



Statement of Proposal – Draft Trade Wastes Bylaw 2022

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1 Introduction

- 1.1 Manawatū District Council’s Trade Wastes Bylaw regulates the discharge of trade waste into the public wastewater network and tankered waste at approved sites. The primary method of regulating trade waste discharges is through a permit process which limits the physical and chemical characteristics of trade waste entering the treatment plant, and charges permit holders based on the composition of their trade waste.
- 1.2 The 2015 Trade Wastes Bylaw has been reviewed and forms the basis for Council’s draft Trade Wastes Bylaw 2022 (the “draft Bylaw”) that Council is now consulting on. This Statement of Proposal outlines the:
- purpose and application of the draft Bylaw;
 - how Council’s proposes to regulate trade wastes in line with this purpose; and
 - the key differences between the 2015 Trade Wastes Bylaw and the draft Bylaw
- 1.3 The draft Bylaw is largely a continuation of the 2015 Bylaw, with two key proposed changes and several minor changes (see sections 8 - 10 of this document)
- 1.4 Included with this Statement of Proposal are the following documents:
- Council’s draft Trade Wastes Bylaw 2022
 - Public submission form
- 1.5 Council welcomes feedback on the draft Trade Wastes Bylaw 2022. The closing date for feedback is **5pm on 13 June 2022**. See section 16 for more information on the consultation process.
- 1.6 Supporting documents can be found on Council’s “Have Your Say” webpage, including a copy of the s155(1) assessment that evaluates whether a bylaw is the most appropriate way to address the perceived problems identified in relation to the regulation of trade wastes.

2 Why is a review of the 2015 Bylaw required?

- 2.1 The main reason for the proposal is that Council’s Drainage Bylaw 2015 was due for review by 18 November 2020. Due to resourcing constraints the review has been delayed. The 2015 Bylaw still has legal effect under section 160A of the Local Government Act 2002 until it is automatically revoked on 18 November 2022 (unless replaced sooner). By replacing the expired Bylaw with a new, updated Bylaw, Council can continue to regulate trade waste and tanker discharges into the public wastewater network.
- 2.2 The bylaw review provides Council with an opportunity to improve how trade waste discharges are regulated. For example, the proposed introduction of the “Controlled Trade Waste” category allows Council to identify those premises that discharge high volumes of relatively simple trade waste and ensure that the cost to Council for treating this waste is attributed correctly.

- 2.3 The changes to the pre-treatment requirements help to ensure there is clear understanding of what is required for different types of premises and that owners of these systems are responsible for their ongoing maintenance (regardless of whether a permit is required or not). These changes will reduce the risk of unintended or accidental discharges of trade waste into the public wastewater network.
- 2.4 Other changes are relatively minor, but provide for greater clarity. While the 2015 trade waste controls have generally been working well, the draft Bylaw provides an opportunity to make these requirements clearer and more transparent.

3 Application of the bylaw

- 3.1 Trade waste is liquid waste (excluding domestic wastewater), with or without solids in suspension, that is or may be discharged from a trade premises. Trade waste includes wastewater that contains contaminants, including solids, fat, oil, grease, solvents, emulsions and chemicals resulting from industrial or trade processes.
- 3.2 Trade premises is defined in the draft Bylaw as including any premises:
- (a) used or intended to be used for:
 - (i) any business, industrial or trade purpose; or
 - (ii) the storage, transfer, treatment, or disposal of waste materials, composting organic materials, or for other waste management purposes; and
 - (b) from which:
 - (i) a Contaminant is discharged in connection with any industrial or trade process; or
 - (ii) Wastewater that is not domestic wastewater is discharged; and
 - (c) includes any premises that are wholly or mainly used for agricultural or horticultural purposes.
- 3.3 The Trade Wastes Bylaw applies to trade waste discharges from industrial and trade premises into the public wastewater network and tankered waste that is collected for discharge into the public wastewater network.

4 Relationship between the draft Trade Wastes Bylaw 2022 and the draft Drainage Bylaw 2022

- 4.1 Figure 1 helps to illustrate the relationship between the draft Trade Wastes Bylaw and the draft Drainage Bylaw 2022 with respect to trade premises. The draft Drainage Bylaw 2022 requires that trade premises obtain a permit to discharge stormwater to the stormwater network. Stormwater that contains contaminants must be treated to ensure compliance with the stormwater quality requirements of the draft Drainage Bylaw 2022. This requirement is represented by an interceptor in Figure 1.

Wastewater from a trade premises that meets the definition of “domestic wastewater” (such as discharges from offices, schools, businesses etc) are also managed under the Drainage Bylaw. Wastewater discharges that are non-domestic in nature are termed “trade waste” and are managed under the Trade Waste Bylaw.

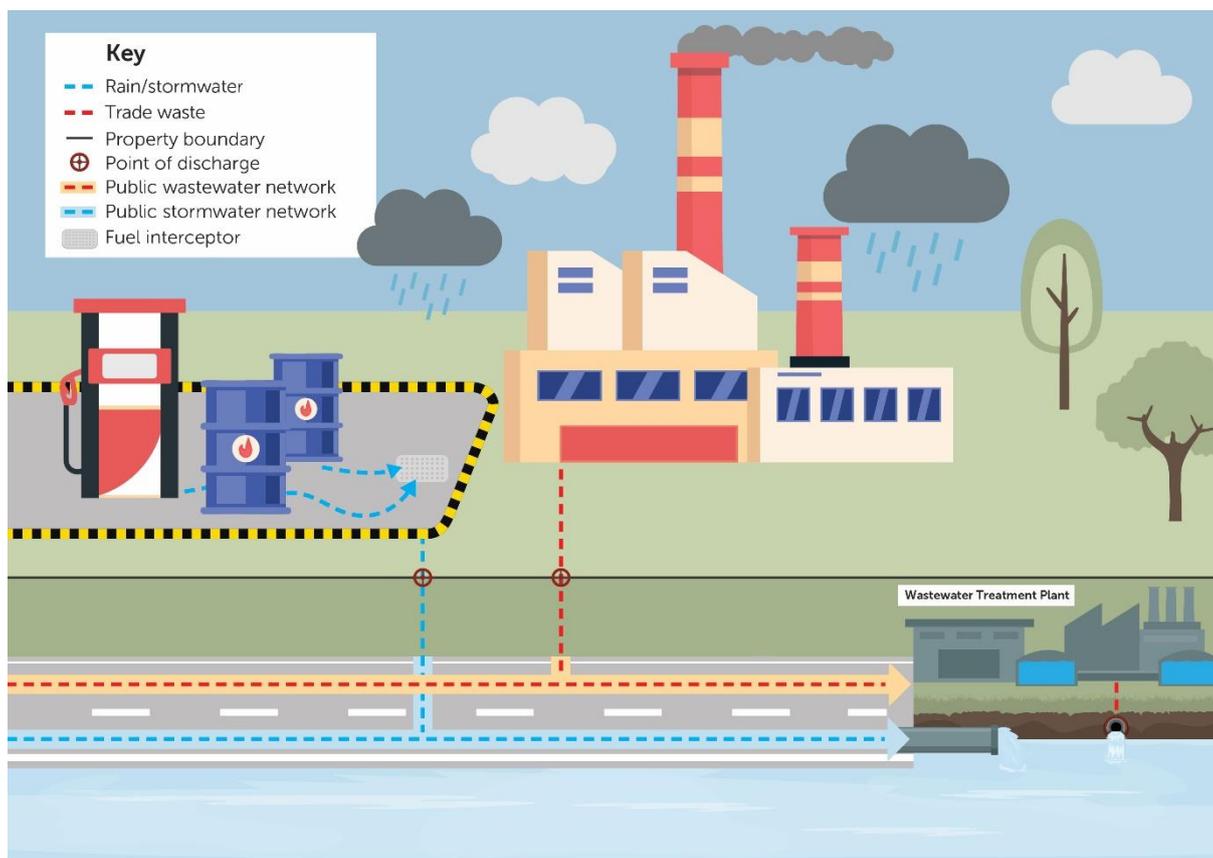


Figure 1: Trade Waste and Stormwater Discharges from a Trade Premises

5 Purpose of the draft Bylaw

5.1 The purpose of the Trade Wastes Bylaw is to:

- (a) Protect the health and safety of all people from potential adverse effects of harmful substances discharged to the public wastewater network;
- (b) Protect the environment (including water quality) from adverse effects of harmful substances discharged to the public wastewater network;
- (c) Manage, regulate against and protect the public wastewater network from damage, misuse or loss and provide for its efficient operation;
- (d) Prevent unauthorised use of the land, structures or infrastructure associated with the public wastewater network;
- (e) Ensure compliance with resource permit (discharge) conditions;
- (f) Provide an equitable basis for charging trade waste users of the public wastewater network; and
- (g) Encourage cleaner production, efficient recycling and reuse of waste streams at trade premises.

6 Trade Waste Controls

- 6.1 The bylaw contains general controls for trade waste, including the following restrictions:
- Trade waste cannot be discharged to the public stormwater network
 - Trade waste may be discharged to the public wastewater network providing it is either permitted according to the bylaw, or is discharged in accordance with a permit issued under the bylaw
 - Potable, condensing water or cooling water cannot be added to trade waste, including to dilute it, unless provided for by a permit under the bylaw
 - Stormwater cannot be added to trade waste unless this is provided for by a permit under the bylaw.
- 6.2 Any person that discovers an accidental discharge of a contaminant, hazardous substance or other trade waste into the public wastewater or stormwater network in breach of the bylaw or any permit issued under it must notify Council immediately. The provisions within the draft Bylaw in relation to accidental discharges are generally consistent with the 2015 Bylaw, but are broader (consider contaminants and hazardous substances as well as trade waste) and contain more detail around when and how to notify Council.
- 6.3 The bylaw contains requirements around the storage, transportation and handling of hazardous substances. The provisions in the draft bylaw are materially unchanged from those of the 2015 bylaw.
- 6.4 Trade waste that is collected and transported by tanker can only be discharged into the public wastewater network at an approved site by a Council-approved contractor. Contractors are required to keep records of the characteristics and amount of waste being disposed of and to supply this information to Council on request.
- 6.5 The current bylaw classifies trade waste as “permitted,” “conditional” or “prohibited” depending on the characteristics of the discharge. Schedule 1 of the Bylaw sets out the characteristics of a permitted trade waste and Schedule 2 sets out the characteristics of prohibited trade waste. One of the key changes to the trade waste bylaw proposed by this review is the addition of a fourth category of trade waste – “controlled.” The reasons for this proposed change are set out in Section 8 below.
- 6.6 The bylaw does not allow prohibited trade waste to be discharged to the public wastewater network.
- 6.7 Permitted trade waste can be discharged to the public wastewater bylaw without a permit.

7 Trade Waste Permits

- 7.1 Conditional trade waste (and controlled trade waste under the draft Bylaw) can only be discharged into the public wastewater bylaw in accordance with a permit issued under the bylaw.

- 7.2 When deciding whether to issue a trade waste permit, Council considers a number of matters including the quality, volume and rate of the trade waste discharge. The permit holder must comply with the conditions imposed on the trade waste permit. General conditions include (but are not limited to):
- pre-treatment requirements, including ongoing maintenance of any pre-treatment systems;
 - limits on the volume, rate and characteristics of the discharge;
 - inspection and monitoring requirements;
 - implementation of requirements in the discharge management plan (if one is required as part of the permit application);
 - and cleaner production practices.
- 7.3 Council may require flow or volume metering of a trade waste discharge as a condition of permit.
- 7.4 Permits are granted for a period of up to five years. However, Council may suspend or cancel a permit for a number of reasons (which will be specified in the notice), including failure to comply with the conditions on the permit or negligence by the permit holder, including accidental discharges.
- 7.5 Trade waste permit are issued to a particular person or party at a specific premises. The rights and responsibilities provided for under a permit cannot be transferred to another occupier or to a different premises, unless Council have given their written approval to do so.
- 7.6 The requirements and controls around trade waste permits in the draft bylaw are generally unchanged from those in the 2015 Bylaw, except in relation to some of the powers given to Council to vary, suspend or cancel permits (refer to Table 2 below).

8 Key Change 1 – New Category for the Classification of Trade Waste

- 8.1 Council proposes to introduce a category of trade waste called “controlled trade waste,” defined as:
- A trade waste that complies with the physical and chemical characteristics of a permitted trade waste in accordance with Schedule 1 of the Bylaw, but where the volume exceeds 5m³ per day, for which conditions have been placed upon the permit by the Council.*
- 8.2 The purpose of this change is so that Council can separately identify those trade waste dischargers who are discharging relatively simple wastes, but in significantly high volumes. The creation of this new category of consent enables Council to correctly attribute the costs arising from those high volumes.
- 8.3 Related to this change, Council is also proposing to introduce a new clause that gives Council the right to review or cancel any trade waste permit for controlled trade waste discharges (in addition to conditional trade waste discharges) in the event or any accident or incident.

Cost Implications of Key Change 1

- 8.4 The introduction of a controlled trade waste category to Council's Trade Wastes Bylaw would mean that those trade premises that discharge permitted trade waste in volumes in excess of 5m³/day would have to obtain a permit.
- 8.5 Industrial sites in the Manawatū District either have flow meters in place already, or trade waste volumes are estimated based on the volume of water used on site. Council is not aware of many sites that generate 5m³/day of trade waste that don't already have a permit under the 2015 Bylaw. However, those trade premises who would be affected by this change would need to apply to Council for a trade waste permit.
- 8.6 Fees for trade waste permits are set out in Council's schedule of fees and charges (published on Council's website). The fees are currently set as follows:
- Application fee: \$234.00 (including the first two hours of processing)
 - Processing fee: \$115 per hour
- 8.7 The cost to install a flow meter, should one be required, is site-specific, but is estimated to be in the vicinity of \$10,000 (including installation).

9 Key Change 2 – Treatment of Trade Waste

- 9.1 Council's Trade Wastes Bylaw 2015 contains the following controls with respect to pre-treatment of trade waste:
- Under clause 7.2(a), Council can require pre-treatment of permitted trade waste to a specified standard or requirement in order to prevent the discharge damaging or otherwise adversely affecting the public wastewater system;
 - Under clause 10.1(c), a person can only discharge trade waste to the public wastewater system in accordance with the bylaw and any conditions set out in a trade waste permit. The general conditions for permits (clause 17.2) include:
 - the provision of appropriate pre-treatment systems to the extent that the discharge can comply with the Bylaw, and information on how the system will be operated and maintained (clause 17.2(b));
 - The provision and maintenance at the permit holder's expense of appropriate screens, grease traps, silt traps or other pre-treatment works, equipment or storage facilities designed to control discharge characteristics to the permitted levels (clause 17.2(i)); and
 - Specific requirements for food premises and dentist practices as follows (clause 17.2(v)):
 - (i) Food premises discharging trade waste will install grease traps, operate these in accordance with manufacture specifications and maintain these in good working order;

(ii) Dentists install suitable amalgam traps on all spittoons and on sink wastes used for washing dentistry equipment, and information on how these will be operated and maintained.

- Clause 16.1 lists those matters that Council will consider when deciding whether to grant a trade waste permit. These matters include “the fitting of interceptor traps at commercial premises where oils, grit or other pollutants are likely to be present, and information on how these will be operated and maintained” (clause 16.1(n)).

9.2 It is not clear under the 2015 Bylaw how Council can require pre-treatment of trade waste to ensure it meets the requirements of a permitted trade waste (i.e. clause 12.2(a)). The bylaw enables Council to impose conditions requiring pre-treatment of trade waste for conditional trade waste, but no such conditions apply to permitted trade waste.

9.3 Unless a permit is required for conditional trade waste (or a ‘controlled trade waste’ under the draft bylaw), there is no ability for Council to require ongoing maintenance of any pre-treatment systems. Without clear responsibilities around ongoing maintenance of pre-treatment systems, this may increase the risk of unintended or accidental discharges of trade waste into the public wastewater network. Introducing these clauses means that there is a greater level of control around pre-treatment requirements, regardless of whether a permit is required for the discharge or not.

9.4 Specified pre-treatment requirements are proposed to be introduced as the current requirements are not sufficiently detailed. The draft bylaw includes requirements that:

- pre-treatment systems be provided, operated and maintained by the person discharging and at their expense;
- grease interceptors be installed at all food premises, or where fat, grease or oil could be present;
- interceptor traps be installed where oils, grit or other pollutants are present;
- Permanent sink screens be fitted to all sinks where food waste could enter a grease interceptor or the public wastewater network; and
- Amalgam traps on all spittoons and on sink wastes used for washing dentistry equipment.

9.5 Providing greater detail of pre-treatment requirements within the Bylaw will lead to greater consistency in approach as well as setting clear expectations around ongoing maintenance responsibilities. These clauses are intended to inform owners of premises of Council’s requirements and expectations, while providing sufficient discretion to ensure that the owner(s) of all premises where such treatment devices are required are aware of Council’s expectations and give Council officers the authority they need to require the installation of such treatment devices where they are lacking.

Cost implications of Key Change 2

9.6 The Bylaw already requires pre-treatment of trade waste to achieve certain quality requirements. The pre-treatment requirements for those trade premises who hold a

trade waste permit are governed by conditions on their consents. The new pre-treatment requirements will therefore only affect those premises discharging permitted trade waste who do not yet have compliant pre-treatment systems, or those premises who do not currently maintain their pre-treatment systems adequately. The costs of installing new pre-treatment systems or maintaining existing systems are site-specific and those costs will not change because of the proposed changes to the bylaw.

10 Minor Changes to the Bylaw

10.1 The draft bylaw includes a number of minor changes as well as two significant changes. Minor changes are outlined in Table 1 and the key changes to the bylaw are described in Sections 8 and 9 of this Statement of Proposal.

Table 1: Minor Changes to the Trade Waste Bylaw

Recommended Change	Reasons for change
Change from “System” to “Network”	To better align the terminology used in the Bylaw with that used in other Council documents, including the 10 Year Plan, Infrastructure Strategy, Asset Management Plans and Council’s Engineering Standards for Land Development
Relocation of clauses	To group similar clauses together to make the bylaw easier to read and understand and to remove duplication.
Amendments to the purpose of the bylaw	To better align the bylaw with the special bylaw-making powers for territorial authorities under s146(b) of the Act
Amendments to definitions	To align them with relevant legislation, as a result of legal input and to remove redundant terms
Relocation of general conditions for permits from the body of the Bylaw to a Schedule	To improve the flow of the Bylaw.
Removal of some of the broad powers given to Council in relation to varying, suspending or cancelling a permit, including: <ul style="list-style-type: none"> • where there are circumstances that make it necessary in the public interest to cancel the permit; • where Council determines that the discharge could cause a non-compliance with Council’s discharge consent held with 	Council considers these broad powers to be unreasonable or difficult to apply in practice. Rather than relying on these broad powers, Council can ensure consented discharges do not cause breaches in Councils consents through conditions on the permit and can respond to changes in legal requirements through bylaw amendments.

Recommended Change	Reasons for change
<p>the Manawatū-Whanganui Regional Council ('Horizons'); and</p> <ul style="list-style-type: none"> • where necessary for Council to comply with other legal requirements, such as through legislation. 	
<p>Deletion or amendments to those permitted trade waste characteristics in Schedule 1 that have previously relied on Council opinion, or reference compliance with Council's own wastewater discharge consent.</p> <p>New clause 12.3(c) replaces some of the deleted characteristics from Schedule 1 (in relation to total dissolved concentration of trade waste, emulsions that cause coagulation or blockage and colouring of the discharge). Clause 12.3(c) relates to unanticipated detrimental effects on the public wastewater network or receiving environment from permitted trade wastes.</p>	<p>The characteristics for permitted trade waste in Schedule 1 of the bylaw should be reasonably understood by those who deal with trade wastes. Those clauses that rely on Council opinion are not sufficiently clear to enable users to determine whether their discharge is a permitted trade waste.</p> <p>It is preferable that Council ensures compliance with its own wastewater discharge consents through imposing appropriate controls through the bylaw and conditions on trade waste permits. Trade waste producers will not be able to determine whether their discharge is likely to impair Councils ability to comply with its own discharge consents.</p>

11 Relationship with Horizons One Plan

- 11.1 The Manawatū District Council is responsible for managing the quality of stormwater and wastewater being discharged into the public drainage network, while the Manawatū-Whanganui Regional Council ("Horizons") is responsible for managing the quality of the wastewater and stormwater from public networks at the point where it enters the receiving environment (onto land or into rivers or streams). Council needs to make sure that the wastewater and stormwater discharged from private premises into the public drainage network is of an appropriate standard to protect the environment and to comply with the consent requirements. The Drainage Bylaw is the main legal document that Council uses to manage connections to the public drainage network.
- 11.2 The Trade Wastes Bylaw is concerned with the quality of discharges of trade waste into the public wastewater network. The permit process in the Trade Waste Bylaw is designed to ensure that trade waste does not cause damage to the public wastewater network or any wastewater treatment plants. Once trade waste reaches the wastewater treatment plant it is treated, along with domestic wastewater, and then

discharged into waterways or onto land. Council is responsible for ensuring that trade waste does not cause non-compliances with the wastewater discharge consents that it holds with Horizons.

12 Statutory Requirements

12.1 Section 145 of the Act gives council the power to make bylaws for 1 or more of the following purposes:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety;
- c) minimising the potential for offensive behaviour in public places.

Specific bylaw-making powers under section 146 of the Act that are relevant to this review include:

- S146(1)(a)(iii) which gives Council the authority to make bylaws for the purpose of regulating trade waste; and

12.2 The Act requires that a new bylaw is reviewed within 5 years of it being made. The Trade Wastes Bylaw 2015 was made on 18 November 2015, so was due for review by 18 November 2020. However, in accordance with s160A of the Act, the current bylaw continues to have legal effect until 18 November 2022 (if not reviewed prior).

12.3 The Act sets out the required process for bylaw reviews.

13 Determining the need for a Bylaw

Section 155(1)

13.1 According to s155(1) of the Act, Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problems.

13.2 On 7 April 2022 Council received a report that detailed the perceived problems for trade waste. It also evaluated whether a bylaw was the most appropriate way for addressing the perceived problems.

13.3 The report to Council and the minutes from the 7 April 2022 Council meeting are available on Council's website ([Manawatū District Council Agendas & Minutes](#)). Paper copies can also be provided from Council on request.

13.4 In summary, on 7 April 2022 Council determined that a bylaw is the most appropriate way of addressing the following perceived problems in relation to trade waste:

1. Sewer blockages from rags or foreign materials or from congealed fat from oils discharged into the sewer system
2. Corrosion of sewers or manholes due to trade waste discharges
3. Wastewater containing volatile or toxic substances that affect the health of sewer and treatment plant operators or upset the biological balance of the wastewater treatment process (for example from the disposal of petrol or turpentine used for cleaning).

4. Discharges to the wastewater treatment plant that cause non-compliance with Council's discharge consent.
5. Discharges that contain persistent contaminants (that affect land discharge).
6. The management of bulk discharges to the wastewater treatment plant.
7. Peak flows that exceed the capacity of the reticulation network.
8. Activities (such as new industrial activities) that are permitted under the District Plan that have the potential to cause biological and odour release issues at the wastewater treatment plant.
9. High hydrogen sulphide readings at the inlet and outlet from the anaerobic pond (from the breakdown of high strength waste) that cause health and safety issues for staff at the plant and environmental impacts.
10. Insufficient control over installation and ongoing maintenance of pre-treatment systems for trade waste, resulting in solids entering wastewater treatment plants.

13.5 The main benefits of the bylaw over the other tools that Council may use to manage the perceived problems in paragraph 14.4 are as follows:

1. The Local Government Act 2002 envisages a bylaw as a viable solution for managing trade wastes (s146(a)(iii)).
2. Council can control the quality of trade waste discharges into the network and to the wastewater treatment plant through classifying trade waste according to its discharge characteristics.
3. Enables the creation of a permit process for managing the quality and quantity of trade waste discharges into the network and to the wastewater treatment plant
4. Improved safety of operators
5. Increased life of wastewater assets
6. Reduced risks to biological treatment processes
7. Reduced risk of prosecution by Horizons for exceeding consent limits
8. Greater transparency and less risk of inconsistency or conflict
9. Enables Council to recover reasonable costs
10. Council has more information on trade waste discharges, enabling more equitable charging of customers
11. Council can take enforcement action (including infringement notices or variations or cancellations of permits) which allows for breaches to be addressed.

14 Determining the appropriate form of the Bylaw

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

- 14.2 Council will make a formal determination on whether Council’s proposed Trade Wastes Bylaw 2022 is the most appropriate form of the bylaw after considering submissions on the draft Bylaw. However, it is also worthwhile to consider the form of the bylaw at the drafting stage of the process.
- 14.3 The draft Bylaw (attached) is considered to be an appropriate form of the bylaw. External advisors have reviewed the draft bylaw to help ensure this is the case. The draft Bylaw is lawfully authorised under s146(1)(a)(iii) of the Act, consistent with all relevant legislation and is sufficiently clear and certain so that those who are subject to the bylaw understand its effect.

15 Preliminary Assessment against the Bill of Rights Act 1990

- 15.1 Section 155(2)(b) of the Act 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.
- 15.2 An assessment of whether Council’s proposed Trade Wastes Bylaw 2022 will give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA) cannot be fully considered until after Council has deliberated on submissions on the draft Bylaw and the proposed Bylaw has been finalised for consideration by Council. However, a preliminary assessment can be made as to whether a bylaw that regulates trade waste may give rise to any implications under the NZBORA.
- 15.3 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.*”
- 15.4 It is not expected that a bylaw to address the perceived problems identified in relation to trade waste (paragraph 14.4) would give rise to any implications against the NZBORA, particularly as section 146(a)(iii) gives territorial authorities specific bylaw-making powers for the purpose of regulating trade wastes. However, a further assessment against the NZBORA will be undertaken prior to Council passing a resolution to adopt Council’s Trade Waste Bylaw 2022.

16 Consultation Process

- 16.1 Anyone can make a submission about Council’s draft Trade Wastes Bylaw 2022 described in this statement of proposal. Submissions can be made electronically through the Council’s “Have Your Say” webpage (<https://www.mdc.govt.nz/Contact-Us/Have-Your-Say>). Alternatively, a submission form can be downloaded from Council’s “Have Your Say” webpage or detached from this document and emailed to submissions@mdc.govt.nz (subject heading “Draft Trade Wastes Bylaw”), hand delivered to the Council office at 135 Manchester Street, Feilding, or posted to:

Manawatū District Council
Private Bag 10001
Feilding 4743
New Zealand

- 16.2 Submissions close at **5pm on 13 June 2022.**
- 16.3 Any written form of submission will be received and considered.
- 16.4 Submitters should note that their submission will be copied and made available to the public after the submission period closes. You may opt to have your personal contact details kept confidential.
- 16.5 Please state in your submission whether or not you wish to present your submission in person at a hearing.

17 Proposed Timeline

17.1 7 July 2022 – Hearings

A hearing will be held for those who wish to present their submission to council in person. Each submitter who wishes to speak at the hearing will be contacted after 13 June 2022 and assigned a speaking time.

17.2 4 August 2022 – Deliberations

Council will deliberate on all written and oral submissions.

17.3 1 September 2022 - Adoption

Following the consideration of submissions on the draft Bylaw, the proposed Manawatū District Council Trade Wastes Bylaw 2022 will be considered for adoption by Council.