



## Report

Date : 17 September 2024

To : Mayor and Councillors  
Tararua District Council

From : Angela Rule  
Policy and Planning Advisor

Subject : **Draft Bylaws Review and Consultation - Trade Waste Bylaw 2024, Waste Management and Minimisation Bylaw 2024 and Traffic and Road Use Bylaw 2024**

Item No : **11.7**

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## **1. Recommendation**

- 1.1 ***That the report from the Policy and Planning Advisor dated 12 September 2024 concerning the Draft Bylaws Review and Consultation - Trade Waste Bylaw 2024, Waste Management and Minimisation Bylaw 2024 and Traffic and Road Use Bylaw 2024 be received.***
- 1.2 ***That the Tararua District Council determines, pursuant to s155(1) of the Local Government Act 2002, that a bylaw is the most appropriate way of addressing perceived problems identified for the regulation of trade wastes and tanker discharges, the collection, storage, management and disposal of waste (including recyclable material), and road use.***
- 1.3 ***That the Tararua District Council approves the combined Statement of Proposal and the Tararua District Council's draft Trade Waste Bylaw 2024, for public consultation in accordance with s83, s86 and 148 of the Local Government Act 2002.***
- 1.4 ***That the Tararua District Council approves the combined Statement of Proposal and the Tararua District Council's draft Waste Management and Minimisation Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.5 ***That the Tararua District Council approves the combined Statement of Proposal and the Tararua District Council's draft Traffic and Road Use Bylaw 2024, for public consultation in accordance with s83 and s86 of the Local Government Act 2002.***
- 1.6 ***That the Tararua District Council agrees that the Chief Executive be delegated the power to approve any minor amendments to the draft bylaws or statements of proposal that he considers appropriate, prior to consultation starting.***

## **Executive Summary**

This report seeks approval to publicly notify the draft Tararua District Council Trade Waste Bylaw, Waste Management and Minimisation Bylaw, and Traffic and Road Use Bylaw. These bylaws will replace the current Trade Waste Bylaw 2018, Traffic and Road Use Bylaw 2018, and Solid Waste Bylaw 2018 that expired in October-November 2023. These drafts largely continue the current Bylaws, with some amendments and improvements.

The key changes to the Trade Waste Bylaw are:

- Editorial changes to wording and definitions, to align with other documents and legislation, and reformat to improve readability;

- Amending the purpose of the bylaw to better align with wording under section 146(b) of the Local Government Act;
- Clarifying the definition of trade premises;
- Adding considerations for Council when determining an application for consent;
- Adding a new clause that requires anyone wishing to discharge trade waste to contact Council to determine if a trade waste discharge is permitted, conditional or prohibited;
- Adding a clause to provide for a consent holder receiving a written notice to be given a reasonable time period to comply with any varied consent condition; and
- Adding a clause for requiring a meter as a condition of a consent for the measurement of the rate or quantity of discharge of trade waste.

The key changes to the Waste Management and Minimisation Bylaw are (only substantive changes are listed):

- The name is changed to 'Waste Management and Minimisation' Bylaw (from 'Solid Waste') to align with the terms used in the Waste Minimisation Act 2008.
- One of the purposes of the Bylaw is changed from being 'Regulate the collection, storage, management and disposal of waste (including recyclable material) from public places or by persons licensed by the Council' to 'Regulate the collection, storage, management and disposal of waste (including recyclable material)'
- The term 'Collection Point' is amended to a more general meaning (originally only applying to rural roadside locations, and now meaning 'a Council advertised location for the collection of waste or recyclable materials').
- A definition of 'nuisance' and 'premises' is added.
- The term 'prohibited waste' is extended to include all batteries, asbestos, gas containers, fluorescent lights and aerosol cans.
- The term 'Resource Recovery Centre' is changed to 'Waste Management Facility'.
- In terms of using Approved Containers, the bylaw clarifies that containers may not be damaged; that Council may charge to replace Approved Containers that are lost/stolen/damaged; and that Council may require Approved Containers to be placed in alternative locations to be picked up.
- In terms of public litter receptacles, adding that no person may:
  - Cause, permit or allow the deposit of any material into a Litter Receptacle that is not approved for that type of waste (as evidenced by signage on or near the Litter Receptacle).
  - Damage any Litter Receptacle provided by Council.
- Adding clause 20 – that Council may suspend or revoke licences held by waste operators in certain circumstances.
- Adding clause 21.2 – being the actions Council may take where a person does not comply with the requirements of the Bylaw in relation to the waste and diverted materials collection service that applies to them.

The key changes to the Traffic and Road Use Bylaw are (only substantive changes are listed):

- Adding definitions from the current Administration Bylaw (e.g. 'animal', 'approval', 'footpath').
- Updating wording (from 'Operation Mobility Parking' to 'Mobility Parking').

- For general Council discretions (clause 5), it is clarified that Council may exercise the discretions by resolution, which may be permanent or temporary. Engine braking in areas of 70kmph or less is added; as is the use of vehicles on unformed legal roads; and restrictions on heavy traffic.
- New restrictions on parking are added (clause 6.3): vehicles must not be parked on footpaths, grass verges where it will damage the grass verge; gardens; or other parts of roads not designed to accommodate vehicles.
- At clause 8, a new prohibition on parking heavy motor vehicles in residential areas (except for loading and unloading) without a resolution from Council to the contrary.
- Removing all reference to metered areas and parking meters (i.e. paid parking areas), and focusing at clause 9 only on the potential for Council to introduce, by resolution, time-restricted parking zones.
- Requirements relating to stock on roads have been moved to Schedule I, understanding that a new Stock Control Bylaw may be proposed to be introduced.
- Modifying vehicle crossings (clause 19.1) is clarified as including as a result of a change of use of the property.
- Setting out the action Council may take if there is non-compliance (at clause 20).
- Clarifying that offences occur where there is a breach of a provision of the bylaw; an obstruction of an Authorised Officer from carrying out their duties under the bylaw; or a failure to comply with a notice (clause 21.1).

Section 155(1) of the Local Government Act 2002 (LGA 2002) requires that before making a bylaw, Council determine whether a bylaw is the most appropriate way of addressing perceived problems. The section 155(1) assessments for the draft Tararua District Council Trade Waste Bylaw, Waste Management and Minimisation Bylaw, and Traffic and Road Use Bylaw are included within the Statements of Proposal appended to this report. Determinations in relation to section 155(2) of LGA 2002 matters are included in this report and the statements of proposal.

Providing Council passes a resolution in relation to s155(1) of LGA 2002, approval is sought to publicly notify the draft statements of proposal and bylaws attached as appendices to this report.

There will be two different consultation pathways for the draft bylaws proposed for review. The Trade Waste Bylaw has additional consultation requirements set out in section 148 of the Local Government Act 2002, which involves consultation with the Minister of Health, and registered trade waste premises, and a two-month public notification period.

The Traffic and Road Use Bylaw, and the Waste Management and Minimisation Bylaw consultation will follow the requirements described in section 83 of the Local Government Act 2002, known as the special consultative procedure.

## **2. Reason for the Report**

- 2.1 This report relates to the review and replacement of the following Tararua District Council 2018 Bylaws: Trade Waste, Traffic and Road Use, and Solid Waste.

- 2.2 This report includes determinations under section 155(1) of LGA 2002 that a bylaw is the most appropriate way of addressing the perceived problems identified for the the regulation of trade wastes and tanker discharges, the collection, storage, management and disposal of waste (including recyclable material), and road use in the Tararua district.
- 2.3 This report also includes the statements of proposal and draft Trade Waste, Traffic and Road Use, and Waste Management and Minimisation bylaws for public feedback.

### **3. Background**

- 3.1 Most of Tararua District Council's bylaws expired at the end of 2023. Consequentially, the bylaws are being reviewed over the year in a series of tranches.
- 3.2 All Council bylaws continue to have legal effect until they are automatically revoked under section 160A of LGA 2002, in November 2025 (unless reviewed prior).
- 3.3 Council proposes to review and renew the expired bylaws. The statement of proposal and draft bylaws for public consultation are attached as appendices to this report.
- 3.4 Council is also required by the Act to determine whether, in accordance with s155(1), a bylaw is the most appropriate way of addressing the perceived problems, The s155 assessments for each of the draft bylaws are included within the statement of proposals.
- 3.5 The draft bylaws largely continue the current bylaws, with some amendments and improvements. The key changes to the bylaws are described in clause 7 of this report.

### **4. Determining the need for a Bylaw**

- 4.1 According to s155(1) of Local Government Act 2002, Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problems. If Council determines that a bylaw is the most appropriate way of addressing the perceived problems, it must, before making the bylaw, determine whether the proposed bylaw is the most appropriate form of bylaw; and whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

#### **4.2 S155(1) assessment for Council's Trade Waste Bylaw 2024**

- 4.2.1 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Trade Waste 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to regulating trade waste and tanker discharges into Council's wastewater network, and ensuring safe and efficient working Council's wastewater network.

4.3 **S155(1) assessment for Council’s Waste Management and Minimisation Bylaw 2024**

4.3.1 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Waste Management and Minimisation Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to providing a process for waste collectors to be licenced to ensure that everyone who operates within the waste industry in the district operates to the same set of regulations (and provides a process to be followed in the event of noncompliance). It also provides further enforcement options for Council and waste collectors to utilise in the event of noncompliance.

4.4 **S155(1) assessment for Council’s Traffic and Road Use Bylaw 2024**

4.4.1 As outlined in the Statement of Proposal, outlining the s155(1) assessment for the draft Traffic and Road Use Bylaw 2024, a bylaw is considered to be the most appropriate way of addressing the perceived problems in relation to requirements for parking and control of vehicles and other traffic on any road in the District, for addressing the issues of vehicle crossings and the presence of heavy traffic and for setting and enforcing parking areas and spaces to ensure compliance for the safe and efficient working of the transport system.

**5. Determining the Appropriate Form of the Bylaw**

5.1 Section 155(2)(a) of LGA 2002 requires that before adopting a bylaw, Council determine whether the proposed bylaw is *the most appropriate form of the bylaw*.

5.2 The draft bylaws are both considered to be the most appropriate form of the bylaw. External legal advisors have reviewed the draft bylaws to help ensure this is the case.

5.3 Bylaws are consistent with all relevant legislation and are sufficiently clear and certain so that those who are subject to the bylaws understand their effect.

**6. Preliminary assessment of whether the draft bylaws give rise to any implications under the New Zealand Bill of Rights 1990**

6.1 Section 155(2)(b) of Local Government Act 2002 requires that before adopting a bylaw, Council determine whether the proposed bylaw will give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

6.2 The NZBORA sets out specific rights and freedoms which are protected by legislation. The NZBORA states that the rights and freedoms covered by the Act, *may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society*.

6.3 It is not expected that the draft Trade Waste Bylaw, Waste Management and Minimisation Bylaw, and Traffic and Road Use Bylaw to address perceived problems identified, would give rise to any implications under the NZBORA.

## **7. Key Changes to Draft Bylaws**

### **7.1 Trade Waste Bylaw 2024**

7.2 The substantial regulatory requirements in the current Trade Waste Bylaw have largely been replicated, but have been reflected with different wording to better align the terminology used in the Bylaw with that used in other Council documents, and also in legislation (such as the Water Services Act 2021).

7.3 The purposes of the bylaw have been amended to better align with the special bylaw making powers for Council's under section 146(b) of the Local Government Act 2002.

7.4 The definition of "trade premises" has been clarified that this does not include any part of Council's wastewater network or treatment facilities.

7.5 A requirement has been added for any person that discharges or proposes to discharge Trade Waste to contact Council to determine if a Trade Waste discharge is permitted, conditional or prohibited, and advising that Trade Waste must not be discharged into the wastewater network before Council has determined whether a consent is required.

7.6 Additional considerations have been included for Council when determining an application for consent, including:

- Compliance history;
- Relevant Council planning documents, guidelines or policies;
- Any alternatives to the trade waste discharge, including ways in which the trade waste may be disposed of other than via the wastewater network; and
- Any other matter that the Council considers relevant when having regard to the purpose and terms of the Bylaw.

7.7 Adding a clause where a consent holder who receives a written notice from Council will be given a reasonable time period in which to comply with any varied consent conditions.

7.8 Adding a clause for where Council requires a meter as a condition of a consent for the measurement of the rate or quantity of discharge of Trade Waste.

7.9 The operational costs associated with any wastewater treatment plant are strongly influenced by the specific treatment processes which, in turn, are heavily influenced by resource consent conditions. Therefore, wastewater treatment costs can vary significantly from treatment plant to treatment plant, and from district to district.

7.10 The three main trade waste dischargers in the Tararua district are all located in Dannevirke.

- 7.11 The Dannevirke Wastewater Treatment Plant is a waste stabilisation pond based plant, with a membrane filtration unit added c2004 to remove Total Suspended Solids and indicator organisms such as E. coli. In 2023/24, dissolved air flotation (DAF) and ultra-violet (UV) disinfection systems were added to meet the long-standing summer dissolved reactive phosphorous (DRP) consent condition while maintaining the required E.coli removal. Removing DRP through coagulation, flocculation and DAF treatment significantly increases the operational costs associated with the Dannevirke Wastewater Treatment Plant.
- 7.12 **Waste Management and Minimisation Bylaw 2024**
- 7.13 Changing the name from “Solid Waste Bylaw” to “Waste Management and Minimisation Bylaw” to align with the terms used in the Waste Minimisation Act 2008.
- 7.14 Removing reference to “persons licensed by the Council” in relation to the collection, storage, management and disposal of waste (including recyclable material).
- 7.15 The term ‘collection point’ now means ‘a Council advertised location for the collection of waste or recyclable materials’.
- 7.16 Definitions have been added and updated.
- 7.17 The term ‘Resource Recovery Centre’ is changed to ‘Waste Management Facility’.
- 7.18 Matters relating to the use of approved containers.
- 7.19 Matters relating to the use of public litter receptacles.
- 7.20 Adding clause 20 – that Council may suspend or revoke licences held by waste operators in certain circumstances.
- 7.21 Adding clause 21.2 – being the actions Council may take where a person does not comply with the requirements of the Bylaw in relation to the waste and diverted materials collection service that applies to them.
- 7.22 **Traffic and Road Use Bylaw 2024**
- 7.23 Additional terms are added into the interpretation section, noting that many of these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- 7.24 Updating terminology (from “Operation Mobility Parking” to “Mobility Parking”).
- 7.25 Clarifications and additions regarding Council’s ability exercise discretions by resolution (clause 5).
- 7.26 New restrictions on parking are added (clause 6.3).



- 7.27 At clause 8, a new prohibition on parking heavy motor vehicles in residential areas.
- 7.28 Removing all reference to metered areas and parking meters.
- 7.29 Requirements relating to stock on roads have been moved to Schedule I.
- 7.30 Modifying vehicle crossings (clause 19.1) is clarified.
- 7.31 Setting out the action Council may take if there is non-compliance (at clause 20),
- 7.32 Clarifying that offences occur where there is a breach of a provision of the bylaw (clause 21.1).

## **8. Significance Assessment**

- 8.1 The immediate decision before the Council, about whether to commence consultation on the draft bylaws, is not itself a significant decision. However, the decisions that will follow such consultation (such as whether to adopt the new bylaws) will be significant under the Council's Significance and Engagement Policy. Consistent with this, the Local Government Act 2002 generally requires the Council to consult before making, amending or revoking a bylaw.
- 8.2 Section 156(1)(a) of LGA 2002 requires Council to use the special consultative procedure when making, amending or revoking a bylaw made under this Act, if:
- The bylaw concerns a matter identified in the local authority's Significance and Engagement Policy as being of significant interest to the public; or
  - The local authority considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes to, or revocation of, the bylaw.
- 8.3 Section 148 of the Local Government Act 2002 requires public notification by Council, and consultation with any persons as directed by the Minister of Health.
- 8.4 The new Trade Waste, Waste Management and Minimisation and Traffic and Road Use Bylaws discussed in this report are considered to be of significant interest to the public on the basis of criteria outlined in Council's Significance and Engagement Policy.
- 8.5 The reviewed bylaws in this report will affect anyone disposing of trade waste or tankered waste to Council's wastewater network, anyone that collects, stores, manages and disposes of solid waste, including recyclable material, anyone who uses the roading network, and the public in general.

## **9. Consultation**

- 9.1 Consultation is required by s156(1)(a) of the LGA 2002, the Significance and Engagement Policy is automatically triggered.

9.2 The level of engagement recommended for this issue is: Consult (using the special consultative procedure as required by s156(1)(a) of the LGA 2002).

9.3 Council will fulfil the requirements of s82 and 83 of the Act by doing the following:

- Publishing a public notice relating to consultation on the draft bylaws, including information on where to access the statements of proposals and how to provide feedback;
- Make copies of the draft bylaws, the statements of proposals and submission forms available on Council's website for the duration of the consultation period;
- Provide those interested with an opportunity to present their views to the Council in person at a Hearing.

9.4 In addition, the requirements of section 148 of the Local Government Act 2002 will be fulfilled, through the following:

- Sending a letter to the Minister of Health providing a copy of the draft Trade Waste Bylaw 2024, and the Statement of Proposal for that bylaw review. The letter will seek comment from the Minister as well as advice on any other parties to consult with. The letter will inform the Minister that all registered trade waste premises will be notified about the consultation.
- Sending a letter to all registered trade waste premises within the Tararua District including a copy of the public notice.
- Providing a minimum of a two-month period for submissions on the draft Trade Waste Bylaw (as required by section 148(2)(c) of the Local Government Act 2002).

## **10. Conclusion**

10.1 This report relates to the review and replacement of Council's Trade Waste Bylaw, Traffic and Road Use Bylaw, and Solid Waste Bylaw. These bylaws were due to be reviewed in November 2023. Council must replace these bylaws with new bylaws by November 2025 in order to continue regulating activities pertaining to each bylaw's respective issues.

10.2 The draft bylaws are largely a continuation of the current bylaws, with some amendments and improvements.

10.3 The recommendations at clause 1.2 of this report relates to determinations required by s155(1) of LGA 2002 at the commencement of a bylaw review. Council must first determine whether a bylaw is the most appropriate way to address the perceived problems identified for the regulation of trade wastes and tanker discharges, the collection, storage, management and disposal of waste (including recyclable material), and road use in the Tararua district.

- 10.4 In recommendations at clauses 1.3, 1.4, and 1.5, Council approval is sought to publicly notify the draft Trade Waste Bylaw 2024, the draft Waste Management and Minimisation Bylaw 2024, and the draft Traffic and Road Use Bylaw 2024, including the statements of proposal that are required by section 83(1)(a)(i) of the Local Government Act 2002 and form the basis for the consultation on the draft bylaws.
- 10.5 The recommendation at clause 1.6 of this report gives the Chief Executive the authority to approve any minor amendments to the draft bylaws or statements of proposal prior to consultation commencing.

### **Attachments**

1. Statement of Proposal Draft Trade Waste Bylaw
2. Statement of Proposal Draft Waste Management and Minimisation Bylaw
3. Statement of Proposal Draft Traffic and Road Use Bylaw