

## **PROPOSED COUNCIL BYLAW TO DEAL WITH EFFECTS OF LAND BASED ACTIVITIES ON WATERCOURSES**

### **1. Issue**

Friends of the Whau Inc, a community based river restoration group and National Green Ribbon Award winner for Urban Conservation (2002), have noticed an increasing amount of waste material deposited in and around watercourses and streams within the Whau catchment. Present methods of cleaning up streams rely upon volunteer labour and some education through local media, local schools, community groups and interested groups of residents who participate in the WAICARE water quality monitoring programme. This only reaches a minority of residents.

2. Two recent spillage events on a Titirangi stream revealed two matters for further action. (see clipping) First, it was encouraging that the spillages were phoned into ARC Pollution Hotline by concerned neighbours. This suggests that the Pollution Hotline is working in terms of the community reacting to immediate pollution events. However ARC data indicates only 20% of all pollution incidents are reported to them. Further education through Council publications and notices may add to this awareness. Second, these spillages were both done by contractors operating on behalf of landowners adjoining the stream. This suggests poor practices by contractors, and insufficient supervision and care by landowners over their adjacent stream or watercourse. Other streams within the catchment show consistently poor stream side habitat ( Boffa Miskell Report 2002), and streams are becoming clogged with waste material brought down by floods and by dumping of waste material in or next to watercourses.

### **3. Proposed remedies**

Friends of the Whau are proposing to help set up stream care groups of concerned residents. This action works well if all neighbours see some advantage in creating better environments for themselves and in enhancing local bio-diversity. In some areas level of interest and awareness is sufficient for this to be a viable strategy. In other areas interest and awareness is low –for example in Portage Road, and co-operation will be difficult to obtain.

For these areas and for problem sites where dumping of material is widespread by residents, it would be useful to have legislative backing to enforce a measure of personal responsibility. Use of an enforceable bylaw would assist in a more pro-active approach to stream and watercourse care instead of a reactive strategy of responding to acute pollution incidents. Also, many streams and watercourse are degraded because of a longer term deterioration in adjacent land-based management.

The key to cleaner streams throughout Waitakere City is to encourage better practice in caring for these streams and their immediate riparian margins on private land.

#### 4. How a bylaw would work

Because resources are limited, and voluntary groups have no enforceable powers, it is proposed that a bylaw would be enforced by means of streamside "blitzes". This would operate in a similar way to the industrial "blitzes" or surveys of industrial premises presently carried out by the ARC Pollution Control team on behalf of Waitakere City. Bad practices can then be discovered and investigated, and appropriate remedies applied.

A requirement for education and restoration as well as rehabilitation and a fine (if appropriate), can encourage a sense of responsibility for stream and streamside health by adjacent land-owners. Education can be delivered by local stream care groups such as Friends of the Whau and Project Twin Streams and local stream care initiatives and replanting, weed removal and water quality monitoring encouraged.

This would complement Council programmes delivered through the Green Network Team and the 3 Waters responsibilities of Ecowater and be part of an integrated approach to the management of Waitakere's natural environments.

#### 5. Authority for a bylaw

The Council has the power under the recently passed Local Government Act 2002 to pass bylaws for the following reasons. This power is contained in clauses 145 and 146 which gives Council general competency to make bylaws and also for bylaws to control for specific instances. The relevant clause for this type of bylaw is clause 146 (b) "**managing, regulating against or protecting from damage, misuse or loss...of land, structures or infrastructure associated with i) water races, iii) wastewater, drainage and sanitation and iv) land drainage** "

Under Clause 151(1) Council may require "**anything to be done in any manner, or within any time, that is required by a local authority...**" and under 151 (2) "**a bylaw may leave any matter or thing to be regulated, controlled or prohibited by the local authority...for any specified classes of cases, or in a particular case.**"

To promulgate such a bylaw, Council must invoke a special consultative procedure under Clause 86 of the LG Act 2002.

## 6. FORM OF BYLAW (draft)

1. *It is an offence to deposit or to have caused to deposit any substance, organic or inorganic, within a stream, watercourse or drain or within a 5m riparian area adjoining a water course, which may have a detrimental effect on the healthy functioning of that stream or watercourse., unless there is a current trade waste permit or discharge resource consent to do so.*
2. *Any person committing an offence within the meaning of this bylaw can be subject to all or any of the following penalties;*
  - a) *a fine not exceeding \$500*
  - b) *rehabilitation and clean-up costs of removing the damaging substance*
  - c) *compulsory attendance at a 2 day stream care workshop*
  - d) *submission of a streamside restoration plan for their property to the Green Network programme of Council.*
3. *Any person committing an offence under this bylaw has 28 days to comply with the penalties imposed or to file a defense against the imposition of such penalties. If there has been no compliance with the penalties imposed within 28 days, Council may undertake the required remedial works itself and recover the costs from the liable party/parties. [see s 176 of LGA Act 2002]*

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