



STATEMENT OF PROPOSAL TO CREATE THE

STORMWATER BYLAW 2009

(This statement is made for the purposes of sections 83 and 146 of the Local Government Act 2002)

NATURE OF PROPOSAL

This is a statement of proposal by the Waimakariri District Council (the Council) to create a Stormwater Bylaw.

The proposal to create the bylaw is made pursuant to:

- Section 146 (b) (iii) of the Local Government Act 2002 which empowers the Council to make bylaws for managing and regulating against, or protecting from, damage, misuse, or loss, or preventing the use of, the land, structures, or infrastructure associated with wastewater, drainage, and sanitation.
- Section 155 of the Local Government Act 2002 sets out determinations of appropriateness in making this bylaw. In addition to the general provisions about decision making, the Council, when considering a bylaw, must:
 - Determine whether a bylaw is the most appropriate way of addressing with the perceived problem
 - Determine whether the bylaw is in the most appropriate form
 - Determine whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990. If there are implications under that Act, the bylaw must be amended to remove any inconsistencies.

REASONS FOR THIS PROPOSAL

- To provide a mechanism to control the discharge of contaminants into the public stormwater system at Southbrook.
- To ensure that the Council can meet the standards it expects that the regulatory authority (ECan) will set on its discharges from communal stormwater systems.
- The bylaw is considered the most effective way of providing a tool to enable the Council to manage the quality of discharges into stormwater systems from industrial and trade premises and to provide a means of addressing errant practices which have caused the discharge of contaminants to Council stormwater drains throughout the district.
- To provide the forum for the public to contribute to the draft bylaw

THE STATUTORY REQUIREMENTS FOR MAKING A BYLAW

Determination of Appropriateness:

- The bylaw is being created to enable the Council to control the quality of stormwater being discharged into the stormwater system at Southbrook:
 - i. To ensure that it can meet the conditions of its resource consents to be obtained by the Council, and

- ii. To generally protect, maintain or improve water quality in the district

Form of Bylaw

The proposed bylaw will take the form of a stand-alone bylaw which is consistent with Council's policy on bylaws.

Options available to the Council:

- a. Do nothing – failure to meet the requirements of its resource consents could mean that the Council would be in breach of its consent and liable to prosecution under the Resource Management Act (RMA) if discharges of stormwater from Council controlled drainage systems do not meet the standards set. Without the bylaw, the Council has limited ability to control the quality of discharges into its stormwater systems. Even if the council did not obtain global consents it already has public drainage systems which collect stormwater from business and private properties which discharge to Regional Council controlled drains. It needs a mechanism to control those discharges. The do nothing option is not recommended.
- b. Create rules under the District Plan to control discharges. The council could control discharges by creating rules under the District Plan. This would require similar processes to the creation of a bylaw but is considered to be a more complicated mechanism to manage. It is not recommended.
- c. Require individual properties to obtain resource consents for their discharges and provide the required retention and treatment systems. The Council believes that a communal system provides the best mechanism to address the quality of discharges from existing premises and assist new businesses to establish in the area.
- d. Proceed with the bylaw. By creating this bylaw, it will provide a tool to enable the Council to manage the quality of discharges into stormwater systems from industrial and trade premises and to provide a methodology (tool) to address errant practices throughout the district.
- e. The bylaw will initially only apply to the Southbrook outline development plan area, but it is expected that the bylaw will in future be extended to cover other existing business zones in the district. Amendment of the bylaw to encompass existing business zones outside the Southbrook ODP area will require full public consultation. This will ensure that there is plenty of lead time for industrial and trade premises to programme improvements.

Benefits/costs:

- a. The bylaw provides a method of ensuring new industrial and trade developments provide best practicable option solutions to limit the discharge of contaminants into the public stormwater system.
- b. The bylaw provides a mechanism to ensure existing industrial and trade premises review their stormwater discharge systems and carry out appropriate improvements.
- c. The bylaw identifies and defines those substances which are contaminants and gives the Council the tools to deal with instances where such contaminants are discharged to public drainage systems
- d. The Council may need in the future to provide a budget to administer the system. Initially the work will be absorbed into the existing drainage and development consenting/approval processes, but once existing critical risk businesses are required to comply with the proposed bylaw and prepare pollution prevention plans for review by the Council, a budget is likely to be required. This has yet to be assessed, but is likely to be one to two days work each week for one person for perhaps one year.
- e. Businesses required to provide pollution prevention plans will be faced with a cost to prepare these. However, because of the nature of their businesses, they should have already been undertaking such work anyway, though not in such a formal manner. Depending upon who prepares the plan, the

cost could be of the order of a few hundred to 2 or 3 thousand dollars depending upon the nature of the activity and size of the business. The Council will be preparing a guide to assist businesses prepare their plans. The provision of on-site source control measures will require additional costs of nothing through to several tens of thousands of dollars, again depending upon the nature of the activity and the size of the business.

Community Outcomes:

The bylaw will assist toward meeting the following of the Council's published community outcomes that the Community expect Council to deliver:

- Minimise harm to people from natural and man-made hazards.
- Minimise harm to the environment from the spread of contaminants into ground and surface water
- Minimise harm to the environment from sewage and stormwater discharges
- People enjoy clean water at our beaches and rivers.
- Providing opportunities for people to contribute to the decision-making of public organisations within the District
 - Public organisations make information about their plans and activities readily available
 - Public organisations make every effort to accommodate the views of people who contribute to consultations

In particular, the bylaw will contribute to creating improved water quality in the district by:

- Reduction of pollution and spills from at risk businesses
- Providing a tool to effectively manage any illegal discharges

CONSULTATION

Consideration of the views and preferences of affected or interested people:

- The special consultative procedure is the means of soliciting public comment.
- The draft bylaw has been discussed with the Utilities Section, Technical Services Unit and the Policy & Strategy team. A staff submission will be drafted for consideration by the Hearing Committee.
- A report will be made to the Kaiapoi Community Board and the Ward Advisory Boards for their consideration.

The proposed timetable for the consultation process is:

Task	Date
Committee approval of the Statement of Proposal for Public Consultation and draft bylaw	16 December 2008
Mailing of Statement of Proposal to business zoned properties and Iwi. Referral of proposal to Community Boards and Advisory Boards	23 January 2009
Public Notice and local newspaper feature of proposal	31 January 2009
Submissions open	31 January 2009
Public Meeting(s) to present Bylaw proposal	10 February 2009
Submissions close	5 March 2009
Hear Submissions	26/27 March 2009

Council Decision	5 May 2009
Effective Date of Bylaw	1 July 2009

THE IMPLICATIONS ON THE NEW ZEALAND BILL OF RIGHTS

The Local Government Act 2002 requires that Council determine whether there are any implications for the bylaw under the New Zealand Bill of Rights Act 1990. No bylaw may be made that is inconsistent with that Act. It is not foreseen that the proposed policy and the proposed bylaw will contain any provisions that will be in conflict with the New Zealand Bill of Rights Act 1990.

The Local Government Act 2002 seeks to facilitate community involvement in decisions. Section 155(2)(b) of the Local Government Act 2002 requires that the bylaw not be inconsistent with the NZ Bill of Rights Act 1990. The NZ Bill of Rights Act 1990 states:

Section 5: "Subject to section 4 of this Bill of Rights, the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society."

Parliament has provided through the Resource Management Act legislation to manage water quality. In Canterbury those powers are delegated to the Canterbury Regional Council. The bylaw effectively mirrors some of those powers (though without the effectiveness of the RMA) hence, the bylaw is not considered to conflict with the Bill of Rights.

RELATED DOCUMENTS

The following documents should be read as a part of the Statement of Proposal:

1. District Council report to the Utilities and Roading Committee (Doc N^o 081120037195).
2. Summary of Statement of Proposal (See section 89 LGA) (081204038963)