

QLDC Council
23 July 2020

Report for Agenda Item | Rīpoata moto e Rāraki take 4

Department: Property & Infrastructure

Title | Taitara: Proposed Integrated Three Waters Bylaw

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to recommend that the Council agree to undertake public consultation using the special consultative procedure on making a new Integrated Three Waters Bylaw that will provide a regulatory framework to effectively manage water supply, wastewater (including trade waste) and stormwater. An administration manual will support the new Integrated Three Waters Bylaw.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 There is an identified need to regulate the three waters network in the Queenstown Lakes District. This report recommends that the Council make a new integrated bylaw that will replace the existing Trade Waste Bylaw 2014 and the Water Supply Bylaw 2015, and will include new regulatory provision for the management of stormwater and wastewater.
- 3 The proposed new Integrated Three Waters Bylaw will provide a proactive and responsive regulatory framework to manage the risks associated with the operation of the three waters network, including the quality of discharges to the natural environment. The integration of the three waters bylaws ensures a consistent and holistic approach to the promotion of sustainable behaviours and activities in the district, including water management, waste minimisation, on-site pre-treatment of trade waste, control of backflow contamination risks to our water supply, and expand the toolkit available for Council to protect the natural environment, as well as numerous other benefits.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report;
2. **Adopt** the Statement of Proposal and draft Integrated Three Waters Bylaw for the purposes of public consultation; and
3. **Approve** the commencement of the special consultative procedure in accordance with section 83(1) of the Local Government Act 2002 in relation to the proposal of a new Integrated Three Waters Bylaw.

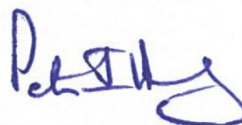
4. **Appoint** three Councillors [to be named] to hear and consider the submissions on the proposal and make recommendations to the Council on the adoption of the proposed Integrated Three Waters Bylaw.

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8/07/2020

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Peter Hansby
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8/07/2020

CONTEXT | HOROPAKI

- 4 Three waters services are core infrastructure managed by the Queenstown Lakes District Council (**Council**), and comprise:
 - (a) The Water Supply Network: provides the supply of water on demand to the communities and businesses within the reticulation network.
 - (b) The Stormwater System: provides for the collection and discharge, treatment (in some cases), and discharge of stormwater to the receiving environment.
 - (c) The Wastewater Network: provides for the collection, treatment, and discharge of wastewater. Wastewater includes domestic sewage and wastewater from trade premises.
- 5 The Water Supply Network, the Stormwater System and the Wastewater Network in the Queenstown Lakes District (**District**) are collectively referred to in this report as the **Three Waters Network**.
- 6 The stormwater network of pipes, roads and other devices uses the natural and built environment for the conveyance of stormwater. This captures the management of the natural and built environment beyond the Council's reticulated network.
- 7 The wastewater and water supply assets across the district are made up of a number of discreet and unconnected networks. However, the policies and standards in place to manage these networks are the same.
- 8 Under the Local Government Act 2002 (**LGA**), the Council is able to make bylaws for the purposes of managing and protecting the Three Waters Networks and the natural environment from which water is abstracted and into which wastewater and stormwater are discharged.¹ The Council may also make bylaws for:
 - (a) protecting the public from nuisance;
 - (b) protecting, promoting, and maintaining public health and safety; and
 - (c) minimising the potential for offensive behaviour in public places.
- 9 The Council currently has the Trade Waste Bylaw 2014 that was a new bylaw, and is due for review in July 2020.² The Council also has the Water Supply Bylaw 2015 that was reviewed in 2015, and is therefore due for review by 2025.³
- 10 The need for improved outcomes for the management of stormwater and wastewater has become evident with the increase in population, large-scale business operations, and the need to protect the natural receiving environment and council's infrastructure from harm.

¹ LGA, ss 145, 14.

² LGA, s 158.

³ LGA, s 159.

- 11 In November 2019, Council considered the approach to regulating the Three Waters Network in the District. One option under consideration was an integrated three waters bylaw and an associated administration manual.
- 12 Following this initial step, Council officers prepared the following reports consistent with the requirements of the LGA:
 - a. A cover report which discusses an integrated approach to the management of the Council's three waters responsibilities;
 - b. Findings report from the review of the Queenstown Lakes District Council Trade Waste Bylaw 2014;
 - c. Findings report from the review of the Queenstown Lakes District Council Water Supply Bylaw 2015;
 - d. A determination report investigating the appropriateness of a stormwater bylaw; and
 - e. A determination report investigating the appropriateness of a wastewater bylaw.
- 13 The findings reports are reviews of Council's existing trade waste and water supply bylaws, and the determination reports make recommendations about the use of a new bylaw(s) to manage stormwater and wastewater. These reports have now been completed, and all include an option to use an integrated three waters bylaw. The reports are appended to the Statement of Proposal (**Attachment A, Appendices 3, 6-9**).
- 14 The purpose of this report is to consider whether the Council should make a new Integrated Three Waters Bylaw to provide a regulatory framework to effectively manage water supply, wastewater (including trade waste) and stormwater. A copy of the proposed Integrated Three Waters Bylaw is appended to the Statement of Proposal (**Attachment A, Appendix 1**).
- 15 Incorporating the new wastewater and stormwater bylaws, together with the water supply and trade waste bylaw, into one comprehensive document will allow Council to take an integrated and consistent approach to the management of its three waters services and the associated networks. The networks include water abstraction and treatment, wastewater treatment, discharges to land, stormwater discharges directly to the receiving environment, the water supply distribution systems, and wastewater and stormwater collection and conveyance systems.
- 16 The proposal is that an Administration Manual will accompany the Integrated Three Waters Bylaw. A copy of the Administration Manual is included within the Statement of Proposal (**Attachment A, Appendix 2**). The purpose of the Administration Manual is to provide material complementary to each of the three waters by bringing together those aspects which are of a more administrative nature and which may need regular review and updating. This approach will simplify the administration of the bylaw, allow for interpretation and technical processes to be kept up to date, and assist in interpretation of the proposed Integrated Three Waters Bylaw. It is proposed to revoke the existing Water Supply Bylaw and Trade Waste Bylaw 2014.

- 17 The Council must only make a new bylaw under the LGA if it determines that:⁴
 - (a) A bylaw is the most appropriate way of addressing the perceived problem;
 - (b) The proposed bylaw is the most appropriate form of bylaw; and
 - (c) The proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.
- 18 Section 156 of the LGA provides that if the Council decides to make a new bylaw, it must use the special consultative procedure under section 83 of the LGA if the bylaw is of significant interest to the public, or if it is likely to have a significant impact on the public.
- 19 Section 148 of the LGA provides special requirements for bylaws relating to trade waste. It requires the Council to send a copy of the proposed bylaw to the Minister of Health for his or her comments.
- 20 There may be future costs to Council in implementing and monitoring the proposed Integrated Three Waters Bylaw and supporting Administration Manual. The extent of these costs will be dependent on decisions made during the finalisation of the bylaw. At this stage, there is sufficient internal resource to implement the bylaw as drafted to a basic level. To achieve the full benefits of the bylaw, particularly in the education space, additional internal resource is likely to be needed over the next 2-5 years (in the range of 1-2 FTEs). The opportunity exists to offset these costs, to some degree, against fees and charges set for commercial operators (set through the Annual Plan).

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 21 Analysis of the management of stormwater, wastewater, trade waste and water supply is undertaken in turn below.

Stormwater

- 22 The Council stormwater systems are made up of built infrastructure and the natural environment on public land. Effective stormwater infrastructure management is important to ensure that contaminants are not carried into the public waterways. Left unchecked, stormwater could have an increasingly adverse negative impact on the receiving environment, and could also lead to flooding and land instability.
- 23 Currently, the Council manages its stormwater systems by non-regulatory means, and primarily through education. Under the current management, there is no means to enforce the rules.
- 24 The Council has identified the following problems in respect of the stormwater systems:
 - (a) Low levels of awareness about the cumulative impacts of harm to the system (including the natural receiving environment) caused by inappropriate and illegal activities.

⁴ LGA, s 155.

- (b) Increased population growth, associated contaminant loads, a reduction in permeable land surfaces to support ground-water recharge and unstable weather patterns (because of expected climate change) increasing the risk of inundation.
 - (c) Industrial activities in outdoor areas elevate the risk of harm from contaminants entering the stormwater system.
 - (d) Private stormwater systems that are illegal, not performing to the standards required by the Building Act 2004 due to a lack of maintenance or inappropriate activities occurring in close proximity to private and public infrastructure.
 - (e) The need for tailored responses in particular catchments where there is a particular threat, as indicated through the relevant catchment management plan.
 - (f) Overflows from the wastewater network entering the stormwater system.
- 25 It is considered that the most appropriate way of addressing the problems identified above is through a bylaw. A bylaw regulating the Council's stormwater systems will:
- (a) Manage the development and maintenance of the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network.
 - (b) Protect the stormwater and land drainage network, and the land, structures, and infrastructure associated with that network, from damage, misuse or loss.
 - (c) Manage the use of stormwater systems, and the land, structures, and infrastructure associated with those systems, and provide the conditions on which connections to public stormwater systems may be made.
 - (d) Prevent interference with stormwater systems, and the land, structures, and infrastructure associated with those systems.
 - (e) Manage stormwater systems, and the land, structures, and infrastructure associated with those systems, to protect the public from nuisance and promote and maintain public health and safety.
 - (f) Provide measures to support the management and enhancement of the natural part of the stormwater network.
 - (g) Ensure the maintenance and operation of private stormwater systems, the removal of redundant stormwater systems on private land and the management of hazardous materials to prevent damage to stormwater systems.
 - (h) Ensure compliance with future Otago Regional Council discharge consents.
- 26 Stormwater discharges are best managed with a bylaw to protect the development and maintenance of stormwater systems and to control stormwater discharges on private and public lands in a manner that delivers on the Council's commitments and aligns with Council strategies and legislation.

Wastewater

- 27 Wastewater is generally composed of toilet waste, household grey water (i.e. from kitchens, bathrooms and laundries) and liquid wastes produced by commercial and industrial businesses, the latter known as trade waste as it is discharged from trade premises. Trade waste is considered separately in paragraphs 31-38 of this report.
- 28 The wastewater network enables the protection of public health and the receiving environment by conveying wastewater from its source to a treatment plant where it is treated to an acceptable standard before being discharged safely to the receiving environment.
- 29 Currently the Council uses education and targeted initiatives to manage what is discharged to the wastewater network. These targeted initiatives include face-to-face meetings (if the source of contamination is known), social media platforms, and *Scuttlebutt*. The Council also requires private connections to be approved under s 467 of the Local Government Act 1974, the Queenstown Lakes District Council Land Development and Subdivision Code of Practice (2018) that contains standards for developers and enforcement under the RMA.
- 30 The Council has identified the following problems with the current management of the wastewater system:
- (a) There are a number of contaminants, i.e. rags and building materials that are discharged into the wastewater network that are not listed in the current Trade Waste Bylaw 2014. These contaminants are known to have caused sewer overflows and need to be prohibited from entering the sewer network; and
 - (b) Too many obstructions in the network are causing uncontrolled overflows. Uncontrolled overflows can affect local communities through offensive odours, discharge of contaminants to the receiving environment causing elevated public health and safety risks and adverse water quality and ecological impacts.
- 31 A bylaw is considered the most appropriate way of managing problems associated with the expansion and maintenance of the wastewater network, and to support the provision of an effective and safe wastewater network. A bylaw will control those activities that have an adverse impact on the operation of the wastewater network and the discharges from it. Doing so, will protect health and safety as well as improve the council's ability to comply with requirements under the Resource Management Act 1991.

Trade Waste Bylaw 2014

- 32 Trade waste is any liquid that is discharged from a business process or trade premises to the wastewater network. Typically, trade waste is sourced from premises such as restaurants, dentists, butchers, take-away bars, bakeries and automotive dealers. The largest contributors of trade waste in the region include premises such as laundries, car rentals (that include valet services), septic tank collection services and restaurants that operate for more than 10 hours a day for seven days of the week.

- 33 Trade waste is regulated differently from domestic wastewater. Compared to domestic wastewater, trade waste may contain higher concentrations of substances that could harm people's health or the environment, corrode and/or block wastewater pipes and other wastewater facilities, create odours or place extra demands on the district's wastewater treatment plants and result in non-compliance of the council's discharge consents.
- 34 Due to the characteristics of trade waste discharges, the network as well as the performance of the wastewater treatment plant can be placed at risk if the discharges are not properly regulated.
- 35 A key reason that the Trade Waste Bylaw 2014 was adopted by the Council was to protect this key infrastructure network from abuse and mitigate the discharge of non-compliant effluent to the receiving environment. Trade premises are required to be consented and comply with the minimum standards as set out in that Bylaw.
- 36 According to stakeholders, the Trade Waste Bylaw 2014 has had a positive impact on trade waste discharges in the district by minimising the build-up of fat in the wastewater network most notably around high-density food premises. CCTV footage of the CBD has demonstrated a reduction of approximately 80% build-up of fat in the sewer network. Stakeholders also consider that a bylaw continues to be the most appropriate way to protect the Council's wastewater network, public health and safety, and the environment from the harmful effects of wastewater discharges. They also consider that it will help to prevent harm by encouraging waste minimisation and cleaner production.
- 37 It is important to note that the scale of trade waste discharges has changed significantly since the introduction of the Trade Waste Bylaw 2014. The number of trading businesses in the region has grown significantly over the past five years.
- 38 Although the Trade Waste Bylaw 2014 has had a positive impact on trade waste discharges, there have been some issues which the Trade Waste Bylaw 2014 has not been able to provide effective response to and should be addressed in any new trade waste bylaw. These include the following:
- (a) There has been a decrease in the volumes of hazardous waste, such as used engine oil being recycled compared to the past which suggests that illegal discharges to the wastewater network may be occurring;
 - (b) Understanding and limiting harm posed by emergent contaminants;
 - (c) The consenting regime needs to be updated to capture industry sectors using an appropriate risk-based approach;
 - (d) Fee setting in the annual plan; lags in implementing technology; resourcing constraints with compliance monitoring need to be factored into the bylaw's implementation so that businesses enjoy a smooth transition to enhanced management; and

- (e) To change behaviours to be more sustainable and consistent with other council strategies and policies (e.g. waste minimization, smoke-free, etc.) the bylaw should be supported with appropriate behavioural tools and educational initiatives to improve recycling, product stewardship, approved product systems etc.
- 39 It is considered that the most appropriate way of addressing the problems identified above, to regulate trade premises in support of the provision of an effective and efficient public wastewater network and to ensure that discharges from the network comply with resource consents and other requirements is through an updated bylaw. A bylaw regulating trade waste will:
- (a) Adjust the trade waste discharge parameters to ensure they align with current resource consents and promote cleaner production;
 - (b) Provide controls that will incentivise and support industry to source products that are environmentally preferable or readily biodegradable and enhance the performance of the wastewater network;
 - (c) Introduce a waste tracking system to assist with pre-treatment cleaning schedules and to ensure waste streams are dealt with appropriately; and
 - (d) Capture all trade premises to ensure a fair and comprehensive management approach.

Water Supply Bylaw 2015

- 40 The Water Supply Bylaw 2015 was adopted to manage, regulate against, or protect from, damage, misuse, or loss, or to prevent the use of, the land, structures, or infrastructure associated with water supply.
- 41 Although the Water Supply Bylaw 2015 has served Council well to date, stakeholder engagement highlighted a number of areas where the Bylaw would benefit from upgrading and expansion. These include, but are not limited to:
- (a) New water connections and disconnection;
 - (b) Water meter issues, i.e. leaks and faults;
 - (c) Water is off or low pressure issues; and
 - (d) Backflow prevention procedures.
- 42 The need for some updating of the Water Supply Bylaw 2015 to address the above issues coupled with the proposal for Council to implement an Integrated Three Waters Bylaw further confirms the appropriateness of updating the Bylaw now.
- 43 A water supply bylaw is still the most appropriate way to address perceived problems and provide safe drinking water that maintains public health and is compliant with the following objectives:
- (a) To deliver the Council's infrastructure strategy, that states "providing safe drinking water is important to maintaining public health and compliance with legislation, as well as protecting the district's tourism-based economy"; and

- (b) To effectively manage and regulate water supply in the district.

Integrated Bylaw

- 44 Incorporating the wastewater and stormwater bylaws together with the water supply and trade waste bylaw (given that trade waste is discharged into the wastewater system) into one comprehensive document will allow the Council to take an integrated and consistent approach to the management of its Three Waters Network and the associated networks. The networks include water abstraction and treatment, wastewater treatment and discharge and stormwater discharges as well as the water supply, distribution systems and wastewater and stormwater collection and conveyance systems.
- 45 The objective of an Integrated Three Waters Bylaw is to give effect to:
- (a) The Queenstown Lakes District Council Infrastructure Strategy 2015-2045, which states “Providing safe drinking water is important to maintaining public health and compliance with legislation, as well as protecting the district’s tourism-based economy”
 - (b) Protect the Queenstown Lakes District Council’s investments in existing and future water supply, wastewater and stormwater infrastructure, treatment plants and discharge facilities
 - (c) Ensure the protection, safety and health of Queenstown Lakes District Council personnel and the general public.
 - (d) Promote water stewardship and cleaner production strategies that will give effect to Te Mana o Te Wai – Te Mana o Te Wai refers to the first right to water under the National Policy Statement for Freshwater Management.
- 46 This can be achieved by taking a holistic approach to infrastructure services in the district that is:
- Integrated;
 - Effective;
 - Efficient;
 - Functional;
 - Safe; and
 - Sustainable.
- 47 The advantages of an integrated approach include:
- (a) Protection of the built environment in an integrated, sustainable and planned manner will provide for positive environmental, social, cultural and economic outcomes that will follow through to future generations;
 - (b) Provision of a common framework that enables the council to control discharges that ultimately protects the receiving environment, public health and those people working on the networks;
 - (c) Clear regulatory direction for council’s role in decision making on what is discharged into the environment, regardless of the network/system;

- (d) Allows for a consistent approach across the district that will improve organisational efficiency that is effective and easily understood;
- (e) Future bylaw reviews will take an overall holistic approach to any issues that must be addressed in the district;
- (f) Ensures a consistent and holistic approach to the promotion of sustainable behaviours and activities including, water conservation, waste minimisation, cleaner production and on-site pre-treatment; and
- (g) Fosters education focused on the integration to the three waters and their interaction with the natural water cycle and the receiving environment.

Administration Manual

- 48 It is proposed that the Integrated Three Waters Bylaw be accompanied by an Administration Manual. The Administration Manual will provide material complementary to each of the three waters services by bringing together those aspects which are of a more administrative nature and which may need regular review and updating. For example, a schedule referenced in the bylaw outlining methods for the control of contaminants that is likely to need updating regularly or public guidance documents. In taking this approach, it will simplify the administration of the bylaw, allow for administrative and technical processes to be kept up to date and assist in interpretation of the bylaw.
- 49 Management of the Administration Manual would be conducted under delegated authority of the bylaw, and will govern the implementation and operation of the bylaw. The Administration Manual will be a public document and available on the Council's website alongside the bylaw.
- 50 In addition to making the bylaw simpler and more streamlined, the inclusion of an Administration Manual is intended to make amendments simpler and more responsive to change. Amendments to the Administration Manual can be made by Council resolution, with appropriate community engagement, and would not require the use of the Special Consultative Procedure, making decision-making more cost-effective and timely.
- 51 The Administration Manual is not required to go through the special consultative procedure under the LGA however, for the proposed consultation, the Administration Manual will be provided alongside the proposed Bylaw. This is to ensure the community has full visibility of the proposed fees and charges for trade customers. Any submissions received on the Administration Manual will be considered by the Council, however do not have to be considered in accordance with the special consultative procedure in the LGA.
- 52 A legal opinion confirms the appropriateness of using an Administrative Manual approach and that such an approach would be beneficial to the Council when implementing the proposed Integrated Three Waters Bylaw.

Options

53 Individually, within the Findings and Determination reports, the various options available to Council to address the issues identified were considered and compared. These options have been amalgamated across the four water services and presented below.

54 **Option 1: Allow the existing bylaws to lapse/revoke bylaws**

Allow the two existing bylaws to lapse or revoke the bylaws. Compliance monitoring under existing legislative powers and regulations, such as the LGA, the Building Act 1991, the Litter Act 1979 and the District Plan.

Advantages:

55 Costs associated with setting up and implementing a bylaw can be allocated to other Council projects.

Disadvantages:

56 The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment.

57 Without a bylaw, high risk activities and behaviours cannot be monitored and investigated to provide control.

58 The Council runs the risk of not meeting environmental standards, protecting public health and safety and the three waters infrastructure network.

59 **Option 2: Education**

Increasing awareness to change behaviour using a programme of educational outreach, industry guidelines and targeted programmes to improve outcomes.

Advantages:

60 The Council will be seen as proactive in protecting public health and safety and the natural environment.

Disadvantages:

61 Without a bylaw, high risk activities and behaviours cannot be monitored and investigated to provide control.

62 The Council runs the risk of not meeting environmental standards, not protecting public health and safety and the three waters infrastructure network.

63 **Option 3: Review and update the Trade Waste and Water Supply Bylaw only**

This option would review the current trade waste and water supply bylaw and incorporate the recommendations identified.

Advantages:

- 64 The Council will be actively engaged in meeting environmental standards, protecting public health and the natural environment with regard to trade waste discharges.
- 65 The Council will be seen as actively engaging in protecting the districts water supply, such as, providing safe drinking water to maintain public health and safety, comply with current drinking water legislation, as well as protecting the district's tourism-based economy.
- 66 With a bylaw, high risk activities and behaviours can be monitored and investigated to provide control.

Disadvantages:

- 67 This option would not achieve the integration outcomes sought from the proposed *Integrated Three Waters Bylaw and Administration Manual*, i.e. district wide stormwater and wastewater from non-trade waste customers would not be controlled by a regulatory framework.
- 68 The Council could be seen as not actively being engaged in meeting environmental standards, protecting public health and the natural environment. This could result in costly fines issued to the Council.

69 Option 4: Make four separate bylaws*Advantages*

- 70 The Council will be seen as actively engaging in protecting the district's water supply, including providing safe drinking water to maintain public health and safety, and controlling the quality of discharges to the natural environment.

Disadvantages

- 71 This option would not achieve the integration outcomes sought from the proposed Three Waters Integrated Bylaw.
- 72 This option would be more expensive than option 5, as the Council would have to go through four separate process under each bylaw.

73 Option 5: Make a new Integrated Three Waters Bylaw and revoke the two existing bylaws

The proposed Integrated Three Waters Bylaw incorporates the updated trade waste and water supply bylaw, and management of stormwater and wastewater. It is proposed that the Integrated Three Waters Bylaw will be supported by an Administration Manual.

Advantages:

- 74 The Council will be seen as actively engaging in protecting the district's water supply, including providing safe drinking water to maintain public health and safety, and controlling the quality of discharges to the natural environment.
- 75 Protection of the built environment in an integrated, sustainable and planned manner will provide for positive environmental, social, cultural and economic outcomes that will follow through to future generations.
- 76 Provides a common framework that enables the Council to control discharges that ultimately protects the receiving environment, public health and safety and those people working on the networks.
- 77 Provides clear regulatory direction for Council's role in decision-making on what is discharged into the environment, regardless of the network/system.
- 78 Allows for a consistent approach across the district that will improve organisational efficiency that is effective and easily understood.
- 79 Future bylaw reviews will take an overall holistic approach to any issues that must be addressed in the district.
- 80 Ensures a consistent and holistic approach to the promotion of sustainable behaviours and activities including, water conservation, waste minimisation, cleaner production and on-site pre-treatment.
- 81 Fosters education focused on the integration to the three waters and their interaction with the natural water cycle and the receiving environment.

Disadvantages:

- 82 Community resistance to increased levels of regulatory management.
- 83 Costs associated with adopting an Integrated Three Waters Bylaw and Administration Manual.
- 84 **Option 5** is recommended for addressing the issues identified. Adoption of the recommended option (Option 5) will allow Council officers to commence the special consultative procedure on the new Integrated Three Waters Bylaw, supported by an Administration Manual as an efficient on-going management approach. This strategy will help meet the current and future foreseeable needs of the district for good-quality local infrastructure and provide a proactive approach to protecting public health and the environment by developing and enabling a proactive and responsive regulatory framework that will manage the Council's Three Waters Network using an integrated approach.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 85 This matter is of high significance, as determined by reference to the Council's Significance and Engagement Policy because it impacts public health and the receiving environment.
- 86 The persons who Council staff have identified as affected or interested in this matter are:
- the wider community;
 - all trading premises;
 - consultants;
 - contractors; and
 - environmental groups.
- 87 The Council has undertaken pre-consultation with the wider community and affected parties through a contractor workshop, and drop-in sessions in Queenstown and Wanaka. The Council has also undertaken a survey with the wider community to introduce the concept of an integrated three waters bylaw.
- 88 92% of respondents surveyed supported the Council taking more regulatory action to protect waterways (i.e. introducing an integrated bylaw, enforcing breaches and fining those responsible for causing pollution). The survey results were published in the February 2020 edition of Scuttlebutt.⁵
- 89 The level of significance determines the level of compliance with the decision-making requirements in sections 76-78 of the LGA. This matter is one of high significance and therefore, if the Council recommends consultation on the proposed Integrated Three Waters Bylaw, it triggers the use of the special consultative procedure under section 83 of the LGA. The associated Administration Manual is not required to go through any formal consultation process by legislation. Although not required by legislation, the Administration Manual will be provided alongside the proposed Integrated Three Waters Bylaw for consultation.
- 90 Section 148 of the LGA requires that a bylaw relating to trade waste must be sent to the Minister of Health for his or her comments. Council officers propose that this process occurs alongside the special consultative procedure for the proposed Integrated Three Waters Bylaw.

> MĀORI CONSULTATION | IWI RŪNANGA

- 91 The Council will formally consult with Iwi including Ngai Tāhu, Awarua Rūnanga and Kāi Tahu Rūnaka in addition to the special consultation process.

⁵ <https://www.qldc.govt.nz/media/nwwdkpxl/qldc-scuttlebutt-february-2020-issue135-web.pdf>

92 It is important for the Council to take active steps to gather and consider the views of Iwi as the proposed Integrated Three Waters Bylaw concerns matters of the District's natural resources and resource management, which is of interest to Iwi as kaitiaki of the land.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

93 This matter relates to the following risks as per the QLDC Risk Register.

Risk	Risk Description	Risk Category	Inherent Risk Rating
RISK00017	Damage to the Environment - Discharge of contaminants	Environmental	Moderate
RISK00027	Contaminated Water Supply- Person(s) become ill or unwell	Community	Moderate
RISK00028	Discharge of contaminants from council assets or infrastructure	Community	Moderate
RISK00029	Contaminated Water Supply- Death of person(s)	Regulatory/Legal/Compliance	High
RISK00031	Ineffective management and governance over legislative compliance	Regulatory/Legal/Compliance	Moderate

94 The approval of the recommended option will support the Council by allowing us to implement additional controls for these risks. This shall be achieved by the implementation of a regulatory framework that will enable a proactive and responsive regulatory framework to manage the Council's three waters network using an integrated approach.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

95 The development of the draft Integrated Three Waters Bylaw and supporting Administration Manual is provided for in the Annual Plan 20/21.

96 There may be future costs to Council in implementing and monitoring the proposed Integrated Three Waters Bylaw and supporting Administration Manual. The extent of these costs will be dependent on decisions made during the finalisation of the bylaw. At this stage, there is sufficient internal resource to implement the bylaw as drafted to a basic level. To achieve the full benefits of the bylaw particularly in the education space additional internal resource is likely to be needed over the next 2-5 years (in the range of 1-2 FTE's). The opportunity exists to offset these costs, to some degree, against fees and charges set for commercial operators (set through the Annual Plan).

97 Should any additional resource be required following the consultation process, a financial case will be developed and presented to Council. Similarly should additional resource be required in future years, this would also be a decision for Council.

98 Commercial/industrial users of the Three Waters Services can expect to face additional costs. These costs would relate to both compliance monitoring charges levied by the Council, as well as potential capital investments in order to comply with the requirements of the new bylaw.

99 With the implementation of the proposed Integrated Three Waters Bylaw and supporting Administration Manual, we envisage a reduction in costs relating to maintenance of the network infrastructure and regulatory compliance as better environmental practices are adopted throughout the District. Although these benefits would only be expected in the medium to long term.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

100 Key legislative instruments, policies and principles that inform and align with the Integrated Three Waters Bylaw and Administration Manual. The following Council policies, strategies and bylaws were considered:

<i>Key Legislation</i>	<i>Regulations and National Guidelines</i>	<i>Regional Policies</i>	<i>Council Policies and Strategies</i>
Building Act 2004 and Building Code 2002	National Policy Statement for Freshwater Management 2017 (NPS-FM) and the proposed strengthened version 2019	The Otago Urban Water Quality Strategy	Queenstown Lakes – Environmental Management Plans (EMPs)
Local Government Act 2002	Urban Water Principles		Queenstown Lakes District Council’s Land Development and Subdivision Code of Practice April 2018
Health Act 1956	Otago Regional Water Plan - Plan Change 6A (water quality)		Queenstown Lakes District Council’s Catchment Management Plans (in progress)
Health and Safety at Work Act 2015	Compliance with regional consents in relation to current and future discharges to land or water		Queenstown’s Strategic Direction
Resource Management Act 1991	Guidelines for the Safe Application of Biosolids to Land in New Zealand		Economic Development Strategy

<i>Key Legislation</i>	<i>Regulations and National Guidelines</i>	<i>Regional Policies</i>	<i>Council Policies and Strategies</i>
Hazardous Substances and New Organisms Act 1996			Vision Beyond 2050
Waste Minimisation Act 2008			
Proposed Wastewater National Environmental Standard and Proposed Water Services Act			

101 The recommended option is consistent with the principles set out in the named policy/policies.

102 Trade Waste and Water Supply has been included in the Long Term Plan under “Three Waters – Significant Issues/Significant Change.” The proposed solution to Trade Waste Management was to review the Trade Waste Bylaw to include all discharges from Industrial/Commercial premises (LTP 2018 – 2028, Volume 2, Pages 75&76).

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

103 The LGA provides for councils to make bylaws. Section 146 provides that the Council is able to make bylaws for the purposes of managing and protecting the three waters networks and the natural environment from which water is abstracted and into which wastewater and stormwater are discharged. Section 145 also enables the Council to make bylaws in order to protect the public from nuisance, to protect, promote or maintain public health and safety.

104 Before making a bylaw, the Council must be satisfied that a bylaw is the most appropriate way of addressing the perceived problem.⁶ The Council must then be satisfied that:⁷

- a. The proposed bylaw is the most appropriate form of bylaw; and
- b. The proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (NZBORA).

105 The Council is being asked to confirm these legal requirements in this report.

⁶ LGA, s 155(1).

⁷ LGA, s 155(2).

- 106 Under section 156 of the LGA, if the Council agrees with the recommended option to make a new Integrated Three Waters Bylaw, it must use the special consultative procedure if the bylaw concerns a matter identified in the Council's Significance and Engagement Policy as being of significant interest to the public, or if the Council considers there is, or is likely to be, a significant impact on the public due to the proposed bylaw or changes.
- 107 Section 148 of the LGA provides that a bylaw relating to trade waste must be sent to the Minister of Health for his or her comments. Before sending the proposed bylaw to the Minister, the Council must give the public notice of its intention to make the bylaw, and stating:
- a. The trade wastes to which the bylaw relates;
 - b. That copies of the bylaw are able to be inspected free of charge at the place specified; and
 - c. That the Council is prepared to receive and consider any representation about the bylaw made to it by owners or occupiers of trade premises within its district at the time specified in the notice being not less than 2 months after publication of the notice.
- 108 The recommended option does not raise any NZBORA issues because it only seeks to impose justifiable and reasonable limitations on persons in the interests of environmental quality and public health and safety. Council officers consider the proposed Integrated Three Waters Bylaw does not unreasonably limit any rights or freedoms under the Act. The regulatory controls provided under the proposed Integrated Three Waters Bylaw are designed to minimise danger, distress and nuisance to the community and their property, to maintain public health and safety and protect the natural environment from harm.
- 109 The proposed Integrated Three Waters Bylaw does not require operators to discharge waste to the public wastewater network but should they choose to make use of the network it imposes minimum standards and requirements to ensure the protection of the network, people and the environment. While the proposed Integrated Three Waters Bylaw requires operators to comply with minimum standards and in some cases apply for consents, it does not limit the public's access to these services. The proposed Integrated Three Waters Bylaw only controls the methods used to carry out these services to meet the protection goals.
- 110 There may be some restriction to personal freedom arising from the proposed bylaw, specifically restrictions on the amount of water people are able to use as well as restrictions on the activities and times the water is able to be used. It is considered that these restrictions are justified for the prevention of nuisance to others, and provided for under the NZBORA.
- 111 One of the purposes of the proposed Integrated Three Waters Bylaw is to promote and protect public health. There is evidence that serious harm can be caused if premises covered by the proposed Integrated Three Waters Bylaw do not meet their obligations

under it. The limitations on activities directly relate to the proposed Integrated Three Waters Bylaw’s protection objectives.

112 Legal advice has been sought in relation to both Acts and the recommended option is consistent with that advice.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

113 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by controlling the management of waste at source;
- Can be developed through current funding under the Ten Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Will lead to an improved level of service of the Council’s management of its Three Waters Network, enable better control of backflow contamination risks to our water supply, and expand the toolkit available for Council to protect the natural environment, as well as numerous other benefits. However, realising these benefits will require an increased commitment to education, monitoring, and enforcement, which will have ongoing resourcing implications.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Statement of Proposal (Contains Appendices 1-9 which are circulated separately)
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