

STATEMENT OF PROPOSAL STORMWATER MANAGEMENT BYLAW

Introduction

The Local Government Act 2002 (LGA) enables a bylaw to be made and introduced by the Gore District Council.

The intention of the Stormwater Management Bylaw is to manage stormwater within the Gore District so as to protect people, property and the environment by minimising the impact of flooding, erosion and environmental pollution.

Background

The stormwater sampling programme that has been completed by the Council has confirmed at least some of the sediment contamination into Falconer Creek has come from within private properties connected to the Council's stormwater network. The Council was issued with an Abatement Notice by Environment Southland on 26 January 2021. The requirements of the Abatement Notice necessitate the Council to *"prepare an appropriate policy framework ready for consultation, such as a stormwater bylaw, that can provide the Council with the necessary tools to manage stormwater discharges from private properties."* The Abatement Notice requires the policy framework to be available for consultation by 26 January 2022.

Process as outlined in the Local Government Act 2002

Section 155 of the LGA sets out the procedure for the making of a bylaw which includes making determinations under that section. Sections 83 and 156 outlines the special consultative procedure to be followed.

Key points included in the bylaw

- Clause 3.5 outlines the requirements where private property stormwater and wastewater separation is required to be achieved. In recent history, all new houses being constructed have been required to achieve full separation. Additionally, in some situations, where significant extension and new ancillary buildings have been constructed, full or partial separation has also been required. Currently there is no clear guidance as to when the requirement to achieve separation is triggered.
- Clause 5.1 outlines the prohibited activities under the bylaw such as the discharge or storage of hazardous substances, chemical, wastewater, tradewaste or other substance that causes or is likely to cause nuisance or contravene the Council's resource consent conditions, or the requirements of the Resource Management Act and associated Policy Statements and Plans.
- Clause 10 outlines the actions and penalties that can be enforced under the bylaw including non-compliant notification, the Council recovering costs for remedial works, prosecution or the issuing of an infringement notice.

The Council considers through the development of a Stormwater Bylaw, that it will meet the requirements of the Abatement Notice and improve the management of stormwater in the Gore District.

Is a bylaw the most appropriate way of managing the problem?

Under section 155 of the Local Government Act 2022, before commencing the process of making a bylaw, the Council must determine that a bylaw is the most appropriate way of addressing the perceived problem. The Abatement Notice issued by Environment Southland states that an appropriate policy framework must be ready for consultation within 12 months of the Notice being issued. In reality however, a standalone policy without regulatory teeth in the form of enforcement and, if necessary prosecution, is unlikely to produce the changes expected and improvement in discharges to waterways.

It is therefore contended that a bylaw is the most appropriate means by which to address the problem contained in the Abatement Notice.

Does the proposed bylaw affect the New Zealand Bill of Rights Act 1990?

Section 155(2)(b) of the Local Government Act 2002 (LGA) requires the Council to determine whether the proposed bylaw is inconsistent with the New Zealand Bill of Rights Act 1990. Section 147(3)(a) of the LGA also requires the Council to be satisfied that the bylaw is a reasonable limitation on people's rights and freedoms.

The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw. It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed bylaw. No impacts on freedom of assembly, association and movement are foreseen.

Does the Council need to consult on the proposed bylaw?

The special consultative procedure contained within section Sections 83 and 156 of the LGA outlines the procedure to be followed for making a new bylaw.

Public notification and submissions

The Council is seeking submissions on the making of the Gore District Council Stormwater Management Bylaw 2021 commencing from Monday 24 January 2022. The consultation period will run for no less than 30 days and will close at 5.00 pm on Friday 25 February 2022.

Information about the bylaw is available on the Council's engagement portal Let's Talk www.lets.talk.goredc.govt.nz. Submissions can be made online via this website, delivered to the Council's office at 29 Bowler Avenue, Gore, mailed to PO Box 8, Gore 9740 or emailed to info@goredc.govt.nz.

The Council will acknowledge in writing each submission received. Submitters who wish to speak regarding their submission will be contacted by the Council with the date and time of the hearing. A copy of the statement of proposal, along with the proposed bylaw and a submission form will be available at the Gore and Maitāwhiri offices of the Gore District Council, and the Gore Library.

Stephen Parry
Chief Executive