

Council Meeting

27 February 2025

Separate Attachment

**This attachment relates to Item 7
in your Agenda**

***Separate Attachment 7.2–
Draft Statement of Proposal***



**MARLBOROUGH
DISTRICT COUNCIL**

Statement of Proposal

Draft Trade Waste Bylaw 2025

<https://www.marlborough.govt.nz/your-council/have-your-say-consultations>

Table of Contents

Table of Contents	2
Introduction	3
Have Your Say	3
The deadline for submissions is 5pm on 3rd May 2025	3
What happens next?	4
Proposed Timeline	4
<i>Attachments:</i>	4
Proposal in Summary	4
Key change – New Conditional Consent required for Tanker Operators	5
Minor changes to the Bylaw	5
Legislative Requirements	6
Is a bylaw the appropriate means to deal with the problem?	6
Is the proposed bylaw the most appropriate form of bylaw?	7
Is a bylaw consistent with the New Zealand Bill of Rights?	7

Introduction

1. Marlborough District Council (**Council**) is proposing to replace its 2011 Trade Waste Bylaw (**2011 Bylaw**).
2. Under the Local Government Act 2002 (**the Act**), the Council has the authority to regulate trade waste in the Marlborough region.
3. Under section 146 of the Act, the Council has the power to make bylaws for the purpose of regulating trade waste.
4. In 2011 the Council adopted the 2011 Bylaw which covered all areas in Marlborough. That bylaw came into force on 7 October 2011.

Our Proposal

We are proposing that we replace the 2011 Bylaw with the proposed Draft Bylaw attached to this Statement of Proposal.

5. We want to replace the 2011 Bylaw to maintain a similar bylaw with some amendments to address key issues, improve the clarity of the bylaw and protect Council's wastewater system.

Have Your Say

6. The views of people who live, work and play in Marlborough are important to us.

Council would like your feedback on the proposed changes and proposed new bylaw.

7. Anyone can make a submission. Your submission can support or oppose the proposals.
8. You can make a submission online through the Council's 'Have Your Say' [webpage](#) or you can request a form from Council offices.
9. Completed form can be submitted through the Have Your Say process. Council will accept submissions via:
 - a. Email: mdc@marlborough.govt.nz
 - b. Post: 15 Seymour Street, Blenheim Central, Blenheim 7201
 - c. Hand Delivery: Customer Service Centre at 15 Seymour Street.
10. Your submission should clearly state –
 - the part of the proposed Bylaw the submission point relates to;
 - whether you support or oppose the provision;
 - the reasons for supporting or opposing the provision; and
 - whether or not you wish to be heard in support of your submission.

The deadline for submissions is 5pm on 3rd May 2025

What happens next?

If you have indicated on your submission form that you would like to make a verbal submission, we will contact you to arrange a time for you to speak. The hearing on submissions will be in March 2025.

Proposed Timeline

Action	Date
Submissions on the proposed Bylaws and Statement of Proposal are open	3 rd March 2025
Submissions close	3 rd May 2025
Hearings before Council Hearing Committee	On a date determined by Council
Send a copy of the proposed bylaw to the Minister of Health for their comment	2 months after submissions close
Council resolution revoking, continuing, amending or replacing bylaws	On a date determined by Council
Reviewed bylaw come into force	On a date determined by Council

Where can I get more information?

Copies of the proposed the proposed Draft Bylaw and this Statement of Proposal can be viewed:

- on Council's website at www.marlborough.govt.nz;
- at Council Offices at 15 Seymour Street, Blenheim or 67 High Street, Picton;
- at Council's libraries in Blenheim (33 Arthur Street) or Picton (67 High Street);
- by calling Council on 03 5207400
- by emailing bylawsubmissions@marlborough.govt.nz and asking for a copy to be sent to you.

Attachments:

Attachment 1 – Draft Trade Waste Bylaw 2025

Proposal in Summary

6. The proposed Draft Bylaw provides Council with an opportunity to improve how trade waste discharges are regulated through minor amendments which address key issues, improve the clarity of the Bylaw and protect Council's wastewater system.
7. By replacing the 2011 Bylaw with a new, updated replacement bylaw, Council can maintain the regulation of trade waste and tanker discharges into the public wastewater system, and:
 - a. Ensure they are fit for purpose with the changes in the district since 2011;
 - b. Address bylaw implementation issues to enable effective enforcement; and
 - c. Update legislation and bylaw references (editorial changes).
8. There are limited changes in the proposed Draft Bylaw, as the Council considers the 2011 Bylaw is generally fit for purpose and this replacement is largely procedural.
9. The main areas of change in the Bylaw are:
 - a. **Key Change:** New Conditional Consent required for Tanker operators.

- b. **Minor changes:** several changes have been made to aid in clarity, remove unnecessary elements and align with aspects of the New Zealand Standards model bylaw.

Key change – New Conditional Consent required for Tanker Operators

11. Council proposes to introduce a new category for Tanker Operators under Clause 16 - Tanker Trade Waste Consents.
12. Liquid tanker waste contractors must have a conditional consent associated with the property where the vehicles are stored, otherwise the tanker trade waste will not be accepted at Council disposal facilities.
13. The purpose of this change is so Council can separately identify tanker trade waste operators, set new specific conditions for tanker discharge consents, and outline tanker operators' responsibilities when disposing of waste. The definition of tankered waste has not changed.
14. Related to this change, Council specifically outlines which approved disposal facility locations accept tanker waste. Unless otherwise approved, these facilities are:
 - a. Hardings Road septage receival facility; and/or
 - b. Bluegums Landfill facility.
15. Also related to this change are the addition of specific conditions which apply to all trade waste consents related to tankered waste. The specific conditions are in addition to any general conditions imposed under Clause 8 of the proposed Draft Bylaw. The specific conditions include:
 - a. Tanker operators may be required by Council to be compliant with the [Liquid and Hazardous Code of Practice 2012](#);
 - b. Specific loads will require safety data sheets supplied to an authorised Council officer detailing the characteristics of the trade waste;
 - c. If trade waste is not known or likely above acceptable parameters for disposal, the material is to be tested before loaded to determine the characteristics of the contents;
 - d. Specialist advice on pre-treatment for acceptance before disposal may be required;
 - e. The cost of all testing and advice shall be the responsibility of the applicant or the original source of the trade waste;
 - f. Disposal approval for specific loads is required in writing from an authorized Council officer;
 - g. Tanker waste subject to pre-approval must not be picked up or transported until appropriate arrangements and method for disposal has been determined by an authorised Council officer; and
 - h. A minimum 24-hours' notice shall be given to the disposal site personnel prior to disposal of any discharges that are extraordinary and have additional testing completed.

Minor changes to the Bylaw

16. The Bylaw minor changes, including:

Recommended Change	Reasons for Change
Amendments to the purpose of the Bylaw	To better align with the special bylaw-making powers for territorial authorities under s 146(b) of the Act.

Relocation of clauses	To group similar clauses together to make the Bylaw easier to read and understand and remove any duplication.
Addition of Summary section	To explain the general effects and improve the flow of the Bylaw.
Amendments to the structure and layout	Changes to the structure and layout of the Bylaw have been made to provide greater clarity, including a contents page.
Amendment to Clause 24 – Payment and Invoicing	To outline when fees and charges will be reviewed and adjusted.

Legislative Requirements

17. When reviewing a bylaw, Council must determine:
- the bylaw is the most appropriate way of addressing the perceived problem;
 - it is the most appropriate form of bylaw; and
 - whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Reasons for the Proposal

18. Under the Act, the Council has functions in respect of trade waste. Section 146(1)(a)(iii) of the Act provides that a territorial authority may make bylaws for its district for the purposes of regulating trade wastes.
19. The Council has previously had bylaws in place in accordance with this section, with the most recent being made in 2011.
20. The council is proposing to replace the 2011 Bylaw with a very similar proposed Draft Bylaw, with the above amendments to make it fit for purpose.
21. The proposed Draft Bylaw enables the Council to protect wastewater drainage systems, regulate the discharge of trade wastes into it and address the associated issues.
22. In accordance with section 155 of the Local Government Act 2002, the Council considered whether a bylaw is the most appropriate way of addressing the perceived problem, whether the proposed bylaw is the most appropriate form of bylaw and whether it gives rise to any implications under the Bill of Rights Act, at its meeting on 27 February 2025. A summary of those considerations is set out below.

Is a bylaw the appropriate means to deal with the problem?

23. The Council is responsible for the regulation of trade waste within the district. A problem may exist if the Council does not have clear regulations around trade waste as it may not be able to adequately protect the public from nuisance or promote and maintain public health and safety. A further problem may exist in the wastewater drainage system and the discharge of trade waste into it.
24. The Council considered whether a bylaw was the most appropriate way of addressing the perceived problem at its meeting on 27 February 2025.
- a. Option 1: Do nothing; or
 - b. Option 2: make a bylaw.

Option 1: Do nothing

25. If the Council does nothing, the lack of regulation contributing to the perceived problem will continue. The Council will have limited powers to regulate the various trade waste discharges commonly occurring in the Marlborough region, and this may contribute to public nuisance and health and safety issues.
26. Staff have considered non-regulatory options for addressing the problem. Staff do not consider that non-regulatory measures will be sufficient to adequately address the problems. The difficulty with any voluntary compliance regime is that individuals may not have an adequate incentive to comply, and therefore this could create a danger to the public. Bylaws are the most effective method for Council to protect the public from nuisance and promote and maintain public health and safety.

Option 2: make a bylaw

27. Bylaws in relation to regulating trade waste are specifically anticipated by the Act. The Council previously had a bylaw in place that allowed it to regulate these activities.
28. Through a bylaw, the Council is able to regulate the matters set out above in section 146 of the Act and ensure any risks to nuisance or safety are minimised.
29. Adopting a bylaw based on the previous 2011 version allows the Council to ensure that minimum protections from nuisance, health and safety and the protection of Council wastewater assets are in place as soon as possible.
30. For these reasons, the Council determined that a bylaw was the most appropriate way to address the perceived problem, and subsequently resolved to consult on the proposed Draft Bylaw.
31. The Council adopted the staff's recommendation at its meeting on 27 February 2025 to adopt the proposed Draft Bylaw for consultation (based on the 2011 bylaw with some amendments), in order to ensure that a working bylaw is in place.

Is the proposed bylaw the most appropriate form of bylaw?

32. The proposed bylaw has been drafted following a comprehensive review of Council's bylaw-making powers.
33. Council considers the proposed Draft Bylaw is the most appropriate form of bylaw. The bylaw is consistent with the Council's functions in respect of trade waste regulation under the Act, and the reasons for which a bylaw can be made under section 146 of the Act.
34. Council also considers the proposed Draft Bylaw to be the most appropriate form because it is based on the Standards New Zealand Trade Waste Model Bylaw 2004 which covers the use of existing practices throughout New Zealand. It establishes standards for Council's and facilitates the management of the acceptance of trade waste into the public wastewater system.
35. Based on experience operating under the 2011 Bylaw, the Council has proposed to make some minor amendments to the provisions as they were previously expressed in the 2011 Bylaw. These amendments are to deal with relevant key issues (as noted above), and to improve the clarity of the proposed Draft Bylaw.
36. The Council will give further consideration to whether the proposed Draft Bylaw is the most appropriate form of bylaw following receipt and consideration of submissions, prior to making any bylaw.

Is a bylaw consistent with the New Zealand Bill of Rights?

37. Council considers that any limitations on the rights and freedoms granted in the New Zealand Bill of Rights Act as a result of the proposed Draft Bylaw are no more than are reasonably necessary to achieve the purposes of the proposed Draft Bylaw of regulating trade waste.

38. The Council will give further consideration to this matter following receipt and consideration of submissions, prior to making any bylaw.

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