

Land acquisition is effected via legal mechanisms such as S.17 Public Works Act 1981, which provides for a process for the acquisition of land for a public work by agreement. Section 60 of the Act provides that the owner is entitled to compensation and s.19 provides that a Compensation Certificate may be registered against the Certificate of Title to protect the agreement.

### **5.3 Strategy, Plans, Policy & Partnership Alignment**

Council anticipates land requirements for public works, reserves and greenspace through structure planning to accommodate current and projected growth.

In 2014, Council adopted a Parks Strategy which provides a useful guide to outline the quantity of land that is required to meet the recreation needs of our communities across various categories of parks.

Schedule D of the Joint Management Agreement (JMA) with Waikato-Tainui guides land management, acquisition and disposal issues. Council has committed to engaging with Waikato Tainui on any Crown derived that that is currently owned or administered by Council, and the interaction will be in the spirit of the guiding principles contained within Schedule D.

#### **5.4 Assessment of Significance**

The purpose and scope of the Significance and Engagement Policy is to enable Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions and activities. It is also to provide clarity about how and when communities can expect to be engaged in decisions made by Council. Further, it is intended to inform Council from the beginning of a decision making process about the extent, form and type of engagement required.

The Policy requires Council to take into account the degree of importance and determine the appropriate level of engagement, as assessed by the local authority, of the issue, proposal, decision or matter, in terms of the likely impact on and, consequence for:

- a) The district or region
- b) Any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision or matter;
- c) The capacity of the local authority to perform its role, and the financial and other costs of doing so.

In terms of Section 11A of the Local Government Act 2002, “in performing its role, a local authority must have particular regard to the contribution that the following core services make to its communities:

- a) Network infrastructure
- b) Public transport services
- c) Solid waste collection and disposal
- d) The avoidance or mitigation of hazards;
- e) Libraries, museums, reserves, and other recreational facilities and community amenities.”

Clause 2 of the Policy requires an assessment of the degree of significance of the proposal, and the appropriate level of engagement to be considered in the early stages of the proposal and before decision making occurs, and if necessary to be reconsidered as a proposal develops.

Amongst the things that Council must consider, clause 3 requires consideration of the degree to which the issue has a financial impact on Council or the rating levels; or which will result in new or increased targeted rates; or decisions or proposal relating to capital expenditure in excess of 7.5% of operating expenditure which has not been provided for in the Long Term Plan.

The ad hoc nature of the land purchase requests means that Council will not have previously publically signalled the land acquisition and expenditure of funds. It should be noted that:

Section 80 of the Local Government Act 2002 requires that when council makes a decision that is, or is anticipated to be significantly inconsistent with the Policy, or any plan required under the Act or any other enactment, when making the decision Council must clearly identify the inconsistency; and the reasons for the inconsistency, and identify any intention to amend the policy or plan to accommodate the decision.

## **6. Conclusion**

The suggested criteria for land acquisition will guide staff when dealing with one off requests from the community that are not budgeted for within the Long Term Plan. This will ensure a fair and consistent approach is applied.

## **7. Attachments**

- Draft Promapp process for land acquisition.

Map

Procedure

Edit

## Summary

### OBJECTIVE

To determine an approach and criteria for dealing with ad hoc land purchase requests.

## Procedure

### 1.0 Request for ad hoc land purchase received

Parks & Facilities Property Officer

### 2.0 Request is assessed against Land Acquisition Criteria

Parks & Facilities Property Officer

#### NOTE

What is the Criteria?

The criteria for acquisition are listed below.

1. Is the acquisition funded in the Long Term Plan?
2. Is the acquisition aligned with a strategic document?
3. Is the acquisition required for a public work currently?
4. Is there a need for protection of values on the land?
5. Does the community desire the land i.e. is it linked to a funded project which is endorsed as a priority by a community board/committee?

If none of the above criteria are met then it is likely the request will be rejected.

### 3.0 Is one or more of the criteria met?

Parks & Facilities Property Officer

#### NOTE

If yes, further pursue the request as a clear current or future benefit to the community exists. If no, reject the request explaining the reason for doing so.

### Open Meeting

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	5 February 2016
<b>Prepared By</b>	G Bailey Open Spaces Operations Team Leader
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140827
<b>Report Title</b>	Draft Plaques, Memorials and Monuments Policy

## 1. Executive Summary

Council regularly receives requests from the public to install memorials and plaques within parks. These can range from trees to park seats to artwork. Some areas in the district (such as Raglan) are very popular for such requests, so much so that some areas risk becoming over memorialised.

To assist staff to better manage and deal appropriately and fairly with requests it is recommended a policy on the matter is developed. This approach was workshopped with Council late in 2015.

A review of other Local Authorities indicates that many have a policy for plaques and memorials for the same reasons indicated within this report.

Cemetery plaques and memorials are not included in this draft policy.

## 2. Recommendation

**THAT the report of the General Manager Service Delivery – Draft Plaques, Memorials and Monuments Policy - be received;**

**AND THAT Community Boards and Community Committees are consulted on the Waikato District Council Draft Plaques, Memorials and Monuments Policy, and report back to Council with a final version for approval.**

## 3. Background

Staff regularly receive requests from the community to install some form of memorial or plaque in a public place commemorating a loved one, a prominent member of the community or to recognise a significant event.

There are currently no guidelines to assist staff, guide the application or ensure applications are treated equitably, reflect the surrounding environment and are fit for purpose. There is also no clarity around what parties pay for and the on-going maintenance responsibilities and costs.

#### 4. Discussion

The draft policy (attached) outlines the process for the staff, and the community to follow when new plaques, memorials and monuments are proposed. As previously noted, the purpose of a policy is to prevent ad hoc, prolific, inappropriate or widely varying placement of plaques, memorials and monuments at public sites in the district.

The policy covers all plaques and memorials placed on land, buildings or property that the Council either owns or has control of. This type of policy is in place in a large number of Local Authorities around the country. No existing Council policy covers the issue identified in this report. Cemeteries are not included in this policy as they are covered under Cemetery Bylaws.

Although outlined within the draft policy itself, for clarity the following definitions apply:

*Plaque* A flat tablet of metal, stone or other appropriate material which includes text and/or images which commemorate a person or an event and/or provides historical text of information relevant to its location.

*Memorial* An object established in memory of a person or event, eg War Memorials.

*Monument* A structure created in memory of a person or event or which has become important to a social group as a part of their remembrance of past events, eg Huntly's Poppet Head.

*Object* An object is small in scale when compared to a structure or building. Examples include memorial gates, sculptures and fountains.

*Structure* A structure is a functional construction intended to be used for purposes other than sheltering human activity. Examples include bridges and gazebos.

Public Art installations are not included in this policy as they will be considered on a case by case basis by Council's Community Development Officer.

#### 5. Analysis of Options

Option 1: Reject the policy approach and retain the status quo. This option is not recommended as it will result in ad hoc, inappropriate or poor quality memorialisation being undertaken.

Option 2: Adopt draft Plaques, Memorials and Monuments Policy for discussion with Community Boards and Community Committees.

Option 3: Adopt draft Plaques, Memorials and Monuments Policy with amendments for discussion with Community Boards and Committees.

The preferred alternative is option 2.

## 6. Considerations

The following key points from the draft policy should be noted:

No new memorial or plaque will be considered that commemorates a person, event or occasion already memorialised unless there are exceptional circumstances. It is not appropriate generally to have multiple memorials to one person.

Approval by the Parks & Facilities Manager would be dependent on the suitability of the site for the item. If an application for a personal memorial is declined, the Council's decision is final.

Subjects for memorials under the proposed policy will be limited to individuals who have lived in or have a special association with the district.

All materials used for plaques, memorials and monuments should have a minimum service life of 50 years as detailed in Section 2, NZS 4242:1995 Headstones and Cemetery Monuments.

Any proposal that incorporates sculptural reliefs or is an artistic work will be referred to Council's Community Development Coordinator for consideration.

### Commemorative Trees with Plaques

Commemorative trees with plaques are to be used for commemoration of dignitaries, civic and historic occasions. Commemorative trees, native or exotic must be consistent with Council's District Tree Policy. Once planted, commemorative trees become a Council asset and will be maintained to the Council standards. As with all Council managed trees, plantings need to be appropriate to the site and area, and maintenance must be according to best arboricultural practice. If due to unforeseen circumstances a tree must be removed, it may not be replaced.

For commemorative trees the metal plaque should be set at the base of the tree on a concrete plinth

### Ornamental Feature, Fountain, or Sculptural Memorials

Council is open to discussion of unique and substantial memorials. A written proposal should be made outlining the desired outcome and budget available.

Council's General Policies Reserve Management Plan relating to Public Art, Plaques, Memorials and Commemorative Tree planting have been incorporated in to this policy.

## 7. Financial

There is no anticipated financial cost to Council apart from on-going maintenance requirements, which can be accommodated within existing budgets.

## 8. Assessment of Significance

The Significance and Engagement Policy requires the Council to take into account the degree of importance and determine the appropriate level of engagement, as assessed by the local authority, of the issue, proposal, decision, or matter, in terms of its likely impact on, and likely consequences for:

- (a) The district or region;
- (b) Any persons who are likely to be particularly affected by, or interest in, the issue, proposal, decision, or matter;
- (c) The capacity of the local authority to perform its role, and the financial and other costs of doing so.

The Policy provides in Schedule I, a list of Waikato District Council's strategic assets that Council needs to retain if it is to maintain its capacity to achieve or promote any outcome that it determines to be important to the current or future well-being of the community. This policy is not significant in terms of Council's significance policy.

## 9. Consultation

The following stakeholders have been/or will be consulted:

Planned	In Progress	Complete	
	X		Internal
X			Community boards/Community committees

## 10. Conclusion

To ensure the District has a consistent approach to installation and management of plaques and memorials a Plaques, Memorials and Monuments Policy is required. This will assist both the public and Council staff to ensure all application requests are considered against an agreed set of criteria.

Consideration of existing numbers of plaques and memorials, artworks, fountains and other objects in the vicinity of the proposed new plaque or memorial will be taken into account with each application.

## 10. Attachment

- WDC Draft Plaques, Memorials and Monuments Policy 2016



# Draft Plaques, Memorials and Monuments Policy

Policy Owner: Gordon Bailey  
 Policy Sponsor: Andrew Corkill  
 Approved By:  
 Approval Date:  
 Resolution Number  
 Effective Date  
 Next Review Date:

Chief Executive:  
 General Manager:

## Introduction

This policy sets a process for the Waikato District Council, (hereafter referred to as “the Council”) and the community to follow when new plaques, memorials and monuments are proposed. The purpose of this policy is to prevent ad hoc, prolific, inappropriate or widely varying placement of plaques, memorials and monuments at public sites in the Waikato District,( hereafter referred to as “the District”).

This policy covers all plaques and memorials proposed or being placed on land, buildings or property which the Council owns or over which it has control. All such plaques and memorials will be required to conform to this policy.

This policy does not cover signage, interpretative panels, display boards, banners, cemeteries or public artworks.

## Policy Definitions

For the purpose of this policy and procedures, the following definitions will apply:

1. **Plaque:** A flat tablet of metal, stone or other appropriate material which includes text and/or images which commemorate a person or an event and/or provides historical text of information relevant to its location. To be affixed to an object, building or pavement.
2. **Memorial:** An object established in memory of a person or event e.g. war memorial.
3. **Monument:** A structure created in memory of a person or event or which has become important to a social group as a part of their remembrance of past events e.g. Huntly Poppet Head
4. **Object:** An object is small in scale when compared to a structure or building. It is generally moveable. Examples include: memorial gates, sculptures and fountains.
5. **Structure:** A structure is a functional construction intended to be used for purposes other than sheltering human activity. Examples include, bridges and gazebos.

## Guidelines

1. No new memorial or plaque will be considered that commemorates a person, event or occasion already memorialised unless there are exceptional circumstances.
2. Any proposal for a plaque that incorporates sculptural reliefs or for a memorial or monument that is three dimensional or sculptural or is an artistic work, will be referred to Councils Community Development Officer for consideration with recommendations then put to Council for approval.
3. The Council has specified a range of categories for plaques and memorials appropriate to the needs of individuals and organisations (see category 7). No proposals will be considered outside of these categories. Applications can only be made under one category.
4. Subjects for plaques and memorials (Categories 1, 2 and 3) will be limited to the following:
  - An individual or association that has contributed significantly to the District.
  - An individual or association strongly linked to the District and its history.
5. Subjects for Category 4, personalised memorial plaques on a seat, bench or picnic table will be considered by the Council on a case by case basis. Approval is dependent on the suitability of the site for the item of furniture and whether there is a genuine need for it as determined by the Council. If an application for a personal memorial is declined, the Council's decision is final. Subjects will be limited to:
  - Individuals who have lived in or have a special association with the District.
6. All materials used for plaques, memorials and monuments should have a minimum service life of 50 years as detailed in Section 2, NZS 4242:1995. Headstone & Cemetery Monuments.
7. Any plaque, memorial or monument approved by and placed in the district should be deemed to be owned and under the unconditional control and management of the Council.

## Categories

### Category 1: Commemorative Trees with Plaques

This category is reserved for commemoration of dignitaries, civic and historic occasions. Commemorative trees, native or exotic must be consistent with Council's District Tree Policy to be planted in any of the District parks or gardens and placed in a grassed location. Once planted, commemorative trees become a Council asset and are maintained to the Council standards. As with all Council managed trees, plantings need to be appropriate to the site and area, and maintenance must be according to best arboriculture practice. If due to unforeseen circumstances a tree must be removed, it may not be replaced.

- For commemorative trees the metal plaque to be set at the base of the tree on a concrete plinth.

### **Design Specification**

- Brass or bronze plaque on concrete or stone plinth.
- Maximum size 300mm x 200mm (w x h).

### **Category 2: Metal Plaques**

To signify or commemorate a historic or civic occupation or to provide minor interpretative material relevant to a nearby building, artwork or historic feature or site. Such plaques will not be permitted as private memorials for individuals or families.

- Plaques for artwork will be referred to Council's Community Development Officer as a component of the artwork with their recommendations then referred to the appropriate delegated authority for consideration. Plaques for artwork are used to list artist, title, date of installation of artwork and interpretative information and are installed for every new Council commissioned artwork in a public place. The plaque shape and material should be in keeping with the artwork.
- Any new applications for plaques with historical significance received by the Council are referred to the local relevant Historical Society or Heritage New Zealand for verification.

### **Design Specification (excluding plaques for artwork)**

- Maximum size 300mm x 200mm (w x h).
- Plaque to be brass, bronze or stainless steel to ensure durability.
- Small oval brass plaques have been used across the district to identify sites/features of historic interest. Where appropriate this style of plaque will continue to be used however historic plaques will not be limited to this design.

### **Category 3: Ornamental Feature, Fountain, or Sculptural Memorials**

Council is open to discussion of unique and substantial memorials. A written proposal should be made to the appropriate delegated authority outlining the desired outcome and budget available. These applications will be considered on a case by case basis.

### **Category 4: Personalised Memorial Plaques on Seats, Benches or Picnic Tables**

This memorial is a small commemorative metal plaque for groups or individuals, to be attached to a park seat or bench. The location of the seat or bench is at the discretion of the Council (refer to section 5). Once installed, memorial furniture becomes a Council asset which will be maintained to Council standards for a period of at least five years. After this time removal of the asset is at Council's discretion. If due to unforeseen circumstances a seat or bench must be removed, consideration will be given to relocating to a nearby site if practical.

## Design Specification

- Small rectangular brass plaque – maximum size 80mm x 150mm (h x w).
- Installation to be on the back rest of the seat or bench.

## Locations

Applicants should nominate a preferred site (general location for the placement of the plaque, memorial or monument. Only sites that have relevance to the person, group or even being commemorated should be nominated.

It should be noted that Cemeteries are **not** included in this policy.

Approval for a particular site will only be granted if consistent with the Council's Reserve Management Plan for that site, and the proposed plaque, memorial or monument being relevant to the site. Consideration of existing numbers of plaques and memorials, artworks, fountains and other objects in the vicinity of the proposed new plaque or memorial will be taken into account with each application. The appropriate delegated authority has final approval of appropriate site/s and will determine the exact location of any plaque or memorial.

The plaque or memorial shall be located at the designated site until such time that it cannot be maintained due to natural degradation with the following exceptions:

1. The area in which the item is sited to be redeveloped.
2. The use of the area in which the item is sited changes significantly in character and the item is not deemed suitable for the site.
3. The structure or support on which the item is located is to be removed or permanently altered.

## Wording

- Text should be brief and in language easily understood by the public. It should avoid the use of jargon or acronyms.
- Text should be written following research from a wide range of authoritative sources and where relevant be verified by the Heritage New Zealand.
- A final proof of the plaque/memorial wording must be approved by the applicant prior to production.
- If a graphic image is utilised the amount of text will be reduced.
- Any sponsorship recognition will be through use of approved wording or logo, which will take up no more than 10% of the overall plaque design.
- Applicants are required to cover full costs of items including, seats, benches, trees, plaques, memorials and installation.
- Council will cover on-going maintenance.

## **Replacements**

Requests will be considered to replace existing plaques or memorials which have been damaged or otherwise degraded or require alterations, however replacements will need to conform to current design specifications and guidelines. Replacement costs will be the responsibility of the applicant unless the appropriate delegated authority decides it is appropriate for Council to fund the replacement. (Historical plaques or memorials which are part of the Council's collection will be appropriately maintained/replaced by the Council).

All metal plaques are at risk of theft due to their scrap value and must be securely attached to solid objects such as buildings, rocks or pavement.

## **Applications**

1. Applications will be made in writing in the first instance to Waikato District Council, Private Bag 544, Ngaruawahia 3742.
2. Applications should include all relevant details including proposed category of plaque or memorial, proposed site or location, proposed text or images to be included and any other pertinent information.
3. Decision will be confirmed in writing to the applicant.
4. The applicant must meet all costs associated with design, manufacture and installation of the plaque, memorial or monument. In some instances a contribution toward maintenance may also be a condition of approval.
5. Payment for approved plaques and memorials will need to be made in full prior to ordering.
6. The Council will manage the design, manufacture and installation of the plaque/memorial as specified.
7. No application will be considered outside this process.

## **Implementation**

1. Written application with appropriate information received.
2. If necessary the application will be referred to the appropriate delegated authority.
3. Application approved/declined and applicant notified accordingly.
4. If successful, applicant to pay full cost before the application is processed further.
5. On receipt of payment the Council will order artwork design for plaques to ensure uniformity.
6. On receipt of full payment the Council will order associated tree or bench or organise installation of plaque/memorial/monument.

## **Review**

This policy will be reviewed five years after is adoption.

# Plaques, Memorial and Monuments Application Form



Please complete this form after having read the Plaques, Memorial and Monuments Policy at [www.waikatodistrict.govt.nz](http://www.waikatodistrict.govt.nz)

Please email the completed form to [publicenquiries@waikato.govt.nz](mailto:publicenquiries@waikato.govt.nz) or post to Plaques, Memorial and Monuments application, Private Bag 544 Ngaruawahia 3742

Applicant	
Name	
Telephone number	
Email address	
Address	
Have you read the Plaques, Memorial and Monuments Policy? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Applicant's signature (if posted)	Date
Reason for memorialisation (include connection with community etc)	
Proposed text: Include graphics, logos etc. (Use a separate page if necessary)	



**REPORT**

Item Number:

**Open Meeting**

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	27 January 2016
<b>Prepared By</b>	Katherine Overwater, Policy Planner & Michelle Smart, Property Officer
<b>Reviewed By</b>	Andrew Corkill Parks & Facilities Manager
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140826
<b>Report Title</b>	<b>Unformed Legal Roads – Decision Making Framework</b>

**1. Executive Summary**

The Decision Making Framework for Unformed Legal Roads was presented at a Council workshop on 12 October 2015. The purpose of the Decision Making Framework is to provide guiding principles for the management of unformed legal roads to assist staff and allow a consistent approach to our customers. Staff now seek Council approval of the decision making framework.

**2. Recommendation**

**THAT the report of the General Manager Service Delivery - Unformed Legal Roads – Decision Making Framework - be received;**

**AND THAT the Committee approves the Decision Making Framework for Unformed Legal Roads and revokes the Paper Road Policy (Occupation and Disposal).**

**3. Background**

Waikato District Council has a large network of paper roads which present a variety of issues affecting both customers and teams within Council.

In September 2014 staff from several teams across Council met to discuss unformed legal roads and identified several issues with the current Council processes and existing Paper Road Policy (Occupation and Disposal).

It was agreed that a Decision Making Framework for Unformed Legal Roads would provide a consistent organisational approach from Waikato District Council to its Customers by providing definitive guidelines for responding to public enquiries and land use/subdivision applications with respect to unformed legal roads.



## 4. Discussion and Analysis of Options

### 4.1 Discussion

Waikato District Council has an existing Paper Road Policy (Occupation and Disposal). However the policy only covers the legislative procedures set out in the Local Government Act 1974 and the Public Works Act 1981 in regards to occupation and disposal of unformed legal roads.

The Decision Making Framework replaces the existing Paper Road Policy and takes it significantly further by providing a clear explanation of unformed legal roads, specifying relevant legislation and strategies and identifying key issues including the following:

- Public right of passage along unformed roads
- Identifying unformed legal road
- Encroachments
- Damage, repairs and maintenance
- Livestock including grazing, cattle stops, fences and swing gates
- Use of unformed roads by motor vehicle
- Recreation, dogs, horses and hunting
- Stopping of unformed legal roads
- Licences to occupy
- Occupation of unformed roads
- Disputes over the occupation and use of unformed roads
- Formation of unformed legal road
- Relinquishment as a result of proposed changes to the network
- Use of the unformed roading corridor for network utilities
- The ways in which unformed roads should be brought into use
- Enforcement

The Decision Making Framework has taken into account the existing guiding documents which Auckland Council use to ensure consistency between the Auckland Council and the Waikato District Council .

### 4.2 Analysis of Options

There are two options:

Option 1: Continue operations as status quo retaining the existing Paper Road Policy (Occupation and Disposal).

This option is not recommended as the existing policy does not provide sufficient detail to address issues with respect to unformed legal roads.

Option 2: To approve the Decision Making Framework for Unformed Legal Roads and revoke the existing Paper Road Policy (Occupation and Disposal).

This option is recommended by staff and has considered the issues associated with unformed legal roads.

## **5. Considerations**

### **5.1 Financial**

Policy reviews and policy development are included within the function of Council's operational budgets, therefore costs associated with the Decision Making Framework for Unformed Legal Roads has been factored into existing budgets. In this case, input has been provided from several teams across Council including: Roading, Parks and Facilities, Strategic Planning and Resource Management, Consents and Legal.

The financial implications of introducing a Decision Making Framework such as proposed may only be positive. The cost saving will be reflected in time spent by Council staff providing guidance and decisions to the public on unformed legal roads.

### **5.2 Legal**

Input into the Decision Making Framework for Unformed Legal Roads from Council's in-house legal Counsel, Gudrun Jones has been provided along with a review of the draft document.

### **5.3 Strategy, Plans, Policy & Partnership Alignment**

The proposed Decision Making Framework for unformed legal roads is a cross Council contribution which provides a uniform approach to unformed legal roads, given that various teams are involved in decision making. However, ultimately the responsibility lies with Council's Roading Manager.

### **5.4 Assessment of Significance**

The Significance and Engagement Policy requires Council to take into account the degree of importance and determine the level of engagement, as assessed by the local authority of the issue, proposal, decision or matter, in terms of the likely impact on and consequence for:

- (a) The district or region,
- (b) Any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision or matter;
- (c) The capacity of the local authority to perform its role, and the financial and other costs of doing so.

The policy provides at Schedule I a list of Waikato District Council's strategic assets, which identifies the roading network as a whole is considered to be a strategic asset.

## **6. Consultation**

Extensive consultation has been undertaken with relevant internal staff. The Decision Making Document was presented at a Council workshop in October 2015.

## **7. Conclusion**

The Council have been provided with two options with respect to the Decision Making Framework for unformed legal roads. Option One retains the status quo and the existing Paper Roads Policy (Occupation and Disposal). Option Two is for the approval of the Decision Making Framework for Unformed Legal Roads and the revocation of the existing Paper Roads Policy (Occupation and Disposal).

Staff supports Option Two as it takes the existing policy significantly further by providing a clear explanation of unformed legal roads, specifying relevant legislation and strategies and identification and guidance on key issues.

## **8. Attachments**

- Existing Paper Road Policy
- Draft Decision Making Framework for Unformed Legal Roads

**PAPER ROAD POLICY (Occupation and Disposal)**  
(previously WDC01/82/1/4)

**POLICY OBJECTIVE**

To provide a consistent outcome when dealing with the variety of issues surrounding the occupation, use and disposal of unformed roads, also known as Paper Roads.

To assist Council staff in assessing various situations, and to provide the most appropriate solutions.

**DEFINITIONS**

**Paper Road**

A section of Council owned road reserve, usually in the form of a 20 metre wide corridor, that contains no formed vehicular or pedestrian access and is not part of Council's maintained roading system. Paper Roads often traverse farmland and may be used by the adjoining owner.

**Licence to Occupy**

A written agreement between Council and an adjoining owner, which formalises the occupation of a paper road in order to provide certainty for both parties. A licence to occupy is granted at Council's pleasure and may be cancelled at one month's notice. The granting of a licence to occupy is the responsibility of the Facilities Manager.

**POLICY**

**1. Disposal of Paper Roads**

- 1.1 Paper Roads are historical corridors. Unless there is a need to preserve the corridor for existing or potential future public or private use of the access, including the extension of the roading network by Council or developers, requests from adjacent land owners to purchase a paper road will generally be considered favourably by Council. However all costs associated with the disposal process, including survey, valuation, gazettal, legal and administrative costs, are to be met by the prospective purchaser.
- 1.2 When a request to purchase a portion of Paper Road is received by Facilities Management staff, Council's standard operating procedure (SOP) "Road Stopping" must be followed. This procedure is summarised as follows:
  - a) A written request must be made to Council's Facilities Manager by the person interested in purchasing Road Reserve.
  - b) Facilities staff consult with roading, legal and planning staff to determine whether the Road should/can be stopped and sold.
  - c) The Local Government Act 1974, Tenth Schedule, prescribes the process of stopping a road and includes public consultation. In some instances, road stopping can be carried out under the Public Works Act 1981.

## **2. Paper Road Boundary Definition**

- 2.1 All costs associated with the identification and location of boundaries are to be met by the parties who have an interest in the outcome of the redefinition of the boundaries.
- 2.2 Council will not assist with the cost of boundary redefinition unless it has an interest in such a redefinition in its capacity as the administering authority.

## **3. Occupation of Paper Roads**

- 3.1 Where Council becomes aware of an existing informal occupation of a Paper Road, including the fencing off of a paper road, Council may accept the status quo if the Paper Road is not required for other purposes. A note to this effect shall be placed on the owner's property file, to be searchable in any LIM.
- 3.2 Where an adjoining owner seeks permission to occupy a paper road, and Council has no alternative use for that portion of road in the foreseeable future, Council will generally grant a Licence to Occupy for a term agreed between the parties. Council shall not enter into lease agreements for Paper Roads.
- 3.3 No major structures such as buildings or stockyards are to be erected on a Paper Road. Minor structures such as fences, access tracks or loading ramps, or crops, may be erected or planted with Council's prior written approval.
- 3.4 Council has the authority under Section 357 of the Local Government Act 1974 to require structures to be removed if Council considers this necessary. If an occupier does not comply with Council's requirements, Council has the authority to remove the structures at the occupier's expense.
- 3.5 If a paper road is occupied either informally or by means of a Licence to Occupy, control of noxious weed and other vegetation shall be the responsibility of the occupier. The occupier shall indemnify Council for any damage that may be caused to the paper road by the occupation.

## **4. Disputes over the Occupation and use of Paper Roads**

- 4.1 Where a dispute arises over the occupation of a Paper Road by two or more adjoining owners, or over the use of a paper road for pedestrian/vehicular access, Council's initial involvement will be to encourage the interested parties to resolve the issues amongst themselves. The Ward Councillor(s) shall be informed of the dispute.
- 4.2 Should there be no resolution, then Council as the administering authority will consider the issues and make a fair and reasonable decision as to how and by whom the Paper Road can be occupied or used. When it becomes evident that Council is to make such a decision, then the Ward Councillor(s) is to be informed accordingly.

## **5. Use of Paper Roads for Private Access**

- 5.1 Paper Roads may be used for private vehicular access with Council's prior written approval. Such approval may include conditions such as the upgrading and maintenance of the access, including the interface with the public roading system, to a suitable standard.

## **6. Maintenance of Paper Roads**

6.1 While paper roads are not normally part of Council's maintained roading system, Council may accept responsibility for an access track over paper road if the access track is:

- brought up to appropriate agreed standard;
- continuous with the existing road network;
- generally only to the second to last house.



**DECISION MAKING FRAMEWORK FOR UNFORMED LEGAL ROADS**

**VERSION 1.0**

**February 2016**

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## 1.0 Purpose and Objectives

The purpose of the decision making framework (“the framework”) is to provide guiding principles to inform Waikato District Council’s operational staff and thereby facilitate a consistent approach to our customers in respect to how unformed legal roads are managed and disposed of.

The following decision making framework specifically relates to Waikato District Council’s procedures in respect of unformed legal roads (also known as “paper roads”) and has been developed to replace the existing Paper Road Policy (Occupation and Disposal) which follows the procedures set out in the Local Government Act 1974 and the Public Works Act 1981.

This decision making framework will provide a consistent organisational approach from Waikato District Council to its customers by providing definitive guidelines for responding to public enquiries and land use/subdivision applications with respect to unformed legal roads.

The key objectives of this framework are as follows:

- Uniform interpretation of the framework for unformed legal roads, district plan rules and guiding documents.
- A high level decision making framework which defines Council’s strategic direction with respect to unformed legal roads and assists to identify key roading/walkway/cycleway linkages for the district.
- A process for all Council staff to follow when dealing with applications or public enquiries.
- A framework that provides direction to arrive at a fair and reasonable decision.
- Clarity of roles within Council by identifying the key staff and their responsibilities.
- Internal staff awareness of potential funding requirements and facilitation of access.

## 2.0 Unformed Legal Roads – What are they?

Unformed legal roads have the same legal status as formed roads. Unformed legal roads are not always identifiable on the ground, and may only be recorded on survey plans. Most unformed legal roads have never been developed due to there being no access requirements, impractical topography, and an absence of funding opportunities or unsuitable development conditions.

Ownership of unformed legal roads lies with either a Territorial Authority or the Crown. This decision making framework focuses specifically on unformed legal roads under the control of Waikato District Council.

Most unformed legal roads were established during the early days of settlements, particularly in the period of provincial government (1854 to 1876). In many cases within the Waikato District the survey plans for new towns were drawn up in England, where it was assumed that the land was flat and therefore topographical constraints were not considered in the proposed alignment of the roads. Pokeno and Tuakau are examples of this. In many cases paper roads have not been developed further and remain only as legal road corridor.

The rules for unformed and formed legal roads are the same, including the public's right to use them for access and infrastructure providers for the installation of infrastructure. Adjoining landowners are obliged to respect public use.

### 3.0 Guiding Principles

This document outlines Waikato District Council's approach to the use and administration of unformed legal roads in the Waikato District, based on the following five principles:

- **Public right of passage** – Under common law the public has the right of passage over any unformed legal road, but care must be taken to not cause damage to the surface of the unformed road or trespass onto adjoining private property.
- **Adjoining private property rights** – Adjoining landowners have frontage rights to access the unformed legal road at any point along the length of their property boundary. Within their private property, landowners have rights to privacy and to not have their property stolen, damaged or have their stock distressed or endangered by the public's use of unformed legal roads.
- **No right of occupation** – Adjoining landholders have no right to occupy any unformed legal road and may not impede the use of them by others in any way without written permission from Waikato District Council.
- **No maintenance or construction obligation** – Waikato District Council is under no obligation to maintain or construct unformed legal roads.
- **Environmental protection and road user safety measures** – Waikato District Council has the right to restrict traffic movements on unformed legal roads for the purpose of protecting the environment, the road and adjoining land, and to maintain the safety of road users.

### 4.0 Definitions

#### ***Unformed Legal Roads***

Unformed legal roads are defined in the current Waikato District Council's Paper Road Policy as follows:

*“A section of Council owned road reserve, usually in the form of a 20.12 metre wide corridor, that contains no formed vehicular or pedestrian access and is not part of Council's maintained roading system. Paper roads often traverse farmland and may be used by the adjoining owner.”*

**Paper Roads**

A paper road is a term often used to refer to an unformed legal road. While both of the terms 'paper road' and 'unformed legal road' are used in this document, the latter is preferred.

**Legal Road**

This term has the same meaning as 'road' in section 315 of the Local Government Act 1974.

**Road Stopping**

Road stopping is the process of removing the legal status of a road from either a formed or unformed road and creating a parcel of land for transfer or amalgamation with an adjoining title as set out in section 342 of the Local Government Act 1974, or via an alternative method of disposal as prescribed in section 116 of the Public Works Act 1981.

**Utility Service Providers**

Utility service providers may be publicly or privately owned (such as Vector, Transpower, Counties Power, Wel Networks and Spark New Zealand). Utility service providers are legally entitled to use and occupy the subsoil or airspace for the installation of utility services such as water, gas, power and, telecommunications subject to meeting the Council's corridor engineering requirements. Consent has to be obtained from the Council prior to the installation of services, whereby Council may impose conditions.

**Road Encroachment**

Road encroachments occur where:

- Public access along the legal road is restricted on either a temporary or permanent basis by an excavation or an object placed on the legal road with or without prior approval of Waikato District Council.
- A deliberate or inadvertent action causes an area of legal road to be used or occupied for private benefit (exclusive or otherwise).

**Licence to Occupy**

A licence to occupy is a written agreement between Council and the adjoining land owner formalising the occupation of an unformed legal road. The agreement provides certainty for both parties.

A licence to occupy is granted at Council's pleasure and may be cancelled at one month's notice or whatever timeframe is specified in the licence. The granting of a licence to occupy is the responsibility of Council's Property Team.

## 5.0 Roles

The management of Council's unformed legal roads is the responsibility of both the Property and Roading Teams who manage the current and future use and maintenance of the roads. However, there are several other teams within Council who through their roles become involved in the decision making process. These roles are listed below:

**Customer Delivery Team** – Answers public enquiries and refers to appropriate teams.

**Property Team** – Responds to public enquiries in conjunction with the roading team. This team also has delegations to manage the process relating to occupation and disposal of unformed legal roads.

**Consent Planners/Development Engineers** – Are involved with processing landuse and subdivision consents and often need to liaise with the Roading and Property Teams with respect to conditions of consent.

**Project Teams** – Are involved when roading projects are being undertaken. They also get involved where public utility providers are working with Council to install infrastructure.

**Legal Team** – The Legal Team is involved in facilitating the occupation and disposal of unformed legal roads.

**Roading Team** – The Roading Team makes decisions around the form and function of road corridors. They are responsible for stipulating safety, transportation, maintenance and design requirements, as well as designating land acquired for transportation.

## 6.0 Delegations

Delegations are as per the Delegations Manual.

## 7.0 Existing Policies

Waikato District Council already has an existing Paper Road Policy (Occupation and Disposal) which follows the procedures set out in the Local Government Act 1974. For clarity, this decision making framework replaces that Policy.

## 8.0 National Legislation and Strategies

There are several statutory documents which are applicable to the processes Council must follow with respect to the occupation and disposal of unformed legal roads (as set out in the existing policy). However there are additional strategies and national guidelines which may assist.

The primary legislative documents applicable to unformed legal roads are:

- Local Government Act 1974

- Public Works Act 1981 – Provides for the issuing of licences for occupation of roads and allows for the stopping of roads by Ministerial decision.

Other relevant statutory provisions for the use of unformed legal roads include:

- Local Government Act 1974 (Part 21) – Part 21 contains much of the regulatory regime that applies to roads.
- Impounding Act 1955 – Provides for the impounding of livestock on roads.
- Gates and Cattlestops Order 1955 – Prescribes the form and construction requirements for certain types of gates and cattle stops which have been authorised to be placed across roads.
- Land Transport Act 1998 – Governs the control and use of roads and allows for the making of bylaws and the rules for traffic behaviour on roads.
- Land Transport Road User Rule 2004 – Sets the requirements for the use of roads.
- Marine and Coastal Area (Takutai Moana) Act 2011 – used for stopping of unformed legal roads on the foreshore (not already stopped under the previous Foreshore and Seabed Act 2004 as long as they are not in the process of being formed). The relevant land becomes public foreshore once the road is stopped. The landward margin of the stopped road remains the boundary of the adjoining land.
- Walking Access Act 2008 – Established the New Zealand Walking Access Commission to safeguard and enhance opportunities for public walking access to the great outdoors, while respecting private landholders' rights and property.
- Council bylaws in force – The Waikato District Council's website lists the bylaws that are in force. Some relevant bylaws include but are not limited to, stock control on roads, public places, signs and dog control.
- Forest and Rural Fires Act 1975 – The Forest and Rural Fires Act 1975 establishes responsibility for the control of fires and the liability and penalties for outbreaks. The Act allows a Fire Authority to exclude some or all persons from entering a forest where fire hazard conditions exist. This overrides any other access arrangements. Council can close roads where a fire hazard condition exists.
- Reserves Act 1977 – Covers the offence of damage caused by lighting a fire on any land including a public road.
- Trespass Act 1980 – Section 8 of the Act contains requirements that ensure gates are left as they were found.
- Dog Control Act 1996 – Enables Council to make dog access rules on any public place into a bylaw.

## Other relevant non-mandatory documents

- New Zealand walking and cycling strategies – best practice
- Regional Walking and Cycling Strategy
- New Zealand Outdoor Access Code – Guidelines for the Management of Unformed Legal Roads (New Zealand Walking Access Commission)

## 9.0 Identification of Key Issues

This decision making framework aims to address several issues that Waikato District Council is currently facing with respect to unformed legal roads. The following chapter identifies these issues and sets out a collaborative approach to address them.

### 9.1 Public right of passage along unformed roads

Public users have rights of free passage on unformed legal roads as they do with public formed roads. However, unlike formed roads, unformed roads may in places not be traversable due to the condition of the surface (e.g. mud, wet grass, sand, boulders, water hazards etc.), unsuitable terrain (cliffs, ditches), dense vegetation and other natural obstructions.

Rights of free passage must also be balanced against potential damage to the environment, and Council has the right to restrict vehicle movements on unformed legal roads for the purpose of protecting the environment or the public.

#### **Guiding Principles:**

- Waikato District Council acknowledges that the public has free right of passage to any unformed legal road.
- Waikato District Council has no obligation to form or improve unformed roads to enhance access conditions for users.
- Waikato District Council assumes no liability for the condition of any unformed legal road or the suitability of any unauthorised activity carried out on any unformed legal road.
- Road users must accept the condition of the road as they find it. They should take proper care of the environment and must not cause damage or modify the surface of the unformed road.
- Road users must not trespass onto adjoining property. They must not endanger or cause distress to any adjoining landholders' livestock or damage any property. This includes stock and property that may have lawful authority to be on the unformed road.
- Waikato District Council recommends the New Zealand Outdoor Access Code, produced by the New Zealand Walking and Access Commission for information, for users of unformed roads.

Further information may be found at: <https://www.walkingaccess.govt.nz/outdoor->

[access-code/](#)

- Waikato District Council may temporarily restrict access to unformed legal roads under certain conditions including public safety and protection of the environment (for example where unformed roads traverse kauri dieback protection areas).

## 9.2 Identifying Unformed Roads

One of the common challenges for the public accessing unformed roads is the difficulty of correctly identifying the boundaries of unformed roads and inadvertently entering onto adjoining private land. Often, the unformed roads do not follow terrain based access routes and natural obstacles such as cliffs, dense vegetation and steep terrain can limit reasonable access. All costs associated with the identification and location of boundaries are to be met by the parties who have an interest in the outcome of the redefinition of the boundaries.

Council will not assist with the cost of boundary redefinition unless it has an immediate interest in such a definition, in its capacity as the administering body.

The New Zealand Walking Access Commission's online public access mapping system, the Walking Access Mapping System (WAMS) have been designed to assist the public to identify land in New Zealand which is open to recreational access on foot and to provide other access related information.

WAMS is a free-to-use, online tool that displays publicly accessible land, including unformed roads, within the Waikato District. It has been developed by the New Zealand Walking Access Commission to provide clarity as to what land the public can access and to make planning trips into the outdoors easier. The mapping system includes high quality topographic maps and aerial imagery, overlaid with recreation information provided by partner organisations.

Further information may be found at: <https://www.walkingaccess.govt.nz/walking-access-mapping/>

### *Guiding Principles:*

- Information signage at the entrance point to popular, accessible unformed roads may be approved by Council on a case by case basis where the number of users warrants signage information.
- Boundary stakes may be placed along unformed roads by the adjoining landowners, or users (such as recreational groups), subject to written approval from the Council on a case by case basis.

## 9.3 Encroachments

Road encroachments can occur on the surface, beneath (subsoil) or above (airspace) the legal road corridor. Road encroachments are not permitted, although exceptions may be considered by the Council on a case by case basis. Granting a licence to occupy the road surface, or to

lease airspace will generally be for a limited period of time and subject to various conditions and restrictions to protect public use.

Council, as land owner, does not allow buildings or structures to protrude over or be built within the legal road boundaries under any circumstances unless approval is obtained. Where private landowners construct buildings or structures without the permission from Council, enforcement action may be taken to rectify the trespass.

Where Council becomes aware of an existing informal occupation of a road, including fencing, Council may temporarily accept the status quo if the road is not required for other purposes. A note to this effect must be placed on the adjoining owner's property file, and included in a Land Information Memorandum (LIM).

Where driveways are constructed within unformed legal roads without any necessary permissions gained through a Building Consent and/or Resource Consent, the driveway should be treated as an encroachment which Council may request to be removed under S 357 of the Local Government Act 1974.

There are many situations where, despite it being illegal, unformed legal roads have been partially or fully obstructed by the placement of fences, locked gates, trees, buildings and other structures. The Council's general policy is that these encroachments are to be removed to preserve the right of public access. However Council acknowledges that in certain circumstances, it is not always practical to insist on removal. In such a case, the Council may allow the encroachment to remain at Council's pleasure.

*Guiding Principles:*

- Private use of an unformed legal road (solely for private benefit) will not be permitted, unless there are exceptional circumstances or an element of public benefit.
- Waikato District Council will generally not consider approving road encroachments where access or future access is unduly compromised.
- Complaints regarding existing encroachments on unformed roads will be investigated and assessed by the Council for removal on a case by case basis.

#### **9.4 Damage, repairs and maintenance**

Council does not carry out maintenance of unformed legal roads and is under no legal obligation to form or maintain any unformed legal road. Only roads which are part of the formed and maintained road network, as captured in the RAMM database, qualify for maintenance. However, if Waikato District Council undertakes any construction work such as a culvert or bridge on a road that is otherwise generally unformed, it does have a duty of reasonable care in that construction, and also a duty of on-going reasonable observation of that work to ensure that any actual or potential danger is discovered and remedied.

Causing damage to the surface of a road is an offence under s357 of the Local Government Act 1974. This provision also applies to the users of unformed legal roads. However, the



Council accepts that many common uses of an unformed legal road may cause damage to the surface of the road. The prohibition on damaging a road must be balanced against the right to use the road. However road users must take care to minimise damage to the road. Road users must also take into account that factors such as inclement weather conditions may cause the unformed road to be more easily damaged.

*Guiding Principles:*

- The Council generally has no obligations or liability to maintain unformed legal roads
- The Council accepts that minor wear and tear will occur from ordinary use of an unformed legal road and will not consider this to be damage to the road. Intentional or unintentional damage caused by public misuse, recklessness, vehicle damage from racing, over use or wheel spins, or significant stock path erosion may be considered damage to the road.
- Digging up or landscaping an unformed legal road is a form of damage and must not be undertaken unless permission has been given by the Council.

### **9.5 Livestock including grazing, cattle stops, fences and swing gates**

Unformed legal roads may also be farmed where they adjoin private land or where a grazing licence is held. The public should take note and be aware of any stock which are grazing and exercise care, particularly while operating a vehicle or leading a horse, dog or other animal. Members of the public intending to use an unformed road should be aware that it may be courteous to inform an adjoining farm owner of their intentions.

In many instances, grazing of unformed roads has been carried out for long periods of time without the need for a formalised grazing licence. Waikato District Council has no plans to proactively insist on formal licences for all unformed roads being used for grazing. However, there may be advantages in formalising a situation if particular issues arise in relation to that road. In such cases the Council may recommend a grazing licence. The Council will also consider applications for grazing licences and other farming related activities on a case by case basis when sought by the adjoining land owner. The Council does not generally seek a financial return for grazing licences where there are mutual benefits for the farmer, the public and Council.

Where an unformed road separates neighbouring properties, and both parties wish to have access to that road for grazing purposes, the preference is for fair and equal access. The fact that one neighbour may have historically made use of all or part of the road does not give them any greater right to be allowed to make use of this public resource. Sharing the use rights of a road longitudinally down the middle is a typical solution under certain circumstances.

The primary purpose of a road as a means of traveling from point to point remains paramount. Where an unformed road is used for grazing the adjoining landowner is responsible for sowing and maintaining a grass surface appropriate for both the stock and the public's use of the road.

With approval from the Council, a person may erect a fence with a suitable gate or cattle stop across an unformed legal road in accordance with s344 of the Local Government Act 1974. Where practical, a sign must be affixed to the gate indicating that it is a public road.

The Gates and Cattlestops Order 1955 prescribes the form and construction of swing gates and cattle stops which have been authorised to be placed across roads.

The Council has the power to require the owner or occupier of any land not sufficiently separated from a road to enclose their private land with a fence for the safety or convenience of the public (s357 of the LGA 1974). This may be required, for example, where an agreement cannot be reached between the affected parties.

#### *Guiding Principles:*

- Under the Fencing Act 1978 the Council is not financially responsible for the fencing of any legal road boundaries.
- All fences across unformed legal roads must be constructed with appropriate gates.
- Gates across roads should not be locked.
- Temporary fencing for the purpose of stock control may be erected across an unformed legal road but must not unduly inhibit public access.
- Electric fencing along or across unformed legal roads may be necessary for the marking of boundaries and/or the containment of stock, but should display appropriate warning signs unless in an area of low public use.
- Landowners adjoining an unformed road may apply for a grazing licence from the Council. A condition of grazing may be that fencing to a specified standard is required along the boundaries of the unformed legal road.
- Livestock that presents a hazard to the public (e.g. bulls) must not be permitted to occupy or graze unformed legal roads and must be fenced if grazing or occupying adjoining land. The public must exercise care towards animals that are grazed on an unformed legal road.
- The public, after using a gate on an unformed legal road, must leave it in the state they found it in (either open or closed).
- The Council will generally not authorise the placing of beehives on unformed legal roads.

## **9.6 Use of Unformed Roads by Motor Vehicles**

Motor vehicles can be used on unformed legal roads (where physically practical), but the obligation to not damage the surface of the road applies equally as if the road were formed.

Most unformed legal roads will not have clearly delineated areas set aside for different types of users. Vehicles, pedestrians and horses are likely to share the same space. Most unformed legal roads will therefore fall within the definition of a shared zone under the Land Transport

(Road User) Rule 2004. In shared zones, vehicles must give way to pedestrians, but pedestrians must not unduly impede the passage of any vehicles.

Section 7(2) of the Land Transport Act 1998 states that a person may not drive a motor vehicle, or cause a motor vehicle to be driven, at a speed or in a manner which, having regard to all the circumstances is or might be dangerous to the public or to a person.

The Land Transport Act 1998 provides for Waikato District Council to address vehicular use of unformed legal road through bylaws.

## **9.7 Recreation, Dogs, Horses and Hunting**

Some of the unformed legal roads throughout the Waikato District are used for recreational users purposes such as walking, mountain biking, horse riding, hunting and to reach outdoor destinations such as rivers, lakes and beaches.

### **Walking Access**

The New Zealand Walking Access Commission (NZWAC) was established in 2008 to improve public access to and enjoyment of the outdoors. The Commission has produced the New Zealand Outdoor Access Code, which aims to raise awareness of access rights and responsibilities. While the code focuses on walking access, the same basic principles apply to other activities, such as horse riding, mountain biking, fishing and hunting.

NZWAC has developed a Walking Access Mapping System (WAMS) is an online resource designed to inform the public about land open to walking access including Waikato District's unformed legal road network.

Further information may be found at: <http://wams.org.nz>

### **Dogs**

The Dog Control Act 1996 enables Waikato District Council to make dog access rules for any public place by way of a bylaw. The Waikato District Council Dog Control Bylaw 2015 expressly states in clause 5.2 that no dog shall be allowed to enter or remain in a public place unless it is kept under continuous control by being effectively secured to a leash which in turn is secured or held by a person able to control the dog, or by being otherwise physically restrained so that the dog cannot break loose.

### **Horse Riding**

Horse riders have the same rights to use an unformed legal road as a legal formed road, but must also take care to minimise damage to the environment. The road surface may include grass and uneven terrain which may not be suitable for horse riding in all weather conditions. Horse riders are to exercise care when using the unformed legal road to minimise the damage caused to the surface of the road.

### **Mountain Bikes, Motorbikes and Four Wheel Drives**

While mountain bikes, motorbikes and four wheel drives are classified as vehicles in the Land Transport Act 1998, they may not require formed roads. Riders and drivers of vehicles have the

right of passage over any unformed legal road. They must not cause damage, modify the surface of the unformed road or enter adjoining private property without the requisite permissions. Riders and drivers of mountain bikes, motorbikes and four wheel drives may not ride on footpaths as they are intended solely for pedestrian use in accordance with the Road User Rule.

### Hunting

For the purposes of the Arms Act 1983, unformed legal roads are public places and their status is no different from formed legal roads. However, hunting (which may involve the carrying as well as discharging of firearms) on unformed roads can carry significantly greater risks to public safety. This is because hunting is typically carried out in relatively remote locations where an unformed road's legal boundaries are not physically defined and where other recreational users may be present. Therefore, while the carrying of firearms by hunters over unformed road is generally acceptable (provided they are unloaded if in a vehicle), the discharging of firearms from any location within an unformed legal road is prohibited.

#### *Guiding Principles:*

- The Council recommends the New Zealand Outdoor Access Code as the code of responsible conduct for recreational users of unformed legal roads.
- All recreational users have an equal shared right of access to unformed legal roads.
- Persons walking, using vehicles or horses to access unformed legal roads must minimise damage to the surface of the road.
- Discharging firearms on unformed legal roads is prohibited.

### 9.8 Stopping of Unformed Legal Roads

There are two methods for removing the status of a legal road:

- By a process referred to as 'road stopping' under the Local Government Act 1974
- Under s116 of the Public Works Act 1981 in certain circumstances with approval of the Minister for Lands and Information.

The Council can stop roads by following the procedure set out in Schedule 10 of the Local Government Act 1974. If the road is in a rural area, the consent of the Minister of Lands and Information must be obtained for the road to be stopped. If there are objections to the road stopping they are referred to the Environment Court for determination.

Assessment of whether a road should be stopped is based on a number of factors (including current and possible future use) to determine whether the need for the road for public use is outweighed by the need for the stopping. Once a road has been stopped, Council is responsible for determining how the land will be used or disposed of. In practice, the purpose of the road stopping often determines how the land will be used. Stopped roads bordering waterways must become esplanade reserve, with a minimum width of 20 metres unless there is a specific provision in the district plan that enables Council to exercise its

discretion as to whether this width can be reduced or the vesting waived completely.

*Guiding Principles:*

- Generally, Council will not initiate a road stopping process itself.
- The Council will consider applications for the stopping of unformed legal roads on a case by case basis and all associated costs will be met by the applicant.

## **9.9 Licences to Occupy**

As a general rule, Waikato District Council does not to issue licences to occupy.

### **9.10 Occupation of unformed roads**

Where the Council becomes aware of an existing informal occupation of an unformed road, including the fencing off of that road, the Council may accept the status quo if the unformed road is not required for other purposes. A note to this effect must be placed on the adjacent owner's property file and included in any Land Information Memorandum.

Council has the authority under s357 Local Government Act 1974 to require structures to be removed if Council considers this necessary. If an occupier does not comply with the Council's requirements, Council has the authority to remove the structures at the occupier's expense.

### **9.11 Disputes over the occupation and use of unformed roads**

Where a dispute arises over the occupation of an unformed legal road by two or more adjoining owners or over the use of the unformed road for pedestrian/vehicular access, Councils initial involvement will be to encourage the interested parties to resolve the issues among themselves. The relevant ward Councillors will be informed of the dispute.

Should there be no resolution, then the Council, as the administering authority, will consider the issues and make a fair and reasonable decision as to who may occupy the unformed road and on what terms. When Council has made a decision, the relevant ward Councillors will be informed accordingly.

### **9.12 Formation of an Unformed Legal Road**

The Council has no obligation to form any unformed legal roads. However, Council will consider applications from adjacent property owners, developers and interest groups to construct carriageways, cycle tracks, bridle paths and footpaths within unformed legal roads at the applicant's expense, where this is vital for development or where significant public access benefits are clearly demonstrated. All construction will be undertaken to the relevant standards (such as the Waikato District Plan and Hamilton Infrastructure Technical Specifications (ITS)).

Before any party can begin excavating within in an unformed legal road the following checks are required:

- A Corridor Access Request (CAR) for any excavation works within the road corridor. Additionally a Traffic Management Plan (TMP) is required where an unformed road intersects with formed road;
- Any necessary consents from Council (i.e. resource consent, building consents);
- Compliance with any conditions of resource consent, approved engineering drawings and approved standards with respect to the formation of the road;
- An investigation to determine whether any utility services run beneath the road and if they could be affected by the proposed works;
- An assessment of biosecurity risks associated with the proposed development;
- A construction and maintenance agreement from Waikato District Council setting out the specification and on-going maintenance conditions required to be followed by the applicant;
- A first ranking memorandum of encumbrance registered against the title(s) of the applicant's lot(s). If the applicant is the adjoining land owner the encumbrance will record their responsibility to maintain that part of the road.

*Guiding Principles:*

- The Council will only form currently unformed legal roads where this is necessary for network development.
- The Council will consider applications for other parties to construct carriageways, cycle tracks, bridle paths and footpaths etc. on a case by case basis.
- All costs for processing the application, construction and maintenance must be borne by the applicant.
- The standards and specifications for the construction of carriageways, cycle tracks and footpaths in unformed legal roads must be in accordance with any relevant provisions of the district plan and the Hamilton Infrastructure Technical Specifications (ITS). Any departures from standards or specifications must be approved by the Council.
- Any matters not covered by the ITS must comply with any relevant NZ Standards.

### **9.13 Relinquishment as a result of proposed changes to the road network**

In some cases, unformed legal roads may be relinquished as part of a road upgrade or re-configuration of the road network (i.e. construction of an expressway or road realignment).

When there is a requirement to use an unformed legal road as part of a State Highway network, Council will assess the effects of the proposal (including the benefits to communities) and negotiate directly with the New Zealand Transport Agency (NZTA).

Unformed roads adjacent to existing strategic corridors, such as an expressway or district arterials, require a higher level of planning as part of the decision making process which includes the relinquishment of unformed legal roads. In cases where decision making may only affect local roads, Council will consult with affected landowners as part of the decision making process.

#### **9.14 Use of the unformed roading corridor for network utilities**

Unformed legal roads form a critical part of our network for utility providers and there are increasing pressures to utilise our road corridor.

The Council utilises The National Code of Practice for Utility Operators Access to Transport Corridors for the management of its road corridors.

#### **9.15 The ways in which unformed roads should be brought into use**

Unformed legal roads often traverse private land throughout the Waikato District and do not present any issues until the road is needed for private or public for land use and subdivision activities

In circumstances where development gives rise to the need to form unformed legal roads, the cost of such works must be passed on to developers, unless an alternative developer agreement is reached with Council. In most circumstances the road will then be brought into the roading network and Council's maintenance schedule.

In some situations, where the formation of the unformed legal road benefits a small number of landowners, agreement may also be reached with respect to the ongoing maintenance of the road.

Where development requires the formation of unformed legal roads, whether for private or public use, the Council shall consider surrounding properties where future development may occur. In cases where more than one development is occurring concurrently requiring the formation of an unformed legal road in each case, the Council will need to apply discretion with respect to costs and the standard of formation required.

#### **9.16 Enforcement**

Damaging a road or subsoil or encroaching onto an unformed or formed legal road without Council's consent is a consideration under section 357 of the Local Government Act 1974 and can lead to prosecution.

Section 357 states that:

*“(1) Every person commits an offence who, not being authorised by the council or by or under any Act,-*

(a) *Encroaches on a road by making or erecting any building, fence, ditch, or other obstacle or work of any kind upon, over, or under the road, or by planting any tree or shrub thereon; or*

| ...

(j) *does or causes or permits to be done any act whatsoever by which any damage is caused to a road or any work or thing in, on, or under the same,-  
And is liable on conviction to a fine not exceeding \$1,000 and, where the offence is a continuing one, to a further fine not exceeding \$50 for every day on which the offence has continue and may be ordered to pay the cost incurred by the council in removing any such encroachment, obstruction, or matter, or in repairing any damage caused as aforesaid."*

The Council would firstly seek to have the encroachment removed or the damage repaired by the offender or remove the encroachment itself before considering a prosecution.



### Open Meeting

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	27 January 2016
<b>Prepared By</b>	C Clarke Roading Manager
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140824
<b>Report Title</b>	<b>Annual Renewal of Bridge Restrictions</b>

## 1. Executive Summary

The Heavy Motor Vehicle Regulations 1974 provide Council the ability to impose bridge weight and/or speed restrictions for heavy vehicles. These weight and/or speed restrictions are placed in order to protect under strength or deteriorated bridges from damage. Authority to approve these restrictions is delegated to the Infrastructure Committee. The restrictions expire after 12 months but may be renewed annually if still required. The Infrastructure Committee has requested that authority to approve the renewal of existing restrictions is delegated to the General Manager Service Delivery. Any new restrictions or changes to existing restrictions would still be reported to the Infrastructure Committee for approval.

## 2. Recommendation

**THAT the report of the General Manager Service Delivery – Annual Renewal of Bridge Restrictions- be received;**

**AND THAT the General Manager Service Delivery is delegated authority to renew existing bridge weight and speed restrictions annually in accordance with the Heavy Motor Vehicle Regulations 1974, provided that any additions or changes to the restrictions must first be approved by the Infrastructure Committee.**

## 3. Background

Council has obligations under the Local Government Act to provide good quality network infrastructure and to ensure that the road network is safe and efficient.

If a bridge or other structure has deteriorated due to normal wear and tear, or is otherwise not capable of carrying fully laden trucks, the Heavy Motor Vehicle Regulations 1974 provide a mechanism for Council to set weight and/or speed limits for heavy motor vehicles for the purpose of protecting the structure from possible damage and ensuring public safety. Council

has delegated authority to approve any such restrictions to the Infrastructure Committee.<sup>1</sup> The regulations state that any restrictions put in place will remain in force for 12 months only, but may be renewed annually.

At its meeting on 11 November 2015 the Infrastructure Committee approved restrictions on five bridges throughout the district. It also requested that staff report to the Policy and Regulatory Committee to obtain delegation for the General Manager Service Delivery to approve the annual renewal of these restrictions, provided there are no changes to the current restrictions. This request was made to streamline the process of renewing restrictions.

## 4. Discussion and Analysis of Options

### 4.1 Discussion

The restrictions are required to be renewed annually. This requires a report from an Engineer confirming that the restrictions are required and placing of a Public Notice in a local newspaper. Council has delegated authority to approve bridge restrictions to the Infrastructure Committee. If there are no changes to the restrictions no decision is required and it was agreed by the Infrastructure Committee that it is un-necessarily inefficient to report to the Committee to renew the restrictions. Delegating approval to renew existing restrictions to the General Manager Service Delivery would provide administrative efficiency and assurance that the process was robust.

The Policy and Regulatory Committee has the delegations to make this decision

### 4.2 Options

There are two possible options:

Option 1                      Staff continue to report to the Infrastructure Committee to renew these restrictions annually.

Option 2                      That the General Manager Service Delivery is authorised to approve the annual renewal of these restrictions. Any changes to the restrictions would still be reported to the Infrastructure Committee for approval.

Option 2 is recommended to make the process of renewing weight and speed restrictions for bridges more efficient.

## 5 Considerations

### 5.1 Financial

There is minimal cost with the renewing of these restrictions, only the cost of newspaper advertisements would be incurred.

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<sup>1</sup> Delegations Register August 2015 Update

## 5.2 Assessment of Significance & Engagement

This proposal is assessed to be of a low level of significance, as it concerns only the process for approving the renewal of existing restrictions. No community engagement is considered to be necessary.

## 6. Conclusion

Delegation to the General Manager Service Delivery to approve the renewal of existing bridge restrictions will provide administrative efficiency without removing decision making from the Infrastructure Committee and is recommended.

## 7. Attachments

- Copy of Resolution from the Infrastructure Committee requesting this report.

## Infrastructure Committee 10 November 2015

**INF1511/06**      **REPORTS**

INF1511/06/3      Bridge Weight Restrictions  
Item 6.3

**Resolved: (Crs Baddeley/Church)**

**THAT** the report of the **General Manager Service Delivery – Bridge Weight Restrictions** - be received;

**AND THAT** approval be given to impose the restrictions recommended;

**AND FURTHER THAT** staff report to the **Policy & Regulatory Committee** to delegate authority to the **General Manager Service Delivery** to re-impose these restrictions annually provided that there is no change to the restrictions currently recommended.

**CARRIED on the voices**

**Open Meeting**

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty General Manager Service Delivery
<b>Date</b>	27 January 2016
<b>Prepared By</b>	C Clarke Roading Manager
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140818
<b>Report Title</b>	<b>Review of the Roadside Fencing Policy</b>

**1. Executive Summary**

The current Roadside Fencing policy has been reviewed. The current policy was considered restrictive and did not allow for the ability to take a risk based approach in circumstances where the risk to road users is very low. At the November Infrastructure Committee a resolution was passed to proceed with a review of the policy on this basis. This report details the recommended changes to the policy for Council approval.

**2. Recommendation**

**THAT the report of the General Manager Service Delivery – Review of the Roadside Fencing Policy - be received;**

**AND THAT the Committee supports the revised Roadside Fencing Policy for formal adoption.**

**3. Background**

There have been a number of instances in recent years where staff have been required to address the location of permanent roadside fences as they did not fully comply with Council policy on this matter. In a majority of cases the fences were erected in a sensible location that did not impact on road safety whilst minimising the need for long term roadside berm maintenance.

At the November Infrastructure Committee meeting a report entitled Roadside Fencing Policy sort feedback and approval to proceed with a review of the existing Roadside Fencing Policy. This approach providing some flexibility of location whilst still ensuring road safety. The committee supported the approach and requested a review of the policy.

## 4. Discussion and Analysis of Options

### 4.1 Discussion

The current Roadside Fencing Policy requires all permanent fences to be located outside a clear zone. This clear zone can be between 4 and 6 metres from the actual carriageway, depending on the traffic volume on the associated section of road. Although this approach would be considered desirable in most cases (but not all) it is often not practical. Topographical constraints, road speed environment, and long term berm maintenance considerations can influence the location of the fence. The existing policy does not afford any flexibility in allowing for these factors and details that the clear zone requirements are an absolute minimum.

The revised policy (attached) states that the clear zones should be achieved where possible but that flexibility is permitted in instances where safety and long term maintenance benefits can be demonstrated. Road safety will remain the primary focus, however a more pragmatic approach to locating fences in the road reserve is likely to provide benefits to Council as well as the landowner. For Council these are in the form of reduced berm maintenance/weed control and for the adjacent landowner a greater area of grazing availability, potentially a more suitable site and cost effective location for the fence installation.

Only minor corrections to the previous policy and updating of references have also been included in the revised policy.

The current policy was due for its three yearly review. No substantive changes have been required over those noted above.

### 4.2 Options

There are 2 options available:

Option 1: Continue operations under the existing Roadside Fencing Policy and apply the criteria set out within the document.

This option is not recommended as the current policy affords no flexibility in approach.

Option 2: Approve the revised Roadside Fencing Policy for staff to adopt.

This approach is supported by staff.

## **5. Considerations**

### **5.1 Financial**

The costs of the option 2 approach are covered with existing Roading Operational budgets. If the committee supports option 1 staff will continue to take an approach of investigating those issues when raised and/or reported.

## **6. Consultation**

Consultation has only been undertaken with relevant internal staff. The changes to the current policy are considered very minor in their nature so it is proposed that if Council support option 2, staff will adopt the revised approach.

## **7. Conclusion**

The current Roadside Fencing policy does not allow for flexibility in relation to clear zone requirements. Ideally these requirements should be met but where they are impractical and offer little benefit, flexibility is called for. This ability has been built into the revised policy to allow for good engineering judgement to be utilised.

## **8. Attachment**

- Revised Roadside Fencing Policy

# Roadside Fencing Policy

Policy Sponsor:	General Manager, Service Delivery
Policy Owner:	Roading Manager
Policy Number:	??
Approved By:	Chief Executive
Date Approved:	2016
Next Review Date:	February 2018

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## Objective

To ensure that road maintenance activities, motorist, and pedestrian's safety are not compromised by inappropriate roadside stock restraints.

## Application

This Policy applies to both permanent and temporary roadside fences.

## Policy Statements

### 1. GENERAL

- 1.1 All fences located within the road reserve will remain at Council's pleasure. Council gives no tenure to the land enclosed by the temporary or permanent fence and accepts no liability for any damage to the fence or third parties.
- 1.2 If Council requires that a fence situated on road reserve be relocated, the cost of relocation shall be at the landowner's expense.
- 1.3 A permit is required for the long-term relocation of permanent boundary fence and short-term temporary fencing on the road reserve.
- 1.4 Roadside fences shall be stockproof in terms of the Fencing Act 1978.
- 1.5 Roadside fences shall be located in accordance with the "Roadside Fencing Rules" described in clause 2 below.
- 1.6 Any fencing must not obstruct any traffic or create a nuisance or safety hazard to motorists or general public.

### 2. ROADSIDE FENCING RULES

#### 2.1 Roadside Fencing Permits

- a) A permit to occupy road reserve for a long term period may be granted by the General Manager Service Delivery subject to approval of the type and location of the realigned permanent fence.



- b) A permit to erect a temporary fence for short-term grazing may be approved by the General Manager Service Delivery subject to approval of the type and location of the temporary fence.
- c) Any fencing permit will be subject to review by Council from time to time.
- d) The permit holder must comply with the conditions listed on the permit at all times.
- e) There shall be no charge for a fencing permit, except where staff are required to visit the property on three or more occasions to inspect the fence.
- f) If Council declines a permit application to relocate a permanent fence in the road reserve, the landowner may request the decision to be reviewed by the Infrastructure Committee.

## 2.2 Permanent Roadside Fencing Requirements

- Permanent fencing shall be durable, stockproof and constructed to a minimum of a 7 or 8-wire post and batten standard in accordance with the Hamilton City Council Infrastructure Technical Specification, ( Sect 7).
- Where possible all permanent fences must be located outside the appropriate clear zone in accordance with the WDC District Plan, summarised as follows:

Local Road	up to 500 vpd	4 metres from edge of seal		
Collector Road	500-1000 vpd	5 metres	“	“
Arterial Road	over 1000 vpd	6 metres	“	“
Regional Arterial	over 2500 vpd	7 metres	“	“

In special circumstances the clear zone requirements may be relaxed at the sole discretion of the General Manager Service Delivery only if there is a demonstrable benefit to traffic safety and long term Council roadside maintenance activities.

- The fence must be located no closer than 1metres from any water table.

## 2.3 Temporary Roadside Fencing Requirements

- Temporary fencing shall be an electric fence made of frangible materials. **The use of steel waratah standards, concrete or timber posts or barbed fencing wire is prohibited.**
- Temporary fences must not be located within 1.5m of the edge of carriageway.
- Temporary fences may not remain in place for more than 7 days.
- Large animals, such as bulls or horses, are not permitted to graze within the road reserve.
- Stock grazing on road reserve behind an approved temporary fence must be removed from the roadside during the hours of darkness.

**Policy Review**

This policy shall be reviewed as deemed necessary by the policy owner but not more than every three years.

### **Open Meeting**

<b>To</b>	Policy & Regulatory Committee
<b>From</b>	TN Harty Service Delivery General Manager
<b>Date</b>	27 January 2016
<b>Prepared By</b>	M Mould Waters Manager
<b>Chief Executive Approved</b>	Y
<b>DWS Document Set #</b>	1140808
<b>Report Title</b>	<b>Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016</b>

#### **I. Executive Summary**

The Waikato District Council Trade Waste Bylaw 2008 and the Franklin District Council Trade Waste Bylaw 2007 are nearing the due date for review. Council does not have a bylaw for wastewater.

In October 2015 Council determined a bylaw was the most appropriate mechanism for addressing the problems associated with the management of trade waste and wastewater within the District. Options for the bylaw were considered and a combined wastewater and trade waste bylaw was preferred as it addressed all the problems identified and provided a consistent and fair approach for all dischargers into the wastewater system.

A proposed trade waste and wastewater bylaw has been prepared and undergone legal review. Discussions with key stakeholders and their feedback were considered when drafting the proposed bylaw.

Key changes include simplifying the bylaw and removing unnecessary schedules, adding new sections to address wastewater issues, and updating the trade waste and tankered waste sections to reflect best practice. Expected benefits of the proposed bylaw are improved consistency across the district and sub-region, clearer requirements, reduced blockages and overflows, better control over fat, oil and grease, and reduced damage to the wastewater system.

The proposed bylaw is considered to be the most appropriate form of bylaw and does not give rise to implications under the New Zealand Bill of Rights Act 1990.

The proposed Bylaw has been subject to an internal legal review and is attached along with the Statement of Proposal for consideration. Subject to approval at this meeting, the proposed Bylaw will be publically notified on 23 March 2016 with submission being received until 23 May 2016. Submissions of the proposed bylaw will be considered and, if requested, heard by Council at a hearing on 29 June 2016 or as early thereafter as possible. The bylaw is scheduled to be confirmed by Council at a meeting to be held in July 2016.

## 2. Recommendation

**THAT** the report of the **Service Delivery General Manager – Proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016** - be received;

**AND THAT** the **Committee** recommends to **Council** that it make a determination that the proposed **Waikato District Council Trade Waste and Wastewater Bylaw 2016** is the most appropriate form of bylaw pursuant to section 155(1) of the **Local Government Act 2002**;

**AND THAT** the **Committee** recommends to **Council** that it make a determination that the proposed bylaw does not give rise to any implication under the **New Zealand Bill of Rights Act 1990** pursuant to section 155(2) of the **Local Government Act 2002**;

**AND THAT** the **Statement of Proposal**, incorporating the proposed **Waikato District Council Trade Waste and Wastewater Bylaw 2016** (subject to any amendments), be recommended to **Council** at its meeting on **14 March 2016** for public notification on **23 March 2016** with the closing date for submissions being **23 May 2016**, in accordance with **Sections 83** (special consultative procedure) and **86** (use of special consultative procedure in relation to adoptions or review or amendment of bylaws) of the **Local Government Act 2002**;

**AND THAT** submissions on the **Statement of Proposal** (incorporating the proposed **Waikato District Council Trade Waste and Wastewater Bylaw 2016**) be considered and, if requested, be heard by **Council** at a meeting to be held on **29 June 2016** or as early thereafter as possible;

## 3. Background

Council has 10 wastewater schemes throughout the district with all but the smallest receiving trade waste from commercial or industrial premises. Wastewater from Pokeno and Tuakau is transferred to the Watercare network for treatment and disposal. Seventy four businesses have consents, approval notices or agreements with Council for trade waste. Trade waste consenting and enforcement is carried out by the Shared Services Group for Waikato and Waipa Districts and Hamilton City.

The **Waikato District Trade Waste Bylaw 2008** and **Franklin Trade Waste Bylaw 2007** are nearing due date for review. Both bylaws are based on the **2004 Standards New Zealand Model Bylaw** which is widely used throughout New Zealand. Council does not have a bylaw for wastewater. **Hamilton City Council** is also currently reviewing its bylaw for trade waste. **Waipa District Council** has both **Trade Waste and Wastewater bylaws** that were last reviewed in **2011**.

A local authority is able to make a bylaw under the **Local Government Act 2002** (**LGA**) but in most circumstances Council must first determine whether a bylaw is the most appropriate way of addressing actual or perceived problems. This

requires Council to consider the problems, the options available and decide if a bylaw is the best solution in the circumstances.

The key trade waste and wastewater problems were identified in the issues and options report (Attachment 3 to 17 November 2015 Policy and Regulatory Report) and include:

- Controlling what is discharged - trade waste, tankered 'septage' waste and residential wastewater,
- Complying with resource consents,
- Minimising blockages and overflows,
- Providing capacity for growth,
- Encouraging waste minimisation and cleaner production,
- Reducing stormwater inflow and groundwater infiltration,
- Controlling deterioration of the network,
- Clarifying Customer/Contractor responsibilities.
- Recovering additional costs of trade waste collection and treatment

At the Council meeting on 14 December 2015 a bylaw was determined to be the appropriate mechanism to manage these problems.

Four options for the bylaw were considered:

- Revoke the existing bylaws and rely on legislation
- Status Quo - Retain existing bylaws without amendment
- Replace the current bylaws with a new Trade Waste Bylaw
- Replacing the current bylaw with a new, combined Trade Waste and Wastewater Bylaw

Replacing the current bylaws with a new, combined Trade Waste and Wastewater Bylaw was preferred as this approach addresses all the problems identified and provides a consistent and fair approach for all dischargers into the wastewater system.

## **4. Discussion**

### **4.1 Form of bylaw**

The bylaw has been developed in consultation with Hamilton City Council and included input from staff from Council's Strategy, Waters and Legal teams as well as the Trade Waste Shared Services Team.

The Trade Waste and Tankered Waste sections are based on the Standards NZ Model Trade Waste bylaw (2004) with clauses updated where necessary to reflect best practice and to address current concerns. The Standards NZ wastewater model bylaw (1999) was not considered to adequately address the issues for Waikato District and other more recent bylaws were used as a base for the wastewater section (i.e. Auckland Water and Wastewater bylaw 2014, Hauraki Consolidated Bylaw 2014, and Waipa Wastewater bylaw 2011).

Other relevant documents considered were the agreement with Watercare for the disposal of wastewater from Pokeno and Tuakau, existing individual trade waste agreements, the 50 year Wastewater Strategy (2014) and the Waste Minimisation and Management Plan (2014).

## 4.2 Key Changes

The key changes from the existing bylaws are outlined below.

<b>Proposed Change</b>	<b>Comments</b>	<b>Expected Benefits</b>
Bylaw format	Format has been updated to use simpler wording, contain fewer schedules and be consistent with recent bylaws.	Bylaw easier to understand.
Regional consistency	The new bylaw was prepared in consultation with Hamilton City Council and Waipa District Council with the aim of increasing the consistency of the bylaws across the three districts which operate under the Trade Waste Shared Service.	Bylaw enforcement simpler and a more consistent approach across the Waikato sub-region.
Wastewater Requirements (Section 7)	Introduction of a new section which applies to all wastewater discharges – domestic, commercial and industrial. This section covers connecting to the wastewater system, control of discharges, hazardous materials, protection of wastewater system and private drains as outlined below.	More consistent requirements for all dischargers to the wastewater system.
Connecting to the wastewater system (Section 7.1)	Approval is required before connecting to, disconnecting from or working around the wastewater system. Council can refuse an application to connect for various reasons including not enough capacity available.	Better control over new connections.

<b>Proposed Change</b>	<b>Comments</b>	<b>Expected Benefits</b>
Control of discharges (Section 7.2)	Wastewater with prohibited characteristics cannot be discharged to the wastewater system. Stormwater and condensing/cooling water cannot be discharged to the wastewater system without approval.	Reduced blockages and overflows. Improved compliance with treatment plant resource consent conditions.
Hazardous materials (Section 7.3)	Hazardous materials must be stored and used so they don't enter the wastewater system.	Avoids damage to the wastewater system and the environment and protects the health and safety of workers.
Protection of wastewater System (Section 7.4)	Damaging or obstructing the wastewater system is not permitted and excavation work must take due care to avoid damage. Covering manholes is not permitted. Any damage must be reported to Council	Reduced cost from damage and improved ability to recover repair costs.
Private Drains (Section 7.5)	Private drains must be maintained in a reasonable condition. Stormwater must not enter the wastewater system. Blockages on private property are the responsibility of the property owner unless the blockage originates in the public wastewater system. Pressure wastewater systems must be used as per their operating guidelines.	Improved ability to require faults to be repaired. Reduced overflows from excessive stormwater inflow and groundwater infiltration. Reduced blockages in pressure wastewater systems.
Trade waste classification (Section 8.1)	The classification of trade waste has been clarified and reflects current practice for Shared Services. The permitted and conditional categories have been retained and the bylaw clarifies that all permitted trade waste discharges must have an "approval notice".	Clearer requirements responding to stakeholder feedback. Council will have information on where all trade waste discharges are located.

<b>Proposed Change</b>	<b>Comments</b>	<b>Expected Benefits</b>
Trade waste agreements (Clauses 8.1d&e)	Reference to trade waste agreements in the bylaw. Trade waste agreements may be required when the discharge has unique characteristics, could affect the wastewater system/wastewater treatment plant (WWTP), could potentially contain hazardous or prohibited substances, requires pre-treatment systems, requires reserved capacity at the WWTP or has a history of non-compliance.	Responds to stakeholder feedback for more clarity on when trade waste agreements may be used.
Consent Processing (Section 8.3)	Processing timeframes for trade waste consents have been removed from the bylaw. Council will continue to have a 15 day processing performance target.	More flexibility in response to stakeholder feedback.
Consent term (Section 8.5)	Consent term for conditional trade waste discharges set at 5 years unless there is history of non-compliance, the discharge flow/quality is likely to change or there is a lack of information available. Previously most trade waste consents were issued for 2 years. Approval notices for permitted trade waste discharges do not have an expiry date	Greater consistency across the sub-region. Longer term for consent holders complying with existing consent conditions.
Pre-treatment requirements (Section 8.7)	More detail on grease trap/pre-treatment requirements for trade waste (similar to current Waipa bylaw). Grease traps must be sized and maintained as approved by Council. Alternative grease removal systems must be approved by Council and be maintained or serviced to the approval of Council. The revised biodegradable Oil and Grease limit for permitted discharges is 200 g/m <sup>3</sup> and 100 g/m <sup>3</sup> for Pokeno and Tuakau.	More guidance for smaller businesses. More consistent approach across the sub-region. Reduced blockages caused by fat, oil and grease.



<b>Proposed Change</b>	<b>Comments</b>	<b>Expected Benefits</b>
Cancellation of consent and disconnection (Section 8.12)	Council may immediately cancel a consent and disconnect the discharge if a prohibited substance is discharged, the discharge is a threat to the environment or public health or the discharge impacts on Council's ability to comply with a resource consent.	Protects the wastewater system and the environment.
Transitional provisions (Section 8.13)	Trade Waste consent holders with existing "approval notices" do not need to apply for a new notice or Consent unless the discharge changes significantly. Existing consents and agreements continue until their expiry dates. Trade waste discharges which do not have an approval notice must apply within 3 months of the bylaw coming into force.	Council will know where all trade waste discharges are located.
Sampling (Section 8.10)	Less detail on trade waste sampling is included in the bylaw, guidance will be provided by trade waste officers on a case by case basis. Sampling methodology must be approved by Council. A requirement for trade waste consent holders to use an accredited laboratory for sample analysis and use standard analysis methods.	Removes out of date sampling requirements and provides more flexibility. Ensures sample results are reliable and suitable for compliance and charging purposes.
Tankered waste (Section 9)	More detailed tankered waste collection and disposal requirements.	Clearer requirements which are easier to enforce. Reduced problems at the wastewater treatment plants.
Fees and charges (Section 11)	No fees and charges details are included in the bylaw. Fees and charges are set during the Long Term Plan/Annual Plan process.	Consistent approach with other Council activities.

<b>Proposed Change</b>	<b>Comments</b>	<b>Expected Benefits</b>
Organic and Nutrient limits (Schedule 1A)	Reduced organic (BOD/COD) and nutrient (TKN/TP) limits for permitted wastewater to avoid overloading of wastewater treatment plants and to retain capacity for growth.	Protects the wastewater system and the environment.
Liquid Pharmaceutical Waste (Schedule 1A)	A new requirement for disposal of liquid pharmaceutical waste based on advice from the Ministry of Health.	Protects the wastewater system and the environment.

### 4.3 Implementation

Under the proposed Bylaw, enforcement of Trade Waste consents will continue to be carried out by the Trade Waste Shared Services Team. There may be a small number of existing businesses that need to apply for a trade waste approval notice within 3 months of the new bylaw coming into force. Additional resources are not expected to be required. The enforcement of the wastewater section would be carried out by Council's Service Delivery section as part of the day to day wastewater operations. Additional warrants will be required once the bylaw is in force.

## 5. Considerations

### 5.1 Financial

The cost of developing and reviewing the bylaws is already budgeted for in the operating budget. No additional budget is requested in relation to this review.

Fees and charges associated with a bylaw can either be prescribed within the bylaw, or separately. The review of the fees and charges must follow the special consultative procedure. It is proposed that fees and charges continue to be incorporated into Council's fees and charges schedule and not prescribed within the Bylaw which is consistent with fees and charges for Council's other activities.

### 5.2 Legal

The Local Government Act 2002 requires the following two-step process to be used when reviewing bylaws:

- Identify what the problem is and determine if a bylaw is the most appropriate way to deal with the problem;
- Decide the most appropriate form for the bylaw and consider whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Council determined in December 2015 that a bylaw was the most appropriate way to deal with trade waste and wastewater problems.

The proposed bylaw has been shaped to focus on readily identifiable problems in Waikato District and to provide sub-regional alignment. Comments from key internal and external stakeholders have been considered and incorporated into the proposed bylaw. The bylaw format and language has been simplified as much as possible given the technical nature of the activity. It is therefore concluded that the proposed bylaw is the most appropriate form of bylaw.

The Bill of Rights Act 1990 details a number of rights and freedoms in relation to life and security of people. It is the view of the staff preparing the proposed bylaw that it is not considered to be inconsistent with, or likely to give rise to any implications under the New Zealand Bill of Rights Act 1990. The Bylaw simply provides the regulatory means by which the wastewater systems can be managed. The making of the Bylaw is subject to a consultative procedure to enable individuals to participate in the process.

An internal legal review of the proposed Bylaw, for its appropriateness and validity, has been undertaken prior to being presented to the Committee for approval as the proposed bylaw for public consultation.

Section 148 of the Local Government Act 2002 includes special requirements for bylaws relating to trade waste. The proposed bylaw needs to be provided to the Minister of Health for comment (at the start of the public consultation period). The public consultation process needs to be at least 2 months. Copies of the proposed bylaw must be sent to owners/occupiers of trade premises.

The proposed bylaw is considered to meet the requirements of section 10 of the Local Government Act 2002 in relation to the purpose of local government, as the bylaw provides essential means for Council to manage the wastewater system in a cost effective way.

### **5.3 Strategy, Plans, Policy & Partnership Alignment**

As outlined in the Determination report, the proposed bylaw is in alignment with the draft Waikato District Development Strategy (2015), the Waste Management and Minimisation Plan (2012) and the 50 year Wastewater Strategy (2014).

### **5.4 Assessment of Significance & Engagement**

The Trade Waste and Wastewater Bylaw will trigger the Council's Significance and Engagement Policy as the Special Consultative Procedure will be required and undertaken. Section 148 of the Local Government Act specifies a two month consultation period.

## **6. Consultation**

Section 78 of the LGA 2002 requires local authorities to give consideration to the views and preferences of persons likely to be affected by, or have an interest in the subject matter at every stage of the process. In order to determine what the

perceived or actual problems are, initial internal and external key stakeholder views were sought. The following stakeholders have been identified and have been/or will be consulted:

Stakeholder	Consultation		
	Planned	In Progress	Complete
Internal (includes Shared Services Group)			√
Community Boards/Community Committees	√		
Waikato-Tainui/Local iwi		√	
Households	√		
Conditional Consent Holders		√	
Other trade waste businesses	√		
Ministry of Health / Waikato DHB Public Health Unit		√	
Hamilton City Council/Waipā District Council			√

Feedback from internal stakeholders, conditional trade waste consent holders, Hamilton City Council, Waipā District Council and Ministry of Health/Public Health Unit was considered during the bylaw drafting stage. Other stakeholders will be consulted via the Special Consultative Procedure.

Section 148 of the Local Government Act 2002 requires all trade waste customers to be provided with a copy of the proposed Trade Waste and Wastewater Bylaw. The proposed Trade Waste and Wastewater Bylaw will also be sent to the Minister of Health for comment.

## 7. Conclusion

It is considered that the proposed Waikato District Council Trade Waste and Wastewater bylaw is the most appropriate form of bylaw and does not give rise to any implications under the New Zealand Bill of Rights 1990.

It is recommended that the proposed Waikato District Council Trade Waste and Wastewater bylaw is approved for public consultation.

## 8. Attachments

- Appendix 1 – Statement of Proposal – Including submission form and proposed Waikato District Trade Waste and Wastewater Bylaw 2016

# Waikato District Council

## Proposed Trade Waste and Wastewater Bylaw 2016

Waikato District Council, in exercise of its powers under the Local Government Act 2002 and the Health Act 1956 and their respective amendments, and all other relevant powers, hereby makes the following bylaw.

### 1.0 Introduction

- 1.1. Waikato District Council has the ability to make bylaws for regulating and protecting wastewater drainage and Trade Waste. Under Section 10 of the Local Government Act, Council needs to provide effective and efficient wastewater infrastructure. The regulation of Trade Waste allows Council to control the quality and quantity of Trade Waste and recover the additional costs of Trade Waste collection and treatment. The management of wastewater assists in protecting wastewater infrastructure from damage, removing substances that could affect the environment, and controlling Stormwater discharges to the Wastewater System.

(Note: the above introduction does not form part of this bylaw and is intended to be read as an introductory note)

### 2.0 Short title, commencement and application

- 2.1 The bylaw shall be known as the "Waikato District Council Trade Waste and Wastewater bylaw 2016".
- 2.2 The bylaw shall apply to the Waikato District.
- 2.3 The bylaw shall come into force on .....

### 3.0 Revocation

- 3.1 The following bylaws are hereby revoked from the day this new bylaw comes into force: "Waikato District Council Trade Waste bylaw 2008 " and the "Franklin District Council Trade Waste bylaw 2007".

### 4.0 Purpose

- 4.1 The purpose of this bylaw is to enable Council to:
- a) Protect the health and safety of all people using or working in the Wastewater System.
  - b) Protect the Wastewater System from damage and misuse.
  - c) Protect the environment from adverse effects of harmful substances discharged to the Wastewater System.
  - d) Produce Wastewater and Biosolids of a consistent quality.
  - e) Encourage waste minimisation, Cleaner Production, efficient recycling and reuse of waste streams at business Premises.

- f) Ensure that business Premises maintain Trade Waste discharges within agreed and consented flow and Characteristic levels.

## 5.0 Compliance with Other Acts and Codes

- 5.1. This bylaw has been developed in accordance with all relevant legislation and guidance documents.
- 5.2. Compliance with the requirements of this bylaw does not remove the need to comply with the requirements of any Act, regulation or other bylaw.

## 6.0 Definitions

For the purposes of this Bylaw, the following definitions shall apply, unless inconsistent with the context:

<b>Access Point</b>	Is a place where access may be made to a Private Drain for inspection (including sampling or measurement), cleaning or maintenance. The location of the access point must be in accordance with the New Zealand Building Code.
<b>Alternative Grease Removal System</b>	Refers to a grease removal system other than a Grease Trap. Includes, but is not limited to, grease converters and mechanical grease removal systems.
<b>Approval or Approved</b>	Means Approved in writing by Council, either by resolution of the Council or by any Authorised Officer of the Council.
<b>Approval Notice</b>	Means an Approval given by Council and signed by an Authorised Officer authorising a Person to discharge Permitted Trade Waste to the Wastewater System.
<b>Authorised Officer</b>	Means an employee, agent or contractor of Council, appointed by Council as an enforcement officer under section 171 of the Local Government Act 2002.
<b>Biosolids</b>	Means wastewater sludge derived from a Wastewater Treatment Plant that has been treated and/or stabilised to the extent that it is able to be safely and beneficially applied to land or reused, and does not include products derived solely from industrial Wastewater Treatment Plants. The term Biosolid/s is used generically throughout this document to include products containing Biosolids (eg composts).
<b>Characteristics</b>	Means any of the physical or chemical properties of a Wastewater and may include the level of a Characteristic.
<b>Cleaner Production</b>	Means the implementation on Premises of effective operations, methods and processes appropriate to achieve the reduction or elimination of the quantity and toxicity of wastes. This is required to minimise and manage Trade Waste by: <ul style="list-style-type: none"> <li>a) Using energy and resources efficiently, thereby avoiding or reducing the amount of waste produced;</li> <li>b) Producing environmentally sound products and services;</li> <li>c) Achieving less waste, fewer costs and higher profits.</li> </ul>

<b>Condensing or Cooling Water</b>	Means any water used in any trade, industry, or commercial process or operation in such a manner that it does not take up matter into solution or suspension.
<b>Conditional Consent</b>	Means an Approval given by Council and signed by an Authorised Officer authorising a Person to discharge Conditional Trade Waste to the Wastewater System.
<b>Conditional Trade Waste</b>	Means a Trade Waste discharge which exceeds the physical and chemical Characteristics defined in Schedule 1A of this bylaw, and which is not a Prohibited Trade Waste.
<b>Consent</b>	Means an Approval Notice or Conditional Consent.
<b>Consent Holder</b>	Means the Person occupying Premises who has obtained a Consent or Trade Waste Agreement and includes any Person who does any act on behalf or with the express or implied consent of the Consent Holder (whether for reward or not) and any licensee of the Consent Holder.
<b>Council</b>	Means Waikato District Council or an employee, agent or contractor of Council appointed to carry out duties relating to Trade Waste and Wastewater management.
<b>Defect Notice</b>	Means a notice issued in accordance with clause 13.1.
<b>Disconnection</b>	Means the physical cutting and sealing of any of Council's water services, utilities, drains or Wastewater System to prevent use by any Person.
<b>Domestic Wastewater</b>	Means liquid wastes (with or without matter in solution or suspension) discharged from Premises used solely for residential purposes and which complies with the physical and chemical Characteristics defined in Schedule 1A of this bylaw, or wastes with the same volume and Characteristic discharged from other Premises; but does not include any solids, liquids or gases that cannot lawfully be discharged into the Wastewater System.
<b>Grease Trap</b>	Means a separation tank that reduces the amount of fat, oil and grease in Trade Waste prior to it being discharged into the Wastewater System.
<b>Hazardous Materials</b>	Means raw materials, products or wastes containing corrosive, toxic, biocidal, radioactive, flammable or explosive materials, or any materials which when mixed with Wastewater, are likely to generate toxic, flammable, explosive or corrosive materials in quantities likely to be hazardous to the health and safety of any Person or harmful to the Wastewater System, and includes hazardous substances as defined by the Hazardous Substances and New Organisms Act 1996.
<b>Independently Qualified Person</b>	Means a Person with appropriate qualifications, Approved by Council and who is independent of the Consent Holder.
<b>Infiltration</b>	Means ground or surface water entering the Wastewater System or a Private Drain connected to the Wastewater System through defects such as, but not limited to, poor joints and cracks in pipes or manholes. It does not include Inflow.
<b>Inflow</b>	Means water discharged into the Wastewater System or a Private

	Drain connected to the Wastewater System from non-complying connections. It includes Stormwater entering through illegal down pipe connections or from low gully traps.
<b>Management Plan</b>	Means a plan which shows how the Consent Holder will manage their operations and discharge to comply with their Consent. It may include provision for flow and quality monitoring, sampling and testing, Cleaner Production, waste minimisation, discharge, contingency management procedures, or any relevant industry Code of Practice.
<b>Mass Limit</b>	Means the total mass of any Characteristic that may be discharged to the Wastewater System over any stated period from any single Point of Discharge or collectively from several points of discharge.
<b>Maximum Concentration</b>	Means the instantaneous peak concentration that may be discharged at any instant in time.
<b>Occupier</b>	Means the Person occupying Premises connected to the Wastewater System.
<b>Permitted Trade Waste</b>	Means a Trade Waste discharge that complies with the physical and chemical Characteristics defined in Schedule IA of this bylaw.
<b>Person</b>	Includes a corporation sole and also a body of persons whether incorporated or unincorporated.
<b>Point of Discharge</b>	Is the boundary between the Wastewater System and a Private Drain but for the purposes of monitoring, sampling and testing, must be as designated in the Consent.
<b>Pre -Treatment</b>	Means any processing of Trade Waste designed to reduce or vary any Characteristic in a waste before discharge to the Wastewater System in order to comply with a Consent or this bylaw.
<b>Private Drain</b>	Means that section of drain between the Premises and the point of connection to the Wastewater System.
<b>Premises</b>	Means the physical location to which a Wastewater service is provided and includes: <ul style="list-style-type: none"> <li>a) A property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued;</li> <li>b) A building or part of a building that has been defined as an individual unit by a cross-lease, unit title or company lease;</li> <li>c) Land held in public ownership for a particular purpose; or</li> <li>d) Individual units in buildings, which are separately leased or separately occupied.</li> </ul> <p>Allotment means the same as defined in the Land Transfer Act 1952.</p>
<b>Prohibited Trade Waste</b>	Means a Trade Waste discharge that has any of the prohibited Characteristics as defined in Schedule IB of this bylaw.
<b>Stormwater</b>	Means surface water runoff that: <ul style="list-style-type: none"> <li>a) Enters or may enter the Stormwater system as a result of a rain event; and</li> <li>b) Contains any substance where the type and concentration of</li> </ul>



the substance is consistent with the contributing catchments land use(s) and that of the receiving environment.

<b>Tanker Waste</b>	Is water or other liquid, including waste matter in solution or suspension, which is conveyed by vehicle for disposal, excluding Domestic Wastewater discharged directly from house buses, caravans, buses and similar vehicles.
<b>Temporary Discharge</b>	Means any discharge of an intermittent or short duration. Such discharges include the short-term discharge of an unusual waste from Premises subject to an existing Consent.
<b>Trade Waste</b>	Is any liquid, with or without matter in suspension or solution, that is or may be discharged from a Premises to the Wastewater System in the course of any trade or industrial process or operation, or in the course of any activity or operation of a like nature; and may include Condensing or Cooling Waters; or Stormwater which cannot be practically separated.
<b>Trade Waste Agreement</b>	Is a written agreement between Council and a Person discharging Trade Waste, authorising the Person to discharge Conditional Trade Waste to the Wastewater System, that outlines both parties' rights and responsibilities.
<b>Wastewater</b>	Means water or other liquid waste, including sewage and waste matter in solution or suspension, discharged to the Wastewater System. This includes Domestic Wastewater and Trade Wastes.
<b>Wastewater System</b>	Includes all infrastructure, including pipes, fittings, manholes, pumps, pump stations; and any land, buildings, and treatment works which are under the control of the Council and used for the purpose of providing a Wastewater service.
<b>Wastewater Treatment Plant</b>	Means the processes and facilities involved in treating Wastewater.
<b>Waters Manager</b>	Means the Waters Manager employed by Council, and if that role has been disestablished, means the appropriate equivalent Council officer, or if there is no such equivalent position, means the Council officer authorised by Council to act in that position for the purposes of this bylaw.
<b>Working Day</b>	Means any day of the week other than: <ul style="list-style-type: none"> <li>a) A Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Labour Day, and</li> <li>b) A day in the period commencing with the 25th day of December in a year and ending with the 2nd day of January in the following year.</li> </ul>

## 7.0 Wastewater

### 7.1 Connecting to the Wastewater System

- a) No Person may, without Council's Approval
  - i. Connect to the Wastewater System;
  - ii. Disconnect from the Wastewater System;
  - iii. Carry out any other works on, or in relation to, the Wastewater System; or
  - iv. Open any manhole, chamber, Access Point on, or otherwise tamper with the Wastewater System.
- b) Any Person wishing to connect to or disconnect from the Wastewater System, or to otherwise carry out works on such a system, must make a written application for Approval to Council, and must provide with that application all information relating to the application as is specified by Council.
- c) Council may grant Approval to such connection, Disconnection or other works, as the case may be, and may impose conditions which must be complied with in the exercise of the Approval.
- d) Without limiting subclause (c), a condition imposed under that subclause may require that the connection, Disconnection or works comply with any relevant code of practice.
- e) Council may refuse an application for Approval to connect to a system where:
  - i. The applicant has not paid fees or charges associated with the connection (including development charges) that have been required by Council or has refused to provide such information relating to the application as has been specified by Council;
  - ii. In Council's reasonable opinion, there is insufficient capacity in the system to accommodate the connection;
  - iii. In Council's reasonable opinion, the connection would compromise its ability to maintain levels of service in relation to the Wastewater System;
  - iv. The connection is outside the area currently served by the Wastewater System, regardless of its proximity to any specific component of the Wastewater System; or
  - v. In Council's reasonable opinion, refusal is necessary to protect the Wastewater System, the health and safety of any Person, or the environment.

### 7.2 Control of Discharges

- a) A Person must not discharge, or allow to be discharged any Wastewater into the Wastewater System except in accordance with this bylaw and in accordance with the provisions of a Consent or Trade Waste Agreement.
- b) No Person may introduce or discharge or allow to be introduced or discharged Wastewater that has any of the prohibited Characteristics set out in Schedule 1B into the Wastewater System.
- c) No Person may cause or allow Stormwater to enter the Wastewater System unless specific Approval is given.
- d) No Person may introduce or discharge Condensing water, Cooling water, disinfected or super-chlorinated water into the Wastewater System unless specific Approval is given.

*NOTE: (this note does not form part of the bylaw) condensing, cooling, disinfected or super-chlorinated water must not be discharged to the Stormwater system without specific Approval.*

- e) When any Person fails to comply with clauses 7.2 (a) – (d), and a reasonable alternative method cannot be agreed with the discharging party, the Council may physically prevent discharge into the Wastewater System.
- f) Domestic Wastewater must comply with the physical and chemical Characteristics in Schedule 1A.
- g) The maximum instantaneous flow rate discharged from any Premises solely used for residential purposes must not exceed 2.0 litres/second.

### 7.3 Hazardous Materials

- a) A Person must take all practicable steps to store, handle, transport and use Hazardous Materials in a way that prevents Wastewater with prohibited Characteristics as described in Schedule 1B entering the Wastewater System.
- b) Any Person who knows of the entry or imminent entry of Wastewater with prohibited Characteristics as set out in Schedule 1B to the Wastewater System must inform an Authorised Officer or Council as soon as reasonably practicable.
- c) Any Person who causes or allows the discharge of Wastewater with prohibited Characteristics as set out in Schedule 1B to the Wastewater System must:
  - i. Immediately take all practicable steps to stop the imminent entry or further entry of any Wastewater with prohibited Characteristics to the Wastewater System; and
  - ii. Inform an Authorised Officer or Council as soon as reasonably practicable.

### 7.4 Protection of Wastewater System

- a) No Person may cause or allow to be caused any damage to, or modification, stoppage, or obstruction of, or interference with the Wastewater System, except as Approved by Council.
- b) Every Person excavating or working around the Wastewater System must take due care to ensure that the excavation or work is carried out in a manner that does not damage and/or compromise the integrity of the Wastewater System.
- c) Any Person who knows of any serious or substantial damage to the Wastewater System must inform an Authorised Officer or Council as soon as reasonably practicable.
- d) Any person who causes or allows any damage to the Wastewater System must inform an Authorised Officer or Council as soon as reasonably practicable.
- e) No Person may place any additional material over or near a Wastewater System without Approval.
- f) No Person may cover an Access Point without Approval. Regardless of who covered an Access Point, removal of any covering material or adjustment of the Access Point will be at the property owner's expense.

### 7.5 Private Drains

- a) Council may require an owner to fix or upgrade Private Drains, at the owner's cost, to meet original design specifications.
- b) Owners of Premises must ensure that all Private Drains on the Premises are kept and maintained in a state which is free of cracks and other defects that may allow Infiltration.

- c) Occupiers and Owners of Premises must ensure that Stormwater is excluded from the Wastewater System and any Private Drain by ensuring that:
  - i. There is no direct connection of any Stormwater pipe or drain to the Wastewater System;
  - ii. Gully trap surrounds are set above Stormwater ponding levels (refer New Zealand Building Code G13), or secondary overland flow path flood levels;
  - iii. Inspection covers are in place and are appropriately sealed.
- d) An Occupier or owner whose Private Drain is overflowing or has other reasons to suspect a blockage, must immediately call a drainlayer to clear and remove any blockage in the Private Drain, at the Occupier or Owner's expense. If the drainlayer considers that the blockage originates within the Wastewater System, then the drainlayer must contact Council.
- e) Council will reimburse the owner of the Private Drain for the reasonable cost of unblocking work for which the owner has paid, provided that Council is satisfied that:
  - i. The blockage originated in the Wastewater System;
  - ii. The blockage was not forced downstream into the Wastewater System in the act of clearing the Private Drain; and
  - iii. The owner or occupier of the Premises has not caused or permitted a discharge which does not comply with this bylaw, a Consent or a Trade Waste Agreement.
- f) Where the roots of a tree which is on private land enter or are likely to enter the Wastewater System, Council will follow the procedure set out in s 468 of the Local Government Act 1974.
- g) A Person with a pressure Wastewater System, or any other system that is connected to the Wastewater System, must use that system in accordance with any operating manual or guidelines for that system.

## 8.0 Trade Waste Discharges and Consents

### 8.1 Classification of Discharges

- a) Trade Waste discharges are classified as one of the following types:
  - i. Permitted Trade Waste, (in which case an Approval Notice must be obtained);
  - ii. Conditional Trade Waste, (in which case a Conditional Consent must be obtained or a Trade Waste Agreement be entered into); or
  - iii. Prohibited Trade Waste, (in which case no Consent will be granted and no Trade Waste Agreement will be entered into).
- b) No Person may discharge or cause to be discharged Trade Waste into the Wastewater System except in accordance with a Consent or a Trade Waste Agreement.
- c) Council is not obliged to accept any Trade Waste.
- d) Council may, at any time and at its complete discretion, enter into a Trade Waste Agreement for the discharge and reception of Trade Wastes with an Occupier. Any such agreement may be made in addition to or in place of a Consent and the Trade Waste Agreement and its terms will have the same force as if the agreement was a Consent issued under this bylaw.
- e) Circumstances where a Trade Waste Agreement may be appropriate include, but are not limited to, where, in the reasonable opinion of Council, the discharge is considered to have:

- i. Unique discharge Characteristics;
- ii. A volume or loading of any Characteristic that may affect the operation of the Wastewater System or Treatment Plant;
- iii. Potential discharge of hazardous or prohibited substances;
- iv. Pre-Treatment systems;
- v. The requirement for capacity to be reserved at the Wastewater Treatment Plant; and/or
- vi. A history of non-compliance with a Consent or Trade Waste Agreement.

## 8.2 Application for a Consent or Variation

- a) Every Person who does, proposes to, or is likely to:
  - i. Discharge into the Wastewater System any Trade Waste either continuously, intermittently or temporarily;
  - ii. Vary the Characteristics of a Permitted Trade Waste discharge in a manner which may cause it to fail to meet the standards for a Permitted Trade Waste;
  - iii. Vary the conditions of a Consent that has previously been granted; or
  - iv. Significantly change the method or means of Pre-Treatment for a discharge; must apply to Council, using the prescribed form, for a Consent for the discharge of that Trade Waste, or for consent to the proposed variations.
- b) Council reserves the right to deal with the owner as well as the Occupier of any Premises.
- c) Where the Premises produces Trade Waste from more than one area of the Premises, a separate description of the Trade Waste Characteristics must be included in any application for Trade Waste discharge for each area. This applies whether or not the separate areas are part of a single or separate trade process.
- d) The application and every document conveying required information must contain all the required information, be properly executed and accompanied by the application fee.
- e) The applicant is responsible for the correctness of the content of the application and any annexure thereto, adherence to the prescribed application process and compliance with all the requirements to obtain the Consent, Trade Waste Agreement or variation.
- f) Every act or omission done for, or on behalf of, the eventual Consent Holder (whether for reward or not) in making any such application is deemed to be an act of the Consent Holder.
- g) Council may require an application to be supported by a report or statement from an Independently Qualified Person, to verify information supplied by the applicant. All costs incurred must be paid by the applicant.

## 8.3 Processing an Application

- a) On receipt of an application, Council may:
  - i. Require the applicant to submit additional information which Council considers necessary to reach an informed decision;
  - ii. Require the applicant to submit a satisfactory Management Plan to Council's satisfaction; and/or
  - iii. Wherever appropriate, have the discharge investigated and analysed as provided for at clauses 8.8 and 8.10 of this bylaw at the applicant's cost.
- b) Council will then:
  - i. Issue an Approval Notice and inform the Consent Holder of the conditions imposed;

- ii. Grant a Conditional Consent and inform the Consent Holder of the conditions imposed;
  - iii. Advise the applicant that Council is willing to enter into a Trade Waste Agreement on terms acceptable to Council; or
  - iv. Decline the application and notify the applicant of the decision, giving a statement of the reasons for refusal.
- c) In considering any application for a Consent, Trade Waste Agreement or variation, Council must consider the Characteristics, volume, and rate of discharge of the Trade Waste from such Premises or tanker and any other matter that it considers, on reasonable grounds, to be relevant, which may include:
- i. The health and safety of Council staff, Council's agents and the public;
  - ii. The limits and/or maximum values for Characteristics of Trade Waste as specified in Schedules IA and IB of this Bylaw;
  - iii. The extent to which the Trade Waste may react with other Trade Waste or Wastewater to produce an undesirable effect, e.g. settlement of solids, production of odours, accelerated corrosion and deterioration of the Wastewater System, etc;
  - iv. The flows and velocities in the Wastewater System and the material or construction of the Wastewater System;
  - v. The capacity of the Wastewater System including the capacity of any Wastewater Treatment Plant, and other facilities;
  - vi. The nature of any wastewater treatment process and the degree to which the Trade Waste is capable of being treated in the Wastewater Treatment Plant;
  - vii. The timing and balancing of flows into the Wastewater System;
  - viii. Any statutory requirements relating to the discharge of raw or treated Wastewater to receiving waters, the disposal of Wastewater sludges, beneficial use of Biosolids, and any discharge to air (including the necessity for compliance with any resource consent, discharge permit or water classification);
  - ix. The possibility of unscheduled, unexpected or accidental events and the degree of risk these could pose to humans, the Wastewater System or the environment;
  - x. Consideration of other existing or future discharges;
  - xi. Existing Pre-Treatment works on the Premises;
  - xii. The use of Cleaner Production techniques and waste minimisation practices;
  - xiii. Control of Stormwater;
  - xiv. Any Management Plan;
  - xv. Tankered Waste being discharged at an Approved location/s; and
  - xvi. Whether it would be more appropriate for the discharge to be controlled pursuant to a Trade Waste Agreement.

#### 8.4 Conditions of Consent

- a) Any Consent may be granted subject to such conditions that Council may impose, including, but not limited to:
  - i. The particular location or locations to which the discharge will be made;
  - ii. The maximum daily volume of the discharge and the maximum rate of discharge, and the duration of maximum discharge;
  - iii. The maximum limit or permissible range of any specified Characteristics of the discharge, including concentrations and/or Mass Limits determined in accordance with clause 8.4 (b) of this bylaw;
  - iv. The period or periods of the day during which the discharge, or a particular concentration, or volume of discharge may be made;



- v. The provision by, or for the Consent Holder, at the Consent Holder's expense, of screens, Grease Traps, silt traps or other Pre-Treatment works to control Trade Waste discharge Characteristics to the consented levels;
  - vi. The provision and maintenance, at the Consent Holder's expense, of inspection chambers, manholes or other apparatus or devices to provide reasonable access to drains for sampling and inspection;
  - vii. The provision and maintenance of a sampling, analysis and testing programme and flow measurement, at the Consent Holder's expense;
  - viii. The method or methods to be used for measuring flow rates and/or volume and/or Characteristics and taking samples of the discharge for use in determining compliance with the consent and for determining the amount of any Trade Waste charges applicable to that discharge;
  - ix. The provision and maintenance by, and at the expense of, the Consent Holder of such meters or devices as may be required to measure the volume or flow rate or Characteristics of any Trade Waste being discharged from the Premises, and for the calibration and/or validation of such meters and devices;
  - x. The provision and maintenance, at the Consent Holder's expense, of such services, (whether electricity, water or compressed air or otherwise), which may be required, in order to operate meters and similar devices;
  - xi. At times specified, the provision in an Approved format of all flow and/or volume records, on-line monitoring readings, results of analyses (including Pre-Treatment by-products, e.g. Wastewater sludge disposal) and calibration/validation records;
  - xii. The provision and implementation of a Management Plan;
  - xiii. Risk assessment of damage to the environment due to an accidental discharge of a chemical;
  - xiv. The investigation of waste minimisation and Cleaner Production techniques;
  - xv. Remote monitoring or control of discharges and associated control, telemetry or SCADA systems;
  - xvi. Third party treatment, carriage, discharge or disposal of by-products of Pre-Treatment of Trade Waste (including Wastewater sludge disposal);
  - xvii. The provision of a bond or insurance in favour of Council where failure to comply with the consent could result in damage to the Wastewater System, the Wastewater Treatment Plants, or could result in Council being in breach of any statutory obligation or resource consent;
  - xviii. Specific discharge related capital costs Council would incur for altering the Wastewater System and or Wastewater Treatment Plant in order to accommodate the discharge; and
  - xix. Specific discharge related operational costs Council would incur for operating the Wastewater System and or Wastewater Treatment Plant in order to accommodate the discharge.
- b) A Conditional Consent may impose controls on a Trade Waste discharge by specifying Mass Limits for any Characteristic. Any Characteristic permitted by Mass Limit must also have its maximum concentration limited to the value scheduled unless Approved otherwise. When setting Mass Limit allocations for a particular Characteristic, Council may consider:
- i. The operational requirements of and risk to the Wastewater System, and risks to occupational health and safety, public health, and the ultimate receiving environment;
  - ii. Whether or not the levels proposed pose a threat to the planned or actual beneficial reuse of Biosolids or Wastewater sludge;
  - iii. Conditions in the Wastewater System near the Trade Waste discharge point and elsewhere in the Wastewater System;

- iv. The extent to which the available industrial capacity was used in the last financial period and is expected to be used in the forthcoming period;
- v. Whether or not the applicant uses waste minimisation and Cleaner Production techniques within a period satisfactory to Council;
- vi. Whether or not there is any net benefit to be gained by the increase of one Characteristic concurrently with the decrease of another;
- vii. Any requirements of Council to reduce the discharge of any Characteristic to the Wastewater System;
- viii. How great a proportion the mass flow of a Characteristic of the discharge will be of the total mass flow of that Characteristic in the Wastewater System;
- ix. The total mass of the Characteristic allowable in the Wastewater System, and the proportion (if any) to be reserved for future allocations; and
- x. Whether or not there is an interaction with other Characteristics that increases or decreases the effect of either Characteristic on the Wastewater System, treatment process, or receiving water (or land).

## 8.5 Duration and Review

- a) Conditional Consents granted under this bylaw expire at the end of a term not exceeding 5 years. Shorter terms may be applied where, in the reasonable opinion of Council:
  - i. The applicant has a history of non-compliance with a Consent or Trade Waste Agreement;
  - ii. The flow or Characteristics of the discharge are uncertain; or
  - iii. The flow or Characteristics of the discharge may change over time.
- b) Approval Notices remain valid until:
  - i. Cancellation under clause 8.12;
  - ii. The discharge fails to comply with the physical and chemical characteristics defined in Schedule IA of this Bylaw (including any amendments to Schedule IA); or
  - iii. In the reasonable opinion of Council, the discharge changes or is likely to change to such an extent that it becomes a Conditional or Prohibited Trade Waste.
- c) Council may at any time during the term of a Consent, by written notice to the Consent Holder (following a reasonable period of consultation), vary any condition to such an extent as Council considers necessary following a review of the technical issues considered when setting conditions of Consent, or to meet any new Resource Consent imposed on the discharge from Council's Wastewater Treatment Plant, or with any other legal requirements imposed on Council.
- d) A Consent Holder may at any time during the term of a Consent, by written application to Council, seek to vary any condition of Consent, as provided for in clause 8.2 (a) of this Bylaw.

## 8.6 Accidents and Spills

- a) A Person who discharges Trade Waste must inform the Council immediately upon becoming aware of:
  - i. An accident;
  - ii. Spillage;
  - iii. A defect in the process discharging Trade Waste; or
  - iv. A risk to the health and safety of the public or the environment; that may cause a breach of this bylaw.



- b) A Person who reports an accident, spillage or defect as provided for in clause 8.6 (a) or the Consent Holder for a Premises must disclose any information that may contribute to:
  - i. The restoration of the integrity of the Wastewater System,
  - ii. The cleaning of any spillage; or
  - iii. The determination of the risks associated with the Trade Waste.
- c) In the event of any accident, spillage or defect referred to in clause 8.6 (a) from Premises where a Consent Holder has a Conditional Consent, Council may:
  - i. Review the Consent under clause 8.5; or
  - ii. Require the Consent Holder to review the contingency management procedures and resubmit the Management Plan to the Council for its Approval.
- d) In the event of any accident, spillage or defect referred to in clause 8.6 (a) from Premises where a Consent Holder has an Approval Notice, Council may require the Consent Holder to apply for a Conditional Consent.

### 8.7 Pre-treatment Requirements

- a) Council may approve a Trade Waste discharge subject to the provision of appropriate Pre-Treatment systems to enable the Consent Holder to comply with this bylaw. Such Pre-Treatment systems must be provided, operated and maintained by the Person discharging, at their expense. Typical Pre-Treatment requirements are provided for common Trade Waste Premises in Schedule 2.
- b) Refuse or garbage grinders and macerators must not be used to dispose of solid waste from Trade Waste Premises to the Wastewater System unless Approved by Council.
- c) Grease Traps must:
  - i. Have a functional capacity of no less than 500 litres;
  - ii. Be sized according to the greatest volume as specified in Table I contained in Schedule 2;
  - iii. Be cleaned out at least once every 6 months or more frequently as specified in Consent conditions. The frequency with which Grease Traps are required to be cleaned out may be determined through a visual inspection and/or sample testing from the device outlet by Council.
- d) Shared Grease Traps, such as those operated by a body corporate or food court, must be sized appropriate to the total inputs. This must be no less than a functional capacity of 500 litres for each connected Premises.
- e) A Consent Holder whose Premises has existing Grease Traps with a functional capacity of less than 500 litres must apply for a Conditional Consent unless they can demonstrate compliance with the physical and chemical characteristics set out in Schedule IA to Council's satisfaction.
- f) Alternative Grease Removal Systems must be:
  - i. Operated in accordance with the manufacturer's instructions;
  - ii. Serviced and/or cleaned out by a contractor Approved by Council as specified in Consent conditions;
  - iii. Sized according to manufacturer's recommendation; and
  - iv. May only be used with Council's Approval.
- g) The frequency with which Alternative Grease Removal Systems are required to be serviced and/or cleaned out in accordance with sub-clause 8.7 (f) may vary. This will

be determined by Council after a visual inspection and/or sample testing from the device outlet.

- h) Alternative Grease Removal Systems which do not meet the requirements contained in this bylaw must be replaced at the Consent Holder's expense.

## 8.8 Flow Metering

- a) Where flow and/or volume metering of any Trade Waste discharge is required as a condition of a Consent the Consent Holder is responsible, at their own expense, for the supply, installation, reading and maintenance of any meter required by Council for the measurement of the rate or quantity of discharge of Trade Waste. These devices are subject to the Approval of Council, but remain the property of the Consent Holder.
- b) Records of flow and/or volume must be available for viewing at any time by the Council, and must be submitted to Council at prescribed intervals by the Consent Holder in a format Approved by Council.
- c) Meters must be located in a position Approved by Council that provides the required degree of accuracy and should be readily accessible for reading and maintenance. The meters must be located in the correct position according to the manufacturer's installation instructions.
- d) The Consent Holder must arrange for in situ calibration and verification of the flow metering equipment and instrumentation by an Independent Qualified Person and method Approved by Council upon installation, and at least once a year thereafter to ensure its performance. The meter accuracy should be  $\pm 10\%$ , but with no greater a deviation from the previous meter calibration than  $\pm 5\%$ . A copy of the independent certification of each calibration and verification must be submitted to Council.
- e) Should any meter, after being calibrated or verified, be found to have an error greater than that specified in clause 8.8 (d) of this bylaw, as a repeatable measurement, Council may make an adjustment in accordance with the results shown by such tests, back-dated for a period at the discretion of Council, but not exceeding 12 months. The Consent Holder must pay or be credited a greater or lesser amount according to such adjustment.
- f) Where in the reasonable opinion of Council, a meter has been tampered with, Council (without prejudice to the other remedies available) may declare the reading void and estimate discharge as provided in clause 8.9(a) of this bylaw.
- g) Measurement of flow and/or volume must be carried out by or on behalf of the Consent Holder in accordance with British Standard (BS)3680: Part 11A, BS 3680: Part 11B and BS 5728: Part 3, or another Council Approved methodology.

## 8.9 Estimating Discharge

- a) Where no flow meter or similar device is required or where no flow or sample results have been supplied by the Consent Holder, Council may estimate the discharge of Trade Waste for charging purposes based on:
  - i. The volume of water supplied to the Premises, taking into account the proportion of that volume which is estimated to be discharged to the Wastewater System;
  - ii. The flow or characteristics of the discharge measured by the Consent Holder at a previous time during similar operating conditions; and/or
  - iii. The flow or characteristics measured by Council during the most recent audit sample.

### 8.10 **Sampling, Testing and Monitoring**

- a) Council may undertake sampling, testing, monitoring and audit inspections to determine if:
  - i. A discharge complies with the provisions of this bylaw;
  - ii. A discharge is to be classified as Permitted, Conditional, or Prohibited (refer to clause 8.1 of this bylaw);
  - iii. A discharge complies with any condition of a Consent or Trade Waste Agreement including a Management Plan; and
  - iv. Trade Waste Consent charges are applicable to that discharge.
- b) Where monitoring of any Trade Waste discharge is required as a condition of a Consent to ensure compliance with other conditions of the Consent:
  - i. The Consent Holder must monitor the discharge of Trade Waste; and
  - ii. Council may independently monitor the discharge of Trade Waste.
- c) The Consent Holder is responsible for all costs of monitoring, sampling and testing.
- d) The taking, preservation, transportation and analysis of the samples must be undertaken by an Authorised Officer or agent of Council, or the Consent Holder in accordance with accepted industry standard methods or another methodology Approved by Council.
- e) Any sample analysis must use methods or procedures in accordance with, or validated against, the latest version of the AWWA Standard methods for the examination of Water and Wastewater” or by such alternative method or procedure Approved by Council. Analysis must be undertaken by a laboratory accredited by IANZ, or a laboratory Approved by Council.
- f) The Consent Holder must provide to Council or an Authorised Officer the results of any sampling, analysis, flow measurements or other monitoring requirements such as Pre-Treatment system maintenance, within one Working Day of any request by Council.
- g) In the case of non-compliance with the conditions of a Consent or a Trade Waste Agreement or where an anomalous result is obtained, the Consent Holder must report the results of the analysis to Council as soon as practicable and in all cases within one Working Day.

### 8.11 **Review of Decisions**

- a) If any Person is dissatisfied with any decision by an Authorised Officer made under this bylaw, that Person may, by notice delivered to the Waters Manager of Council, not later than 20 Working Days after the decision by the Authorised Officer is served upon that Person, request that the Waters Manager review any such decision. The Waters Manager’s decision is final.
- b) Nothing in this clause affects any right of appeal under the Local Government Act 2002.

### 8.12 **Transfer or Termination**

- a) A Trade Waste Consent must be issued in the name of the given Consent Holder. The Consent Holder must not, without Council Approval:
  - i. Transfer to any other party the rights and responsibilities provided for under this bylaw, and under the Consent;
  - ii. Allow a Point of Discharge to serve another Premises, or the Private Drain to that point to extend by pipe, or any other means, to serve another Premises; or

- iii. In particular and not in limitation of the above, allow Wastewater from any other party to be discharged at their Point of Discharge.
- b) Council may suspend or cancel any Consent at any time following not less than 20 Working Days (during which consultation has occurred) notice to the Consent Holder or Person discharging any Trade Waste:
- i. For the failure to comply with any condition of the Consent or to maintain effective control over the discharge;
  - ii. For the failure to comply with the requirements of this bylaw or a Consent in respect of the volume, nature or composition of Trade Waste being discharged;
  - iii. In the event of any negligence which, in the opinion of Council, threatens the safety of, or threatens to cause damage to any part of the Wastewater System or the Wastewater Treatment Plant, or threatens the health or safety of any Person or poses a serious threat to the environment;
  - iv. In the event of any breach of a Resource Consent held by Council issued under the Resource Management Act caused in whole or in part by the Trade Waste discharge;
  - v. Failure to provide and when appropriate update a Management Plan as required for a Conditional Consent;
  - vi. Failure to follow the Management Plan provisions;
  - vii. Failure to pay any Trade Waste charges;
  - viii. If new information becomes available on the nature or Characteristics of the Trade Waste discharge; or
  - ix. If any other circumstances arise which, in the opinion of Council, render it necessary in the public interest to cancel the right to discharge.
- c) Further to clause 8.12 (b) of this bylaw, any Consent may at any time be summarily suspended or cancelled by Council, on giving to the Consent Holder, written notice, if:
- i. They discharge any Wastewater with prohibited Characteristics as set out in Schedule 1B;
  - ii. Council is lawfully directed to withdraw or otherwise to terminate the Consent summarily;
  - iii. The discharge of Trade Waste is unlawful;
  - iv. If the continuance of the discharge is, in the opinion of Council, a threat to the environment or public health;
  - v. In the opinion of Council, the continuance of the discharge puts at risk the ability of Council to comply with the conditions of a Resource Consent and/or requires identified additional treatment measures or costs to avoid a breach of any such Resource Consent.
- d) Council may require a Consent Holder, at their expense, to disconnect the Premises from the Wastewater System where:
- i. The Consent has expired;
  - ii. Council suspends or cancels a Consent;
  - iii. The Consent Holder breaches clauses 7.2 (a) to (d).
- e) If the Consent Holder fails to comply with any such requirement, Council may at its discretion, and at the Consent Holder's expense, access the Premises in accordance with section 171 of the Local Government Act 2002 and clause 10.1 of this bylaw in order to disconnect it from the Wastewater System and carry out such works as it considers necessary to prevent the further discharge of Trade Waste into the Wastewater System.

### 8.13 Transitional provisions

- a) Any application for a Consent made under Council's Trade Waste Bylaw 2006, for which a Consent has not been granted at the time of this new bylaw coming into force, is deemed to be an application made under clause 8.2 of this bylaw.
- b) Every existing Consent continues in force as if it were a Consent under this bylaw until it reaches its expiry date, provided that no Consent runs beyond 31 August 2021.
- c) Subject to clause 8.13 (d) of this bylaw, every duly executed Trade Waste Agreement for the discharge and reception of Trade Waste between an Occupier and Council existing at the date this bylaw comes into force continues in force on the same terms and conditions as if the Trade Waste Agreement was a Trade Waste Agreement issued under this bylaw.
- d) Where an existing Trade Waste Agreement is silent as to its term, that agreement will be terminable on six months' written notice by Council and the Occupier shall thereafter be required to apply for a Consent or Trade Waste Agreement in accordance with this bylaw.
- e) A Person who proposes to continue a discharge of Permitted Trade Waste who does not have an Approval Notice must apply for an Approval Notice within twelve weeks of this bylaw coming into force. If Council declines the application for an Approval Notice, the Person must cease discharging Permitted Trade Waste immediately upon receipt of notice of Council's decision.

## 9.0 Tankered Waste

- 9.1 Any Person wishing to discharge Tankered Waste into the Wastewater System must hold a Consent under this bylaw.
- 9.2 Council may accept Tankered Waste for discharge at an Approved location.
- 9.3 Consent Holders must supply the following information to Council before discharging Tankered Waste to the Wastewater System:
  - a) A description of the type of waste;
  - b) The source of waste and location;
  - c) The date and time of collection;
  - d) The volume of waste collected;
  - e) The tracking Identification number and vehicle registration number; and
  - f) A representative sample of the tanker load.
- 9.4 Tankered Waste will only be accepted during working hours on Working Days, or as advised by Council.
- 9.5 Tankered Waste is not to be collected and transported to the disposal site until appropriate arrangements, documentation and method for disposal have been Approved by Council.
- 9.6 To prevent cross-contamination between tanker loads, the tanker must be washed prior to collecting a load for disposal into the Wastewater System.
- 9.7 A Consent Holder must give Council 24 hours' notice of a proposed discharge of Tankered Waste.
- 9.8 Council may require analysis of Tankered Waste to confirm its Characteristics.

- 9.9 Council may require the Consent Holder to obtain specialist advice on Pre-Treatment or acceptance.
- 9.10 The cost of all sampling, analysis and advice must be met by the Consent Holder.
- 9.11 The Consent Holder must ensure that Tankered Waste is treated in accordance with the conditions of the Consent before disposal.

## 10.0 Access

- 10.1 In accordance with section 171 of the Local Government Act 2002, an Authorised Officer may enter and inspect any land or building (other than a dwelling house) for routine inspection or monitoring or for post breach monitoring. The Authorised Officer must give at least 24 hours notice of the intended entry.
- 10.2 In accordance with section 172 of the Local Government Act 2002, an Authorised Officer may enter and inspect any land for the purpose of detecting a breach of this bylaw if the Authorised Officer has reasonable grounds for suspecting that a breach has occurred or is occurring on the land. The Authorised Officer must give reasonable notice unless the giving of notice would defeat the purpose of entry. To use this power to enter a dwelling house, the Authorised Officer must comply with section 172(3) of the Local Government Act 2002.
- 10.3 In accordance with section 173 of the Local Government Act 2002, in the event of a sudden emergency causing or likely to cause damage to property or the environment or where there is danger to any works or adjoining property, an Authorised Officer may enter occupied land or buildings. Notice is not required.

## 11.0 Fees and Charges

- 11.1 In accordance with sections 150 and 151 of the Local Government Act 2002, Council may from time to time, by resolution using the procedures required by the Act, fix administrative charges payable by Consent Holders and applicants for the purposes of administering this bylaw, administering Consent applications and Consents granted under this bylaw and the charges for the receiving, treatment and disposal of Trade Waste by or on behalf of Council.

## 12.0 Breaches

- 12.1 It is a breach of this bylaw to:
- a) Fail to comply with any requirement of this bylaw;
  - b) Fail to comply with any Defect Notice issued by an Authorised Officer pursuant to this bylaw;
  - c) Obstruct an Authorised Officer in the performance of their function under this bylaw.
- 12.2 Any Consent Holder who incorrectly informs Council of the Characteristics or volume of Tankered Waste, or who discharges Tankered Waste other than in the prescribed location and in accordance with the Consent will be in breach of this bylaw.
- 12.3 Council may physically prevent discharge to the Wastewater System in the case of a non-compliance with this bylaw, a Consent or a Trade Waste Agreement.
- 12.4 An Authorised Officer may report breaches or imminent breaches to Waikato Regional Council and the Environment Protection Authority for further enforcement.

- 12.5 A Person is not in breach of this bylaw if that Person proves that the act or omission complained of was necessary to:
- a) Save or protect life or health or prevent injury; or
  - b) Comply with Council's obligations under the Health Act 1956 and any subsequent amendments; or
  - c) Prevent serious damage to property; or
  - d) Avoid actual or likely damage to the environment.

provided the conduct of the Person was reasonable in the circumstances and the effects of the act or omission were adequately remedied or mitigated by the Person after the breach occurred.

### **13.0 Remedial Works and Cost Recovery**

- 13.1 In accordance with section 186 of the Local Government Act 2002, if an Authorised Officer serves a notice on the owner or Occupier requiring works to be carried out or materials to be provided in connection with the Premises in order to comply with the requirements of this bylaw, a Consent, or Trade Waste Agreement, Council or an Authorised Officer may carry out the work or provide the materials where the owner or Occupier fails to comply with the notice, either:
- a) Within the time specified in the notice; or
  - b) Within 24 hours if the notice certifies that the work is urgent; or
  - c) If the owner or Occupier fails to proceed with the work with all reasonable speed.
- 13.2 In accordance with section 187 of the Local Government Act 2002, if an Authorised Officer serves a notice on any Person under this bylaw, and the Person fails to take the steps within the time specified, then Council or any Authorised Officer is authorised to take the steps set out in the notice. Council may recover the cost of doing the work, together with reasonable administrative and supervision charges.
- 13.3 In accordance with section 176 of the Local Government Act 2002, a Person who has been convicted of any offence against this bylaw is liable to pay to Council the costs of remedying any damage caused in the course of committing the offence. The costs must be assessed by a District Court Judge and are recoverable summarily as if they were a fine.
- 13.4 Costs recoverable under clause 13.3 are in addition to any other penalty for which the Person who committed the offence is liable.

### **14.0 Offences and Penalties**

- 14.1 A Person who breaches this bylaw and is convicted of an offence is liable to a penalty not exceeding \$200,000 pursuant to section 242 under the Local Government Act 2002.

### **15.0 General**

- 15.1 Any notice, order or other document which is required by this bylaw to be served or given or sent to any person shall be deemed to have been duly served given or sent if delivered to such person or left at his or her residence or workplace or posted to such person at his or her last known address.



- 15.2 Any resolution of the Council may be amended, rescinded or reinstated by a further resolution of the Council.

This bylaw was made pursuant to a resolution passed by the Waikato District Council on .....

THE COMMON SEAL of WAIKATO  
DISTRICT COUNCIL was hereto affixed in the presence of:

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Mayor

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Chief Executive



## Schedule IA - Permitted Wastewater

The following tables set out general requirements for a permitted Wastewater and Maximum Concentrations for common substances that may be contained in Wastewater discharged to the Wastewater System.

Conditional Consents and Trade Waste Agreements may contain lower or higher concentration limits and/or Mass Limits to control the total mass of a substance discharged.

**Table I - General Characteristics**

Parameter	Requirement	Commentary
Bio-chemical Oxygen Demand (BOD5)	1,000 g/m <sup>3</sup> .	High BOD can overload treatment plants.
Chemical Oxygen Demand (COD)	2,000 g/m <sup>3</sup> .	High COD can overload treatment plants.
Colour	No waste shall have colour or colouring substance that causes the discharge to be coloured to the extent that it impairs Wastewater treatment processes or Council is at risk of breaching resource consent conditions relating to discharge to the environment.	Some coloured substances can be difficult to remove in the treatment process.
Emulsions of paint, latex, adhesive, rubber, plastic or similar	Must not cause blockages or interfere with the operation of the Wastewater treatment system including treatment process.	Emulsions will coagulate when unstable and can sometimes cause blockages in the Wastewater System or interfere with the operation of the treatment process.
Flow	Maximum daily total flow 5m <sup>3</sup> . Instantaneous flowrate 2.0 L/s.	The total flow should be measured over any 24 hour period. Trade waste discharges with a daily flow greater than 5m <sup>3</sup> will require a Conditional Consent.
Gross solids (non-faecal)	15mm maximum dimension.	Gross solids can cause blockages in the Wastewater System.
Oil and Grease	200 g/m <sup>3</sup> . (100 g/m <sup>3</sup> for Pokeno and Tuakau). No free or floating layer.	Oils and greases can cause blockages in the Wastewater System, adversely affect the treatment process, and may impair the aesthetics of the receiving environment.
pH	6.0 to 10.0.	Low pH can cause corrosion of the Wastewater System, generate odours which could cause a public nuisance; release toxic H <sub>2</sub> S gas which could endanger workers.

<b>Parameter</b>	<b>Requirement</b>	<b>Commentary</b>
Radioactivity	Must not exceed the Office of Radiation Safety Code of Practice CSPI for the Use of Unsealed Radioactive Material.	
Settleable Solids	50 ml/L.	Can cause blockages and overload the treatment process.
Solvents or other organic liquids	No free or floating layer.	Some organic liquids are denser than water and will settle in pipes and traps.
Suspended Solids	2,000 g/m <sup>3</sup> .	Can cause blockages and overload the treatment process.
Transmissivity	When diluted at 10:1 with distilled water and tested at 254nm, the result must have a transmissivity of 50% or more, equivalent to an absorbance of 0.3010 or less.	Poor transmissivity reduces the effectiveness of the UV light disinfection at treatment plants.
Temperature	40 °C.	High temperatures cause increased damage to structures, increase the potential for anaerobic conditions to form in the Wastewater, promote the release of toxic gases and can endanger workers. Conditional Consents may have a lower temperature limit.
Inhibitory Substances	Should any Characteristic of a discharge be found to inhibit the performance of the Wastewater treatment process, such that Council is at risk of breaching resource consent conditions, Council may limit the concentration of any inhibitory substance.	

**Table 2 - Chemical Characteristics**

<b>Parameter</b>	<b>Limit g/m<sup>3</sup></b>	<b>Commentary</b>
Ammonia (as N)	50	May endanger workers; significantly contribute to the nutrient loading on the receiving environment.
Ammonium salts	200	May endanger workers; significantly contribute to the nutrient loading on the receiving environment.
Anionic Surfactants as methylene blue active substance (MBAS)	300	High MBAS can adversely affect the efficiency of activated sludge plants, cause foaming and impair the aesthetics of the receiving waters.
Boron	25	Boron is not removed by conventional Wastewater treatment.
Bromine as Br <sub>2</sub>	5	High concentrations could affect the health and safety of workers.
Chlorine (Cl <sub>2</sub> free chlorine)	3	Can endanger workers, cause corrosion of the Wastewater collection system.
Cyanide as CN <sup>-</sup>	1	Can produce toxic atmospheres and endanger workers.
Dissolved aluminium	100	Aluminium compounds, particularly in the presence of calcium salts, have the potential to precipitate as a scale, which may cause a blockage.
Dissolved iron	100	Iron salts may precipitate and cause a blockage. High concentrations of ferric iron may also present colour problems depending on local conditions.
Fluoride as F	30	Not removed by conventional Wastewater treatment.
Hypochlorite	30	Can endanger workers, cause corrosion of the Wastewater collection system.
Kjeldahl nitrogen	150	May significantly contribute to the nutrient load discharged to the receiving environment.
Sulphate (measured as SO <sub>4</sub> )	500. (200 for Pokeno and Tuakau).	May adversely affect Wastewater System, may increase the potential for the generation of sulphides.
Sulphite (measured as SO <sub>2</sub> )	15	Can endanger workers, cause corrosion of the Wastewater collection system.
Sulphide (as H <sub>2</sub> S on acidification)	5	May cause corrosion of Wastewater System, particularly the non-wetted part of the Wastewater pipes; generate odours which could cause a public nuisance; release toxic H <sub>2</sub> S gas which could endanger workers.
Total Phosphorus as P	50	May significantly contribute to the nutrient load discharged to the receiving environment.

**Table 3 - Heavy Metals**

Heavy metals can inhibit Wastewater treatment process and restrict the reuse of Biosolids. Mass Limits may be imposed – refer to clause 8.4 (b) of this bylaw.

<b>Parameter</b>	<b>Limit g/m<sup>3</sup></b>
Antimony	5
Arsenic	5
Barium	5
Beryllium	0.005
Cadmium	0.5
Chromium (Total)	5
Cobalt	5
Copper	5
Lead	5
Manganese	5
Mercury	0.005
Molybdenum	5
Nickel	5
Selenium	5
Silver	2
Thallium	5
Tin	5
Zinc	5

**Table 4 - Organic Compounds**

Organic compounds can endanger sewer workers and treatment processes.

<b>Parameter</b>	<b>Limit g/m<sup>3</sup></b>
Acetone	100
Benzene	1
Butanone	100
Chlorinated phenols	0.02
Ethylbenzene	5
Ethylene Glycol	50
Formaldehyde	30
Halogenated aliphatic compounds	1
Halogenated aromatic hydrocarbons (HAH's)	0.002
Organophosphate pesticides	0.1
Pesticides ( includes insecticides, herbicides, fungicides and excludes organophosphate, organochlorine and any other pesticides not registered for use in New Zealand)	0.2 in total
Phenolic compounds (as phenols) excluding chlorinated phenols	50
Polybrominated biphenyls (PBBs)	0.002
Polychlorinated biphenyls (PCBs)	0.002
Polycyclic (or polynuclear) aromatic hydrocarbons (PAHs)	0.05
Total Petroleum Hydrocarbons	
C7 - C14	30
C7 – C36	50
Tri-methyl Benzene	5
Toluene	5
Xylene	5

**Table 5 - Liquid Pharmaceutical Waste**

Liquid pharmaceutical waste including Liquid antibiotics.

<b>Volume Limit (daily)</b>	<b>Active Concentration</b>
10 Litres	125mg/5ml
5 Litres	250mg/5ml
3 Litres	Above 250mg/5ml

## Schedule 1B: Prohibited Wastewater

Prohibited Wastewater has or is likely to have any of the prohibited Characteristics set out below. Prohibited Characteristics are present if their concentration exceeds background levels. The background level in relation to any substance means the extent to which that substance is present (if at all) in the municipal water supply used on the Premises, or in any other water supply that is Approved by Council for the purpose of discharging waste.

### Prohibited Characteristics

- I. Any discharge has prohibited Characteristics if it has any solid, liquid or gaseous matters, or any combination, or mixture of such matters which by themselves or in combination with any other matters will immediately or in the course of time:
  - a) Interfere with the free flow of Wastewater in the Wastewater System; or damage any part of the Wastewater System;
  - b) In any way, directly or indirectly, cause the quality of the effluent or Biosolids and other solids from any Wastewater Treatment Plant to breach the conditions of a permit issued under the Resource Management Act 1991, or water right, permit or other governing legislation;
  - c) Prejudice the occupational health and safety of any Person or people;
  - d) After treatment be toxic to fish, animal or plant life in the receiving waters;
  - e) Cause malodorous gases or
  - f) Contains substances that cause the discharge of any Wastewater Treatment Plant to receiving waters to be coloured.
  
2. A discharge has a prohibited Characteristic if it has any amount of:
  - a) Harmful solids, including dry solid wastes and materials which combine with water to form a cemented mass;
  - b) Dry solids, solids longer than 30mm, heavy solids which settle faster than 50mm/minute, fibrous material, sheet films, and anything which may react to form a solid mass;
  - c) Liquid, solid or gas which could be flammable or explosive in the wastes, including oil, fuel, solvents (except as allowed for in Schedule 1A), calcium carbide and any other material which is capable of giving rise to fire or explosion hazards either spontaneously or in combination with sewage;
  - d) Asbestos;
  - e) The following organo-metal compounds:
    - i. tin (as tributyl and other organotin compounds); or
    - ii. chromium (as organic compounds);
  - f) (f) Genetic wastes, being all wastes that contain or are likely to contain genetically altered material from Premises where the genetic alteration of any material is conducted;
  - g) Any health care wastes covered by NZS 4304 or any pathological or histological wastes;
  - h) Radioactivity levels not compliant with the Office of Radiation Safety Code of Practice CSPI for the Use of Unsealed Radioactive Material;
  - i) Any pharmaceutical liquid waste containing cytotoxic ingredients. Cytotoxic waste means waste that is contaminated by a cytotoxic drug.

## Schedule 2: Pre-treatment and Discharge Requirements

**Table 6 – Typical requirements for businesses**

<b>Business</b>	<b>Typical Requirement</b>
Aquariums	Must meet quarantine requirements.
Bakeries	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Barber	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Beauticians	Nil.
Building construction	No discharge to sewer permitted.
Business offices with minimal hot food	Nil.
Cafés / takeaways with minimal hot food	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Carpet cleaners	20 micron filtration.
Chemists / pharmacists	Nil.
Churches with catering facilities	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Community hall with minimal hot food	Nil.
Cooling towers	Discharge not to exceed 500 litres an hour.
Day care	Nil.
Delicatessen with no hot food	Nil.
Dental surgery	Amalgam trap and segregation of waste amalgam.
Dental technician	Plaster trap.
Doctors surgery	Nil.
Dog groomer	Appropriate in-floor bucket trap; appropriate in-sink bucket trap; no organophosphorus pesticide to the Wastewater System.
Dry cleaners	Screens to remove solids; solvent recovery unit.
Engineering workshops car wash / valet / automotive	Screens to remove solids; No open areas allowing discharge of rainwater to Wastewater System; appropriate in-ground water/oil separator; appropriate in-ground bucket trap; equipment maintenance requirements and discharge limits apply.
Florist	No herbicide to sewer; appropriate in-floor bucket trap; appropriate in-sink bucket trap.
Food business with minimal hot food preparation	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Fruit and vegetable, retail	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Funeral parlour	Nil.
General Retail (excluding food Premises, cafes, or coffee lounges)	Nil.
Hairdresser	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Health industries, medical centres	Screens to remove solids; appropriate in-floor

<b>Business</b>	<b>Typical Requirement</b>
	bucket trap and appropriate in-sink bucket trap; plaster traps; equipment maintenance requirements and discharge limits apply.
Hotels and motels with catering facilities	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Kitchens / dining halls	Appropriate in-floor bucket trap and appropriate in-sink bucket trap, Equipment maintenance requirements and discharge limits apply.
Laundries - small	Appropriate in-floor bucket trap and appropriate in-sink bucket trap; screens to remove lint and solids; equipment maintenance requirements and discharge limits apply.
Marae with catering facilities	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Motels (without restaurant)	Nil
Optical processes	Appropriate solids settlement pit.
Paint and panel beaters	No open areas allowing discharge of rainwater to Wastewater System, appropriate in-ground water/oil/paint separator, appropriate in-ground bucket trap, equipment maintenance requirements and discharge limits apply.
Pet shop	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Residential care facilities	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Restaurants or school canteens	Appropriate in-floor bucket trap and appropriate in-sink bucket trap; equipment maintenance requirements and discharge limits apply.
Retail butchers and fishmongers	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Sandwich shop, salad bar, juice bar, coffee shop, fast food or take-away bar	Appropriate in-floor bucket trap and appropriate in-sink bucket trap; equipment maintenance requirements and discharge limits apply.
Sanitary bin washing	Screening and temperature control.
Schools, polytechnics, universities (with laboratories / catering facilities)	Appropriate in-floor bucket trap and appropriate in-sink bucket trap.
Service Stations and Automotive servicing workshops / garages	No open areas allowing discharge of rainwater to Wastewater System; appropriate in-ground water/oil/paint separator; appropriate in-ground bucket trap; equipment maintenance requirements and discharge limits apply.
Swimming pool / spa (residential, hotel, or club)	No open areas draining rainwater to the Wastewater System; discharge must be less than 2 L/s.
Veterinary	Appropriate in-floor bucket trap and appropriate in-sink bucket trap; no



Business	Typical Requirement
	organophosphorus pesticide to the Wastewater System; no open areas draining rainwater to the Wastewater System.
X-ray (<10 standard x-ray films a day, e.g. small professional customers, chiropractors, veterinary clinics, dentists, GPs)	Dilute silver rich solutions may be discharged to the Wastewater System in quantities of less than 1 litre per day.

### Grease Trap Sizing

A conventional tank type Grease Trap must have a functional capacity of no less than 500 litres. It is recommended Grease Traps be sized based on:

- (a) 40 litres capacity per served meal per hour; or
- (b) litres capacity per seated person/served meals per day;

PLUS

- (c) an additional 25% capacity for peak flushes; and
- (d) an additional 250 litres capacity for each connected dishwasher.

Retention time within the Grease Trap must be a minimum of one hour in all cases.

## THE PROPOSED WAIKATO DISTRICT COUNCIL TRADE WASTE AND WASTEWATER BYLAW 2016

The Waikato District Council Trade Waste and Wastewater bylaw 2016 enables Council to protect public health and safety and the environment, and provide effective and efficient wastewater infrastructure.

### Proposal

This Statement of Proposal is prepared pursuant to sections 83, 86, 155 and 156 of the Local Government Act 2002 (LGA). This is a proposal to adopt a new Trade Waste and Wastewater bylaw 2016 and revoke the Waikato District Council Trade Waste bylaw 2008 and Franklin District Council Trade Waste bylaw 2007 Bylaw.

### Reasons for creating the bylaw

The reasons for proposing to adopt the new Bylaw are to address the following problems:

- Controlling what is discharged to the wastewater system - trade waste, tankered 'septage' waste and residential wastewater,
- Complying with resource consents,
- Minimising blockages and overflows,
- Providing capacity for growth,
- Encouraging waste minimisation and cleaner production,
- Reducing stormwater inflow and groundwater infiltration,
- Controlling deterioration of the network,
- Clarifying Customer/Contractor responsibilities.
- Recovering additional costs of trade waste collection and treatment

### Rationale for managing wastewater through a Bylaw

The Bylaw enables Council to effectively deal with the problems associated with the management of trade waste and wastewater. Including trade waste and domestic wastewater in one bylaw addresses all the problems identified and provides a consistent and fair approach for all dischargers into the wastewater system.

### Summary of proposed changes

Key changes in the proposed Bylaw are outlined below.

Proposed Change	Comments	Expected Benefits
Bylaw format	Format has been updated to use simpler wording, contain fewer schedules and be consistent with recent bylaws.	Bylaw easier to understand.
Regional consistency	The new bylaw was prepared in consultation with Hamilton City Council and Waipa District Council with the aim of increasing the consistency of the bylaws across the three districts which operate under the Trade Waste Shared Service.	Bylaw enforcement simpler and a more consistent approach across the Waikato sub-region.
Wastewater Requirements (Section 7)	Introduction of a new section which applies to all wastewater discharges – domestic, commercial and industrial. This section covers connecting to the wastewater system, control of discharges, hazardous materials, protection of wastewater system and private drains as outlined below.	More consistent requirements for all dischargers to the wastewater system.
Connecting to the wastewater system (Section 7.1)	Approval is required before connecting to, disconnecting from or working around the wastewater system. Council can refuse an application to connect for various reasons including not enough capacity available.	Better control over new connections.

Proposed Change	Comments	Expected Benefits
Control of discharges (Section 7.2)	Wastewater with prohibited characteristics cannot be discharged to the wastewater system. Stormwater and condensing/cooling water cannot be discharged to the wastewater system without approval.	Reduced blockages and overflows.
Hazardous materials (Section 7.3)	Hazardous materials must be stored and used so they don't enter the wastewater system.	Avoids damage to the wastewater system and the environment and protects the health and safety of workers.
Protection of wastewater System (Section 7.4)	Damaging or obstructing the wastewater system is not permitted and excavation work must take due care to avoid damage. Covering manholes is not permitted. Any damage must be reported to Council	Reduced cost from damage and improved ability to recover repair costs.
Private Drains (Section 7.5)	Private drains must be maintained in a reasonable condition. Stormwater must not enter the wastewater system. Blockages on private property are the responsibility of the property owner unless the blockage originates in the wastewater system. Pressure wastewater systems must be used as per their operating guidelines.	Improved ability to require faults to be repaired. Reduced overflows from excessive stormwater inflow and groundwater infiltration. Reduced blockages in pressure wastewater systems.
Trade waste classification (Section 8.1)	The classification of trade waste has been clarified and reflects current practice for Shared Services. The permitted and conditional categories have been retained and the bylaw clarifies that all permitted trade waste discharges must have an "approval notice".	Clearer requirements responding to stakeholder feedback. Council will have information on where all trade waste discharges are located.
Trade waste agreements (Clauses 8.1d&e)	Reference to trade waste agreements in the bylaw. Trade waste agreements may be required when the discharge has unique characteristics, could affect the wastewater system/wastewater treatment plant (WWTP), could potentially contain hazardous or prohibited substances, requires pre-treatment systems, requires reserved capacity at the WWTP or has a history of non-compliance.	Responds to stakeholder feedback for more clarity on when trade waste agreements may be used.
Consent Processing (Section 8.3)	Processing timeframes for trade waste consents have been removed from the bylaw. Council will continue to have a 15 day processing performance target.	More flexibility in response to stakeholder feedback.
Consent term (Section 8.5)	Consent term for conditional trade waste discharges set at 5 years unless there is history of non-compliance, the discharge flow/quality is likely to change or there is a lack of information available. Previously most trade waste consents were issued for 2 years. Approval notices for permitted trade waste discharges do not have an expiry date	Greater consistency across the sub-region. Longer term for consent holders complying with existing conditions.
Pre-treatment requirements (Section 8.7)	More detail on grease trap/pre-treatment requirements for trade waste (similar to current Waipa bylaw). Grease traps must be sized and maintained as approved by Council. Alternative grease removal systems must be approved by Council and be maintained or serviced to the approval of Council. The revised biodegradable Oil and Grease limit for permitted discharges is 200 g/m <sup>3</sup> and 100 g/m <sup>3</sup> for Pokeno and Tuakau.	More guidance for smaller businesses. More consistent approach across the sub-region. Reduced blockages caused by fat, oil and grease.
Cancellation of consent and disconnection (Section 8.12)	Council may immediately cancel a consent and disconnect the discharge if a prohibited substance is discharged, the discharge is a threat to the environment or public health or the discharge impacts on Council's ability to comply with a resource consent.	Protects the wastewater system and the environment.

Proposed Change	Comments	Expected Benefits
Transitional provisions (Section 8.13)	Trade Waste consent holders with existing “approval notices” do not need to apply for a new notice or Consent unless the discharge changes significantly. Existing consents and agreements continue until their expiry dates. Trade waste discharges which do not have an approval notice must apply within 3 months of the bylaw coming into force.	Council will know where all trade waste discharges are located.
Sampling (Section 8.10)	Less detail on trade waste sampling is included in the bylaw, guidance will be provided by trade waste officers on a case by case basis. Sampling methodology must be approved by Council. A requirement for trade waste consent holders to use an accredited laboratory for sample analysis and use standard analysis methods.	Removes out of date sampling requirements and provides more flexibility. Ensures sample results are reliable and suitable for compliance and charging purposes.
Tankered waste (Section 9)	More detailed tankered waste collection and disposal requirements.	Clearer requirements which are easier to enforce. Reduced problems at the wastewater treatment plants.
Fees and charges (Section 11)	No fees and charges details are included in the bylaw. Fees and charges are set during the Long Term Plan/Annual Plan process.	Consistent approach with other Council activities.
Organic and Nutrient limits (Schedule 1A)	Reduced organic (BOD/COD) and nutrient (TKN/TP) limits for permitted wastewater to avoid overloading of wastewater treatment plants and to retain capacity for growth.	Protects the wastewater system and the environment.
Liquid Pharmaceutical Waste (Schedule 1A)	A new requirement for disposal of liquid pharmaceutical waste based on advice from the Ministry of Health.	Protects the wastewater system and the environment.

### Relevant Determinations by Council

Prior to making a bylaw, Council is required to assess whether a bylaw is the most appropriate way of addressing the perceived problem. In this case, a bylaw is considered to be the most appropriate mechanism as the provision of wastewater is a vital service that is best managed by local government to ensure consistency and affordability of the service. Not having a bylaw would lessen Council’s ability to control and set standards around the management of the district’s wastewater systems. Replacing the current bylaws with a new, combined Trade Waste and Wastewater Bylaw was preferred as this approach addresses all the problems identified and provides a consistent and fair approach for all dischargers into the wastewater system.

Council is also required to consider whether the proposed Bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. In this case it is not considered that there are any such implications, the Bylaw simply provides the regulatory means by which the wastewater system can be managed.

### Consultation and submissions

Anyone can make a submission about the proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016 and we encourage you to let us know your views.

### What is a submission?

Submissions are a record of your views/preferences on a particular issue. By making a submission you can ensure that your voice is heard by councillors to assist them in their decision making. Submissions may be sent or given to the Council from any organisation or any member of the public during a time period specified by Council. In most cases submission forms are available at Council offices and libraries and on the ‘Have your say’ page of Council’s website.

**When can I make a submission?**

The submission period for the proposed Waikato District Council Trade Waste and Wastewater Bylaw 2016 opens on 23 March 2016 and closes at 5pm on 23 May 2016.

**How can I make a submission?**

Any person may make a submission on the content of this proposed Bylaw.

Written submissions should follow the format shown in the submission form following this page. This form is intended as a guide only, but is suitable for brief submissions. Please attach additional pages as necessary.

In addition, if you wish to present your comments in person, Council will hear verbal submissions on 29 June 2016 (or as early thereafter as possible). Submitters wishing to be heard in support of their submission must clearly state this in their submission. All submitters wishing to be heard will be contacted to arrange an appropriate time on the date specified.

Please note that written submissions are to be received by Waikato District Council by 5pm on 23 May 2016.

**Privacy Act Information** - *The Local Government Act 2002 requires submissions to be made available to the public.*

Your contact details are collected:

- So the Council can write and inform you of the decision(s) on your submission(s).
- To arrange a hearing date and time for you to speak (if you choose to).

**Your name and address will be publicly available. If you would like your address and phone details (including email address) kept confidential you need to inform us when you send in your submission.** You have the right to correct any errors in personal details contained in your submission. If you do not supply your name and address the Council will formally receive your submission, but will not be able to inform you of the outcome.

Submissions can be:

**Online:** [www.waikatodistrict.govt.nz/sayit](http://www.waikatodistrict.govt.nz/sayit)

**Posted to:** Waikato District Council  
Private Bag 544  
Ngaruawahia 3742

**Delivered to:** Waikato District Council  
Attn: Corporate Planner  
15 Galileo Street  
Ngaruawahia 3742

Huntly Office  
142 Main Street, Huntly 3700

Raglan Office  
7 Bow Street, Raglan 3225

Tuakau Office  
2 Dominion Rd, Tuakau 2121

Te Kauwhata Office  
1 Main Road, Te Kauwhata 3710

**Emailed to:** [consult@waidc.govt.nz](mailto:consult@waidc.govt.nz)

Subject heading should read: *“Trade Waste and Wastewater Bylaw 2016 – Submission”*

**What happens next?**

Council will acknowledge each submission received in writing, either by letter or email.

Following the closing of submissions on 23 May 2016, all submissions will be reviewed by Elected Members. Verbal submissions will be heard and all submissions formally considered at a Council meeting on 29 June 2016 (or as soon thereafter as possible). This meeting is open to both submitters and the public to attend.

**Important Dates to Remember:**

Submissions open – 23 March 2016

Submissions close – 23 May 2016

Hearing of submissions – 29 June 2016

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If you have any further queries or would like further copies of the proposed Bylaw, please contact Shelley Monrad on 0800 492 452.

**For internal use only**



ECM Project #.....

ECM # .....

Submission # .....

Customer # .....

# Trade Waste and Wastewater Bylaw

## Are the rules right for me?

**Submission form** Please provide your feedback by 5pm 23 May 2016

**Name/organisation** .....

**Postal address** ..... **Postcode**.....

**Email** ..... **Phone**.....

**A hearing will be held on 29 June 2016.**

**Do you want to speak about your submission at this hearing?**  Yes  No

**Preferred method of contact**  Email  Post

**Age (optional)**  16-24  25-35  36-50  51-65  66+

**Ethnicity (optional)** .....

*This information will be used for statistical purposes only, to help us understand who is engaging with council.*

**Are you are Trade Waste Consent Holder?**

Yes  No

**Are there clauses in the bylaw that are of concern?**

Yes  No

**Please tell us which clauses and why:**

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**The proposed bylaw includes both trade waste and wastewater, Do you support this?**

Yes  No

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### Written feedback

**Postal Address**

Waikato District Council, Private Bag 544,  
Ngaruawahia 3742 • Telephone 0800 492 452

### Online feedback

- [www.waikatodistrict.govt.nz/sayit](http://www.waikatodistrict.govt.nz/sayit)
- [consult@waidc.govt.nz](mailto:consult@waidc.govt.nz)

Submissions are public information. Your feedback will be used for purposes such as reports to Councillors, which are made available to the public, media and on our website. If you would like your personal information concealed, please tell us in your submission.

Are there any issues or problems with trade waste or wastewater that haven't been addressed by the bylaw? Please tell us what the issue is and what you would like the bylaw to include.

Dotted lines for text input.

Additional comments:

Dotted lines for text input.

Thank you for making a submission.

You'll receive an email or letter to confirm we've received your submission.

If you've indicated you would like to present your submission in person, we'll be in touch to arrange a time.

Written feedback

Postal Address

Waikato District Council, Private Bag 544, Ngaruawahia 3742 • Telephone 0800 492 452

Online feedback

- www.waikatodistrict.govt.nz/sayit
consult@waidc.govt.nz

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