Hibiscus and Bays Local Board

OPEN ADDENDUM ATTACHMENTS

ATTACHMENTS UNDER SEPARATE COVER

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Note: The attachments contained within this document are for consideration and should not be construed as Council policy unless and until adopted. Should Councillors require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.
Waste Bylaw Statement of Proposal
File No.: CP2019/04386

Te take mō te pūrongo
Purpose of the report
1. To recommend the Governing Body adopt the waste bylaw statement of proposal for public consultation and appoint a panel.

Whakarāpopotanga matua
Executive summary
2. To enable the Regulatory Committee to implement its decision to make a new waste bylaw (REG/2019/12), staff have prepared a statement of proposal (proposals) in Attachment A.
3. The proposal aims to manage and minimise waste, protect the public from health and safety risks and nuisance, and to manage the use of council-controlled public places. This includes:
   - requiring people to deposit and dispose of waste appropriately
   - requiring waste collectors and operators of waste management facilities, resource recovery facilities and collection bins (exemptions apply) to obtain an approval (licence) from council
   - aligning the definition of cleanfill with the Auckland Unitary Plan which may require some previously exempt waste management facilities to obtain an approval (licence)
   - clarifying that a waste management and minimisation plan is required for all trading, event or filming activities in a council-controlled public place
   - clarifying that a waste management and minimisation plan is required for any existing (exceptions apply) or planned multi-unit development
   - clarifying the rules to minimise the potential for shopping trolleys and unaddressed mail to become waste. Businesses party to the existing shopping trolley industry accord will remain exempt, subject to the renewal of the accord.
4. Staff recommend the committee makes the necessary determinations to enable the Governing Body to adopt the proposal for public consultation and appoint a panel. Taking this approach will commence the statutory process to make a new bylaw.
5. There may be public concern about the proposed changes, council’s dual role as regulator and service provider or engagement to date. These risks will be mitigated by the opportunity to give feedback on the proposal and for the panel to consider and respond.
6. If the committee and Governing Body approve the recommendations, public consultation on the proposal is scheduled from 10 May to 16 June 2019. A panel will consider any feedback, deliberate and make recommendations to the Governing Body. A final decision on any new bylaw and bylaw amendments will be made on 22 August 2019.

Ngā tūtōhunga
Recommendation/s
That the Regulatory Committee:
a) note that this committee completed the review of the Solid Waste Bylaw 2012 in March 2019 and:
   i) determined a bylaw is still the most appropriate way to address some waste issues, but not others
   ii) gave directions to prepare a new bylaw about waste.
b) recommend the Governing Body adopt the statement of proposal in Attachment A of the agenda report for public consultation, and confirm that the proposed new Waste Management and Minimisation Bylaw 2019 and amendments to the Trading and Events in Public Places Bylaw 2015:
   i) are the most appropriate form of bylaw
   ii) do not give rise to any implications and are not inconsistent with the New Zealand Bill of Rights Act 1990
   iii) are not inconsistent with the Waste Plan.

c) appoint a chair and two panel members selected from the Governing Body and the Independent Māori Statutory Board to attend ‘Have Your Say’ events, to deliberate and make recommendations to the Governing Body on public feedback to the statement of proposal in Attachment A of the agenda report.

d) delegate authority to the Regulatory Committee chairperson to make replacement appointments to the panel if a member of the panel is unavailable.

e) delegate authority through the Chief Executive to a manager responsible for bylaws to appoint staff to receive public feedback at ‘Have Your Say’ events.

f) delegate authority through the Chief Executive to a manager responsible for bylaws to make any amendments to the statement of proposal in Attachment A to correct errors, omissions or to reflect decisions made by the Regulatory Committee or the Governing Body.

g) request through the Chief Executive that the manager responsible for local board services include this report and attachments on the waste bylaw statement of proposal on the agenda of all local boards for their information.

Horopaki Context

7. The Te Ture Ā Rohe Para Māro 2012, Solid Waste Bylaw 2012 (Bylaw) aims to support waste management and minimisation, protect health and safety and manage litter and nuisance in public places.

The Regulatory Committee decided to make a new Bylaw

8. The committee requested staff commence the process to make a new bylaw in March 2019 (REG/2019/12). The process leading up to this decision is summarised below:

14 February 2019
Regulatory Committee completes the review of the Bylaw and determines (REG/2019/7) (Attachment B) that the:
- Bylaw expires on 25 October 2019
- Council has a responsibility to promote waste management and minimisation
- Bylaw is one tool that helps to reduce harm from residual waste in Te Mahere Whakahaere me te Whakaiti Tukunga Para i Tāmaki Makaurau 2018, Auckland Waste Management and Minimisation Plan 2018 (Waste Plan)
- Harm from residual waste remains a significant issue
- Bylaw is still necessary and effective but could be improved
- Bylaw complies with the New Zealand Bill of Rights Act 1990 (Bill of Rights)
- Bylaw is not inconsistent with the Waste Plan.
14 March 2019

Regulatory Committee instructs staff to draft a new bylaw as summarised below, after considering the following main options for each of the 12 topics in the current Bylaw (REG/2019/12) (Attachment C):

- Option one: no waste bylaw about the topic
- Option two: new waste bylaw about the topic.

The Local Government Act 2002 sets out the process to make a new bylaw

9. Council must use the special consultative procedure to make a new bylaw because it could significantly impact the public, particularly the waste industry.

10. This requires council to:10

- determine that the bylaw meets legislative criteria
- adopt a statement of proposal, including the proposed bylaw, for public feedback
- decide on any bylaw after having considered public feedback.

Tātaritanga me ngā tohutohu

Analysis and advice

Staff have prepared a statement of proposal in line with statutory requirements

11. Staff have drafted a statement of proposal (Attachment A). The proposal contains a new Waste Management and Minimisation Bylaw 2019. Amendments to the Auckland Council Trading and Events in Public Places Bylaw 2015 are also proposed to better align with the requirements of the proposed new bylaw. Table 1 shows the main proposals.

12. The proposal implements the committee’s decision to make a new bylaw in accordance with statutory requirements and best practice drafting guidelines.

13. Staff consider the proposed new bylaw and bylaw amendments have no implications and are not inconsistent with the Bill of Rights or the Waste Plan.

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Table 1: Summary of major proposals in the proposed new waste bylaw

<table>
<thead>
<tr>
<th>Major proposals</th>
<th>Benefits</th>
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<tbody>
<tr>
<td>Require people to deposit and dispose of waste appropriately.</td>
<td>Help achieve the Waste Plan goal to reduce harm from residual waste.</td>
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<tr>
<td>Require waste collectors, operators of waste management facilities, resource</td>
<td>Manage and minimise waste.</td>
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<tr>
<td>recovery facilities, resource recovery facilities, and collection bins</td>
<td>Protect public health and safety.</td>
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<tr>
<td>(exemptions apply) to obtain an approval (a licence) from council.</td>
<td>Protect the public from nuisance.</td>
</tr>
<tr>
<td>Align the definition of cleanfill with the Auckland Unitary Plan which may</td>
<td>Manage use of council-controlled public places.</td>
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<tr>
<td>require some previously exempt waste management facilities to obtain an</td>
<td>Apply consistent approach to council regulation.</td>
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<tr>
<td>approval (licence).</td>
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<tr>
<td>Clarify that a waste management and minimisation plan is required for all</td>
<td>Apply consistent approach to the use of council-controlled public places.</td>
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<tr>
<td>trading, event or filming activities in a council-controlled public place.</td>
<td>Set rules that are clearer and easier to understand.</td>
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<tr>
<td>Clarify that a waste management and minimisation plan is required for any</td>
<td>Ensure a focus on waste minimisation at residential developments that</td>
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<tr>
<td>existing (exceptions apply) or planned multi-unit development.</td>
<td>cannot use kerbside waste collection services.</td>
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<tr>
<td>Clarify the rules to minimise the potential for shopping trolleys and</td>
<td>Set rules that are clearer and easier to understand.</td>
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<tr>
<td>unaddressed mail to become waste. Businesses party to the existing shopping</td>
<td>Ensure better alignment between bylaw and existing shopping trolley and</td>
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<td>trolley industry accord will remain exempt, subject to the renewal of the</td>
<td>unaddressed mail industry accords.</td>
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<td>accord.</td>
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Staff recommend the committee commence the process to make and amend byelaws

14. Staff recommend the committee makes the necessary determinations to appoint a panel and enable the Governing Body to adopt the proposal for public consultation.

15. Staff recommend that the committee appoint a chair and two members from the Governing Body and Independent Māori Statutory Board to a panel. The panel attends ‘Have Your Say’ events as appropriate, deliberates and makes recommendations to the Governing Body on public feedback to the statement of proposal.

16. It is also recommended that staff be delegated authority to receive public feedback at ‘Have Your Say’ events as appropriate or in case a panel member cannot attend.

Nga whakaaweawe me nga tirohanga a te rōpū Kaunihera
Council group impacts and views

17. Council units involved in waste, resource management and events were consulted as part of the Bylaw review. Council units are aware of the impacts of possible changes to the Bylaw and their roles in implementing the bylaw.
Ngā whakaaweawe ā-rohe me ngā tirohanga a te poari ā-rohe
Local impacts and local board views
18. Local board member views were sought as part of the Bylaw review. Generally, local board members support the Bylaw alongside other measures such as education. Their key concerns related to contamination, illegal dumping and hazardous waste disposal.
19. The proposal addresses local board member concerns by setting clearer expectations around the deposit, collection, transportation and disposal of waste.
20. Local Boards will have the opportunity to provide their views on the proposal:
   • in writing between 10 May and 16 June 2019
   • to the panel in June 2019.
21. Local Boards can contact Social Policy and Bylaws staff to register to meet the panel.

Tauākī whakaaweawe Māori
Māori impact statement
22. The Bylaw has significance for Māori as kaitiaki of PapaTūāenuku.
23. Mana whenua and mataawaka are supportive of the current bylaw but find it too technical. The proposal addresses these concerns by making a new bylaw easier to understand.
24. Mana whenua and mataawaka will have the opportunity to give feedback on the proposal during public consultation.

Ngā ritenga ā-pūtea
Financial implications
25. Public consultation and implementation costs will be met within existing budgets.

Ngā raru tūpono me ngā whakamaurutanga
Risks and mitigations
26. If the committee approves the recommendations there is a risk that some stakeholders may be concerned about the proposed changes, council’s dual role as regulator and service provider or engagement to date. This risk will be mitigated by the opportunity to give feedback during public consultation and for the panel to consider and respond.

Ngā koringa ā-muri
Next steps
27. If the committee and Governing Body approve the recommendations, public consultation on the proposal will follow.
28. Public consultation is currently scheduled from 10 May to 16 June 2019. ‘Have Your Say’ events will take place during the public consultation period instead of a formal hearing after submissions close.
29. The panel will consider any feedback during a publicly notified deliberation meeting that the public can observe. The panel will make its recommendations to the Governing Body.
30. The Governing Body will decide whether to accept the panel recommendations and officially make or amend bylaws by August 2019.
### Ngā tāpirihanga
#### Attachments

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### Ngā kaihaina
#### Signatories

<table>
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<th>Authors</th>
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<tbody>
<tr>
<td>Magda Findlik - Principal Policy Analyst</td>
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<tr>
<td>Elizabeth Osborne - Policy Analyst</td>
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<table>
<thead>
<tr>
<th>Authorisers</th>
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<tr>
<td>Katarina Maki – General Manager - Community &amp; Social Policy</td>
<td></td>
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<tr>
<td>James Hassall - Director Regulatory Services (Acting)</td>
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</table>
Helping to reduce harm from waste

Improving waste management and minimisation

deposit, collection, transportation and disposal of material, donation collection bins,
waste from trading, events, filming and multi-unit developments,
shopping trolleys, unaddressed mail

Statement of Proposal: to make a new Auckland Council Waste Management and
Minimisation Bylaw 2019 and to amend the Auckland Council Trading and Events in Public

Waste Bylaw Statement of Proposal
Have your say

Helping to reduce harm from residual waste

Every day Aucklanders separate material that is no longer useful to them (for example, into recyclable material and refuse), and use services to reduce the amount of waste that goes to landfill.

Waste to landfill, litter and illegal dumping (residual waste) raise significant issues. Every year Aucklanders send more than 1.6 million tonnes of waste to landfills. Organic waste in landfills generates methane (a potent greenhouse gas), while recyclable material sent to landfills is a lost business opportunity. Litter is unsightly and reduces community pride.

What Auckland Council does

We make rules to manage and minimise waste, protect the public from health and safety risks and nuisance, and to manage the use of council-controlled public places.


Improving waste management and minimisation rules

We recently checked how the rules are working and identified improvements.

We propose that a new bylaw:

- Requires people to deposit and dispose of waste appropriately
- Requires waste collectors and operators of waste management and resource recovery facilities and donation collection bins (exemptions apply) to obtain an approval (a licence) from council
- Aligns the definition of cleanfill with the Auckland Unitary Plan which may require some previously exempt waste management facilities to obtain an approval
- Clarifies that a waste management and minimisation plan is required for all trading, event or filming activities in a council-controlled public place
- Clarifies that a waste management and minimisation plan is required for any existing (exceptions apply) or proposed multi-unit development
- Clarifies the rules to minimise the potential for shopping trolleys and unaddressed mail to become waste. Businesses party to the existing shopping trolley industry accord will remain exempt, subject to the renewal of the accord.

We want to know what you think

Starting on 10 May 2019 through to 16 June 2019, we want you to tell us what you think about the proposed new Auckland Council Waste Management and Minimisation Bylaw 2019 and amendments to the Auckland Council Trading and Events in Public Places Bylaw 2015.

Visit [www.aucklandcouncil.govt.nz/have-your-say](http://www.aucklandcouncil.govt.nz/have-your-say) for more information, give your feedback and find out where you can drop in to a ‘Have your say’ event.
What is the Bylaw

The Te Ture Ā Hohe Para Mārze 2012, Auckland Council Solid Waste Bylaw 2012 (Bylaw) was made on 25 October 2012.

The purpose of the Bylaw is to set rules to manage and minimise waste, protect public health and safety and manage litter and nuisance.

The Bylaw also provides operational controls for the separation, placement and collection of waste and disposal of waste to clean fills and managed fills. Note: We are not seeking feedback on these controls.

Solid Waste Bylaw 2012 Framework

[Diagram of Solid Waste Bylaw 2012 Framework]

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### What council proposes to change

**Improving waste management and minimisation rules**

We recently checked how the rules are working and identified improvements.

Council is proposing to better manage and minimise waste, protect the public from health and safety risks and nuisance, and to manage the use of council-controlled public places by:

- making a new Waste Management and Minimisation Bylaw 2019
- amending its Trading and Events in Public Places Bylaw 2015.

The major proposals are:

<table>
<thead>
<tr>
<th>Major proposals</th>
<th>Reasons for proposal</th>
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| Require people to deposit and dispose of waste appropriately. Existing controls about the separation, placement and collection of waste will continue to apply. | • Help achieve the Waste Plan goal to reduce harm from residual waste  
• Manage and minimise waste  
• Protect public health and safety  
• Protect the public from nuisance  
• Manage use of council-controlled public places. |
| Require waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins (exemptions apply) to obtain an approval (licence) from council. | • Apply consistent approach to council regulation. |
| Align the definition of cleanfill with the Auckland Unitary Plan which may require some previously exempt waste management facilities to obtain an approval and will replace the existing control for the disposal of waste to land. | • Apply consistent approach to the use of council-controlled public places  
• Rules clearer and easier to understand. |
| Clarify that a waste management and minimisation plan is required for all trading, event or filming activities in a council-controlled public place. | • Ensure a focus on waste minimisation at residential developments that cannot use kerbside waste collection services  
• Rules clearer and easier to understand. |
| Clarify that a waste management and minimisation plan is required for any existing exceptions apply or planned multi-unit development. | • Rules clearer and easier to understand  
• Ensure better alignment between bylaw and existing shopping trolley and unaddressed mail industry accords. |

If you want to know more, **Appendix A** shows what the proposed new waste bylaw would look like. **Appendix B** provides a summary of the differences between the existing and proposed/ amended bylaws.
How we implement the Bylaw

Council uses a graduated response to bylaw complaints. This means that the response is based on the individual circumstances of the case including the seriousness of the harm and attitude to compliance.

We respond to lower risk issues in the first instance with education, advice and informal warnings. If this doesn’t work, council may issue formal warnings. For serious or ongoing bylaw breaches, council may prosecute offenders. Penalties could include a fine of up to $20,000.

Graduated approach to compliance

If someone breaches the rules

Council responds to complaints as soon as possible depending on the nature of the issues. The table below illustrates how the graduated approach to compliance is currently applied in the Solid Waste Bylaw 2012 and how it may be applied to the proposed new waste bylaw.
### Specific examples of a graduated approach to compliance

<table>
<thead>
<tr>
<th>Topic</th>
<th>Examples of graduated approach to compliance</th>
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</table>
| Breaches to licensing conditions | - Contacting the licence holder and discussing the details of the non-compliance  
- Issuing a written warning  
- Reviewing licence by amending, suspending or withholding it  
- Rescinding or reviewing any performance bond  
- Enforcing any offences committed under the Litter Act 1975. |
| Kerbside collection and hazardous waste disposal | - Council proactively inspects over 2,000 recycling bins each day for unrecyclable items and takes the following compliance steps:  
- breach one - bin gets rejected, educational red tag is attached, and a warning letter is sent to a resident identifying waste contamination issues  
- breach two - bin gets rejected and a second warning letter is sent  
- breach three - bin is removed and waste collection service is suspended. The resident must sign a Reinstatement Agreement Form to re-activate the service and the bin is checked by council for the next three collections. |
| Collection of waste from multi-unit developments | - Council proactively provides advice and technical feedback on the waste plans for new multi-unit developments as part of the resource consent process. Council proactively responds to complaints by following up with the resource consent team or where possible, provides advice on alternative collection methods to mitigate waste issues related to existing developments. |
| Waste management at events | - Council reviews waste plans for events, provides technical feedback and approval of the waste plans. Council responds to complaints by following up with event organisers. If council is required to clean up after a permitted event, this is charged to the organiser. |
| Unaddressed mail | - Where unaddressed mail is from a member of the Marketing Association, a three-tier approach is taken to integrate industry self-regulation. This includes provision of the 0800 111 081 helpline, investigation by an area supervisor and disciplinary steps.  
- If a complaint is made about a non-member of the Marketing Association, council seeks a review of service delivery and formally advises distributor of a bylaw breach. |
| Abandoned shopping trolleys | - Council firstly directs complaints to the retailers to retrieve a trolley or secondly to Retail New Zealand if there are continuing issues.  
- Council requests identifiable retailers who are not industry accord signatories to retrieve their trolleys. If these issues are not addressed, council retrieves the trolley and charges for its collection.  
- Council retrieves the trolley if retailer is unidentifiable. |
5 How we got here

Decisions leading to the proposed changes

The Local Government Act 2002 and Waste Minimisation Act 2008 require council to review its waste bylaws to determine whether they are effective, efficient, still necessary and consistent with the Te Mahere Whakahaere me te Whakai Tukuna Para i Tamaki Makaurau 2013, Auckland Waste Management and Minimisation Plan 2018.

The existing Solid Waste Btaking 2011 is due to expire on 25 October 2019.

Auckland Council reviewed the existing bylaw, reported its findings and considered the options at meetings in February and March 2019.

Bylaw review and approval process

3 April 2019
Regulatory Committee
regards Statement of Proposal
for adoption

This statement of proposal was approved for public consultation by the Governing Body in May 2019 to commence the process to make a new Waste Management and Minimisation B2019 and to amend the Trading and Events in Public Places Bylaw 2015.

Go to: [www.aucklandcouncil.govt.nz/have-your-say](http://www.aucklandcouncil.govt.nz/have-your-say) for copies of the above decisions including a summary of options considered.
6 We want your input

You have an opportunity to tell us your views.

We would like to know what you think about the proposed new waste bylaw and the amendments to the trading and events bylaw.

Give us your feedback

Starting on 10 May 2019 through to 16 June 2019, we are asking for feedback on the proposed new Auckland Council Waste Management and Minimisation Bylaw 2019 and amendments to the Auckland Council Trading and Events in Public Places bylaw 2015.

You can give your feedback:
- in person at one of our ‘have your say’ events – visit our website for details
- online at our website www.aucklandcouncil.govt.nz/have-your-say

Visit www.aucklandcouncil.govt.nz/have-your-say for more information.

Online services are available at our libraries.

Your name and feedback will be available to the public in our reports and online. All other personal details will remain private.
Appendix A: Proposed new Auckland Council Waste Management and Minimisation Bylaw 2019
Te Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para 2019
Waste Management and Minimisation Bylaw 2019

(as at 25 October 2019)

made by the Governing Body of Auckland Council

In resolution GB/2019/27
on 22 August 2019

Summary
This summary is not part of the Bylaw but explains the general effects.

The purpose of this Bylaw is to manage and minimise waste, protect the public from health and safety risks and nuisance, and to manage the use of council-controlled public places by –

- requiring people to appropriately deposit or dispose of material in clauses 5 - 10
- requiring waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins to obtain an approved from council in clauses 11 - 13
- requiring the person responsible for a premises to provide adequate areas for storage and collection of disposed of or discarded material in clause 14
- requiring waste management and minimisation plans for trading, events and filming in council controlled public places and for multi-unit developments in clauses 15 and 16
- minimising the potential for shopping trolleys and unsolicited mail to become waste in clauses 17 and 18.

Other parts of this Bylaw assist with its administration by –

- stating the name of this Bylaw, when it comes into force and where it applies in clauses 1, 2 and 3
- stating the purpose of this Bylaw and defining terms in clauses 4 and 5
- providing transparency about how council makes controls and the approval process in Part 3
- reforming council’s powers to enforce this Bylaw and seek up to $20,000 in penalties in Part 4
- ensuring relevant accuracies, controls and approvals under the Tamaki Makaurau Te Ture A Rohe Para Maro 2012, Auckland Council Solid Waste Bylaw 2012 continue to apply in Part 5.
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### Part 1

#### Preliminary provisions

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#### Part 2

Deposit, collection, transportation and disposal of material

**Subpart 1 – Everyone’s responsibilities for the disposal or discarding of material**

6. A person must dispose of or discard material correctly 10
7. A person may dispose of or discard certain types of material in public places when in approved containers in certain circumstances 10
8. A person may dispose of or discard material on premises they own or occupy in limited circumstances 11
9. A person must use donation collection bins correctly 11
10. A person must use public waste bins correctly 12

**Subpart 2 – Waste industry responsibilities for disposed of or discarded material**

11. Waste collectors require an approval to collect or transport disposed of or discarded material 13
12. Operators of waste management and resource recovery facilities (other than cleanfills) require an approval to operate 13
13. Donation collection bin operators require an approval to operate on or near a council-controlled public place 14

**Subpart 3 – Responsibilities for disposed of or discarded material on premises and from events, trading, filming, multi-unit developments, shopping trolleys and unaddressed mail**

14. The owner and person responsible for a premises must provide adequate areas for storage and collection of disposed of or discarded material 14

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Waste Bylaw Statement of Proposal
Attachments

Waste Bylaw Statement of Proposal

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Item 10

Attachment A

Item 26

Attachment A
Regulatory Committee  
11 April 2019

Last updated  
25 October 2019  Waste Management and Minimisation Bylaw 2019

1 Title
   (1) This Bylaw is the Te Ture a-Rōhe Whakahaere me te Whakaiti Tuku Para 2019, Waste Management and Minimisation Bylaw 2019.

2 Commencement
   (1) This Bylaw comes into force on 26 October 2019.

3 Application
   (1) This Bylaw applies to Auckland.
   (2) This Bylaw does not apply to –
       (a) council when exercising its lawful compliance functions;
       (b) emergency services or civil defence personnel exercising their lawful functions in an emergency; or
       (c) any person acting in compliance with a lawful direction of council.

Part 1
Preliminary provisions

4 Purpose
   (1) The purpose of this Bylaw is to manage and minimise waste, protect the public from health and safety risks and nuisance, and to manage the use of council-controlled public places by –
       (a) managing the deposit, collection, transportation and disposal of disposed of or discarded material
       (b) requiring people to appropriately dispose of or discard material (for example separating material into recycling, food scraps and refuse for collection from a public place to minimise waste to landfill);
       (c) requiring waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins to obtain council approval;
       (d) requiring waste management and minimisation plans for trading, events and filming in council-controlled public places and for multi-unit developments; and
       (e) minimising the potential for shopping trolleys and unaddressed mail to become waste.
5 Interpretation

(1) In this Bylaw, unless the context otherwise requires, —

Advertising material means any message which—

(a) has printed or content controlled directly or indirectly by the advertiser, and

(b) is expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of a person

(For example, circulars, leaflets, flyers, brochures, business cards, samples and clothing donation bags).

Approval means permission to do something under this Bylaw and to avoid doubt includes a licence or approved waste management and minimisation plan.

Auckland has the meaning given by section 4(1) of the Local Government (Auckland Council) Act 2009.

Charitable entity means a society, an institution, or the trustees of a trust that is or are registered as a charitable entity under the Charities Act 2005.

Cleanfill means premises where cleanfill material is accepted for deposit.

Cleanfill material has the meaning given by the Auckland Unitary Plan.

Related information

The definition of cleanfill material in the Auckland Unitary Plan means natural material such as clay, gravel, sand, soil and rock which has been excavated or quarried from areas that are not contaminated with manufactured chemicals or chemical residues as a result of industrial commercial mining or agricultural activities. Includes:

- hazardous substances and material (such as municipal solid waste) likely to create leachate by means of biological breakdown;
- product and materials derived from hazardous waste treatment, stabilisation and dispersal processes;
- materials such as medical and veterinary waste, asbestos and radioactive substances;
- soil and fill material which contain any trace element specified in Table E3.0.5.14.2 at a concentration greater than the background concentration in Auckland soils specified;
- outcrop areas and soils;
- contaminated components;
- more than 5 per cent by volume of inert manufactured materials (e.g. concrete, brick, tiles); and
- more than 2 per cent by volume of attached biodegradable material (e.g. vegetation).

Compost means a nutrient-rich fertiliser and organic matter typically the product of composting food scraps and/or green waste.
Composting means the activity of creating nutrient-rich fertiliser and organic matter from food scraps, green waste or both and to avoid doubt, includes worm farms and anaerobic digestors.

Council, for the purposes of this Bylaw, means the Governing Body of the Auckland Council or any person delegated or authorised to act on its behalf.

Related information
The Regulatory Committee has delegated authority to make controls under clause 18 as at 26 July 2018 (CA/2019/237)
Council’s Infrastructure and Environmental Services has delegated authority to administer and enforce this Bylaw (excluding clause 18) as at August 2018.

Council-controlled public place means —

(a) a place that is under the control of council or a council-controlled organisation that, at any material time, is open to or is being used by the public, whether free or on payment of a charge.

(b) to avoid doubt —

(i) includes any park, reserve, recreational ground, sports field, public garden, public square, cemetery, beach, foreshore, dune, wharf, breakwater, boat ramp, pontoon, road, footpath, access way, grass verge, barn, and any part of a council-controlled public place; and

(ii) excludes any place under the control of the Tāmaki Makaurau Authority.

Donation collection bin operator means a person who provides containers in which items sought by the operator can be deposited by members of the public.

Food scraps means organic material from unlisted animal or plant-based material and to avoid doubt, includes uneaten fruit, vegetables, meat, fish, bones and shells.

Free print media means the publications specified in this table —

<table>
<thead>
<tr>
<th>Type of free print media</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Community Newspaper</td>
<td>A regular publication usually issued daily or weekly, consisting of folded unstapled sheets and containing news, articles, advertisements and correspondence aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>(b) Community Newsletter</td>
<td>A periodical publication usually issued weekly, biweekly or monthly, consisting of one or more printed sheets of paper containing information aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>(c) Community Magazine</td>
<td>A periodical publication usually issued biweekly or monthly consisting of stapled sheets and a paper cover containing articles and illustrations, aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>(d) Magazine</td>
<td>A periodical publication usually issued weekly or monthly, consisting of stapled sheets and a paper cover containing articles and illustrations, often on particular subject or aimed at a particular readership.</td>
</tr>
</tbody>
</table>
Waste Management and Minimisation Bylaw 2019

Related information about types of free print media
Examples of community newspapers are Central Leader, Manukau Courier and North Shore Times; community newsletters are Sunrayvek Community Centre newsletter; and community magazines are The Helens, The Recuperate Hospital, Paraparaumu News and Out Auckland.

Green waste means organic material from gardening or arboricultural activities and includes lawn clippings and plant material.

Landfill has the meaning given by the Auckland Unitary Plan.

Related information
Landfill in the Auckland Unitary Plan means a facility where household, commercial, municipal, industrial and hazardous, or industrial waste is accepted for disposal.

Local community organisation means a group that aims to bring about desired improvements in social well-being at a local community level.

Managed fill and managed fill material have the meaning given by the Auckland Unitary Plan.

Related information
In the Auckland Unitary Plan,
Managed fill means a facility where managed fill material is accepted for disposal.

Managed fill material is:
- contaminated soil and other contaminated materials;
- natural materials such as clay, gravel, sand, soil, rock or
- inert manufactured materials such as concrete and brick;

That does not contain:
- hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;
- products or materials derived from hazardous waste treatment stabilisation or disposal processes;
- materials such as medical and veterinary waste, asbestos, or radioactive substances;
- combustible components;
- more than 2 per cent by volume of incinerable or attached biodegradable materials (e.g., vegetation).

Mono fill means a landfill, which is designated for one specific type of material.

Multi-unit development means a premises that contains 10 or more dwellings and to avoid doubt includes mixed-use premises with business or other activities.

Person includes an individual, a corporation, a body corporate, and an unincorporated body.

Premises means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same; or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.
Public place means a place that, at any material time, is —
(a) open to or is being used by the public, whether free or on payment of a
charge, and whether any owner or occupier of the place is lawfully entitled
to exclude or eject any person from that place; and
(b) to avoid doubt, includes any hovercraft, ship or ferry or other vessel, train,
or vehicle carrying or available to carry passengers for reward and any
council-controlled public place.

Public waste bin means a container for disposed of or discarded material in a
public place and includes containers for different types of material (for example
recyclable material, food scraps or refuse).

Resource recovery facility has the meaning given by clause 12.

Rural area means the —
(a) Auckland Unitary Plan Rural – Rural Production Zone, Rural – Mixed Rural
Zone, Rural – Rural Coastal Zone and Future Urban Zone; and
(b) Auckland Council District Plan - Hauraki Gulf Islands Section Rural 1-3 and
Landform 1-7.

Unaddressed mail means —
(a) any mail or material that does not display a full address and a name of a
person at that address; and
(b) to avoid doubt, includes public notices from government bodies, local
authorities or New Zealand Post, election material, free print media,
material from local community organisations or charitable entities and
advertising material.

Waste —
(a) means anything disposed of or discarded; and
(b) includes a type of waste that is defined by its composition or source (for
example, organic waste, electronic waste, or construction and demolition
waste); and
(c) to avoid doubt, includes any component or element of diverted material, if
the component or element is disposed of or discarded.

Waste collector has the meaning given by clause 11.

Waste management facility has the meaning given by clause 12.

(2) Related information does not form part of this Bylaw and may be inserted,
changed or removed without any formality.

(3) The Interpretation Act 1999 applies to this Bylaw.
Part 2
Deposit, collection, transportation and disposal of material

Subpart 1 – Everyone’s responsibilities for the disposal or discarding of material

6 A person must dispose of or discard material correctly

(1) A person must dispose of or discard material in one of the following ways –
(a) to a waste collector from a public place when expressly allowed in clause 7
   (for example in a kerbside recycling, food scrap or refuse bin);
(b) to a waste collector –
   (i) from the premises that person owns or occupies if the material is from
       activity on that same premises; or
   (ii) from any premises with the consent of a person who occupies that
       premises;
       (for example the collection of inorganic material or material in a flexi-bin or
       skip located on a premises);
(c) at a waste management facility or resource recovery facility if that material
    is of a type accepted by that facility;
(d) on premises that person occupies or owns when expressly allowed in
    clause 8 (for example in relation to the burial of waste and composting);
(e) in a donation collection bin when expressly allowed in clause 9; or
(f) in a public waste bin when expressly allowed in clause 10.

7 A person may dispose of or discard certain types of material in public
places when in approved containers in certain circumstances

(1) A person may dispose of or discard material in a public place if –
(a) the material is placed in a public place in an approved container at times,
    locations and in a manner prescribed in a control in clause 19; and
(b) the material in the container is from activity on the same premises or with
    the consent of a person who occupies that premises;
(c) the material is stored on the premises in a manner prescribed in a control in
    clause 19 prior to placing it in a public place in subclause (1)(a);
(d) the material disposed of or discarded does not include any prohibited
    material prescribed in a control in clause 19;

Related information about disposal of material in public places
Council provides kerbside recycle and composting services to homes and businesses. This clause
allows council to set the terms and conditions on what bins to use, what you can put in them and
When and where you can place your bin for collection (for example the kerb side or a collection point). Links to more details about current terms and conditions are in clause 31(3) and these can be updated at any time under clause 19. Some businesses also provide private kerbside collection service. The terms and conditions for those services are allowed by council under clause 11.

(2) A person must not –
   (a) remove, alter or interfere with an approved container or the material it contains unless that person –
       (i) occupies the same premises the container is stored on;
       (ii) has the consent of a person who occupies the same premises the container is stored on;
       (iii) is a waste collector under clause 11, or
   (b) remove an approved container provided by council or a waste collector from the premises it was provided to without the prior approval of the council or waste collector who provided it.

8 A person may dispose of or discard material on premises they own or occupy in limited circumstances

(1) A person may dispose of or discard waste by burial on premises that person occupies or owns if
   (a) the waste is a dead animal lawfully kept on the same premises;
   (b) the waste is a dead nuisance pest caught on the same premises; or
   (c) the waste is food scraps or green waste from domestic activity on the same premises and the premises is in a rural area; and
   (d) the waste is buried 300 millimetres or deeper below the surface.

(2) A person may dispose of or discard material by composting if –
   (a) the material is food scraps or green waste; and
   (b) the material is from activity on the same premises that it is composted on or the material is composted at a community garden.

9 A person must use donation collection bins correctly

(1) A person may dispose of or discard material (for example clothing or shoes) in a donation collection bin if that material is of a type specified on the bin for collection.
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Related information about people’s general responsibilities in relation to waste
- A person must not litter. This is an offence under the Litter Act 1979 (s16) and includes putting waste around bins, illegal dumping and removing waste from a bin and depositing it outside the bin.
- A person must not damage or vandalise public waste bins. This is an offence under the Local Government Act 2002 (s23) and Summary Offences Act 1981 (s51 and 11A). Council has the power to intervene to prevent damage under the Litter Act 1979 (s7(1)).
- The burning of waste is legislated in the Auckland Unitary Plan and includes a prohibition on the burning of domestic waste (for example domestic food scraps) anywhere in Auckland.
- A person must not accumulate or deposit waste where it becomes offensive or is likely to be injurious to health or harbour vermin under the Health Act 1956 (s25) or where it causes or may cause a nuisance under the Tanaki Mokauara Te Tere A nehe Tuki Rawa me Ngā Mahi Whakaponoarea 2015, Auckland Council Property Maintenance and Nuisance Bypass 2015.
Subpart 2 – Waste industry responsibilities for disposed of or discarded material

11 Waste collectors require an approval to collect or transport disposed of or discarded material

(1) In this Bylaw, waste collector means any person who –
   (a) collects or transports disposed of or discarded material; and
   (b) that disposed of or discarded material exceeds 20 tonnes over a 12 month period.

(2) A waste collector must –
   (a) obtain an approval in accordance with subpart 2 of Part 3 to –
      (i) collect disposed of or discarded material in Auckland; or
      (ii) transport disposed of or discarded material into, around or out of Auckland; and
   (b) ensure compliance with the approval; and
   (c) ensure compliance with any conditions of the approval.

12 Operators of waste management and resource recovery facilities (other than cleanfills) require an approval to operate

(1) In this Bylaw –
   (a) Waste management facility means a premises –
      (i) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities; and
      (ii) to avoid doubt, includes a landfill, cleanfill, managed fill, monofill or transfer station.
   (b) Resource recovery facility means a premises –
      (i) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities for the purpose of recovering components or elements for recycling or reuse; and
      (ii) to avoid doubt, includes a commercial composting operation, recovery operation, materials recovery facility, transfer station and recycling depot.
13 Donation collection bin operators require an approval to operate on or near a council-controlled public place

(1) A donation collection bin operator must—
(a) obtain an approval in accordance with subpart 2 of Part 3 to place a donation collection bin in a—
   (i) council-controlled public place; or
   (ii) within 10 metres of a council-controlled public place; and
(b) ensure compliance with the approval; and
(c) ensure compliance with any conditions of the approval.

Subpart 3 — Responsibilities for disposed of or discarded material on premises and from events, trading, filming, multi-unit developments, shopping trolleys and unaddressed mail

14 The owner and person responsible for a premises must provide adequate areas for storage and collection of disposed of or discarded material

(1) The owner and person responsible for the management of a premises must provide adequate areas for—
(a) storage of disposed of or discarded material on the premises from activity on the same premises; and

Related information about waste management facilities

- The definition of cleanfill is aligned to the Auckland Unitary Plan. The definition includes natural material that consists of soils, rock, aggregates and gravels, sand, clay or other inorganic non-virgin natural resources. The definition excludes man manufactured material such as bricks, concrete, tiles, pavements and pipes. Refer to ‘cleanfill material’ definition in clause 8.
- The adverse effects of the discharge of contaminants from cleanfills, managed fills and landfills on the environment and public health is regulated under the Auckland Unitary Plan.
- The monitoring of emissions from waste management facilities is regulated under the Climate Change Response Act 2002 (662).
15 Waste management and minimisation plan required for trading, events and filming in council-controlled public places

(1) A person who must obtain an approval under any other bylaw that applies to Auckland to undertake any trading, event or filming activity in a council-controlled public place must –

(a) obtain an approval for a waste management and minimisation plan in accordance with subpart 2 of Part 3 prior to undertaking that activity;

(b) ensure compliance with the approved plan; and

(c) ensure compliance with any conditions of the approval.

Related information about waste plans for trading, events and filming

- The Auckland Council and Auckland Transport Tātē & Rōte Hokianga Whakataerainga i ngā WHM Whānui 2015, Trading and Events in Public Places Bylaw 2015 specify which trading, events and filming activities require an approval.
- Use this form to request an events waste plan approval in a council-controlled public place.

16 Waste management and minimisation plan required for certain existing and planned multi-unit developments

(1) This clause applies to the person responsible for –

(a) the management of an existing multi-unit development if any of the occupants cannot dispose of or discard material as expressly allowed in clause 7; or

(b) a planned multi-unit development.

(2) The person to whom this clause applies must –

(a) obtain an approval for a waste management and minimisation plan for that development in accordance with subpart 2 of Part 3 –

(i) within six months of the date that person is notified by council of the requirement to obtain such an approval for an existing development under subclause (1)(a); or

(ii) prior to the commencement of construction for a planned development under subclause (1)(b); and

(b) ensure compliance with the approved plan; and

(c) ensure compliance with any conditions of the approval.

Related information about waste from planned multi-unit developments

- Use the online Design for Waste Guide [1] to avoid common resource consent design issues and deliver better quality housing developments.
- Use the online Solid Waste Calculator [2] to help determine waste provisions for multi-unit developments including an estimate of the average volume of waste per person per week.
A person must minimise potential for a shopping trolley to become waste

(1) Subclause (2) does not apply –
   (a) to a person who is a party to an accord about shopping trolleys –
      (i) if the accord has been approved by council;
      (ii) to the extent specified in the accord, and
   (b) to a person who has permission to remove a shopping trolley from the business premises for operational reasons (for example, replacement or repair) from a person who is responsible for the operation of a business that provides shopping trolleys, or
   (c) to a business that provides less than 10 shopping trolleys.

(2) A person who is responsible for the operation of a business must –
   (a) clearly display the contact details of the business on each shopping trolley provided by that business for public use;
   (b) clearly display signage on the premises of that business that –
      (i) prohibits the removal of any shopping trolley from the premises;
      (ii) provides the contact details of the business;
      (iii) encourages the public to report the removal or location of any shopping trolley removed from the premises using the contact details of the business;
   (c) retrieve any shopping trolley provided by that business for public use that has been removed from the business’s premises –
      (i) within two hours of being notified by any person of the location of the shopping trolley;
      (ii) appropriately dispose of any thing found in that shopping trolley;
   (d) reimburse council for the costs incurred by council to retrieve and return or dispose of any shopping trolley of the business not on the premises of the business, within one month of the trolley’s retrieval, if –
      (i) council has notified the person of the location of that shopping trolley;
      (ii) that shopping trolley has not been retrieved within 24 hours of being notified of the shopping trolley’s location; and
   (e) keep, maintain and provide council with an annual record by 31 March every year of the number of shopping trolleys removed from the premises.
and retrieved by the business or returned by council or other persons to the business.

(3) A person who uses a shopping trolley for whatever reason (for example a customer) must not remove that shopping trolley from the premises of the business for which it is provided.

Related information about shopping trolleys
- Accords may provide a way for businesses to determine how best to minimise the potential for shopping trolleys to become waste (for example dumped or abandoned in public places). Accords may include graduated retrieval response times, define the relationship between Retail New Zealand and council or use non-operated or electronic-locking systems.
- Council approved an accord with Retail New Zealand titled the "Code of Practice for the Management of Shopping Trolleys" on 17 June 2014.
- Removing a shopping trolley from a business premises may in certain circumstances also be an offence under the Litter Act 1979 (s15), theft or stealing under the Crimes Act 1991 (s219) or a safety risk, nuisance, obstruction or interference to the use or enjoyment of a public place under the Tāmaki Makaurau Te Tūranga/Mātauranga a-honu me Whakaperea 2013, Auckland Council Public Safety and Nuisance Bylaw 2013.

10 A person must minimise potential for unaddressed mail to become waste

(1) This clause applies to any person who –
   (a) places unaddressed mail in a letterbox or on a vehicle; or
   (b) is responsible for the operation of a business that is responsible for authorising or placing unaddressed mail in a letterbox or on a vehicle.

(2) However, this clause does not apply to a person who is a party to an accord about unaddressed mail –
   (a) that has been approved by council; and
   (b) to the extent specified in the accord.

(3) A person to whom this clause applies –
   (a) must not place, cause, allow or instruct the placement or delivery of unaddressed mail in a letterbox where specified by a “*” (a cross) in the below table; and
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Part 3
Controls and Approvals

Subpart 1 Controls

19 Council may make controls about management and minimisation of material disposed of or discarded

(1) The council may make a control for one or more of the following purposes in relation to Subpart 1 of Part 2—
   (a) prescribing types of disposed of or discarded material;
   (b) prescribing the way disposed of or discarded material must be stored on premises;
   (c) prescribing types of approved containers;
   (d) prescribing the use and maintenance of approved containers;
   (e) prescribing the type and amount of disposed of or discarded material that may and may not be deposited in a type of approved container;
   (f) prescribing the way an approved container must be placed on or retrieved from a public place, including times; and
   (g) prescribing types of prohibited waste.

Related information about the making of controls
- Council has delegated the making, amending, replacement and revocation of bylaw controls to the Regulatory Committee (30/2016/37).
- To make a decision, the committee must comply with the decision-making requirements under Subpart 1 of Part 5 of the Local Government Act 2002.
- Existing controls about the separation, placement and collection of waste in clause 31(3) will continue to apply.

Subpart 2 Approvals

20 This subpart applies to people who must obtain council approval

(1) This subpart applies to a person who must—
   (a) obtain an approval from council under Subpart 2 of Part 2 as a waste collector or operator of a waste management facility, resource recovery facility or donation collection bins;
(b) obtain an approval from council under Subpart 3 of Part 2 for a waste management and minimisation plan for trading, events, filming or multi-unit development; or
(c) renew an approval from council prior to its expiration.

(2) For the purposes of subclause (1)(c), this subpart applies with all necessary modifications as if that renewal was an application for an approval.

21 Applications for an approval must include information required by council

(1) A person to whom this subpart applies must make an application to council that –
(a) is in the form and manner required by council; and
(b) includes any information required by council.

(2) Without limiting subclause (1), council may require an application for an approval to include information on one or more of the following matters in this table.

<table>
<thead>
<tr>
<th>Waste management and resource recovery facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) the nature of the activity for which an approval is sought;</td>
</tr>
<tr>
<td>(b) an estimate of the volume of waste to be the type of waste created, collected, received, stored or disposed of;</td>
</tr>
<tr>
<td>(c) the frequency, location or route of waste collection or transportation;</td>
</tr>
<tr>
<td>(d) the method of waste collection, transportation or disposal;</td>
</tr>
<tr>
<td>(e) the applicant’s experience, reputation and track record; and</td>
</tr>
<tr>
<td>(f) the waste management and resource recovery facility terms and conditions of use by customers and statutory requirements for the disposal of waste.</td>
</tr>
</tbody>
</table>

22 Council will consider applications for an approval against relevant matters

(1) Council when considering an application for an approval under Subpart 2 and 3 of Part 2 –
(a) will have regard to any matter it considers relevant and reasonably necessary to determine the application in relation to the purpose of this Bylaw; and
(b) may inspect premises or locations related to the application for the purposes for which the approval is given.

(2) Without limiting subclause (1), council may consider an application for an approval against one or more of the following matters in this table.

<table>
<thead>
<tr>
<th>All approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) extent to which the application would –</td>
</tr>
<tr>
<td>(i) contribute towards achieving the Te Mahore Whakahaere me te Whakaiti Tukunga Pura i Tāmaki Makaurau 2010, <em>Auckland Waste Management and Minimisation Plan 2020</em>, in particular the goal to reduce harm from residual waste;</td>
</tr>
</tbody>
</table>
(a) manage and minimise waste (for example by maximising the recovery of recyclable and reusable materials);
(b) protect public health and safety;
(c) protect the public from nuisance;
(d) appropriately manage the use of council controlled public places;
(e) methods of deposit, collection, transportation, receipt, sorting, storage, processing, disposal of or any combination of these activities, including the type, placement, retrieval, number and weight of containers used to collect disposed of or discarded material;
(f) need to collect information on the type and volume of disposed of or discarded material that is deposited, collected, transported, received, stored, disposed of or any combination of these activities;

**Approvals about trading, events and filming waste management and minimisation plans**

(d) nature and scale of activity;

(e) potential for material to be disposed of or discarded in areas surrounding the activity.

**Approvals about multi-unit development waste management and minimisation plans**

(f) existing development only: physical limitations to the separation of disposed of or discarded material on the premises (for example due to limited areas available for storage and different types of containers or limited access available for collection of containers); and

(g) need to minimise noise and odour, to keep areas hygienic and free of vermin and to protect containers used to collect disposed of or discarded material from theft and vandalism.

23 Council may grant or decline an application for an approval

(1) Council may grant or decline an application for an approval having regard to the matters in clause 22.

24 Council may impose conditions if it grants an application for an approval

(1) If council grants an application for an approval, it may impose any conditions on the approval it considers appropriate.

(2) Without limiting subclause (1), council may impose any one or more of the conditions in this table.

<table>
<thead>
<tr>
<th>All approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) deposit, collection, transport, receipt, sorting, storage, processing, disposal or any combination of these activities of disposed of or discarded material;</td>
</tr>
<tr>
<td>(b) separation of different types of material disposed of or discarded;</td>
</tr>
<tr>
<td>(c) acceptable limits of materials in containers not intended for that material;</td>
</tr>
<tr>
<td>(d) materials prohibited from being disposed of or discarded;</td>
</tr>
<tr>
<td>(e) information to be provided to council about the types of materials deposited, collected, transported, received, stored, processed, disposed of or any combination of these activities;</td>
</tr>
<tr>
<td>(f) monitoring, inspection or both;</td>
</tr>
</tbody>
</table>

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(g) payment of an annual fee, bond or a security;
(h) duration of approval within the limits specified in clause 24;
(i) transfer of approval within the limits specified in clause 26.

### Approvals about collection and transport of materials and donation collection bins

- (j) container placement, type, number and weight or any combination of these matters;
- (k) display of the types of material intended to be collected on a container;
- (l) collection times and days;
- (m) when material can be collected from unapproved containers;
- (n) collection of any spillage;
- (o) collection of any material in the vicinity of an approved container;
- (p) reimbursement of costs incurred by council for failing to collect material or remove a container;
- (q) which waste management or resource recovery facilities material can be taken to, and
- (r) the overnight parking of vehicles.

### Example

Conditions of an approval for a waste collector who provides a refuse and recycling bin to a household may require the operator to ensure that material is properly separated prior to collection. Refuse bins do not contain recyclables over a limit prescribed by council. Material is kept separated during transport and refuse is taken to landfill and incineration in a transfer station.

### Related information about handling of information provided to council

Council takes all reasonable measures to keep commercially sensitive information confidential. This includes the aggregation of information.

### 25 Duration of an approval is no more than five years

(1) The duration of an approval granted for a waste collector or operator of a waste management facility, resource recovery facility or donation collection bin under Subpart 2 of Part 2 is either five years from the date of the approval, or for a shorter duration if specified in the approval.

(2) The duration of an approval granted for a waste management and minimisation plan –

(a) for trading, events and filming under clause 15 is the same as the duration specified in the approval given under the other bylaw referred to in that clause, and

(b) for multi-unit developments in clause 16 is no less than five years from the date of the approval plus a period of six months after the date the person in clause 16(1)(a) is notified by council.
26 Council may review approval conditions in certain circumstances

(1) Council may review the conditions of an approval granted under this subpart –
   (a) to be consistent with any changes to legislation; and
   (b) to deal with any issues which arise from the exercise of the approval, the
       effects of which make it necessary to apply more appropriate conditions (for
       example council review of collection times due to noise complaints,
       changes in road layout or road closures).

(2) For the purposes of subclause (1), this subpart applies with all necessary
    modifications as if that review was an application for an approval.

27 Transfer of approvals not allowed

(1) An approval under this Bylaw attaches to the person who obtained it and is not
    transferable to any other person, unless the approval expressly provides
    otherwise.

Part 4

Enforcement powers, offences and penalties

28 Council may take action to enforce the Bylaw against a person who has
    obtained an approval

(1) Council may take one or more of the actions in subclause (2) if a person to whom
    an approval has been granted –
   (a) fails to comply with the approval;
   (b) fails to comply with any condition of that approval; or
   (c) provided inaccurate information in that person's application which materially
       influenced the decision made on the application.

(2) Council may take any one or more of the following actions against a person to
    whom this clause applies –
   (a) written advice or a written warning;
   (b) a review, suspension or cancellation of the approval;
   (c) a review of the conditions of the approval;
   (d) forfeiture of any bond or security; or
   (e) the use of statutory powers in clause 26.
29  Council can use statutory powers and other methods to enforce this Bylaw

(1) Council may use its powers under the Waste Minimisation Act 2008 and Local Government Act 2002 or its powers as a service provider to enforce this Bylaw.

Related information about enforcement
- Council powers under the waste minimisation Act 2008 (as reprinted on 1 January 2019) and Local Government Act 2002 (as reprinted on 1 July 2018) include powers of entry (sections 171, 177, 179), power to inspect property and obtain information (section 76) and power to request name and address (section 179).
- Clause 16 about shopping trolleys and clause 17 about undressed meat are only made and enforced under the Local Government Act 2002.
- Council can also use other methods as a service provider to encourage compliance, for example –
  - providing advice, information or warnings
  - trespassing a person from using a waste collection point
  - not collecting a person’s kerbside bins if it contains incorrect types of material (for example, refuse in a recycling bin)
  - removing the incorrect types of material or overfilling material from a bin and charging for the additional removal cost and administration
  - suspending or cancelling a person’s waste collection service.

30  A person can be penalised for not complying with this Bylaw

(1) A person who fails to comply with Part 2 of this Bylaw commits an offence and is liable to a penalty under the Waste Minimisation Act 2008 or Local Government Act 2002.

Related information about penalties
A person who is convicted of an offence against a byelaw is liable to a fine not exceeding $36,000 under section 46 of the Waste Minimisation Act 2008 (as reprinted on 1 January 2019) or section 232 of the Local Government Act 2012 (as reprinted on 1 July 2018).

Part 5
Savings and transitional provisions

31  Existing accruals, controls and approvals under the Solid Waste Bylaw 2012 continue to apply

(1) This clause applies to things approved or made under the Tamaki Makaurau Te Turirua Pera Tū Mārie 2012, Auckland Council Solid Waste Bylaw 2012.

(2) The Retail New Zealand accord titled the “Code of Practice for the Management of Shopping Trolleys” approved by council on 17 June 2014 continues to apply until 1 November 2020.
(3) The following controls continue to apply until replaced or revoked by council –
   (a) controls made under the Solid Waste Bylaw 2012 concerning the separation of domestic waste collected from a public place, and
   (b) controls made under the Solid Waste Bylaw 2012 for approved containers for waste collected from a public place.

(4) Every approval granted that applied on 25 October 2019 continues to apply until the expiration date specified in the approval or 1 November 2020, whichever comes first.

(5) This Bylaw will apply to every approval granted that applied on 25 October 2019, as if it was granted in accordance with Subpart 2 of Part 3.

32 A person has three months to apply for an approval for the first time

(1) A person who lawfully provided a service or facility on 25 October 2019 that did not require an approval under the Tāmaki Makaurau Te Tūranga a Rohe Para Māro 2012, Auckland Council Solid Waste Bylaw 2012, must apply for an approval within three months of this Bylaw commencing, if required in Subpart 2 of Part 2 to hold an approval for that service or facility.

33 Existing applications for approval to be processed under this Bylaw

(1) Any application for an approval under the Tāmaki Makaurau Te Tūranga a Rohe Para Māro 2012, Auckland Council Solid Waste Bylaw 2012 not approved or declined before the date this Bylaw commences, will continue to be processed as if it had been applied for under this Bylaw.

34 Existing inquiries to be completed under the Solid Waste Bylaw 2012

(1) Any compliance or enforcement action by council under the Tāmaki Makaurau Te Tūranga a Rohe Para Māro 2012, Auckland Council Solid Waste Bylaw 2012 that was not completed before the date this Bylaw commences, will continue to be actioned under that Bylaw as if it were still in force and as if this Bylaw had not been made.
Related information, Bylaw history

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 November 2010</td>
<td>Made legacy bylaws about solid waste (Section 62 Local Government (Auckland Transitional Provisions) Act 2010)</td>
</tr>
<tr>
<td>01 November 2010</td>
<td>Commencement of legacy bylaws about solid waste (Section 62 Local Government (Auckland Transitional Provisions) Act 2010)</td>
</tr>
<tr>
<td>18 July 2012</td>
<td>Review of legacy bylaws about solid waste completed (RB/2012/12)</td>
</tr>
<tr>
<td>26 July 2012</td>
<td>Proposal to make new bylaw about solid waste and to revoke legacy bylaws (GE/2012/103)</td>
</tr>
<tr>
<td>25 October 2012</td>
<td>Made the Auckland Council Solid Waste Bylaw 2012 (GB/2012/140)</td>
</tr>
<tr>
<td>27 October 2012</td>
<td>Public notice of making of the Auckland Council Solid Waste Bylaw 2012 and revocation of legacy bylaws</td>
</tr>
<tr>
<td>01 November 2012</td>
<td>Commencement of Auckland Council Solid Waste Bylaw 2012 and revocation of legacy bylaws (GB/2012/140)</td>
</tr>
<tr>
<td>14 February 2019</td>
<td>Review of Auckland Council Solid Waste Bylaw 2012 completed (REG/2019/1)</td>
</tr>
<tr>
<td>02 May 2019</td>
<td>Proposal to make a new bylaw about waste (GE/2019###)</td>
</tr>
<tr>
<td>[TBC]</td>
<td>Public notice of making of the Auckland Council Waste Management and Minimisation Bylaw 2019</td>
</tr>
</tbody>
</table>

Appendix B: Summary of the differences between the existing and proposed bylaws

Table 1 shows a comparison of the existing and proposed waste bylaws by topic.

In general, the new waste bylaw uses a different structure and different words. The reason for this change is to make the bylaw easier to understand.

The differences between the structure and wording make a direct comparison difficult and the size of the table long. To mitigate this, Table 1 –

- places the more administrative clauses (for example title, commencement and definitions) at the end of the table
- follows the order of the proposed new waste bylaw
- equivalent clauses from the existing bylaw in the first column will often appear out of sequence and may appear more than once
- differences that are less significant are referenced as opposed to stated.

IMPORTANT: The proposed bylaw in Appendix A prevails in the event of any differences between the proposed bylaw in Appendix A and Table 1.

Table 2 shows the proposed changes to the Auckland Council Trading and Events in Public Places Bylaw 2015.

### Table 1: Summary of differences between the existing Solid Waste Bylaw 2012 and proposed Waste Management and Minimisation Bylaw 2019

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
</table>
### Existing Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>Compliance with bylaw</td>
</tr>
<tr>
<td>1.</td>
<td>No person may deposit, collect, transport, sort, store, processor, dispose of waste other than in accordance with this bylaw.</td>
</tr>
<tr>
<td>2.</td>
<td>To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.</td>
</tr>
</tbody>
</table>

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>A person must dispose of or discard material in one of the following ways:</td>
</tr>
<tr>
<td>7</td>
<td>(a) to a waste collector from a public place where expressly allowed in clause 7 (for example in a kerbside recycling, food scrap or organics bin);</td>
</tr>
<tr>
<td>8</td>
<td>(b) to a waste collector –</td>
</tr>
<tr>
<td>9</td>
<td>(c) from the premises that person owns or occupies if the material is from activity on that same premises; or</td>
</tr>
<tr>
<td>10</td>
<td>(d) from any premises with the consent of a person who occupies that premises;</td>
</tr>
<tr>
<td>11</td>
<td>(e) from the collection of inorganic material or material in a flexi-bin or skip located on a premises;</td>
</tr>
<tr>
<td>12</td>
<td>(f) at a waste management facility or resource recovery facility if that material is of a type accepted by that facility;</td>
</tr>
<tr>
<td>13</td>
<td>(g) on premises that person occupies or owns when expressly allowed in clause 13 (for example in relation to the burial of waste and composting);</td>
</tr>
<tr>
<td>14</td>
<td>(h) in a domestic collection bin where expressly allowed in clause 13; or</td>
</tr>
<tr>
<td>15</td>
<td>(i) in a public waste bin when expressly allowed in clause 13.</td>
</tr>
</tbody>
</table>

### Reasons

- New bylaw facilitates where a person may deposit or dispose of material. For example to the kerbside, to a waste collector or at a waste management facility or resource recovery facility.
- New bylaw does not contain current clauses about the deposit of inorganic material on a public place because material is now required to be collected from private property.
### Existing Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Use of approved containers for domestic waste collection from a public place</td>
</tr>
<tr>
<td>(1)</td>
<td>The occupier and the manager of a premises must ensure that the waste from the premises is separated into refuse, recyclable material and organic matter and deposited in the correct approved container.</td>
</tr>
<tr>
<td>(2)</td>
<td>No person may deposit in the approved container, material that is not approved for it.</td>
</tr>
<tr>
<td>9</td>
<td>Deposit or removal of domestic waste</td>
</tr>
<tr>
<td>(1)</td>
<td>No person may put waste into an approved container provided to any other person, without that other person's consent.</td>
</tr>
<tr>
<td>(2)</td>
<td>No person may remove waste from, or interfere with any waste deposited in, an approved container, except the council, a licensed waste collector, or the person who deposited the waste.</td>
</tr>
<tr>
<td>(3)</td>
<td>Except with the prior written approval of the council, no person may remove a container provided by the council from the premises to which it has been allocated.</td>
</tr>
<tr>
<td>(4)</td>
<td>The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.</td>
</tr>
</tbody>
</table>

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>A person may dispose of or discard certain types of material in public places when in approved containers in certain circumstances</td>
</tr>
<tr>
<td>(1)</td>
<td>A person may dispose of or discard material in a public place if:</td>
</tr>
<tr>
<td>(a)</td>
<td>The material is placed in a public place in an approved container at times, locations and in a manner prescribed in a control in clause 19, and</td>
</tr>
<tr>
<td>(b)</td>
<td>The material is the container is from activity on the same premises as described in clause 19 and with the consent of a person who occupies that premises.</td>
</tr>
<tr>
<td>(c)</td>
<td>The material is stored on the premises in a manner prescribed in a control in clause 19 prior to placing it in a public place in accordance with (1)(a);</td>
</tr>
<tr>
<td>(d)</td>
<td>The material disposed of or discarded does not include any prohibited material prescribed in a control in clause 19;</td>
</tr>
</tbody>
</table>

**Related information about disposal of material in public places**

Council provides kerbside and recycling services to homes and businesses. This allows councils to set the terms and conditions on what can be used, when you can place your bin for collection and where your bin for collection (for example: the kerbside or a collection point). For more details about current terms and conditions, see clause 31(1) and (3).
<table>
<thead>
<tr>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>can be updated at any time under clause 10. Some businesses also provide private kerbside collection services. The terms and conditions for these services are allowed by council under clause 21.</td>
<td>(2) A person must not –</td>
</tr>
<tr>
<td>(a) remove, alter or interfere with an approved container or the material it contains unless that person –</td>
<td>(i) occupies the same premises the container is stored on;</td>
</tr>
<tr>
<td>(b) remove an approved container provided by council or a waste collector from the premises it was provided to without the prior approval of the council or waste collector who provided it.</td>
<td>(ii) has the consent of a person who occupies the same premises the container is stored on;</td>
</tr>
<tr>
<td>(c) remove any waste or premises except as –</td>
<td>(iii) is a waste collector under clause 11; or</td>
</tr>
<tr>
<td>(a) land fill site, clean fill site, managed fill site, mono fill site, et cetera.</td>
<td>(b) remove an approved container provided by council or a waste collector from the premises it was provided to without the prior approval of the council or waste collector who provided it.</td>
</tr>
<tr>
<td>Item 26</td>
<td>Attachment A</td>
</tr>
<tr>
<td>---------</td>
<td>--------------</td>
</tr>
<tr>
<td><strong>Existing Bylaw</strong></td>
<td><strong>Proposed Bylaw</strong></td>
</tr>
<tr>
<td>15 Disposal of waste on land</td>
<td>5 A person may dispose of or discard material on premises they own or occupy in limited circumstances</td>
</tr>
<tr>
<td>(1) This clause does not apply to the disposal;</td>
<td>(1) A person may dispose of or discard waste by burial on premises that person occupies or owns if:</td>
</tr>
<tr>
<td>(a) of waste that, in the opinion of the council is not likely to contain a significant level of recyclable or organic material that may be recovered in an cost effective manner;</td>
<td>(a) the waste is dead animal, Adzuki kept on the same premises;</td>
</tr>
<tr>
<td>(b) of dead farm animals in rural areas.</td>
<td>(b) the waste is dead animal, Adzuki kept on the same premises;</td>
</tr>
<tr>
<td>(c) organic waste, including dead farm animals in rural areas.</td>
<td>(c) the waste is dead animal, Adzuki kept on the same premises;</td>
</tr>
<tr>
<td>(d) of dead farm animals in rural areas.</td>
<td>(d) the waste is buried 300 metres or deeper below the surface.</td>
</tr>
<tr>
<td>(e) of dead farm animals in rural areas.</td>
<td>(e) A person may dispose of or discard material by composting if:</td>
</tr>
</tbody>
</table>
### Existing Bylaw

- b) remove any waste from any litter receptacle provided by the council in any public place, where this results in any waste being deposited outside the receptacle unless authorised by the council to do so;
- c) deposit or attempt to deposit any litter in any receptacle provided by the council in any public place if:
  - i) the receptacle is full; or
  - ii) the litter is likely to escape;
- d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle provided by the council in any public place; or
- e) damage any litter receptacle provided by the council in any public place.

### Proposed Bylaw

- a) the materials from that person’s place of employment or business;
- b) the materials from that person’s home;
- c) the bin is full or over flowing;
- d) the materials is deposited in a way that is likely to escape from the bin;
- e) the materials of a type that the bin is not intended to collect (for example depositing food scrap in a bin intended for recyclable material); or
- f) the materials of a prohibited type prescribed in a control in cause 19 (for example hazardous or medical waste).

#### Related information about people’s general responsibilities in relation to waste

- A person must not litter. This is an offence under the **Litter Act 1979** (115) and includes putting waste around bins, illegal dumping and removing waste from a bin and depositing it outside the bin.
- A person requires council approval to attach things to public waste bins as the owner including under other bylaws. For example, the Tamaki Makaurau Te Rā Heke no Tohu 2015, Auckland Council **C11-305** makes it clear the owner has the power to intervene to prevent damage under the **Litter Act 1979** (129)(d).
- The burning of waste is regulated in the **Auckland Council Plan** and includes a prohibition on the burning of domestic waste (for example domestic food scraps) anywhere in Auckland.
- A person must not accumulate or deposit waste where it becomes offensive or is likely to be injurious to health or harbour vermin under the **Health Act 1956** (139) or where it causes or may cause a nuisance under the Tamaki Makaurau Te Rā Heke no Tohu 2015 (140).
<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Waste collector</strong> means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste.</td>
<td>11. Waste collectors require an approval to collect or transport disposed of or discarded material.</td>
<td>- New bylaw clarifies the current requirements for waste collectors to obtain a license from council.</td>
</tr>
<tr>
<td><strong>12 Licensing of the collection or transportation of waste</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Subject to subclause (3), any person who collects or transports waste from or to land in Auckland that on 31 October 2010 was part of Auckland City, Manukau City, Papakura District or Franklin District must obtain a licence to do so from the council.</td>
<td>(1) In this Bylaw, waste collector means any person who—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) collects or transports disposed of or discarded material; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) that disposed of or discarded material exceeds 20 tonnes over a 12 month period.</td>
<td></td>
</tr>
<tr>
<td>(2) Subject to subclause (3), any person who collects or transports waste from or to land in Auckland that on 31 October 2010 was part of Waitakere City, North Shore City or Rodney District must obtain a licence to do so from the council.</td>
<td>(2) A waste collector must—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) obtain an approval in accordance with subclause 2 of Part 3 to—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) collect disposed of or discarded material in Auckland; or</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) transport disposed of or discarded material into, around or out of Auckland; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) ensure compliance with the approval and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) ensure compliance with any conditions of the approval.</td>
<td></td>
</tr>
<tr>
<td>(3) A licence is not required under subclause (1) or subclause (2) if the total amount of waste collected by that person in a 12 month period does not exceed 10 tonnes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>14 Use of a public place for collection of waste</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Any person providing or using a waste collection service in or from a public place must comply with all controls made by the council relating to that collection.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Resource recovery facility</strong> means any facility that receives, collects, sorts, stores or processes waste to ensure waste maximisation and includes a commercial composting operation, a resource recovery operation, a materials recovery facility, a transfer station and a recycling depot. It excludes any facility that receives, collects, sorts, stores or processes diverted material unless a significant component or element of the diverted material is disposed of or discarded.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>15 Disposal of waste on land</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) This clause does not apply to the disposal:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>12. Operators of waste management and resource recovery facilities (other than landfills) require an approval to operate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(1) In this Bylaw—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Waste management facility means a premises—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) to avoid doubt, includes landfill, cleanfill, managed fill, mine fill or transfer station.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) Resource recovery facility means a premises—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities; and</td>
<td></td>
</tr>
</tbody>
</table>
## Existing Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>on the land of less than 50 cubic metres, or such greater amount as the council may approve, of clean fill material measured over any continuous 12 month period.</td>
</tr>
<tr>
<td>16</td>
<td>Licensing of resource recovery facilities and fill sites&lt;br&gt;1. Any person who operates a resource recovery facility, landfill site, clean fill site, managed fill site or mine fill site must obtain a licence to do so from the council.&lt;br&gt;2. Clause 16(1) does not apply to land used for the disposal of clean fill material where such disposal;&lt;br&gt;a. is of clean fill material sourced directly from that land; or&lt;br&gt;b. consists solely of:&lt;br&gt; (i) hazardous material or uncontaminated soil, silt, or clay; or&lt;br&gt; (ii) not more than 30 cubic metres, or such greater amount as the council may approve, of other hazardous material specified pursuant to clause 20, measured over any continuous 12 month period.&lt;br&gt;4. The holder of a licence under this clause must comply with the conditions of the licence.</td>
</tr>
<tr>
<td>19</td>
<td>Donation collection points&lt;br&gt;1. Any person who places a container for the collection of donations of goods:&lt;br&gt;a. on a public place; or&lt;br&gt;b. on privately owned premises where the donated goods are likely to be left on an adjoining public place or carried from or to otherwise escape from that premises onto an adjoining public place; or&lt;br&gt;c. must obtain a licence to do so from the council.&lt;br&gt;2. Any person who places a container on a public place or privately owned premises pursuant to this clause, must</td>
</tr>
</tbody>
</table>

## Proposed Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>activities for the purpose of recovering components or elements for recycling or reuse; and&lt;br&gt;b. to avoid doubt, includes any commercial computing operation, recovery operation, materials recovery facility, transfer station and recycling depot.&lt;br&gt;2. A person who is responsible for the operation of a waste management facility or resource recovery facility must –&lt;br&gt;a. obtain an approval in accordance with subpart 2 of Part 3 to operate that waste management facility or resource recovery facility;&lt;br&gt;b. ensure compliance with the approval; and&lt;br&gt;c. ensure compliance with any conditions of the approval.</td>
</tr>
</tbody>
</table>

## Reasons

- Facilities to obtain an approval.<br>- New bylaw clarifies the circumstances when donation collection bin operators require a licence from council. This includes when donation collection bins are on or within 10 metres of a council controlled public place as opposed to all public places or in some...
Attachment A

Item 26

Waste Bylaw Statement of Proposal

Page 186
<table>
<thead>
<tr>
<th>Existing Bystlaw</th>
<th>Proposed Bystlaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>15 Waste Management and Minimisation Plans for events</strong>&lt;br&gt;1. Any organiser of an event must obtain prior approval from the council for a waste management and minimisation plan for the event.&lt;br&gt;2. The organiser of an event must comply with the approved waste management and minimisation plan.</td>
<td><strong>15 Waste management and minimisation plan required for trading, events and filming in council-controlled public places</strong>&lt;br&gt;1. A person who must obtain an approval under any other bylaw that applies to Auckland to undertake any trading, event or filming activity in a council-controlled public place must:&lt;br&gt;a. obtain an approval for a waste management and minimisation plan in accordance with subpart 2 of Part 5 prior to undertaking that activity;&lt;br&gt;b. ensure compliance with the approved plan; and&lt;br&gt;c. ensure compliance with any conditions of the approval.</td>
<td>• New bylaw clarifies that a waste management and minimisation plan for events only applies to a council-controlled public place instead of all events&lt;br&gt;• New bylaw extends requirement for a waste management and minimisation plan to all trading or filming activities in a council-controlled public place for the better minimisation waste.&lt;br&gt;• Related information provided for clarity.</td>
</tr>
</tbody>
</table>

| 11 Collection from multi-unit developments | 16 Waste management and minimisation plan required for certain existing and planned multi-unit developments | Related information about waste from planned multi-unit developments<br>- New bylaw clarifies that a waste management and minimisation plan is required for any existing multi-unit development where kerbside collection services cannot be used and all planned multi-unit developments<br>- New bylaw clarifies that existing multi-unit developments only need to apply if notified by the council. This allows the council to adopt a staged approach to bylaw implementation. The primary focus is on planned developments. |
| 1. The owner and manager of a multi-unit development must make provision for the management of all waste generated within the property.<br>2. The owner and manager of a multi-unit development must obtain approval from the council for a waste management and minimisation plan for the development unless they comply with clause 21(5).<br>3. Any person who owns, occupies or manages a multi-unit development must comply with an approved waste management and minimisation plan. | **1. This clause applies to the person responsible for:**<br>a. the management of an existing multi-unit development if any of the occupiers cannot dispose of or discard material as expressly allowed in clause 7; or<br>b. a planned multi-unit development.<br>2. The person in whom this clause applies must:<br>a. obtain an approval for a waste management and minimisation plan for that development in accordance with subpart 2 of Part 3—<br>i. within six months of the date that person is notified by council of the requirement to obtain such an approval for an existing development under subclause (1)(a) or<br>ii. prior to the commencement of construction for a planned development under subclause (1)(b); and<br>b. ensure compliance with the approved plan; and<br>c. ensure compliance with any conditions of the approval. | • Related information about waste plans for trading, events and filming<br>- The Auckland Council and Auckland Transport: Tāmaki Regret Whakatauki 2018, Trading and Events in Public Places Bylaw 2015 specifies which trading, events and filming activities require an approval.<br>- Use this form to request an events waste plan approval in a council-controlled public place. |

**Attachment A**

**Item 10**
<table>
<thead>
<tr>
<th><strong>Item 26</strong></th>
<th><strong>Attachment A</strong></th>
<th><strong>Item 10</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Bylaw</strong></td>
<td><strong>Proposed Bylaw</strong></td>
<td><strong>Reasons</strong></td>
</tr>
<tr>
<td>b) the manager or owner demonstrates to the satisfaction of the council that refuse, recyclable material and organic waste are separately and regularly collected.</td>
<td>• Use the on-line Design for Waste Guide 97 to avoid common resource conflict design issues and deliver better quality housing developments.</td>
<td>• New bylaw provides relevant information for clarity.</td>
</tr>
<tr>
<td></td>
<td>• Use the on-line Solid Waste Calculator to help determine waste provisions for multi-unit developments including an estimate of the average volume of waste per persons per week, the maximum occupancy of a building and how much waste will need to be stored for a set collection frequency.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Use Building Code (Building Regulations) 1993 (GC5) to safeguard residents from injury and illness caused by infection or contamination from solid waste.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Refer to the Auckland Unitary Plan (Chapter H) for development controls.</td>
<td></td>
</tr>
<tr>
<td><strong>12 Multi-unit developments controls</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Any person who manages a multi-unit development or owns or occupies a unit in a multi-unit development must comply with any controls for the deposit, collection, transportation and management of waste in the multi-unit development made by the council.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Existing Bylaw</strong></td>
<td><strong>Proposed Bylaw</strong></td>
<td><strong>Reasons</strong></td>
</tr>
<tr>
<td>10 Shopping trolleys:</td>
<td>17 A person must minimise potential for a shopping trolley to become waste</td>
<td>• New bylaw retains exemption for existing shopping trolley accord.</td>
</tr>
<tr>
<td>(1) No person in control of a shopping trolley may leave it unattended on a public place other than the premises of the commercial enterprise that provided the shopping trolley.</td>
<td></td>
<td>• New bylaw strengthens requirements on businesses not party to an accord, including:</td>
</tr>
<tr>
<td>(2) No owner or manager of a commercial enterprise that provides shopping trolleys for customer use may allow a person to leave a shopping trolley unattended on a public place other than the premises of that commercial enterprise.</td>
<td></td>
<td>o labelling of trolleys, signage, retrieval of abandoned trolleys within two hours</td>
</tr>
<tr>
<td>(3) Any owner or manager of a commercial enterprise must take reasonable measures to prevent the removal of any shopping trolley from any premises occupied by the commercial enterprise onto any public place. Such measure includes the erecting of signage to prevent the removal of a shopping trolley from the premises.</td>
<td></td>
<td>o disposal of any contents of retrieved trolleys</td>
</tr>
<tr>
<td>(4) Within six months of the commencement of this bylaw shopping trolleys provided by a commercial enterprise to its customers for the conveyance of goods obtained from its commercial premises must be legibly marked in a manner that enables the council to identify the commercial enterprise responsible for providing the</td>
<td></td>
<td>o reimbursement to council if council retrieves trolleys</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Below bylaw provides related information to ensure clarity.</td>
</tr>
</tbody>
</table>
### Existing Bylaw

Shopping trolley identification may be by way of a toll free number or address.

### Proposed Bylaw

1. Within two hours of being notified by any person of the location of the shopping trolley:
2. On or before the third business day, dispose of any thing found in this shopping trolley.
3. Reimburse council for the costs incurred by council to retrieve and return or dispose of any shopping trolley of the business not on the premises of the business, within one month of the trolley’s retrieval.
4. Council has notified the person of the location of the shopping trolley;
5. If the shopping trolley has not been retrieved within 24 hours of being notified of the shopping trolley’s location, and
6. If the premise of the number of shopping trolleys removed from the premises, and retrieved by the business or returned by council or other persons to the business,
7. A person who uses a shopping trolley for whatever reason (for example a customer) must not remove that shopping trolley from the premises of the business for which it is provided

### Related Information About Shopping Trolleys

- **Accords** may provide a way for businesses to determine how best to minimise the potential for shopping trolleys to become waste (for example dumped or abandoned in public places). Accords may include graduated retrieval response times, define the relationship between retail New Zealand and council or use co-located or electronic locking systems.
- Council approved an accord with Retail New Zealand titled the "Code of Practice for the Management of Shopping Trolleys" on 27 June 2014.
- **Removing a shopping trolley from a business premises may in certain circumstances also be an offence under the**
### Attachment A

#### Item 26

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 Unaddressed mail</td>
<td>A person must minimise potential for unaddressed mail to become waste.</td>
<td>- New bylaw clarifies obligations of businesses and individuals who deliver unaddressed mail. This includes examples of non-delivery signs on letterboxes and types of unaddressed mail that cannot be deposited therein.</td>
</tr>
<tr>
<td>(1) No person may deposit, cause, permit or authorise the deposit of any unaddressed mail advertising material, community newspaper, clothing donation bags, circulars, leaflets, brochures, samples or flyers in any letterbox which is clearly marked &quot;addressed mail only&quot;.</td>
<td>(1) This clause applies to any person who:</td>
<td>- New bylaw provides related information for clarity.</td>
</tr>
<tr>
<td>(2) Subclause (1) does not apply to:</td>
<td>(a) places unaddressed mail in a letterbox or on a vehicle; or</td>
<td></td>
</tr>
<tr>
<td>(a) public notices from government bodies, local authorities or New Zealand Post;</td>
<td>(b) is responsible for the operation of a business that is responsible for authorising or placing unaddressed mail in a letterbox or on a vehicle.</td>
<td></td>
</tr>
<tr>
<td>(b) election material during the period beginning two months before polling day and ending with the close of the day before polling day.</td>
<td>(2) However, this clause does not apply to a person who is a party to an agreement about unaddressed mail:</td>
<td></td>
</tr>
<tr>
<td>(3) No person may deposit, cause, permit or authorise the deposit of any advertising material, clothing donation bags, circulars, leaflets, brochures, samples or flyers in:</td>
<td>(a) that has been approved by council; and</td>
<td></td>
</tr>
<tr>
<td>(a) in any letterbox which is clearly marked &quot;no circulars&quot;, &quot;no junk mail&quot;, or words with similar effect;</td>
<td>(b) to the extent specified in the accord.</td>
<td></td>
</tr>
<tr>
<td>(b) on a vehicle parked in a public place;</td>
<td>(3) A person to whom this clause applies—</td>
<td></td>
</tr>
<tr>
<td>(c) in a letterbox in unserviced circumstances, if it is likely to escape and become litter.</td>
<td>(a) must not place, cause, allow or instruct the placement or delivery of unaddressed mail in a letterbox where specified by a &quot;x&quot; (a cross) in the box below; and</td>
<td></td>
</tr>
<tr>
<td>(4) Subclause (2) does not apply to:</td>
<td>(b) may place, cause, allow or instruct the placement or delivery of unaddressed mail in a letterbox where specified by a &quot;O&quot; (a tick) in this table.</td>
<td></td>
</tr>
<tr>
<td>(a) any daily or regular newspaper, community newspaper or magazine;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) public notices from government bodies, local authorities or New Zealand Post;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) communications from local community organisations, charities or charitable institutions;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) election material during the period beginning two months before polling day and ending with the close of the day before polling day.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Exceptions

<table>
<thead>
<tr>
<th>Type of unaddressed mail</th>
<th>Letterbox sign stating words to similar effect as -</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>addressed mail only</em>, <em>no newspapers or circulars</em></td>
<td>&quot;public notice&quot;, &quot;advertising material&quot;</td>
</tr>
<tr>
<td><em>addressed mail and newspapers only</em></td>
<td>&quot;local community or charitable material&quot;</td>
</tr>
<tr>
<td><em>no circulars</em>, <em>no junk mail</em>, <em>no advertising material</em></td>
<td>&quot;advertising material&quot;</td>
</tr>
<tr>
<td><em>no non-delivery sign displayed</em></td>
<td>&quot;free print media&quot;, &quot;free community newspaper, newsletter or magazine&quot;</td>
</tr>
</tbody>
</table>

1. For example public notices from government bodies, local authorities or New Zealand Post.
2. For example a free community newspaper, newsletter or magazine.
<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>* For example: fund raising letters.</td>
<td>* For example: circulars, business cards, samples or clothing donations, bags.</td>
<td></td>
</tr>
<tr>
<td>* A person must not place, cause, allow or instruct the placement or delivery of unaddressed mail —</td>
<td>* A person must not place, cause, allow or instruct the placement or delivery of unaddressed mail —</td>
<td></td>
</tr>
<tr>
<td>(a) on vehicles parked in a public place;</td>
<td>(a) in a letterbox that is full or overflowing;</td>
<td></td>
</tr>
<tr>
<td>(b) in a letterbox that is unsuited or unsuitable to receive or hold the unaddressed mail;</td>
<td>(c) in a letterbox that is unsuited or unsuitable to receive or hold the unaddressed mail;</td>
<td></td>
</tr>
<tr>
<td>(d) in a letterbox in a way that it is likely to escape from the letterbox;</td>
<td>(e) in a letterbox in a way that causes or is likely to cause other material in that letterbox to escape;</td>
<td></td>
</tr>
<tr>
<td>(f) at any place other than a letterbox or a place associated with bulk distribution to the person in subsection (1)(a).</td>
<td>(g) at any place other than a letterbox or a place associated with bulk distribution to the person in subsection (1)(a).</td>
<td></td>
</tr>
</tbody>
</table>

**Related information about unaddressed mail accords**

- Accords may provide a way for businesses to set an agreed industry standard that determines how best to minimise the potential for unaddressed mail to become waste.
### Table 1 continued

<table>
<thead>
<tr>
<th>Controls specified under bylaw</th>
<th>Proposed bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Any control specified by the council under clauses 14, 20 and 22:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) may:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) prohibit, restrict or control any matter or thing, generally, for any specific category of waste, or in a particular case;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii) apply to all waste or to any specified category of waste;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(iii) apply to Auckland or to a specified part of Auckland;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(iv) apply at all times at any specified time or period of time;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6 Use of approved containers for domestic waste collection from a public place</td>
<td>19 Council may make controls about management and minimisation of material disposed of or discarded</td>
<td></td>
</tr>
<tr>
<td>(1) The council may approve the types, size and construction of containers for the collection of domestic waste from a public place</td>
<td>(1) The council may make a control for one or more of the following purposes in relation to Subpart 1 of Part 1 -</td>
<td></td>
</tr>
<tr>
<td>(a) prescribing types of disposed of or discarded material;</td>
<td>(a) prescribing types of disposed of or discarded material;</td>
<td></td>
</tr>
<tr>
<td>(b) prescribing the way in which disposed of or discarded material must be stored on premises;</td>
<td>(b) prescribing the way in which disposed of or discarded material must be stored on premises;</td>
<td></td>
</tr>
<tr>
<td>(c) prescribing acceptable use, use and maintenance of approved containers;</td>
<td>(c) prescribing acceptable use, use and maintenance of approved containers;</td>
<td></td>
</tr>
<tr>
<td>(d) prescribing the type and amount of disposed of or discarded material that may and may not be disposed of in a type of approved container;</td>
<td>(d) prescribing the type and amount of disposed of or discarded material that may and may not be disposed of in a type of approved container;</td>
<td></td>
</tr>
<tr>
<td>(e) prescribing the weight, size and capacity of approved containers;</td>
<td>(e) prescribing the weight, size and capacity of approved containers;</td>
<td></td>
</tr>
<tr>
<td>(f) prescribing the use and maintenance of approved containers;</td>
<td>(f) prescribing the use and maintenance of approved containers;</td>
<td></td>
</tr>
<tr>
<td>(g) prescribing types of prohibited waste.</td>
<td>(g) prescribing types of prohibited waste.</td>
<td></td>
</tr>
</tbody>
</table>

**Related Information about the making of controls**

- Council has delegated the making, amending, replacement and revocation of bylaw controls to the Regulatory Committee (GO/2016/217).
- To make a decision, the committee must comply with the decision-making requirements under Subpart 1 of Part 5 of the Local Government Act 2002.
- Existing controls about the separation, placement and collection of waste in clause 31(3) will continue to apply.
### Existing Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) the type, size and construction of approved containers that may be used for the storage and collection of refuse, organic matter and recyclable materials;</td>
</tr>
<tr>
<td>c) the categories of recyclable material, organic matter and refuse that may be deposited or collected from a public place;</td>
</tr>
<tr>
<td>d) the conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection times and restrictions on the number and weight of approved containers;</td>
</tr>
<tr>
<td>e) requirements to ensure the correct separation of refuse, organic matter and recyclable materials into approved containers;</td>
</tr>
<tr>
<td>f) the locations, access times and conditions of use of council waste collection points;</td>
</tr>
<tr>
<td>g) any other operational matter required for the safe and efficient operation of a collection service from a public place.</td>
</tr>
</tbody>
</table>

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
</tr>
</thead>
</table>

#### Controls for the collection, transportation and disposal of waste

1. The council may specify controls for the following matters in relation to the collection, transportation or disposal of waste:
   a) types of domestic waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable material, organic matter or refuse;
   b) maximum allowable limits of recyclable material or organic matter that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of at a land fill site, managed fill site, mono-fill site or clean fill site;
   c) maximum allowable limits of recyclable material that may be placed in an approved container for organic matter and vice versa;
   d) categories and types of waste that may be received, collected, stored, sorted, processed or disposed of at any landfill site, managed fill site, clean fill site, mono-fill site and material that may be used as cover material at any such site;
   e) materials that are suitable for use as natural or other hard-fill material at a clean fill site;
   f) types of waste originating from a specified single source or location that may be disposed of at a mono-fill site;
   g) types of waste that are prohibited.

#### Multi-unit developments controls

1. The council may specify controls for the following matters in relation to the collection or transportation of waste from multi-unit developments:
   a) the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a multi-unit development;
### Attachment A

#### Item 26

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) the times, locations and conditions applicable to any collection service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>from a multi-unit development, including the placement and retrieval of</td>
<td></td>
<td></td>
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<tr>
<td>containers for collection, collection times and restrictions on the number</td>
<td></td>
<td></td>
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<tr>
<td>and weight of approved containers;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) requirement to ensure the correct separation of refuse, organic matter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and recyclable materials into containers;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) any other operational matter required for the safe and efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>operation of a collection service from a multi-unit development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>25 Controls for inorganic material collection</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) The council may specify controls for the following matters in relation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to the collection of inorganic material from a public place:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) the weight, size and nature of inorganic materials that may be deposited</td>
<td></td>
<td></td>
</tr>
<tr>
<td>for collection by the council;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) the categories of inorganic waste that may be deposited for collection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>by the council;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) the times, locations and conditions applicable to the collection of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>inorganic material from a public place;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) the collection methods that cause health and safety risks;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) any other operational matter required for the safe and efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>collection by the council of inorganic material from a public place.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Table 3 continued

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>12(1) and 12(2) Licensing of the collection or transportation of waste</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16(1) Licensing of resource recovery facilities and fill sites (refer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>processed bylaw clauses 11 and 12 to avoid repetition)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>17 Application for licence</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) The holder of an existing licence may apply to the council for a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>renewal of that licence.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>21(2) Collection from multi-unit development</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>23(1) Waste Management and Minimisation Plans for events</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>29(1) Donation collection points</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(refer proposed bylaw clauses 16, 15 and 13 to avoid repetition)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>16 Exceptions</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) A product stewardship scheme accredited under the Act may be</td>
<td></td>
<td></td>
</tr>
<tr>
<td>exempted from the requirements of this bylaw.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>36 This subpart applies to people who must obtain council approval</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) This subpart applies to a person who must –</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) obtain an approval from council under Subpart 1 of Part 2 as a waste</td>
<td></td>
<td></td>
</tr>
<tr>
<td>collector or operator of a waste management facility, resource recovery</td>
<td></td>
<td></td>
</tr>
<tr>
<td>facility or donation collection;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) obtain an approval from council under Subpart 3 of Part 2 for a waste</td>
<td></td>
<td></td>
</tr>
<tr>
<td>management and minimisation plan for trading, events, film or multi-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>unit development;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) renew an approval from council prior to its expiration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) For the purposes of subclause (1)(c), this subpart applies with all</td>
<td></td>
<td></td>
</tr>
<tr>
<td>necessary modifications to that renewal was an application for an approval.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**New bylaw clarifies the types of approvals required by council and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>renewal mechanisms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Discretion to exempt product stewardship scheme</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Attachment A

### Item 26

### Existing Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
<th>16</th>
<th>Licensing of resource recovery facilities and fill sites</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) The council may grant a licence:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) in the case of a landfill site, for the receipt, processing and disposal of any waste of a category specified by the council;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) in the case of a clean fill site, for the disposal of clean fill materials;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) in the case of a managed fill site, for the disposal of contaminated soil on the land;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) in the case of a mono-fill site, for the disposal of or storage of waste of a category specified by the council and that originates from a specified single source or location, in or on specified land.</td>
<td></td>
</tr>
</tbody>
</table>

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
<th>22</th>
<th>Council will consider applications for an approval against relevant matters</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1) Council when considering an application for an approval under Subpart 2 and 3 of Part 3—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) will have regard to any matter it considers relevant and reasonably necessary to determine the application in relation to the purpose of this Bylaw; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) may inspect premises or locations related to the application for the purposes for which the approval is given.</td>
<td></td>
</tr>
</tbody>
</table>

### Reasons

<table>
<thead>
<tr>
<th>Item 26</th>
<th>22</th>
<th>Reason(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) New bylaw clarifies that council must consider relevant matters when determining application for approval.</td>
<td></td>
</tr>
</tbody>
</table>

### Application for licence

<table>
<thead>
<tr>
<th>Item 26</th>
<th>17</th>
<th>Licence may be granted or refused at the discretion of the council.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(3) Licences may be granted or refused at the discretion of the council.</td>
<td></td>
</tr>
</tbody>
</table>

### Consideration of application for licence

<table>
<thead>
<tr>
<th>Item 26</th>
<th>18</th>
<th>Consideration of application for licence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1) When considering an application for a licence and the conditions to be imposed under it, the council may take into account matters relating to the suitability of the applicant to hold a licence including but not limited to the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) the extent to which the licensed activities will promote public health and safety and achievement of the council’s waste management and minimisation plan and waste reduction initiatives;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) the applicant’s experience, reputation and track record in the waste industry, including any known past operational issues which may affect, or may in the future affect, the applicant’s performance;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) the type of waste to be collected or transported;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) the manner of treatment (if any) and disposal of the waste type, and the identity of the resource recovery facility, landfill site, managed fill site, mono-fill site or clean fill site at which it is proposed that treatment or disposal will occur;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(e) the terms and conditions under which such disposal of waste is permitted and the existence of or need for any sanitary approvals, authorisations or consents required to be held or complied with in respect of such disposal;</td>
<td></td>
</tr>
</tbody>
</table>

### All approvals

<table>
<thead>
<tr>
<th>Item 26</th>
<th>22</th>
<th>All approvals</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(a) Extent to which the application would—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) contribute towards achieving the Te Mahi Re O Rawhiti – Whakatane Haringa Ika Ake i 2016 Auckland Waste Management and Minimisation Plan 2016, in particular the goal to reduce harm from residual waste;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) manage and minimise waste (for example by maximising the recovery of recyclable and reusable materials);</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iii) protect public health and safety;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iv) protect the public from nuisance;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(v) appropriately manage the use of council-controlled public places;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) methods of deposit, collection, transportation, receipt, sorting, storage, processing, disposal of or any combination of these activities, including the type, placement, retrieval, number and weight of containers used to collect disposed or discarded material;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) need to collect information on the type, and volume of disposal or discarded material that is deposited, collected, transported, received, sorted, stored, processed, disposed of or any combination of these activities;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) nature and scale of activity;</td>
<td></td>
</tr>
<tr>
<td>Existing Bylaw</td>
<td>Proposed Bylaw</td>
<td>Reasons</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
<td>---------</td>
</tr>
<tr>
<td>(f) the frequency and location of the waste collection, transportation or disposal services;</td>
<td>(e) potential for materials to be disposed of or discarded in areas surrounding the activity;</td>
<td>Approvals about multi-unit development waste management and minimisation plans</td>
</tr>
<tr>
<td>(g) the specifications of the vehicles, equipment and approved containers to be used for the collection, transportation or disposal of waste.</td>
<td></td>
<td>(f) existing development only; physical limitations to the separation of disposed of or discarded material on the premises (for example due to limited areas available for storage and different types of containers or limited access available for collection of containers); and</td>
</tr>
<tr>
<td><strong>23(2) Collection from multi-unit developments</strong> [refer proposed bylaw clause 21 to avoid repetition]</td>
<td></td>
<td>(g) need to minimise noise and odour, to keep areas hygienic and free of vermin and to protect containers used to collect disposed of or discarded material from theft and vandalism.</td>
</tr>
<tr>
<td><strong>23(2) Waste Management and Minimisation Plan for events</strong> [refer proposed bylaw clause 21 to avoid repetition]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13 Deposit and collection of waste from a public place</td>
<td></td>
<td>Council may grant or decline an application for an approval</td>
</tr>
<tr>
<td>(3) Any waste collector who collects or transports domestic waste from a public place must:</td>
<td>(2) Council may grant or decline an application for an approval having regard to the matters in clause 22;</td>
<td></td>
</tr>
<tr>
<td>(a) make available to the occupier or manager of a premises one or more approved containers to enable any refuse, recyclable material or organic matter from the premises to be collected separately;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) not collect or dispose of at a landfill site or any domestic waste which has not been separated into refuse, recyclable material and organic matter, unless the amount of recyclable material and/or organic matter mixed with the refuse, or the amount of the recyclable material mixed with the organic matter or vice versa, does not exceed the maximum allowable limits specified by the council under clause 20;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) not dispose to a landfill site, managed fill site, non-fill site or cleanfill site any recyclable material or organic matter that is capable of being reused or recycled.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17 Application for licence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(3) Licence may be granted or refused at the discretion of the council, upon such terms and conditions as the council thinks fit.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**All approvals**

- New bylaw clarifies the definition of a number of terms.
- New bylaw requests council to ensure that the standards are appropriate for the local area.
- New bylaw provides additional information and examples for clarity.
19 Conditions of licences

(a) terms – a licence may be granted for a term of up to five years;
(b) licence fee – the licensee must pay an annual licence fee in an
amount determined by the council from time to time and publicly
notified;
(c) bond – the council may from time to time and on a case by case
basis require a licence holder to post a bank guaranteed bond;
(d) compliance with standards – the licence holder must comply with
the council’s standards and policies for waste collection,
transportation or disposal services, including, in respect of
collection services:
(i) the collection of any litter within five metres of an approved
container awaiting collection and any litter spillage from the licence
holder’s vehicle during the collection, transportation or disposal
process;
(ii) provision of waste collection services within reasonable times
specified by council;
(e) provision of information – the licence holder must provide waste
data to the council during the term of the licence in the form and at
the times determined by the council from time to time including the
following data:
(i) waste log books for each vehicle operated in accordance with the
licence recording the quantity, composition and destination of each
waste type and the point in time when such data was recorded
during the waste collection, transportation or disposal process;
(ii) weighbridge receipts;
(iii) other records of waste handling;
(f) the council will use all reasonable measures to keep commercially
sensitive information confidential including the aggregation of
such information for recording purposes.

23(2) Collection from multi-unit developments [refer proposed bylaw
clause 21 to avoid repetition]

23(2) Waste Management and Minimisation Plan for events [refer
proposed bylaw clause 21 to avoid repetition]
### Existing Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.1</td>
<td><strong>Conditions of licences</strong>&lt;br&gt;Conditions applicable to licences granted to collect waste material for recycling purposes.</td>
</tr>
<tr>
<td>25.3</td>
<td><strong>Duration of an approval</strong>&lt;br&gt;The duration of an approval granted for a waste management and minimisation plan —&lt;br&gt;(a) for trading, events and filming under clause 15 it is the same as the duration specified in the approval given under the other bylaw referred to in that clause; and&lt;br&gt;(b) for multi-unit developments in clause 16 it is no less than five years from the date of the approval plus a period of six months after the date the persons in clause 16(3) is notified by council.</td>
</tr>
</tbody>
</table>

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.3</td>
<td><strong>Application for licence</strong>&lt;br&gt;Licences may be granted or refused at the discretion of the council, upon such terms and conditions as the council thinks fit.</td>
</tr>
</tbody>
</table>

Table 3 continued
<table>
<thead>
<tr>
<th>Proposed By-law</th>
<th>Attachment A</th>
</tr>
</thead>
</table>

### 26. Attachment A

#### Item 26.

**Regulatory Committee**
11 April 2019

- **Hibiscus and Bays Local Board**
- **15 May 2019**

### Waste Bylaw Statement of Proposal

#### Page 200

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**Attachments**

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<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>(e) Enforce any offence that may have been committed under the Litter Act 1979;</td>
<td>Related information about enforcement:</td>
<td>2002, and other methods to address non-compliance.</td>
</tr>
<tr>
<td>(f) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.</td>
<td>• Council powers under the Waste Minimisation Act 2008 (as reprinted on 1 January 2018) and Local Government Act 2002</td>
<td>- New bylaw provides related information with respect to enforcement for clarity.</td>
</tr>
<tr>
<td><strong>32 Non-compliance with conditions for collection of waste from a public place</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Where a person does not comply with clauses 6, 9, 10, 13 or 14 the waste collector may:</td>
<td>• Clause 16 about shopping trolleys and clause 17 about unaddressed mail are only made and enforced under the Local Government Act 2002.</td>
<td></td>
</tr>
<tr>
<td>(a) Subject (i.e. not collect) the contents of any approved container left out by that person for collection from a public place, if the contents or placement of the container is non-compliant;</td>
<td>• Council can also use other methods as a service provider to encourage compliance, for example—</td>
<td></td>
</tr>
<tr>
<td>(b) Remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container is non-compliant, subject to payment of the costs of removal, administrative costs and an additional penalty equivalent to the amount due for the collection of the largest available size of approved container of refuse from that premises;</td>
<td>○ providing advice, information or warnings</td>
<td></td>
</tr>
<tr>
<td>(c) Withdraw or suspend the collection service provided by the waste collector to that person.</td>
<td>○ trespassing a person from using a waste collection point</td>
<td></td>
</tr>
<tr>
<td>(2) Where a person does not comply with clauses 8, 9, 10, 13 or 14 the council may:</td>
<td>○ not collecting a person’s kerbside bins if it contains incorrect types of material (for example refuse in a recycling bin)</td>
<td></td>
</tr>
<tr>
<td>(a) Enforce any offence that may have been committed under the Litter Act 1979;</td>
<td>○ removing the incorrect types of material or overflowing material from a bin and charging for the additional cost of removal and administration</td>
<td></td>
</tr>
<tr>
<td>(b) Enforce breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2007 and the Waste Minimisation Act 2008.</td>
<td>○ suspending or cancelling a person’s waste collection service.</td>
<td></td>
</tr>
</tbody>
</table>
## Table 1 continued, administrative type clauses.

<table>
<thead>
<tr>
<th>Contents</th>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Bylaw</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed Bylaw</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Reasons</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1. Title</strong></td>
<td>This bylaw is the Solid Waste Bylaw 2012.</td>
<td>1. Title</td>
<td>(1) This Bylaw is the Tūranga Whakahaere me te Whakaii Taku Para 2015, Waste Management and Minimisation Bylaw 2019.</td>
</tr>
<tr>
<td><strong>2. Commencement</strong></td>
<td>(Not shown)</td>
<td>2. Commencement</td>
<td></td>
</tr>
<tr>
<td><strong>3. Application</strong></td>
<td>(1) This bylaw applies to Auckland.</td>
<td>3. Application</td>
<td>(1) This Bylaw applies to Auckland.</td>
</tr>
<tr>
<td><strong>4. Exceptions</strong></td>
<td>(1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.</td>
<td>4. Exceptions</td>
<td>(a) council when exercising its lawful compliance functions;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(b) emergency services or civil defence personnel exercising their lawful functions in an emergency;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(c) any person acting in compliance with a lawful direction of council.</td>
</tr>
<tr>
<td><strong>5. Interpretation</strong></td>
<td>(1) In this bylaw, unless the context otherwise requires, —</td>
<td>5. Interpretation</td>
<td>(1) In this Bylaw, unless the context otherwise requires, —</td>
</tr>
<tr>
<td><strong>Advertising material</strong></td>
<td>means any message which —</td>
<td>Advertising material</td>
<td>means any message which —</td>
</tr>
<tr>
<td></td>
<td>(a) has printed content delivered directly or indirectly by the advertiser; and</td>
<td></td>
<td>(a) has printed content delivered directly or indirectly by the advertiser; and</td>
</tr>
<tr>
<td></td>
<td>(b) is expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of a person</td>
<td></td>
<td>(b) is expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of a person</td>
</tr>
<tr>
<td></td>
<td>(For example: circulars, leaflets, fliers, brochures, business cards, samples and clothing donation bags).</td>
<td></td>
<td>(For example: circulars, leaflets, fliers, brochures, business cards, samples and clothing donation bags).</td>
</tr>
<tr>
<td><strong>Licence</strong></td>
<td>means a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.</td>
<td>Licence</td>
<td>means a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.</td>
</tr>
<tr>
<td><strong>Approval</strong></td>
<td>means permission to do something under this bylaw and to avoid doubt includes a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.</td>
<td>Approval</td>
<td>means permission to do something under this bylaw and to avoid doubt includes a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.</td>
</tr>
<tr>
<td><strong>Approved container</strong></td>
<td>means any container approved by the council for the collection of any type of domestic waste from a public place, with approval criteria based on the</td>
<td>Approved container</td>
<td>means any container approved by the council for the collection of any type of domestic waste from a public place, with approval criteria based on the</td>
</tr>
</tbody>
</table>

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**Attachment A**

**Item 10**

**Attachment A**

**Item 26**
## Attachment A

### Item 26

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevention of nuisance and the protection of the health and safety of waste collection and the public.</td>
<td>Auckland has the meaning given by section 41(1) of the Local Government (Auckland Council) Act 2009.</td>
<td>Clause 19(1)(c) to allow for changes in industry practice.</td>
</tr>
</tbody>
</table>

**Clean fill site** means the land used for the disposal of clean fill material.

**Clean fill material** means waste that:

- does not undergo any physical, chemical or biological transformation that, when deposited or with the elapse of time, is likely to have adverse effects on the environment or human health; and
- is not diverted material; and
- includes waste materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:
  - combustible, putrescible, degradable or leachable components;
  - hazardous waste;
  - products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
  - materials that may present a risk to human health or the environment; and
  - liquid waste.

- has less than two percent by volume by load of tree or vegetable matter.

**Charitable entity** means a society, an institution, or the trustee(s) of a trust that is, or are registered as a charitable entity under the Charities Act 2005.

**Cleanfill** means a premises where cleanfill material is accepted for deposit.

**Cleanfill material** has the meaning given by the Auckland Unitary Plan.

**Related information**

The definition of cleanfill material in the Auckland Unitary Plan means natural material such as clay, gravel, sand, soil and rock which has been excavated or quarried from areas that are not contaminated with manufactured chemicals or chemical residues as a result of industrial, commercial, mining or agricultural activities. Excludes:

- hazardous substances and material (such as municipal solid waste) likely to create leachate by means of biological breakdown;
- products and materials derived from hazardous waste treatment, stabilisation and disposal practices;
- materials such as medical and veterinary waste, asbestos, and radioactive substances;
- soil and fill material which contain any trace element specified in Table E10.6.1.4.2 at a concentration greater than the background concentration in Auckland soils specified;
- vitrific ores and soils;
- combustible components;

- New bylaw definition improves certainty.
- New bylaw definition improves certainty.
- New bylaw defines cleanfill material with the Auckland Unitary Plan for consistency and to improve certainty.
### Existing Bylaw vs. Proposed Bylaw

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
</table>
| Commercial waste means waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking. | - more than 5 percent by volume of inert manufactured materials (e.g., concrete, brick, tiles), and  
- more than 2 percent by volume of attached biodegradable material (e.g., vegetation). | Termin not used in new bylaw. |
| Compost means a nutrient-rich fertiliser and organic matter typically the product of composting food scraps and/or green waste. | Composting means the activity of creating nutrient-rich fertiliser and organic matter from food scraps, green waste or both and to avoid doubt, includes worm farms and anaerobic digesters. | New bylaw definition improves certainty. |
| Home composting means the activity of creating decaying organic matter from domestic green waste and/or food waste into compost. | | New bylaw definition improves certainty. |
| Construction and demolition waste means waste generated from any building construction or demolition works, and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic, or glass. | Council, for the purposes of this bylaw, means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf. | Definition of term unnecessary in new bylaw. |
| Council means the Auckland Council or any person delegated or authorised to act on its behalf. | | New bylaw definition improves certainty. |
| Council collection points mean places or containers in locations such as high density areas, marine areas or rural areas where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical. | Related Information: The Regulatory Committee has delegated authority to make controls under clause 18 as at 20 July 2010 (S.R. 2010/237). Council’s Infrastructure and Environmental Services has delegated authority to administer and enforce this bylaw (excluding clause 25) as at August 2010. | Termin not used in new bylaw. |
## Attachment A

### Item 26

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Council-controlled public place</strong> means –</td>
<td><strong>Council-controlled public place</strong> means –</td>
<td>- New bylaw definition improves certainty.</td>
</tr>
<tr>
<td>(a) a place that is under the control of council or a council-controlled organisation that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and</td>
<td>(a) a place that is under the control of council or a council-controlled organisation that, at any material time, is open to or is being used by the public, whether free or on payment of a charge, and</td>
<td>- New bylaw definition improves certainty.</td>
</tr>
<tr>
<td>(b) to avoid doubt –</td>
<td>(b) to avoid doubt –</td>
<td>- New bylaw definition improves certainty.</td>
</tr>
<tr>
<td>(i) includes any park, reserve, recreational ground, sports field, public park, public square, cemetery, beach, foreshore, dune, wharf, breakwater, boat ramp, promenade, road, footpath, access way, grave, berm, and any part of a council-controlled public place; and</td>
<td>(i) includes any park, reserve, recreational ground, sports field, public park, public square, cemetery, beach, foreshore, dune, wharf, breakwater, boat ramp, promenade, road, footpath, access way, grave, berm, and any part of a council-controlled public place; and</td>
<td>- New bylaw definition improves certainty.</td>
</tr>
<tr>
<td>(ii) excludes any place under the control of the Tūpuna Maunga o Tamaki Makaurau Authority,</td>
<td>(ii) excludes any place under the control of the Tūpuna Maunga o Tamaki Makaurau Authority,</td>
<td>- New bylaw definition improves certainty.</td>
</tr>
</tbody>
</table>

**Cover material** means material specified by the council under clause 70 as suitable for use as cover material at a landfill site, managed fill site, clean fill site or mono-fill site, as the case may be.  

**Deposit** means to cast, place, throw or drop any waste or diverted material.  

**Disposal** has the meaning given by the Waste Minimisation Act 2008.  

**Diverted material** has the meaning given by the Waste Minimisation Act 2008.  

**Domestic waste** means waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household or from the catering, lunchroom or canteen of any commercial enterprise.  

**Donation collection bin operator** means a person who provides containers in which items sought by the operator can be deposited by members of the public.  

**Event** means any organised temporary activity of significant scale that is likely to create litter in a public place including an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration.  

- New bylaw definition improves certainty.  

- New bylaw relies on ordinary meaning of 'deposit'.  

- New bylaw relies on ordinary meaning of 'disposal'.  

- Term not used in new bylaw.  

- Definition of term unnecessary in new bylaw.  

- New bylaw relies on definition in the Trading and Events in Public Places Bylaw 2015.
### Existing Bylaw

**Food waste** means domestic waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, seeds, fish and bone discs and any other similar food waste.

### Proposed Bylaw

**Food scraps** means organic material from uncleaned animal or plant-based material and includes:
- Unpeeled fruit, vegetables, meat, fish, bones and shells.

### Reasons

- New bylaw definition better reflects 'e Ako Māori principles in which food is not waste.
- Aligns with the Waste Management and Minimisation Plan to improve certainty.
- New bylaw definition improves certainty.

### Free print media

**Free print media** means the publications specified in this table.

<table>
<thead>
<tr>
<th>Type of free print media</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Newspaper</td>
<td>A regular publication usually issued daily or weekly, consisting of folded unstapled sheets and containing news, articles, advertisements and correspondence aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>Community Newsletter</td>
<td>A periodical publication usually issued weekly, biweekly or monthly, consisting of one or more printed sheets of paper containing information aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>Community Magazine</td>
<td>A periodical publication usually issued biweekly or monthly consisting of stapled sheets and a paper cover containing articles and illustrations aimed at a group of people living in the same area.</td>
</tr>
<tr>
<td>Magazine</td>
<td>A periodical publication usually issued biweekly or monthly consisting of stapled sheets and a paper cover containing articles and illustrations, often on a particular subject or aimed at a particular readership.</td>
</tr>
</tbody>
</table>

**Related information about types of free print media**

Examples of community newspapers are *The Stanmoreian, Manukau River and North Shore Times,* community newsletters are *Stanmoreuk Community Centre newsletter* and community magazines are *The Hobbit, The Devonport flapjaff, Penrith News* and *Our Auckland.*
### Existing Bylaw

<table>
<thead>
<tr>
<th>Hazardous waste</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>means waste that:</td>
<td>means waste organic material from gardening, or horticultural activities and to avoid doubt; includes lawn clippings and plant material.</td>
<td>• New bylaw definition improves certainty.</td>
</tr>
<tr>
<td>a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2000 under the Hazardous Substances and New Organisms Act 1996; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and NZ Standard 5431: 1999 – Transport of Dangerous Goods on Land; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) meets the definition for radioactive material included in the Radiation Protection Act 1965 and Regulations 1982; or It does not include domestic waste, commercial domestic waste, inorganic material, construction and demolition waste or commercial waste.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Inorganic material</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>means waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the council as suitable for:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) collection from a public place by the council;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) collection from any premises by the council; or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) delivery to a resource recovery facility.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Landfill site</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>means land used for the disposal of waste by burying it, or placing it upon land or other waste.</td>
<td>Landfill has the meaning given by the Auckland Unitary Plan.</td>
<td>• New bylaw aligns definition of landfill with the Auckland Unitary Plan for consistency and to improve certainty.</td>
</tr>
</tbody>
</table>

**Related Information**

Landfill in the Auckland Unitary Plan means a facility where household, commercial, municipal, industrial and hazardous, or industrial waste is accepted for disposal.
<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litter = any refuse, rubbishes, animal remains, glass, metal, garbage, debris, dirt litters, rubble, ballast, stones, earth or waste matter or any other thing of a like nature.</td>
<td>Local community organisation means a group that aims to bring about desired improvements in social well being at a local community level.</td>
<td>- Definition of term unnecessary in new bylaw.</td>
</tr>
<tr>
<td>Managed fill site means land used for the disposal of soil with low levels of contamination.</td>
<td>Managed fill and managed fill material have the meaning given by the Auckland Unitary Plan.</td>
<td>- New bylaw definition improves certainty. - New bylaw aligns definition of managed fill and managed fill material with the Auckland Unitary Plan for consistency and to improve certainty.</td>
</tr>
</tbody>
</table>

**Related Information**

In the *Auckland Unitary Plan*

**Managed fill** means a facility where managed fill material is accepted for deposit.

**Managed fill material** is:
- contaminated soil and other contaminated materials;
- natural materials such as clay, gravel, sand, soil, rock, or inert manufactured materials such as concrete and bricks; and
- that does not contain:
  - hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown;
  - products or materials derived from hazardous waste treatment stabilization or disposal practices;
  - materials such as medical and veterinary waste, asbestos, or radioactive substances;
  - combustible components; or
  - more than 2 per cent by volume of incidental or attached biodegradable material (e.g., vegetation).

**Manager** means a person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event.

**Mono-fill site** means land used for the disposal or storage of waste of a category specified by the council and that originates from a specified source or location.

**Mono fill** means a landfill, which is designated for one specific type of material.

**Managed fill site** means land used for the disposal of soil with low levels of contamination.

**mono-fill** means a landfill, which is designated for one specific type of material.

**Temporary use** means the use of land for a period not exceeding three years.
## Waste Bylaw Statement of Proposal

<table>
<thead>
<tr>
<th>Item 10</th>
<th>Attachment A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Bylaw</strong></td>
<td><strong>Proposed Bylaw</strong></td>
</tr>
<tr>
<td>Multi-unit development means a property that contains 10 or more units and any development with a total floor area greater than 1000 square metres.</td>
<td>Multi-unit development means a property that contains 10 or more units and any development with a total floor area greater than 1000 square metres.</td>
</tr>
<tr>
<td>Natural hazardous material means material specified by the council under clause 20.</td>
<td>Natural hazardous material means material specified by the council under clause 20.</td>
</tr>
<tr>
<td>Damage to land includes any material damage or damage to property.</td>
<td>Damage to land includes any material damage or damage to property.</td>
</tr>
<tr>
<td>Person includes an individual, a corporation sole, a body corporate, and an unincorporated body.</td>
<td>Person includes an individual, a corporation sole, a body corporate, and an unincorporated body.</td>
</tr>
<tr>
<td>Premises means any property or part of the same.</td>
<td>Premises means any property or part of the same.</td>
</tr>
</tbody>
</table>

- New bylaw affects the definition of certain items and for consistency.
- New bylaw improves understanding and application.
- New bylaw uses definitions of "consistency" and for consistency.
- New bylaw uses definitions of "meaning of quorum".
- New bylaw makes the meaning of "quorum" clear.
- New bylaw provides clarity for consistency.

---

### Attachments

- Item 26
<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) any liquid or any viscous fluid;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) any radioactive waste, but excluding domestic smoke detectors;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) any used oil and lead-acid batteries;</td>
<td></td>
<td></td>
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<tr>
<td>(g) any hazardous waste;</td>
<td></td>
<td></td>
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<tr>
<td>(h) medical waste;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) any material prohibited by the council under clause 20.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public place means:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) a place that is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(i) under the control of the council and/or</td>
<td></td>
<td></td>
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<tr>
<td>(ii) that is open to or being used by the public, whether or not there is a charge for admission and</td>
<td></td>
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<tr>
<td>(b) includes:</td>
<td></td>
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<tr>
<td>(i) road, whether or not the road is under the control of the council, and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(ii) any part of the public place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Litter receptacle means a receptacle provided for the collection of refuse, recyclable material or organic matter.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recyclable material means waste specified by the council under clause 20 as suitable for recycling. It does not include diverted material.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recycling means the reprocessing of waste to produce new materials.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public place means a place that, at any material time, is -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) open to or being used by the public, whether free or on payment of a charge or in which any person or occupant of the place is lawfully entitled to exclude or eject any person from that place and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) to avoid doubt, includes any hovercraft, ship, ferry or other vessel, train, or vehicle carrying or available to carry passengers for reward and any council-controlled public place.</td>
<td></td>
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</tr>
<tr>
<td>Public waste bin means a container for disposed of or discarded material in a public place and includes containers for different types of material (for example recyclable material, food scraps or refuse).</td>
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</tbody>
</table>
### Attachment A

#### Item 26

<table>
<thead>
<tr>
<th>Existing Bylaw</th>
<th>Proposed Bylaw</th>
<th>Reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refuse means waste which:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the council under clause 20 of this bylaw.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resource recovery facility. [refer to proposed new bylaw clause 12]</td>
<td>Resource recovery facility has the meaning given by clause 12.</td>
<td></td>
</tr>
<tr>
<td>Rural area means the -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Auckland Unitary Plan Rural – Rural Production Zone, Rural – Mixed Rural Zone, Rural – Rural Coastal Zone and Future Urban Zone; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Auckland Council District Plan - Hauraki Gulf Islands Section Rural 1-5 and Landform 1-7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Useaddressed mail means -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) any mail or material that does not display a full address and a name of a person at that address; and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) to avoid doubt, includes public notices from government bodies, local authorities or New Zealand Post, election material, free print media, material from local community organisations or charitable entities and advertising material.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waste has the meaning given by the Waste Minimisation Act 2008. It does not include diverted material</td>
<td>Waste -</td>
<td></td>
</tr>
<tr>
<td>(a) means anything disposed of or discarded, and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) includes a type of waste that is defined by its composition or source (for example: organic waste, electronic waste, or construction and demolition waste); and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waste collector [refer to proposed new bylaw clause 11]</td>
<td>Waste collector has the meaning given by clause 11</td>
<td></td>
</tr>
<tr>
<td>Waste operator means a person who owns or manages a landfill site, cleanfill site, managed fill site, mosoll site or a resource recovery facility.</td>
<td>Waste management facility has the meaning given by clause 12.</td>
<td></td>
</tr>
</tbody>
</table>

**Term not used in new bylaw.**
### Existing Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
</tr>
</thead>
</table>

- **Waste management and minimisation plan** means the waste management and minimisation plan adopted by the council under section 43 of the Act.

- **Undertakes to comply with a waste management and minimisation plan** means the undertaker (as defined in the Act) is undertaking to comply with the waste management and minimisation plan adopted by the council under section 43 of the Act.

- **Definition of term unnecessary in new bylaw.**

### Proposed Bylaw

<table>
<thead>
<tr>
<th>Item 26</th>
</tr>
</thead>
</table>

- **Undertakes to comply with a waste management and minimisation plan** means the undertaker (as defined in the Act) is undertaking to comply with the waste management and minimisation plan adopted by the council under section 43 of the Act.

- **Related information does not form part of this bylaw and may be inserted, changed or removed without any formality.**

- **New bylaw subclauses removes unnecessary detail to improve certainty.**

### Table 2: Amendments to Auckland Council Trading and Events in Public Places Bylaw 2015

<table>
<thead>
<tr>
<th>Existing bylaw clause</th>
<th>Proposed changes</th>
<th>Reasons for change</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 Deciding an application</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) In deciding to grant or decline an application for approval, the council must consider the following matters:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 Deciding an application</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) In deciding to grant or decline an application for approval, the council must consider the following matters:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) whether the activity has an approved waste plan. For example under the Auckland Council Waste Management and Minimisation Bylaw 2019;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, Waste Management and Minimisation Plan, local alcohol and gambling policies.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| New alignment between the proposed new waste bylaw and the existing trading and events bylaw. |
Auckland Council
Solid Waste Bylaw 2012
2019 Findings Report

Item 26
Attachment B
Attachment A

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1. Summary of Key Findings

Council has a statutory responsibility to promote effective and efficient waste management and minimisation. This includes adopting the Waste Plan which sets an aspirational vision for Auckland to be Zero Waste by 2040.

The Bylaw is identified as one tool to achieve Goal C of the Waste Plan to reduce harm from residual waste. The Bylaw addresses domestic waste, resource recovery and fill sites, hazardous waste and litter. The Bylaw also seeks to address public health, safety and nuisance issues in public places associated with waste. Other tools include service provision, education, awareness, facilitation and partnerships.

Waste continues to impact the environment, public health and safety and cause litter and nuisance. Waste expert interviews and data identify a variety of problems, such as:

- contamination of recyclable waste and damage to reusable inorganic items
- litter and illegal dumping near donation collection bins and overflowing waste bins
- poor waste management and minimisation at events and in multi-unit developments
- a lack of data about waste types and volumes to assist in waste planning
- danger from disposal of hazardous waste
- obstruction of footpaths from bins, misuse of public litter bins
- odour and vermin from accumulation of waste.

The Bylaw and its implementation has helped address problems related to waste. There is limited data, but anecdotally:

- compliance with license conditions is estimated at 99 per cent
- industry accords for unaddressed mail and shopping trolleys encourage voluntary compliance
- waste management and minimisation plans for multi-unit developments and events encourage behavioural change.

However, unlicensed waste operators and a lack of effective penalties can reduce Bylaw effectiveness and are a concern to stakeholders. It can be challenging to identify offenders and penalties are prescribed in national legislation, not the Bylaw.

Stakeholders consider the Bylaw is necessary and could be made more certain, easier to understand and workable. There is strong stakeholder consensus that the Bylaw provides consistent expectations and helps implement the Waste Plan alongside other measures. Stakeholder suggested improvements include:

- addressing improper disposal of waste and use of privately supplied flexi-bins
- assessing practicalities of waste plans for events that generate little or no waste
- removing unnecessary Bylaw clauses
- improving license requirements and reporting on waste data
- reducing ambiguity, emphasising waste minimisation and reducing wordiness.

The Bylaw does not give rise to any unjustified implications under the New Zealand Bill of Rights Act 1990.

The Bylaw is not inconsistent with the Waste Plan. The Waste Plan identifies the Bylaw as a tool to reduce harm from residual waste and the need to review the Bylaw as an action.
2. Introduction

2.1 Purpose of report

This report presents findings from the review of the Auckland Council Solid Waste Bylaw 2012, Te Ture À Rohe Para Hara 2012 (B bylaw). The Bylaw will expire on 25 October 2019.1

2.2 Scope of review

The scope of the review (see Figure 1) includes:

- issues related to the Auckland Waste Management and Minimisation Plan 2018: Working Together for Zero Waste 2019 (Waste Plan) goal to reduce harm from residual waste
- issues addressed in the Bylaw
- any new issues identified during the review.

Matters outside the scope of the review include:

- implementation of the Waste Plan
- issues in Waste Plan to be addressed through collaboration and partnerships
- operational controls made under the Bylaw
- waste issues addressed by other bylaws.

Figure 2.2.1 Examples of issues beyond the scope of Bylaw review

---

1 Refer to section 2.5.3 of this document for further discussion
2.3 Key questions
The review asked the following questions to meet council’s statutory requirements under section 155 of the Local Government Act 2002:
- do the issues the Bylaw sets out to address remain evident?
- has the nature and scale of the issues changed since 2012?
- has implementation of the Bylaw been effective and efficient?
- is the Bylaw the most appropriate form of bylaw?
- does the Bylaw have any implications under the New Zealand Bill of Rights Act 1990?
- is the Bylaw inconsistent with the Waste Plan?

2.4 Methodology
Various research and engagement methods were used to answer the key questions:
- key stakeholder face-to-face interviews with council staff and non-governmental organisations (a full list of stakeholders can be found in Appendix A)
- interactive workshops with waste collectors and operators of waste facilities
- cluster workshops with local boards using a ‘walking engagement’ approach
- Māori engagement at a facilitated hui
- online survey sought confidential views from internal council staff on key questions
- sample survey of residents living in multi-unit developments
- literature review of waste issues and domestic and international approaches
- analysis of council databases on complaints, licensed waste operators and other waste-related data referenced in the Auckland’s Waste Assessment 2017.

2.5 Bylaw context
2.5.1 Original purpose and outcomes sought in 2012
The primary purpose of the Bylaw was to implement the 2012 Auckland Waste Management and Minimisation Plan 2012. Zero Waste by 2040. This plan was revised in June 2018.

The outcomes sought in 2012 were to provide a standardised approach to waste management across Auckland by replacing the suite of legacy bylaws, and to maximise resource diversion and avoid unnecessary waste to landfill.

2.5.2 Regulatory approach
The Bylaw was adopted by Auckland Council Governing Body on 25 October 2012 (GB/2012/140) under the:
- Waste Minimisation Act 2008
- Local Government Act 2002
- Health Act 1956

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The Bylaw seeks to support waste management and minimization, protect health, protect safety and manage litter and nuisance in public places. The Bylaw (Figure 2.2.1):

- provides a framework for the collection, transportation and disposal of waste (clauses 7 and sub-parts 1, 2, 3, 4 and 8)
- uses a licensing system for waste collectors (clause 12), disposal facility operators (clause 16) and operators of donation collection points (section 29)
- enables the adoption of operational controls (clauses 6, 20, 22, 25)
- requires a waste management plan for events (clause 23) and multi-unit developments (clause 21)
- addresses the risk of litter from unaddressed mail (clause 28), donation bins (clause 29) and abandoned shopping trolleys (clause 30)
- manages litter receptacles (clause 26) and waste nuisance (clause 27).

A copy of the Bylaw is included in Attachment B

2.5.3 Bylaw status

The Bylaw will expire on 25 October 2019 under section 169A of the Local Government Act 2002. This is because the review of the Bylaw is outside of the statutory review deadline of 25 October 2017 under section 158 of the Local Government Act 2002.

The timing of the Bylaw review instead aligns with the adoption of the Waste Plan in June 2018. This ensures that any future bylaw is not inconsistent with the Waste Plan.

Any new bylaw must be made before 25 October 2019 to avoid a regulatory gap.

2.6 Regulatory and strategic context

Figure 2.6.1 illustrates how the Bylaw forms part of a wider regulatory and strategic framework. A summary of the legislation and policies that forms part of the regulatory and strategic framework that the Bylaw is aligned with is provided in Tables 2.6.2 and 2.6.3. The Waste Minimisation Act 2008 and Waste Plan are the most important parts of the framework. These documents are discussed in more detail in this section.

Figure 2.6.1 Regulatory and Strategic Framework

Waste Bylaw Statement of Proposal
Figure 2.5.1 Solid Waste Bylaw 2012 framework

Solid Waste Bylaw 2012 Framework

Domestic waste for collection in public places
- approved containers, separation of waste, allowable waste, deposit and removal of waste, minimising nuisance and litter from containers

Domestic waste collection and transportation in public places
- licence required, disposal of reusable or recyclable material to landfill

Resource recovery and fill sites
- licence required

Licences
- making an application, matters considered, conditions

Other controls on collection, transportation and disposal of waste
- types of waste, container, collection and transportation limits, waste allowed in fill sites, suitable clean fill material, prohibited waste

Multi-unit developments
- waste management and minimisation plan required, controls about the deposit, collection, transportation and management of waste from multi-unit developments

Events
- waste management and minimisation plan required

Inorganic material
- depositing, removal, collection and transport of inorganic material in public places

Nuisance and litter
- accumulation of waste on premises, nuisance from use of approved containers, burning of waste, burying of waste, disposal of waste on premises, deposit or removal of waste in public litter receptacles, damage or fixing things to public litter receptacles, displays, donation collection points, unaddressed mail, shopping trolleys

Enforcement
- For licence holders: warnings, licence review, bond review
- For public: suspension of service, refusal to collect waste, cost recovery for disposal, Trespass Act 1980

Exceptions
- product stewardship scheme, industry accord
Table 2.6.2 Legislation and regulations authorising or informing the Bylaw

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Relationship to Bylaw</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Minimisation Act 2008</td>
<td>Places responsibility on local authorities to promote effective waste management and minimisation through waste plans and bylaws.</td>
</tr>
<tr>
<td>Local Government Act 2002</td>
<td>Empowers local authorities to make bylaws and provides them with enforcement powers, including prosecution.</td>
</tr>
<tr>
<td>Health Act 1955</td>
<td>Places responsibility on local authorities to provide sanitary works for the collection and disposal of refuse.</td>
</tr>
<tr>
<td>Litter Act 1979</td>
<td>Provides local authorities with powers to appoint litter officers to issue infringement notices with fines for those who litter.</td>
</tr>
<tr>
<td>Building Code 2004</td>
<td>Provides building code compliance requirements for the storage and disposal of waste.</td>
</tr>
<tr>
<td>Hazardous Substances and New Organisats Amendment Act 2015</td>
<td>Addresses the management of substances that pose a significant risk to environment and human health including handling and disposal of hazardous substances.</td>
</tr>
<tr>
<td>Health and Safety at Work Act 2015</td>
<td>Outlines health and safety responsibilities for managing hazards and risks to employees at work. This includes working with hazardous substances and the collection and management of waste.</td>
</tr>
<tr>
<td>Resource Management Act 1991</td>
<td>Provides guidelines and regulations for the sustainable management of natural and physical resources.</td>
</tr>
</tbody>
</table>

Table 2.6.3 National and local policies related to waste management and minimisation

<table>
<thead>
<tr>
<th>National and Local Policies</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New Zealand Waste Strategy</td>
<td>Auckland Growth Greener</td>
</tr>
<tr>
<td>Auckland Plan</td>
<td>Thriving Communities</td>
</tr>
<tr>
<td>Auckland Unitary Plan</td>
<td>Auckland Civil Defence and Emergency Management Group Plan</td>
</tr>
<tr>
<td>Low Carbon Auckland</td>
<td>Iwi management plans</td>
</tr>
</tbody>
</table>

2.6.1 Waste Minimisation Act 2008

The Waste Minimisation Act 2008 requires council to adopt a waste plan. Waste plans must be reviewed every six years. The Act also allows council to make bylaws to regulate waste. Bylaws must not be inconsistent with waste plans.

Auckland Waste Management and Minimisation Plan 2018 (Waste Plan)

In June 2018 council completed a review of the Auckland Waste Management and Minimisation Plan 2012, Zero Waste by 2040 and adopted a revised Auckland Waste

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Waste Bylaw Statement of Proposal

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The Waste Plan identifies “reducing harm from residual waste”7 as one of its three goals (Figure 2.6.1.2).

A bylaw is a key regulatory tool identified in the Waste Plan to achieve this goal. Other tools to achieve this goal are provision of services, other regulation, education and public awareness campaigns, facilitation and partnership, strategic planning, monitoring and evaluation.

A bylaw is not identified as a tool to achieve goals about waste generation or resource recovery.

8 The Waste Plan covers all waste and diverted materials managed by the council and by the private industry.
9 Residual waste refers to material that remains after the process of waste treatment has taken place. Such treatment can include agricultural, industrial and mining activities. In a domestic sense, it refers to household rubbish unable to be recycled, re-used or composted.
3. Global findings

3.1 Key findings

- Harm from residual waste is still a significant issue in Auckland. Auckland sends more than 1.6 million tonnes of waste to landfill each year. This is more than other comparable national and international cities and results in significant environmental and monetary costs.
- Waste to landfill is increasing in part due to population growth. In 2016, 40 per cent more waste was sent to landfill than in 2010. Key drivers of this increase include population growth, economic growth and a building boom. There are positive reductions in domestic waste per person, with a 16kg decrease per capita in 2016 compared to 2010.
- Bylaw also identifies specific actions to encourage compliance. Actions specified in the Bylaw include warnings, suspension of licences for people who collect domestic waste, and suspension of services for people who use domestic kerbside collection services.
- Bylaw encourages industry self-regulation to achieve its purpose. The Bylaw exempts product stewardship schemes and industry accords for unaddressed mail and shopping trolleys from compliance with the Bylaw.
- Waste Solutions administer the Bylaw, proactively and reactively. Waste Solutions proactively processes licence applications and assesses waste management and minimisation plans for events and multi-unit developments. Waste Solutions adopts a graduated approach to address complaints. This approach maximises the efficient use of available resources. Prosecution is seldom used due to high evidential requirements and difficulties associated with evidence collection.
- Waste Solutions use a range of non-regulatory tools alongside the Bylaw to reduce harm from residual waste. Methods include service provision, education and public awareness campaigns, facilitation and partnership with waste industry and central government and local communities.
- Bylaw is necessary and effective, but could be improved. The Bylaw provides consistent expectations for the public and industry, and helps meet goals identified in the Waste Plan. Stakeholders identified that the Bylaw form could be amended in content and structure to clarify ambiguous definitions and terminology, and reduce repetition. Complexity from inconsistent legislative review provisions impacts effectiveness and efficiency.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990 because any limitations of rights are justified.
- The Bylaw is not inconsistent with the Waste Plan.
3.2 Are the issues the Bylaw sets out to address still evident?

3.2.1 Harm from residual waste is still a significant issue in Auckland

Every year, Auckland sends more than 1.8 million tonnes of waste to landfill, enough to cover Eden Park to a height of one and a half Sky Towers.

This results in costs and lost opportunities to ratepayers, the environment, communities and our economy (Figure 3.2.1), for example:

- It costs around $113 million annually for domestic waste services including refuse, recycling and inorganic collection.
- It costs $5–8 million annually to look after landfills.
- Organic waste in landfills generates methane gas, a greenhouse gas 28 times more damaging than carbon dioxide.
- Litter and illegal dumping is unsightly, has significant adverse impacts on the marine environment and affects people’s pride in their communities.
- Recyclable material sent to landfill from domestic and commercial sources in 2016 alone could have generated between $15 million and $73 million if recycled.

3.2.2 Auckland produces more waste to landfill than other comparable national and international cities

Auckland produces more waste per capita (including commercial waste) than any other New Zealand city but less domestic waste per capita than most others.

Christchurch City leads domestic waste efficiency and offers a kerbside organic collection service.

Internationally, high performing cities comparable to Auckland have considerably higher levels of waste diverted from landfill.

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* Domestic waste service and landfill costs are paid through a combination of disposer pays, targets, general rates and waste levy funding.

* Eurotech, August 2017, Estimates of the Value of Auckland’s Potentially Recyclable Materials: Prepared for Auckland Council. The report estimates gross value (i.e., it does not consider the costs of recovery) and excludes materials for which the cost of recovery cannot be met through the sale of the materials. Recovery values could be higher than estimated if materials can be recovered earlier in the disposal process.
3.3 Has the nature and scale of the issues changed since 2012?

3.3.1 Waste to landfill is increasing in part due to population growth

An estimated 40 per cent more waste was sent to landfill in 2016 than in 2010. It is estimated that the volume of waste to landfill is growing at approximately 2.4 per cent per year due to a combination of drivers: population growth, economic growth and a building boom. Population growth contributed to significant increases in organic and plastic waste. A building boom contributed to significant increases in construction and demolition waste.  

3.3.2 There are positive reductions in domestic waste per person

Reduction of residual waste in 2016 include:

- a decrease in domestic waste from 1.60kg per person in 2010 to 1.44kg per person in 2016
- a decrease in inorganic collections from 27,000 tonnes in 2014 to 8,000 tonnes
- an increase in collection of recyclable material to 130,000 tonnes.

3.4 Has implementation of the Bylaw been effective and efficient?

3.4.1 Legislation provides a range of powers and penalties to enforce the Bylaw

Table 3.4.1 summarises the range of legislative enforcement powers and penalties that can be applied where an offender can be identified. Enforcement powers support the identification of offenders and removal of material involved in an offence.

Only the Litter Act 1979 contains provisions for infringement notices ("instant fines") for littering. Penalties of all other offences require a court prosecution.

Table 3.4.1 Solid Waste Bylaw enforcement powers and penalties

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Enforcement powers</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Minimisation Act 2008</td>
<td>• inspect property&lt;br&gt; • obtain information&lt;br&gt; • seizure of property&lt;br&gt; • disposal of property.&lt;br&gt; (sections 70, 81, 82, 85).</td>
<td>• court fine on successful prosecution not exceeding $20,000 (section 63).</td>
</tr>
<tr>
<td>Local Government Act 2002</td>
<td>• court injunction&lt;br&gt; • removal of works&lt;br&gt; • seizure of property&lt;br&gt; • entry&lt;br&gt; • cost recovery for damage&lt;br&gt; • request name and address.&lt;br&gt; (section 103, 104-106, 171-174, 176, 178).</td>
<td>• court fine on successful prosecution not exceeding $30,000 for bylaw breach (section 247).</td>
</tr>
<tr>
<td>Health Act 1966</td>
<td>• abate or remove any nuisance or condition likely to be injurious to health or&lt;br&gt;</td>
<td>• court fine on successful prosecution not exceeding $50 for bylaw breach and&lt;br&gt;</td>
</tr>
</tbody>
</table>

** Waste Plan 2018, pp 31
### Legislation

<table>
<thead>
<tr>
<th>Legislation</th>
<th>Enforcement powers</th>
<th>Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litter Act 1979</td>
<td>• requirement to remove and correctly dispose of litter (sections 7(2), 20) • remove, clean up or obscure from view litter on private land (section 13(3)) • request name and address (sections 7(3), 7(5)) • issue infringement notice (section 14 and 15)</td>
<td>• maximum $400 infringement fine (^{1}) • court fine on successful prosecution not exceeding $5,000 (individual) or $20,000 (body corporate) for littering • court sentence not exceeding one-month imprisonment or maximum $7,500 fine or both (individual) or maximum $30,000 fine (body corporate) for dangerous litter • court fine on successful prosecution not exceeding one-month imprisonment or fine not exceeding $7,500 or both for willful breaking of bottles or glass for an individual (section 16) • court fine on successful prosecution not exceeding $500 for individual for failure to remove litter (section 20) • court fine on successful prosecution for additional cost for removing litter (section 21)</td>
</tr>
</tbody>
</table>

### 3.4.2 Bylaw also identifies specific actions to encourage compliance

Table 3.4.2 summarises the actions specified in the Bylaw to encourage compliance. These include warnings, suspension of licences for people who collect domestic waste, and suspension of services for people who use domestic kerbside collection services.

#### Table 3.4.2 Solid Waste Bylaw enforcement powers

<table>
<thead>
<tr>
<th>Description</th>
<th>Enforcement powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-compliance with conditions of a licence</td>
<td>Council may take one or more steps against a licence holder: • issue a written warning • review licence by amending, suspending or withdrawing it • reissue or review any performance bond • enforce any committed offence under the Litter Act 1979 • enforce any breach of the Bylaw under the Health Act 1966, the Local Government Act 2002 and the Waste Minimisation Act 2008.</td>
</tr>
<tr>
<td>Non-compliance with conditions for collection of waste from a public place</td>
<td>Council may take actions against a non-compliant person: • enforce any committed offence under the Litter Act 1979 • enforce any breach of the Bylaw under the Health Act 1966, the Local Government Act 2002 and the Waste Minimisation Act 2008. Waste collector may take actions against a non-compliant person: • reject the content of any approved container • remove the content of any approved container subject to payment of the costs of removal • withdraw or suspend the collection service</td>
</tr>
</tbody>
</table>

\(^{1}\) The Litter (Increased Infringement Fee) Amendment Bill to increase the maximum fine to $1,000 is currently at Select Committees.
### Attachment A

<table>
<thead>
<tr>
<th>Description</th>
<th>Enforcement powers</th>
</tr>
</thead>
</table>
| Non-compliance with controls for council collection points                | Council may take actions against a non-compliant person:  
  - issue a trespass notice against that person  
  - suspend that persons use of any service  
  - enforce any committed offence under the Litter Act 1979  
  - enforce any breach of the Bylaw under the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008. |
| Non-compliance with controls for collection of inorganic material         | Council may take actions against a non-compliant person:  
  - reject the content of any approved container  
  - remove the content of any approved container subject to payment of the costs of removal  
  - enforce any committed offence under the Litter Act 1979  
  - enforce any breach of the Bylaw under the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008. |

3.4.3 **Bylaw encourages industry self-regulation to achieve its purpose**

The Bylaw exempts product stewardship schemes and industry accords for unaddressed mail and shopping trolleys from compliance with the Bylaw (clause 38).

3.4.4 **Waste Solutions administer the Bylaw, proactively and reactively**

The Bylaw is administered by council’s Waste Solutions Unit which is part of the Infrastructure and Environmental Services Department of council’s operations division.

Waste Solutions proactively processes licence applications and assesses waste management end minimisation plans for events and multi-unit developments.

When responding to complaints, Waste Solutions adopts a graduated approach to compliance. This approach maximises the efficient use of available resources.

While the ultimate enforcement tool under the Bylaw is prosecution, Waste Solutions enforcement officers seldom use this option. Officers highlighted the need for substantial evidence citing that witness evidence alone, without photographic support, is often not enough. The collection of evidence is difficult and time-consuming while the prosecution process is slow.

The review of other bylaws (for example, the Health and Hygiene Bylaw 2013) found that the costs of prosecution may not be fully recovered from fines and that prosecution works best as a deterrent tool. Prosecution sends a strong message to the public that people will be punished for non-compliance with the Bylaw.

Waste Solutions enforcement officers also highlighted that issues of litter and illegal dumping are dealt with under the Litter Act 1979 (not the Bylaw) due to the ability to use infringement notices.

To illustrate the volume of work by Waste Solutions, we note that it:

- granted 112 domestic waste collection and 36 resource recovery anc site licences in 2018 (Table 3.4.3)
- granted five licences for contamination collection operators in 2018
- assessed 72 waste management plans for multi-unit developments in 2017, and 64 from January to October 2018
- investigated 1,844 incidents of littering or illegal dumping (Table 3.4.4).
Currently, there are no audits or inspections of licensed operators. To date there have also been no prosecutions under the Bylaw. Prosecutions taken for littering and illegal dumping have occurred, but under the Litter Act 1979 and the Resource Management Act 1991, not the Bylaw (Table 3.4.3).

Table 3.4.3 Solid Waste Bylaw licences and application fees

<table>
<thead>
<tr>
<th>Licence type</th>
<th>Number in 2018</th>
<th>Licence fee 2018/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic waste collectors</td>
<td>112</td>
<td>$452 for licence and one vehicle $89 per additional vehicle</td>
</tr>
<tr>
<td>Resource recovery and fill sites</td>
<td>36</td>
<td>$488</td>
</tr>
</tbody>
</table>

Table 3.4.4 Enforcement of litter and illegal dumping issues under the Litter Act 1979

<table>
<thead>
<tr>
<th>Approach</th>
<th>Enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotline</td>
<td>The litter and illegal dumping hotline received 1,859 tip-offs between February and May 2018. This resulted in 21 fines worth $4,000.</td>
</tr>
<tr>
<td>Investigations</td>
<td>In the 2017/2018 financial year, a total of 1,644 littering or illegal dumping instances were investigated by council staff. As a result of these investigations only 67 infringement fines were issued due to the level and quality of evidence required. The total value of these 67 fines was $33,500.</td>
</tr>
<tr>
<td>Infringement notices</td>
<td>Council issued 538 infringements from January 2013 to May 2016. After the illegal dumping campaign was launched (March 2018), council issued 25 infringements in April 2018 alone.</td>
</tr>
<tr>
<td>Prosecutions</td>
<td>Council has prosecuted 10 companies and individuals since 2013.</td>
</tr>
</tbody>
</table>

3.4.5 Waste Solutions use a range of non-regulatory tools alongside the Bylaw to reduce harm from residual waste

The Waste Plan identifies several non-regulatory methods to reduce harm from residual waste that complement and support regulatory measures and enforcement. These methods include service provision, education and public awareness campaigns (for instance zero waste event guidelines) and facilitation and partnership with the waste industry, central government and local communities (for example partnering with Ngāi Whatua o Ārākiwi through the Para Koru ki Ōāhurangi programme to promote zero waste across Ōāhurangi).

Most stakeholders have strong support for raising public awareness of the Bylaw. This is unanimously supported by mana whenua and matariki representatives.

3.4.6 Bylaw is necessary and effective, but could be improved

Most stakeholders consider that the Bylaw provides consistent expectations and sets a framework for what is expected from the industry and the public, and helps meet the goals identified in the Waste Plan. Waste Solutions accommodationally estimates that 90 per cent of the industry complies with licence conditions.
Stakeholders also identified operational matters that could be improved:

- Waste Solutions identified issues in relation to timely annual licence renewals
- All stakeholders note that more effective implementation and enforcement of the Bylaw is necessary to reduce harm from residual waste
- Most stakeholders perceive Waste Solutions to have limited resources that hinders effective implementation of the Bylaw, including provision of timely advice, lack of audits or inspections, limited data collection systems, and reactive enforcement
- Some stakeholders advocate for more effective penalties to deal with unlicensed operators
- Some stakeholders perceive licence renewal fees to be high and see this requirement as a council money-collecting exercise.

3.4.7 Māori views on Bylaw implementation

Mana whenua and mataawaka representatives are concerned about limited enforcement of the Bylaw. They note escalating issues related to litter and illegal dumping. Some are concerned that transporting hazardous waste across Tamaki and placing it in Papakauri is against Te Ao Māori and advocated for treatment of hazardous waste at source.

They note that effective enforcement should be supported by proactive implementation of the Bylaw, partnerships with local communities and education to change social behaviour.

3.4.8 Complexity created by inconsistent legislative review requirements impacts effectiveness and efficiency

The Bylaw has been made under four statutes related to solid waste. Two of these statutes contain different Bylaw review timeframes:

- the Waste Minimisation Act 2008 requires the Bylaw to be reviewed no later than every 10 years (section 66). It is important to note that the Waste Plan which the Bylaw is intended to implement must be reviewed no later than every six years (section 50(1)(b))
- in contrast, the Local Government Act 2002 requires the Bylaw to be reviewed within five years of first being made (section 158(2)) and no later than every 10 years after that (section 159). If the Bylaw is not reviewed in time, it will expire two years later.

This inconsistency means that:

- a review of the Bylaw before adoption of the Waste Plan would not have adequately identified the appropriateness of the Bylaw and bylaw form. This is inefficient as the Bylaw is intended to implement the Waste Plan
- a new Bylaw is effectively made every seven years which creates risks related to the quality of the Bylaw review process. This also poses a risk of not adopting a new bylaw before the Bylaw expires.
3.5 Is the Bylaw the most appropriate form of bylaw?

3.5.1 The current Bylaw is a framework bylaw supported by controls

The Bylaw form relates to the structure, content (including controls) and drafting. The current Bylaw:

- provides a framework for the collection, transportation and disposal of waste (clauses 7 and sub-parts 1, 2, 3, 4 and 8)
- uses a licensing system for waste collectors (clause 12), disposal facility operators (clause 18) and operators of donation collection points (section 29)
- enables the adoption of operational controls (clauses 6, 20, 22, 25)
- requires a waste management plan for events (clause 23) and multi-unit developments (clause 21)
- addresses the risk of litter from unaddressed mail (clause 28), donation bins (clause 29) and abandoned shopping trolleys (clause 30)
- manages litter receptacles (clause 26) and waste nuisance (clause 27).

An alternative bylaw form could include:

- operational controls in the Bylaw as schedules, so that all of the rules are in a single document
- separate issues to be regulated under the Waste Minimisation Act 2008 and Local Government Act 2002 under different bylaws to reduce the complexity created by inconsistent legislative review requirements.
### 3.5.2 Comparable Bylaws in New Zealand

Staff reviewed bylaws administered by other domestic territorial authorities (Table 3.5.2). This identified 24 bylaws issued by city councils and district city councils across New Zealand. None of those bylaws cover all of the issues currently regulated by the Auckland Council Solid Waste Bylaw 2012. An environmental scan also identified that 11 out of 24 regional bylaws were made pursuant to the same four statutes as the Auckland Council Bylaw.

#### Table 3.5.2 Environmental scan of regional bylaws

<table>
<thead>
<tr>
<th>Local authority</th>
<th>Bylaw description</th>
<th>Bylaw issues</th>
</tr>
</thead>
</table>
• Hazardous waste  
• Waste facilities  
• Litter receptacles in public places  
• Waste nuisance  
• Multi-unit developments  
• Events  
• Unaddressed mail  
• Abandoned shopping trolleys  
• Donation collection points  
• Waste nuisance |
| Central Hawkes Bay District Council | **Solid Waste Bylaw 2018** pursuant to the Local Government Act 2002, the Local Government Act 1974, section 12 of the Litter Act 1979 and the Health Act 1956. | • Kerbside collection  
• Hazardous waste  
• Waste facilities  
• Litter receptacles in public places |
| Far North District Council | **Solid Waste Bylaw 2016** for the collection, transport and disposal of solid waste pursuant to the Local Government Act 2002, the Waste Minimisation Act 2008, of the Health Act 1956, the Litter Act 1979 and any other enactments. | • Kerbside collection  
• Waste nuisance  
• Multi-unit developments  
• Events |
| Hamilton City Council | **Hamilton City Solid Waste Bylaw 2012** pursuant to the Waste Minimisation Act 2008, the Litter Act 1979, and the Local Government Act 2002. | • Kerbside collection  
• Waste facilities  
• Litter receptacles in public places  
• Multi-unit developments  
• Events  
• Special waste  
• Litter and dumping |
| Kapiti Coast District Council | **Kapiti Coast Solid Waste Bylaw 2010** pursuant to the Local Government Act 2002, the Waste Minimisation Act 2008, the Litter Act 1979 and any other Act or Authority. | • Kerbside collection  
• Public litter bins  
• Events  
• Inorganic Waste  
• Depositing waste, receptacles and shopping trolleys in a public place |
<table>
<thead>
<tr>
<th>Local authority</th>
<th>Bylaw description</th>
<th>Bylaw issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Masterton District Council</td>
<td>Masterton and South Weirerapa District Councils’ Consolidated Bylaw 2012 (part 4 – Solid Waste) pursuant to the Local Government Act 2002.</td>
<td>• Deposit of litter in public place or on private land • Refuse collection • Waste facilities</td>
</tr>
<tr>
<td>Napier City Council</td>
<td>Napier City Solid Waste Bylaw 2012 pursuant to the Waste Minimisation Act 2006, the Litter Act 1979 and the Health Act 1956.</td>
<td>• Events • Hazardous Waste • Multi-Unit Developments • Public litter bins and recyclable waste collection bins • Waste management facilities</td>
</tr>
<tr>
<td>New Plymouth District Council</td>
<td>Solid Waste Bylaw 2013 pursuant to the Local Government Act 2002, the Waste Minimisation Act 2006, the Health Act 1956 and the Litter Act 1979.</td>
<td>• Household waste and recyclables collection • Hazardous waste • Litter and illegal dumping • Licensing of resource recovery facilities and fill sites • Household waste and recyclables collection</td>
</tr>
<tr>
<td>Rotorua District Council</td>
<td>Rotorua District Council Solid Waste Bylaw 2016 pursuant to the Waste Minimisation Act 2006, the Local Government Act 2002, the Health Act 1956, and Litter Act 1979.</td>
<td>• Multi-unit developments • Events • Litter, illegal dumping and nuisance waste • Unaddressed mail • Waste facilities • Litter receptacles in public places</td>
</tr>
<tr>
<td>South Taranaki District Council</td>
<td>South Taranaki District Council Solid Waste Bylaw 2013 pursuant to the Local Government Act 2002, the Waste Minimisation Act 2006, the Health Act 1956, and the Litter Act 1979.</td>
<td>• Hazardous waste • Council transfer stations • Nuisance waste • Kerbside collection</td>
</tr>
<tr>
<td>Local authority</td>
<td>Bylaw description</td>
<td>Bylaw issues</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------</td>
</tr>
</tbody>
</table>
  Events  
  Inorganic waste  
  Litter and nuisance  
  Waste management facilities  
  Donation collection points  
  Council collection points  
  Collection and disposal of waste |
| Taupo District Council          | Taupo District Council Solid Waste Bylaw 2012                                     | Multi-unit developments  
  Events  
  Hazardous Waste  
  Waste management facilities  
  Household waste and recyclables collection |
  Kerbside collection |
  Events  
  Inorganic waste  
  Litter and nuisance  
  Waste facilities  
  Donation collection points |
  Waste facilities |
  Events  
  Inorganic waste  
  Kerbside collection |
  Solid waste disposal facilities  
  Litter bins  
  Collection requirements |
| Ashburton District Council      | Solid Waste Management and Minimisation 2018 pursuant to the Waste Minimisation Act 2008. Local | Events  
  Inorganic material  
  Litter and nuisance |

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<table>
<thead>
<tr>
<th>Local authority</th>
<th>Bylaw description</th>
<th>Bylaw issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Christchurch City Council</td>
<td>Waste Management Bylaw 2015 pursuant to the Local Government Act 2002 and the Waste Minimisation Act 2008.</td>
<td>• Waste management facilities&lt;br&gt;• Litter receptacles in public places&lt;br&gt;• Kerbside collection</td>
</tr>
<tr>
<td>Invercargill District Council</td>
<td>Invercargill District Council Bylaw 2006/5 Solid Waste pursuant to the Local Government Act 2002 and all other Acts.</td>
<td>• Kerbside collection</td>
</tr>
<tr>
<td>Marlborough District Council</td>
<td>Marlborough District Council Waste Bylaw 2017 pursuant to the Local Government Act 2002, the Waste Minimisation Act 2008 and the Litter Act 1979.</td>
<td>• Events&lt;br&gt;• Inorganic waste&lt;br&gt;• Litter and dumping of waste&lt;br&gt;• Waste management facilities&lt;br&gt;• Unaddressed mail&lt;br&gt;• Abandoned shopping trolleys&lt;br&gt;• Donation collection points&lt;br&gt;• Kerbside collection</td>
</tr>
<tr>
<td>Southland District Council</td>
<td>Southland District Council Solid Waste Bylaw 2008.</td>
<td>• Kerbside collection</td>
</tr>
</tbody>
</table>

3.5.3 Internal and external stakeholders’ views on Bylaw framework and form

All stakeholders would like to retain the existing separation of Bylaw form and controls. Most stakeholders however want further clarification on different review requirements for the Bylaw and controls, and why this review focused only on Bylaw form not the controls. Some stakeholders supported more regular updates of Bylaw controls to better reflect emerging problems and trends.

Most stakeholders agreed that Bylaw form needed to be amended in its content and structure.

The following themes were consistently identified by stakeholders:
- use of terminology that lacks clarity and consistency
- use of ambiguous definitions often inconsistent with other regulations
- use of provisions that are repetitive and contradictory to current practice
- focus on waste management rather than waste minimisation
- content that is overly, technical and ineffectively supported by structure.

3.5.4 Enforcement officers’ views on Bylaw form

While many stakeholders raised concerns about the Bylaw form, its wordiness, awkward phrasing and lack of clarity were further emphasised by enforcement officers.

Enforcement officers noted, however, that while changes in response to these criticisms would improve Bylaw content and structure, the constraints on the enforcement of the Bylaw would remain until such time as effective penalties are included under the Bylaw.
3.5.5 Māori views on Bylaw form

Some stakeholders noted that the current Bylaw form reflects a Pākehā or western view and should be better aligned with Te Ao Māori including guiding principles of rangatiratanga, kaupapa Māori, kaitiakitanga, manaakitanga, whanaungatanga and whanauoranga as identified in the Waste Plan. Māori stakeholders noted that Bylaw content is too wordy and technical, and its structure confusing. They emphasised the need for consistent and user-friendly terminology that simplifies content. Consideration should be given to shorter sentences, use of bullet points, and the distinction of rural and urban areas.

3.6 Does the Bylaw have any implications under the New Zealand Bill of Rights Act 1990?

The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990 because any limitations of rights are justified.

3.6.1 Does the Bylaw limit rights under the Act?

The Bylaw could potentially limit rights under the New Zealand Bill of Rights Act 1990, for instance the freedom of expression in relation to unaddressed community notice mail.

3.6.2 Would any limitations be justifiable under the Act?

While staff consider the Bylaw could potentially limit rights, any limitation is considered justifiable and therefore does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

For a limitation to be "demonstrably justifiable in a free and democratic society" it must serve a sufficiently important purpose to justify the limitation. Hausini v R [2007] 3 NZLR 1 (SC) provides that the limitation must:

- be rationally connected to its purpose
- not limit the right or freedom more than necessary to achieve the purpose
- be proportionate to the importance of the objective.

The purpose of the Bylaw is to support waste management and minimise, protect health and safety, and manage litter and nuisance in public places. The issues addressed in the Bylaw are related to its purpose and are regulated no more than necessary and proportionately. For instance, exceptions in relation to unaddressed mail allow for industry accords and delivery of election material and public newspapers.

3.7 Is the Bylaw inconsistent with the Waste Plan?

The Bylaw is not inconsistent with the Waste Plan.

The Waste Plan identifies regulation as one tool to reduce harm from residual waste. Residual waste can include all the issues the Bylaw currently regulates:

- domestic kerbside collection (refuse, recycling and food scraps)
- waste management in multi-unit developments
- waste management at events
- hazardous waste (medical waste and e-waste, asbestos)
- inorganic collection
- litter and illegal dumping
The Waste Plan also identifies the review of the Bylaw as an action (Figure 3.7.1).

**Figure 3.7.1 Waste Plan regulatory actions**

<table>
<thead>
<tr>
<th>Title</th>
<th>Council action</th>
<th>What this will mean for Aucklanders</th>
</tr>
</thead>
<tbody>
<tr>
<td>103. Solid Waste Bylaw</td>
<td>Review the Solid Waste Bylaw to ensure it is not inconsistent with the WMMP, and ensure any issues such as fill licensing are addressed.</td>
<td>The WMA states that bylaws must not be inconsistent with the territorial authority’s WMMP. Specific issues such as fill licensing, medical and sanitary waste disposal and hazardous waste management can be included in the bylaw review process.</td>
</tr>
</tbody>
</table>

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Waste Bylaw Statement of Proposal

Attachment B

Attachment A
4. Findings on issues related to solid waste

4.1 Kerbside collection

4.1.1 Key findings

- Kerbside collection issues include waste contamination, environmental harm, health and safety, litter, illegal dumping and nuisance.
- The Bylaw regulates the collection, transportation and disposal of waste from the kerbside, including the separation of waste into separate containers, licensing of waste collectors and nuisance behaviours.
- Implementation of the Bylaw focuses on proactive licencing, auditing and education, and a graduated approach to complaints.
- Issues related to kerbside collection remain. Data analysis shows increased contamination of recycling and complaints about noise from collection trucks. Anecdotal bin misuse is frequent.
- The Bylaw provides a useful framework to set out the obligations of persons putting out waste for collection and the obligations of those collecting waste from the kerbside. There are however stakeholder concerns about the licensing process, awareness of the Bylaw and limitations of enforcement.
- Stakeholders consider that the Bylaw is unclear, difficult to understand and suggest a number of changes to improve practicability.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: issues related to kerbside collections continue. A bylaw is the most appropriate way to address these issues and to reduce harm from residual waste, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw could however be made more certain, easier to understand, and practicable.

4.1.2 Explanation

Kerbside collection is a service provided to households and businesses which removes waste such as refuse, recycling and food scraps from a public place. Council provides and is in the process of standardizing domestic kerbside collection services.

4.1.3 Residual waste issues

Stakeholders identified the following residual waste issues related to:

- contamination of recyclable waste from liquid, chemical and food residue, deposit of unrecyclable materials in recycling bins and dirty recycling bins which reduce the effective recovery of recyclable material
- clogging of sorting machinery in Materials Recovery Facilities by items such as plastic bags and polystyrene which decreases the effectiveness of recycling process
- environmental harm from overflowing waste that enters waterways and stormwater systems
- litter from spillage of waste from collection vehicles, bins and low durability of rubbish bags due to weather or animal damage
- bin misuse issues such as the deposit or removal of materials from other property’s bins, overfilling of bins, or leaving of bins on the kerbside outside of collection times
- illegal dumping in and around bins.

Other issues identified by stakeholders included:
- health and safety risks from inadequate bin storage facilities\(^3\) and obstruction of sidewalks
- noise nuisance from early morning collection times\(^4\) and multiple collections
- nuisance from bin theft, bin overflow and bin misuse.

4.1.4 Bylaw approach

The Bylaw regulates the collection, transportation and disposal of waste from the kerbside, including the separation of waste into separate containers, licensing of waste collectors, and nuisance behaviours (Table 4.1.4.1).

<table>
<thead>
<tr>
<th>Responsible party</th>
<th>Requirement</th>
<th>Clause</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council</td>
<td>approves containers used for collection of domestic waste</td>
<td>Clause 9(1)</td>
</tr>
<tr>
<td></td>
<td>specifies location of collection point and related controls</td>
<td>Clause 11</td>
</tr>
<tr>
<td></td>
<td>specifies the type of waste that can be placed in a public place for collection, for instance domestic waste</td>
<td>Clause 13(1) and 13(2)</td>
</tr>
<tr>
<td></td>
<td>identifies operational controls for the collection, transportation and disposal of waste</td>
<td>Clause 14 and 20</td>
</tr>
<tr>
<td></td>
<td>approves licences for collection or transportation of waste</td>
<td>Clause 12</td>
</tr>
<tr>
<td>Occupiers and managers of premises</td>
<td>ensure domestic waste is separated into the correct container for refuse, recyclable material and organic matter</td>
<td>Clause 9(2)</td>
</tr>
<tr>
<td></td>
<td>is responsible for domestic waste generated on the premises until it is collected, including the condition and location of containers and waste deposited in them.</td>
<td>Clause 9(4) and 10</td>
</tr>
<tr>
<td>Any person</td>
<td>must not deposit domestic waste in the wrong container</td>
<td>Clause 9(3)</td>
</tr>
<tr>
<td></td>
<td>must not deposit domestic waste into another household’s approved container without their consent</td>
<td>Clause 9(1)</td>
</tr>
<tr>
<td></td>
<td>must not remove or interfere with domestic waste in a container unless they are council, the waste collector or household member</td>
<td>Clause 9(2)</td>
</tr>
<tr>
<td></td>
<td>must not remove a container from the premises</td>
<td>Clause 9(3)</td>
</tr>
<tr>
<td></td>
<td>must be licensed by council, unless the total waste collected is no more than 20 tonnes in a 12 month period</td>
<td>Clause 12</td>
</tr>
</tbody>
</table>

\(^{3}\) Particularly an issue in Dense areas of Auckland and for retail stores with multiple bins

\(^{4}\) Waste collectors collecting from private property are not bound to operate with the standard hours outlined by the Bylaw controls.
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Attachment A

Attachment B

4.1.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.1.5.1).

Table 4.1.5.1 Bylaw implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Licensing of waste collectors</td>
</tr>
<tr>
<td></td>
<td>Auditing and education</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to complaint response</td>
</tr>
<tr>
<td></td>
<td>(for example education, waste audits,</td>
</tr>
<tr>
<td></td>
<td>warnings, temporary removal of receptacles</td>
</tr>
<tr>
<td></td>
<td>from the location, prosecution)</td>
</tr>
</tbody>
</table>

Issuing of licenses

Waste Solutions licenses waste collectors who collect or transport more than 20 tonnes of waste annually (Table 4.1.5.2). Licenses must be renewed annually and are issued for up to five years.17

Table 4.1.5.2: Waste collection licences issued

<table>
<thead>
<tr>
<th>Year</th>
<th>Number issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014/2015</td>
<td>80</td>
</tr>
<tr>
<td>2016/2017</td>
<td>105</td>
</tr>
<tr>
<td>2017/2018</td>
<td>112</td>
</tr>
</tbody>
</table>

Response to licensing compliance issues

Waste Solutions investigate and issue warning letters to waste collectors who breach the Bylaw.

---

17 Licenses are valid from 1 August until 31 July and a renewed fee is paid annually.
Response to service provision issues

Waste Solutions focuses on licensing, auditing and education rather than enforcement to improve Bylaw compliance. For example:

- council officers inspect over 2,000 recycling bins each day for unrecyclable items and take the following compliance steps:

<table>
<thead>
<tr>
<th>Breach</th>
<th>Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breach one</td>
<td>Bin gets rejected, educational red tags are attached, and warning letter is sent to resident identifying waste contamination issues.</td>
</tr>
<tr>
<td>Breach two</td>
<td>Occurs within six collection cycles – bin is rejected and second warning letter is sent restating the issues.</td>
</tr>
<tr>
<td>Breach three</td>
<td>Occurs within six collection cycles – bin is removed, and waste collection service is suspended (letter is sent to advise about service removal). The resident must sign a Reinstatement Agreement Form and the bin is checked by council for the next three collections.</td>
</tr>
</tbody>
</table>

- where an individual’s bin is misused by someone else, residents are advised to place their bin on the kerbside earlier or later in the day to discourage occurrences (council may do a letter drop in the neighbourhood)
- when issues regarding noise and nuisance arise, Waste Solutions asks collectors to collect at a different time to mitigate concerns.

4.1.6 Are the residual waste issues still an issue?

Issues associated with kerbside collection remain, these include:

- contamination of recycling bins increased from 6 per cent in 2011 to 13 per cent in 2016 (Figure 4.1.6.1) and is currently at 12.14 per cent
- factors that increase contamination rates include increased quality standards for recyclable materials, deposit of materials into the bins sited on other properties and deposit of different recyclable materials in the same bin.

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*Waste Plan 2018, p. 35. Common unrecyclable materials found in recycling bins include plastic bags, coffee cups, polyethylene meat trays, clothing and kitchen dishware. Other materials include nappies, gas containers, garden waste, furniture and rubish.*
Figure 4.1.6.1: Kerbside recycling contents in 2016

- mana whenua and mataawaka representatives identified bin misuse as issues that occur frequently, but there is no data available
- some stakeholders noted that rubbish bag colours can be consuming for CBD residents who associate green bags with organic waste
- rubbish bags are susceptible to animal attack and weather damage
- some retailers store bins permanently on the kerbside (which is prohibited by council) due to a lack of space on the premises, for example in the Newmarket area
- additional cycling lanes widen the distance between collection vehicles and the kerbside. Bins may become unreachable and collection poses safety risks for cyclists
- increased kerbside parking related to population growth hinders access to bins by collection vehicles. For example, streets near North Shore Hospital are occupied nearly 24 hours a day which limits capacity to collect waste
- large households can produce more waste than can be fitted into council refuse and recycling bins. Council’s policy to remove contaminated bins after three strikes is unlikely to be successful for households under financial strain
- complaints to council concerning noise from collection trucks spiked in 2018 and are expected to increase with population growth and intensification (Figure 4.1.6.2).

Figure 4.1.6.2: Number of complaints to council about noise from rubbish collection vehicles

<table>
<thead>
<tr>
<th>Year</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of complaints</td>
<td>16</td>
<td>10</td>
<td>19</td>
<td>12</td>
<td>74</td>
<td>134</td>
</tr>
</tbody>
</table>

In the context of the Waste Plan, domestic waste to landfill has reduced.

---

**Attachment A**

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Item 10

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20 Plastic rubbish bags are used in rural areas of Auckland (predominantly North and South) and the central business district area where bins are impractical due to limited or inadequate space.

21 Auckland is becoming a more pedestrian and cyclist friendly city. There are currently 160 cycleways or shared paths and 30 projects adding or improving cycle lanes. [https://www.aucklandcitycouncil.govt.nz/cycling](https://www.aucklandcitycouncil.govt.nz/cycling)

Council will trial pedestrianized Queen St and High St in 2019. [https://www.aucklandcitycouncil.govt.nz/cycling](https://www.aucklandcitycouncil.govt.nz/cycling).

22 Data has limited accuracy pre-July 2017 due to lack of capability of older complaint systems to record narratives.
4.1.7 Is the Bylaw effective and efficient?

The Bylaw provides a useful framework to set out the obligations of persons putting out waste and the obligations of those collecting waste from the kerbside.

Stakeholder concerns with kerbside collection provisions include:

- low awareness and understanding of the Bylaw which undermines council's waste minimisation efforts
- lack of enforcement of kerbside bin misuse and waste separation

Stakeholders noted concerns about the licensing requirements in the Bylaw and licensing enforcement (Table 4.1.7.1). Waste Solutions identified anecdotally that the majority of industry complies with licences. Stakeholders noted that licensing enforcement is limited due to difficulties in obtaining evidence and a lack of adequate resources.

Table 4.1.7.1 Stakeholder concerns about licensing requirements in the Bylaw and enforcement

<table>
<thead>
<tr>
<th>Licensing requirements</th>
<th>Licensing enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data collection</td>
<td>currently no auditing of licensed collectors at transfer stations.</td>
</tr>
<tr>
<td>requirements are costly, inconsistency applied, lack clear purpose and in some cases may duplicate requirements of resource consents under Resource Management Act 1991.</td>
<td>no follow up on data collection, vehicle licence registrations or five per cent allowance of organics and recyclables in refuse</td>
</tr>
<tr>
<td></td>
<td>unlicensed collectors continue to operate and contribute to illegal dumping. Some licensed collectors feel operationally and financially disadvantaged perceiving the licensing process as a council money-collecting exercise.</td>
</tr>
<tr>
<td></td>
<td>licensing of sub-industries is inconsistently applied and unclear. Some industries such as scrap metal are unlicensed while others are unclear whether they should be licensed</td>
</tr>
<tr>
<td></td>
<td>current fine (not exceeding $20,000) is insufficient and the ability to give out infringement fines would be useful but would require legislative amendment</td>
</tr>
<tr>
<td></td>
<td>Mana whenus and matsawaka noted that the current fine structure and auditing systems are ineffective.</td>
</tr>
</tbody>
</table>

Stakeholders noted concerns about the licensing terms and conditions and the licensing process (Table 4.1.7.2). These are operational matters which have been referred to Waste Solutions.
Table 4.1.7.2 Stakeholder concerns on licensing terms and conditions and process

<table>
<thead>
<tr>
<th>Licensing</th>
<th>T&lt;br&gt;erms and conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Process</td>
<td>unrealistic requirements to provide council with information on vehicles in use, licence label displays, the need for council approval before making changes to service provision</td>
</tr>
<tr>
<td></td>
<td>inappropriate requirement to display company fees as it is confidential information</td>
</tr>
<tr>
<td></td>
<td>process is expensive and a barrier for many collectors</td>
</tr>
<tr>
<td></td>
<td>some collectors are unaware of fines, requirements and need to reapply for licences</td>
</tr>
<tr>
<td></td>
<td>lengthy licence renewal and vehicle licence registration process which can create a gap where collectors have to break licence conditions or be unlicensed</td>
</tr>
<tr>
<td></td>
<td>one stakeholder expressed view that licences contain inappropriate controls on industry practice that risk breaking competition law</td>
</tr>
</tbody>
</table>

4.1.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider that the bylaw is uncertain, difficult to understand and suggest a number of changes to improve practicability. Mana whenua and mataawaka representatives identified that the Bylaw is too wordy, unstructured and difficult to follow.

Stakeholders recommend that the Bylaw be streamlined and suggest the following improvements:

- use more general terminology to allow innovation and prevent the bylaw from becoming outdated
- align the Bylaw more closely with other legislation such as the Health and Safety Act 1986 and the Auckland Unitary Plan
- require collectors to collect separated waste separately
- consider separation of paper and cardboard in domestic recycling collection
- remove clause 13(3) as provisions are already exist in licensing terms and conditions
- require occupiers and managers of premises to provide storage space for bins
- consider specific provisions for rural collection points to address nuisance issues
- consider improvements to collection services such as communal collection points due to parking issues on urban streets
- clarify Bylaw definitions (Table 4.1.8.1)
Stakeholders suggested the following improvements to the Bylaw licensing requirements:

- remove outdated requirements such as data provisions from vehicle waste log books which are no longer used
- reconsider location of data collection requirements (currently duplicated in terms and conditions and the Bylaw)
- reconsider inclusion of requirements for collectors to clear litter within five metres of approved containers awaiting collection and for council to specify approved container weights
- improve data reporting requirements to include waste types, contamination rates and quantities of separated waste streams to landfill, and publicly report data
- consideration should be given to licensing operators that collect more than 10 tonnes of waste annually (stakeholders noted that there is a low entry threshold into the waste collection industry which has led to unscrupulous businesses dumping or transporting waste straight to landfill).

Stakeholders suggested the following improvements to the licensing terms and conditions and controls. These are operational concerns and have been referred to Waste Solutions:

- consider including the five per cent allowance of organics and recyclables in refuse (currently located in the Bylaw)
- reconsider practicalities of standard collection hours as specified in the Bylaw.

4.1.0 Are there any implications under the NZBORA?

The Bylaw about kerbside collection does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.1.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about kerbside collection is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.
4.1.11 Other approaches?

Service provision without Bylaw Framework

Council could continue to influence the collection of the domestic waste it controls without a bylaw framework. However, council could not use licensing to manage waste collectors, ensure appropriate bin use by residents or properly monitor or collect data for future waste planning. Council would also be restricted in its ability to fulfill reporting obligations under the Waste Minimisation Act 2008 (section 51).

Council could continue to provide education to residents and guidance to industry, but without regulation these approaches have limited effectiveness in achieving change of the scale sought in the Waste Plan 2018.

Figure 4.1.11.1 Domestic waste kerbside collection services

Council is currently standardising kerbside services (for refuse and recycling) as detailed in the Waste Plan 2018. Council contracts 65 collection vehicles for kerbside waste collections.\(^{30}\)

\(^{30}\) Waste Assessment 2017, p. 72
Figure 4.1.11.2 Domestic recycling collection services provided by Auckland Council²

<table>
<thead>
<tr>
<th>Part of the region</th>
<th>Frequency</th>
<th>Households</th>
<th>Materials accepted</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central, North, South, West, or excluding case</td>
<td>Fortnightly</td>
<td>240L, MCB</td>
<td>Fully controllable, Rotorua funded</td>
<td></td>
</tr>
<tr>
<td>CBD</td>
<td>Twice weekly collection (other than Sunday mornings)</td>
<td>Clear bags (240L)</td>
<td>Contained, separate container, Rotorua funded</td>
<td></td>
</tr>
<tr>
<td>Waitakere Island</td>
<td>Weekly</td>
<td>240L bin or supermart bag</td>
<td>Fully contained, Rotorua funded</td>
<td></td>
</tr>
<tr>
<td>Great Barrier Island</td>
<td>Weekly</td>
<td>N/A</td>
<td>Paper and cardboard only, Other recyclables can be dropped off at waste recycling points at Waitakere Landfill</td>
<td></td>
</tr>
<tr>
<td>Hibiscus, Waitakere Islands</td>
<td>No collection service</td>
<td>Residents can use several recycling bins, or facilities</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: A new kerbside recycling crate collection service began on Great Barrier Island in October 2018. Households receive two 60 litre recycling crates which are collected weekly.¹
Figure 4.1.11.3 Domestic refuse collection services provided by Auckland Council:

<table>
<thead>
<tr>
<th>Part of the region</th>
<th>Frequency</th>
<th>Size of bag or container</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central (previously Auckland City)</td>
<td>Weekly</td>
<td>120L MSB</td>
<td>Rates funded</td>
</tr>
<tr>
<td>CBD</td>
<td>Twice daily collection (other than Sunday morning)</td>
<td>60L bags</td>
<td>Rates funded</td>
</tr>
<tr>
<td>Waitemata</td>
<td>Weekly</td>
<td>Red bags or 140L bins</td>
<td>Rates funded</td>
</tr>
<tr>
<td>Great Barrier Island</td>
<td>Weekly</td>
<td>Bags (10 maximum)</td>
<td>Rates funded</td>
</tr>
<tr>
<td>Rakov, Kawau Islands</td>
<td>No collection service. Residents can use a number of recycling drop-off points or facilities</td>
<td>Rates funded</td>
<td></td>
</tr>
<tr>
<td>North Shore</td>
<td>Weekly</td>
<td>Prepaid bag—40L, and 90L option, or en-account 140L, MSB</td>
<td>Polluter pays/payer pays</td>
</tr>
<tr>
<td>North Auckland (previously Rodney)</td>
<td>Weekly, no service in rural areas</td>
<td>Prepaid bag—40L, 90L option, or en-account 140L, MSB</td>
<td>Polluter pays/payer pays</td>
</tr>
<tr>
<td>South Auckland (previously Manukau)</td>
<td>Weekly, no service in rural areas</td>
<td>Prepaid bag—40L, and 90L option, or en-account 140L, MSB</td>
<td>Polluter pays/payer pays</td>
</tr>
<tr>
<td>South Auckland (previously Franklin, Papakura)</td>
<td>Weekly</td>
<td>Prepaid bag—40L, and 90L option, or en-account 140L, MSB</td>
<td>Polluter pays/payer pays</td>
</tr>
<tr>
<td>West Auckland (previously Waitakere)</td>
<td>Weekly</td>
<td>Prepaid bag—40L, and 90L option, or en-account 140L, MSB</td>
<td>Polluter pays/payer pays</td>
</tr>
</tbody>
</table>

Note: ‘On-account’ services to North Shore and West Auckland are yet to be implemented. These areas are currently on a prepaid tag system.

Table 4.1.11.4 Changes to council collection services

<table>
<thead>
<tr>
<th>Service</th>
<th>Changes</th>
</tr>
</thead>
</table>
| Refuse collection | • bags to wheelie bins in urban areas  
|                  | • mix of bags and bins in rural areas and the Hauraki Gulf Islands  
|                  | • consistent service provision is yet to be fully implemented  
|                  | • ‘weekly pay-as-you-throw service’ (to become fortnightly over time once food scraps collection embedded)  
|                  | • consistent service provision is yet to be fully completed |
| Recycling collection | • large wheelie bins for mixed recycling collected fortnightly  
|                  | • consistent service provision has been completed |
### Attachment A

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<table>
<thead>
<tr>
<th>Service</th>
<th>Changes</th>
</tr>
</thead>
</table>
| Food scrap collection    | - Current trial of weekly food scrap collection of 2,000 households in Northcote, Forrest Hill, Milford and Takapuna and just under 100 households in Manukau and Papakura started in 2014. <sup>4</sup>  
- Transition to be consistent food scrap collection in urban areas by 2021. <sup>1</sup> |

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*Waste Bylaw Statement of Proposal*
4.2 Waste disposal to land (data collection)

4.2.1 Key findings

- Issues from waste disposal to land relate to environmental harm from contamination of land or water, health risks, and gathering of data on waste deposited at waste facilities to support waste planning.
- The Bylaw currently requires waste to be disposed of to waste facilities, the kerbside and in limited circumstances to private property. It also requires waste facility operators to obtain a licence and to report waste data to council (disposal to clean-fills is exempt in some circumstances).
- Implementation of the Bylaw focuses on proactive licensing and complaint response. Council uses the Resource Management Act 1991, the Litter Act 1979 or the Bylaw to respond to complaints.
- Issues associated with waste disposal to land remain. The need to gather data on waste disposal at facilities to assist with waste planning remains due to technological changes by industry, market trends and central and international government policies.
- The Bylaw is a useful tool to set expectations and gather data from waste facilities, but stakeholders consider the Bylaw to be unclear and uncertain.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: The need to manage waste disposal to land and gather data on the disposal of waste at waste facilities for the purpose of waste planning remains. A bylaw is the most appropriate way to set expectations and obtain this data, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form however could be made clearer and more certain.

4.2.2 Explanation

Waste disposal to land relates to waste disposal at fill sites and waste diverted through resource recovery facilities, collectively referred to as waste facilities. Waste facilities are provided by commercial entities, council, and community groups.21

Table 4.2.2.1 Types of waste facilities

<table>
<thead>
<tr>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landfills</td>
<td>Used for heavily contaminated materials and all refuse-type material, such as household and kerbside waste, commercial and building waste, and certain types of hazardous waste (for example, asbestos-containing materials). Five landfills provide services to Auckland: Redvale (Auckland), Claris (Auckland), Hampton Downs (Auckland), Whitford (Auckland), Pukerua (Northland) (Waiheke).</td>
</tr>
<tr>
<td>Clean, managed</td>
<td>Clean-fills used for natural materials with no adverse effect on people or the environment when buried (for example uncontaminated clay, gravel, rock and soil, concrete, bricks, tiles, and incidental or attached vegetation). Managed-fills used for low-grade contaminated material.</td>
</tr>
<tr>
<td>mono fills</td>
<td>Mono-fills used for materials from a single source or location.</td>
</tr>
</tbody>
</table>

21 Council has direct influence over 20 per cent of the waste generated in Auckland, but limited influence over the remaining 80 per cent managed by commercial managers.
4.2.3 Residual waste issues

Waste disposal to land can cause residual waste issues when waste is disposed inappropriately (for example, not at facilities or approved locations). Residual waste issues include environmental harm from contamination of land or water.24

Other issues include health risks.

A further issue is how to gather data on the disposal of waste at waste facilities. Waste Solutions gathers data to support waste planning and measure progress towards Waste Plan goals and objectives.25

4.2.4 Bylaw approach

The Bylaw requires waste to be disposed only to waste facilities, onto one’s own private property, or onto the kerbside at a public place or on private property for collection, with some exceptions (refer clause 15 and kerbside collection, litter and waste nuisance topics).

The Bylaw also requires facility operators to be licensed and to report waste data to Council, with clean-fills exempt in certain circumstances (Table below).

Table 4.2.2 Summary of Bylaw provisions related to disposal of waste to land

<table>
<thead>
<tr>
<th>Bylaw requirements</th>
<th>Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licence required to operate a resource recovery facility, landfill, clean-fill, managed fill or mono-fill site (refer clause 14(1)).</td>
<td>For clean-fill licensing where material is:</td>
</tr>
<tr>
<td>Licence process prescribed in clauses 17(1) and (2) (form of application), 18</td>
<td>• clean-fill sourced from the same land, for example subdivision earthworks (refer clause 16(2)(d)).</td>
</tr>
</tbody>
</table>

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22 Under the Unitary Plan provisions (s. 13) clean fill sites do not require resource consent where discharges of contaminants are less than 250m³ per year.
23 Council plan to develop another 7 community recycling centres over the next six years.
24 The wider issues of waste disposal to land are addressed by other means. For example, the need to reduce waste to landfill sites and increase resource recovery is addressed within the Waste Plan, and the need to address adverse effects on the environment and human health is managed through the Unitary Plan.
25 The Waste Plan identifies current data limitations, and the need and actions to monitor and evaluate waste data to meet statutory responsibilities.
4.2.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (see Table below).

Table 4.2.5 Bylaw implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Implementation Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Licence approval</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to non-compliance (warnings, prosecution)</td>
</tr>
</tbody>
</table>

Refer to kerbside collection, litter and waste nuisance topics for further information on inappropriate waste disposal.

For licensing complaints:
- unlicensed and unlawful waste facilities are addressed as a breach of the Auckland Unitary Plan using powers and penalties under the Resource Management Act 1991
- unlicensed but lawful waste facilities are investigated by Waste Solutions as a Bylaw breach
- waste dumped on private land is investigated by Waste Solutions under the Litter Act 1975.

No prosecutions have been made under the Bylaw.

4.2.6 Are the residual waste issues still an issue?

Waste disposal to land continues to contribute to environmental harm and health risks. The need to gather data on the disposal of waste at waste facilities to assist with waste planning and measure progress of the Waste Plan remains (refer to residual waste issues section).

Stakeholders provided examples of changes affecting waste disposal to land and highlight the need to gather sound data. Stakeholders perceive that:
- commercial waste to landfill has increased significantly
- organic and plastic waste to landfill is increasing
- contamination occurs at clean and managed fill sites, for example from construction material, contaminated soil or mixing of volcanic soils on non-volcanic sites
- contamination is occurring with asbestos from construction and demolition waste

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25 Stakeholder views related to the wider issues of reducing waste, increasing resource recovery, and effects on the environment and human health.
the volume of traffic associated with the bulk transport of waste between collection points and waste facilities has significant impact on roads, noise and greenhouse gases
waste disposal is affected by changes in markets (for example, the January 2018 import ban by China on recycling waste), central government initiatives (for example, phasing-out single-use plastic bags) and changes in technology and manufacturing processes
council may soon run out of room for clean-fill sites due to construction activities
the number of clean-fill sites that do not require consent is increasing.

Refer to kerbside collection, litter and waste nuisance topics for more information on issues associated with inappropriate waste disposal.

4.2.7 Is the Bylaw effective and efficient?

The Bylaw is useful to outline expectations for waste disposal and to gather data:
- Waste Solutions highlighted the need to collect accurate data on waste disposed of at waste facilities to assist with complying with statutory obligations under the Waste Minimisation Act 2008.27
- since 2012, Waste Solutions have consistently issued 36 waste facility licences each year.

Stakeholders raised concerns about licensing, including:
- limited awareness of requirements
- issues related to volumes of construction and demolition waste and contamination rates (for example, from soil containing asbestos) are difficult to quantify because licensing exemptions exist for clean-fills
- data collection already occurs as part of the Auckland Unitary Plan resource consent process.28
- the transport of waste outside of Auckland results in under-reporting of waste disposal between territorial authorities due to inconsistent waste reporting requirements
- some stakeholders question whether construction companies should be licensed as waste generators to encourage waste minimisation. The Waste Plan however seeks to address commercial waste through collaboration and partnerships, not regulation.

Stakeholders also raised concerns about operational aspects of licensing that are outside the scope of the Bylaw review. These have been referred to Waste Solutions:
- lengthy processing of licences and licensing fees
- limited enforcement, with a need for regular auditing, warnings and penalties for those who operate illegally or breach licence conditions.

4.2.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw to lack clarity and certainty, and to be lengthy, unstructured, repetitive and too technical.29

Stakeholders suggested the following improvements to definitions and ambiguous words:

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27 Waste Minimisation Act 2008, sections 50 and 51.
28 Data collection is a requirement of some, not all, resource consent conditions. The purpose of data collection differs. Data reported under the Bylaw is to assist waste planning while under the Auckland Unitary Plan it is to manage discharges of contaminants to the environment.
29 Council adopted the Disposal of Waste To Land Control in 2005 which has helped to clarify some issues, such as different types of clean-fill material, but as a separate document, it adds complexity.
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- ensure all definitions and descriptions of disposal processes are consistent with the provisions of the Auckland Unitary Plan and the Wastelinc Technical Guidelines
- clarify definitions of clean-fills and managed-fills to improve understanding of what is considered to be waste (including whether any form of dirt is waste) and the licensing process for clean-fills and managed-fills
- improve clarity of what is understood by a resource recovery facility
- improve clarity of what is understood as diverted material 30
- improve clarity of what is understood by commercial composting operation (compost could be diverted not disposed of when picked up at source, or could be discarded)
- align definition and categories of asbestos with industry guidelines
- replace ambiguous words such as ‘waste in council’s opinion’ and ‘unlikely’

Stakeholders suggested the following other improvements:

- consider practicabilities of licence conditions (bank guarantees, bonds, vehicle log books and collection of litter within five meters of an approved container and any litter spillage)
- consider inclusion of the right to appeal or ability to obtain reasons why a licence has not been granted under section 17(3)
- simplify section 20 by making proper distinction between inorganic and recyclable waste disposal and remove uncertainty about what is “capable” of being recycled
- consider the practicabilities of exempting waste disposal on land of less than 30 cubic metres or “such greater amount as the council may approve”
- clarify sections 16(2)(b)(i) and (ii) to address issues related to licensing of clean-fills (definitions include the pertinence to all material that is clean-fill) and data requirements.

4.2.9 Does the Bylaw have any implications under the NZBORA 1990?

The Bylaw about waste disposal to land does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.2.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about waste disposal to land is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.2.11 Other approaches?

Auckland Unitary Plan

The Unitary Plan (E.13) provides for the management of clean-fills, managed fills and landfills to avoid or mitigate adverse effects on the environment and human health. Resource consent must be obtained to manage discharges of contaminants (E.13.4.1). This does not apply to clean-fills where discharges are less than 250m3 per year, discharges from closed managed fills or landfills, and discharges from aftercare activities on closed managed fills and

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30 There is a potential overlap between waste and diverted material as the Bylaw treats all receivers of material as waste disposal facilities when this is not the case e.g. there is a question of whether quino is should be considered waste operators.

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There may be a cross-over in reporting requirements under some resource consent conditions and the Bylaw. However, not all consents require reporting of waste received and the reporting purpose under the Bylaw is to assist waste planning while under the Resource Management Act it is to manage discharge of contaminants to the environment.

Climate Change Response Act 2002

Under section 62 of the Climate Change Response Act 2002, operators of a waste disposal facility must record the annual tonnage of waste entering their landfills and record this as estimated emissions. Operators must pay the government for every New Zealand Unit (NZU) of carbon credit which represents one tonne of carbon dioxide. However, this is incomplete as it does not include the types of waste disposed.
4.3 Donation Collection Points

4.3.1 Key findings

- Residual waste issues from donation collection points include illegal dumping and litter.
- Other issues include health and safety risks, obstruction, and reduced visual amenity.
- The Bylaw currently requires operators of donation collection points to be licenced and to take steps to prevent goods escaping or accumulating on public places.
- Implementation of the Bylaw by Waste Solutions focuses on licensing and response to complaints.
- Issues associated with donation collection points remain and anecdotal evidence suggests that the volume of litter and dumped items has increased. Illegal dumping outside charity shops has been identified as an emerging issue.
- The Bylaw is a useful tool to manage complaints and the Litter Act 1979 is used to address illegal dumping issues.
- Stakeholders identified that the Bylaw could be improved for clarity and certainty.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: residual waste issues associated with donation collection points remain. A bylaw is the most appropriate way to address these issues to reduce harm from residual waste and other issues, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form could be made more certain.

4.3.2 Explanation

Donation collection points are a private bin service on public places or private land such as carparks and schools which enable the public to deposit donated clothing or goods.

4.3.3 Residual waste issues

Donation collection points can cause residual waste issues such as:

- illegal dumping of household and commercial waste inside and beside bins
- litter from bin overflow,

Other issues such as:

- health and safety risks from deposit of dirty, broken goods or unsafe items.
- obstruction of footpaths and roads from litter and illegal dumping

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Waste Bylaw Statement of Proposal
4.3.4 Bylaw approach

Table 4.3.4.1 Summary of Bylaw provisions related to donation collection points

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Licencee must take all steps to prevent donated goods from escaping and becoming litter or accumulating in a public place within a 10-metre radius of the container (refer clause 21(2)).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Licence required to place a container for the collection of donated goods on:</td>
<td></td>
</tr>
<tr>
<td>• a public place</td>
<td></td>
</tr>
<tr>
<td>• private place where goods likely to encroach onto an adjoining public place</td>
<td></td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.3.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.3.5.1).

Council licenced operators of donation collection points. Five operators of donation collection points were licensed under this clause in 2018. Prior to 2018 council licensed three operators under the general waste collector licencing clause (refer clause 12).

If a complaint is made about litter or illegal dumping, Waste Solutions contacts the bin owner to remove items. Continual issues are investigated by council enforcement officers under the Litter Act 1979.

No prosecutions have been made under the Bylaw.

Table 4.3.5.1 Bylaw implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Licensing of operators of donation collection points</td>
</tr>
<tr>
<td>Reactive</td>
<td>• Request bin owner to remove dumped items</td>
</tr>
<tr>
<td></td>
<td>• Investigation of continual issues.</td>
</tr>
</tbody>
</table>

4.3.6 Are the residual waste issues still an issue?

Donation collection points continue to contribute to litter and illegal dumping. Stakeholders also identified illegal dumping around charity shops as an emerging trend:

- Waste Solutions, donation collection point owners and charity shop owners reported increasing volumes of illegally dumped items in and around donation collection points and charity shops particularly over the summer months and high waste removal costs
- Charity shop owners noted high operational costs related to the installation of surveillance cameras to prevent illegal dumping.

There is no data available on the extent of the above issues.

Stakeholders noted irregular collections from donation points, reduction in bins in South Auckland and issues of maintenance overflow and misuse.

4.3.7 Is the Bylaw effective and efficient?

Stakeholders noted that donation collection points provide valuable social services and consider the Bylaw to be useful to manage issues as they arise.

Stakeholders however consider that the Bylaw implementation has been limited. There is no data available on whether all operators of donation collection points are licensed and continual illegal dumping issues are addressed under the Litter Act 1979.

4.3.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw lacks clarity and creates uncertainty.

Stakeholder suggest amendments to:

- clarify the requirement to licence an operator of a container on privately owned premises “where the donated goods are likely to be left on an adjoining public place or carried from or to otherwise escape from the premises onto an adjoining public place” to remove uncertainty
- reference provisions for “accumulation of donated goods on a public place within a radius of 10 meters from the container” at the forefront of the Bylaw
- include definitions for donation collection points, donated goods and charity shops
- replace ambiguous terms such as “likely”.

Waste Solutions noted that consideration should be given to licensing of donation collection points under the general waste collector licencing for the use of public places (clause 12). Consideration could also be given to referencing charity shops in the Bylaw.

4.3.9 Are there any implications under the NZBORA 1990?

The Bylaw about donation collection points does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

15 Operators of donation collection points were licensed under clause 12 until 2010.
4.3.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about donation collection points is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.3.12 Other approaches?

Litter Act 1979

Council may enforce issues related to litter and illegal dumping under the Litter Act 1979. The Act enables council to remove or correctly dispose of litter, request names and addresses, and issue an infringement notice.30 There is a maximum $400 infringement fine or maximum $5,000 fine for littering by an individual.31

The Litter (Increased Infringement Fee) Amendment Bill to increase the maximum fine to $1,000 is currently at Select Committee.

Trading and Events in Public Places Bylaw 2015

The Trading and Events in Public Places Bylaw 2015 requires people offering services in public places to obtain approval from the council, Auckland Transport or other council-controlled organisations. Council can set conditions to ensure health and safety, pedestrian and vehicular access, and visual amenity. Council can also impose conditions for fundraising.32

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32 Trading and Events in Public Places Bylaw, clause 18.

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4.4 Inorganic collection

4.4.1 Key findings

- Residual waste issues from the former kerbside inorganic collection included illegal dumping and damage to reusable items. Other issues included health and safety risks, high clean-up costs, and reduced visual amenity.
- The Bylaw currently allows the public to deposit inorganic material in a public place for collection on behalf of council and sets out controls to manage this.
- Implementation of the Bylaw by Waste Solutions focused on proactive service provision and response to complaints.
- Issues associated with inorganic collection remain but have been reduced due to changes in service provision.
- The Bylaw has not been used. Since 2015 council relies on customer agreements for collection of inorganic material within property boundaries.
- Stakeholders suggest the Bylaw clause could be removed.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with inorganic collection remain. A bylaw is not the most appropriate way to address these issues to reduce harm from residual waste.

4.4.2 Explanation

Inorganic material includes household equipment, furniture, appliances and similar items that cannot be collected as domestic waste due to their nature or size.

4.4.3 Residual waste issues

Kerbside inorganic collection caused residual waste issues such as:

- damage to reusable items through scavenging and bad weather
- illegal dumping of unwanted household and commercial waste.

Other issues included:

- health and safety risks for collectors and the public from disposed materials
- high clean-up costs
- reduced visual amenity from disposed materials, especially when collection dates correlated with large events or visits by prominent guests.

4.4.4 Bylaw approach

The Bylaw currently allows the public to deposit inorganic material in a public place for collection where it is collected by or on behalf of the council (Table 4.4.1).

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Waste Bylaw Statement of Proposal
Table 4.4.1 Summary of Bylaw provisions related to inorganic collection

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Inorganic material can be placed on a public place (refer clause 13(4)(a))</td>
<td>Council may make controls to specify:</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material in areas</td>
<td>• weight, size and nature of material</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material in manner likely to</td>
<td>• categories of waste</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material or damage to items</td>
<td>• collection times, locations and conditions</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material or damage to items</td>
<td>• collection methods that cause health and safety risks</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material or damage to items</td>
<td>• operational matters required for safe and efficient collection</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material or damage to items</td>
<td>Everyone must comply with controls</td>
</tr>
<tr>
<td>• Public is prohibited from removing inorganic material or damage to items</td>
<td>(refer clause 25(1))</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.4.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.4.2).

Table 4.4.2 Bylaw Implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Service provision</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td></td>
<td>Graduated approach to complaint response (for example, education, warnings, prosecution).</td>
</tr>
<tr>
<td>Reactive</td>
<td></td>
<td>Council provided an annual kerbside collection service and responded to complaints using a graduated approach.</td>
</tr>
</tbody>
</table>

No prosecutions were made under the Bylaw. The Bylaw has not been used since the introduction of a new inorganic collection service within property boundaries.

4.4.6 Are the residual waste issues still an issue?

Inorganic collection continues to contribute to illegal dumping and damage to items, although there is limited data on the extent of issues. Research suggests the new, on-site inorganic collection service has significantly reduced the scale of issues and increased the separation of recoverable materials.43

Stakeholders indicate that inorganic material continues to be an issue:

- mana whenua and mataawaka reported an increase in illegal dumping of domestic, commercial and hazardous waste from outside of the area
- stakeholders identified privately-provided flexi-bins as an emerging issue. Flexi-bins can contain large or inorganic materials and must be collected from private property. They are often left on the kerbside for easier vehicle access resulting in illegal dumping and operational costs to council.

Waste Solutions estimates that around 30 per cent (or 8,000 tonnes) of all illegally dumped items (e.g. tyres, hazardous waste and commercial waste) were associated with the former inorganic service.

Waste Solutions identified that the volume of inorganic material collected reduced from 27,000 tonnes in 2014 to 6,000 tonnes in 2016. Previously all material collected was landfill and in 2016 inorganic material began to be diverted to other uses.44 Council sends 67 inorganic trucks

43 Service uses a two vehicle system to separate waste from recoverable items.
44 The Waste Plan 2018, p55. Where items are in good condition or in need of minor repairs, they are passed to Charities like the Red Cross, Habitat for Humanity and over 100 small community groups.
every week to make 1,280 collections and retrieve 156 tonnes of reusable items (figure 4.4.4 and Table 4.4.5).

Figure 4.4.4 Volumes of collected inorganic material diverted and landfilled 2014-2018

![Graph showing volumes of collected inorganic material diverted and landfilled 2014-2018](image)

<table>
<thead>
<tr>
<th>Year</th>
<th>Tonnage diverted</th>
<th>Tonnage landfilled</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014/15</td>
<td>0</td>
<td>27,377</td>
</tr>
<tr>
<td>2015/16</td>
<td>1,350</td>
<td>3,400</td>
</tr>
<tr>
<td>2016/17</td>
<td>1,612</td>
<td>5,889</td>
</tr>
<tr>
<td>2017/18</td>
<td>1,628</td>
<td>7,189</td>
</tr>
</tbody>
</table>

4.4.7 Is the Bylaw effective and efficient?

The Bylaw has not been used by council after the implementation of the new onsite collection service in 2016.

The new collection service does not require a Bylaw:
- currently any inorganic matter left on the kerbside is treated as illegal dumping which can incur fines under the Litter Act 1979. Council responds to complaints of littering and illegal dumping on public places within five days of a request for service is raised.
- Flexi-bins are currently not regulated by the Bylaw.

There is a mixed response to the new collection service:
- feedback from residents on the new collection service is increasingly positive\(^{13}\)
- some stakeholders\(^{14}\) support a return to the former kerbside inorganic collection service and consider that the new service is poorly understood and needs to be better tailored for particular community needs.

\(^{13}\) "Recent survey of residents and stakeholders indicated that this has never been questioned or challenged.

\(^{14}\) Eighty-one per cent of customers are satisfied with the new service provision with 69% finding the service easy to book. Customers know about the service because they used it before (around 30 per cent), they rely on flyers (around 30 per cent) or council reminder email (around 23 per cent). Auckland Council, customer survey, July 2018.

\(^{14}\) This includes waste officers and members of the local board members.
4.4.8 Is the Bylaw the most appropriate form of bylaw?

Waste Solutions advocates for retention of the definition of inorganic material in the Bylaw and removal of redundant Bylaw clauses due to the new collection service within property boundaries.

Waste Solutions considers that the Bylaw could be amended to accommodate the privately-provided flexi-bins. Consideration to be given to depositing of flexi-bins in public places (kerbside) subject to strict conditions such as a 24-hour collection timeframe by operator.

4.4.9 Are there any implications under the NZBORA 1990?

The Bylaw about inorganic material does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.4.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about inorganic material is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.4.11 Other approaches?

Litter Act 1979

Council may enforce issues related to litter and illegal dumping under the Litter Act 1979. The Act enables council to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice. There is a maximum $400 infringement fine or maximum $5,000 fine for littering by an individual. Where litter is dangerous or there is risk of breaking of glass, there is a potential maximum one-month imprisonment or $7,500 fine. Council can order a person to clear an area of litter (failure to comply is a fine not exceeding $500) or recover removal costs.

This Act however is reactive, for example, the Act does not support proactive service provision. The Litter (Increased Infringement Fee) Amendment Bill to increase the maximum fine to $1,000 is currently at Select Committee.

Inorganic Collection from within property boundaries

Council introduced a new inorganic collection service from within property boundaries in 2015. Council incorporated the Bylaw controls into the terms and conditions for the new service. Residents who use the service automatically accept terms and conditions.

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48 The new on-site inorganic collection replaced a rate of kerbside and on-site collections and is offered to 50,000 eligible properties across the Auckland region. Each property can make one annual booking (pre-paid in rates) to remove items directly from within property boundaries. Residents can also take items to Community Recycling Centres, charities or private recyclers where a fee may be charged. The customer participation rate has increased from 17 per cent in 2017 to 22 per cent in 2018. The current contract for inorganic collection will end in 2018. A review will assess the potential for partial or full delivery of this service through Community Recycling Centres.
50 Terms and conditions specify that residents can dispose up to 1 cubic metre of acceptable items. Individual items must not be heavier than 55 kilograms. Any non-compliance results in items not being collected (a case is left in a letterbox explaining why collection hasn’t taken place).
The Hauraki Gulf Islands have unique collection services due to their location (Table 4.4.3).

<table>
<thead>
<tr>
<th>Table 4.4.3 Inorganic collection services in the Hauraki Gulf Islands</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aotea Great Barrier</strong></td>
</tr>
<tr>
<td>Current approach</td>
</tr>
<tr>
<td>Future approach</td>
</tr>
</tbody>
</table>

\(^{52}\) Council provided three mobile bins at Sandspit Wharf where 37 per cent of the waste collected is inorganic. Waste Solutions reported that this is to change at the request of Kawau residents and the local board due to illegal dumping, reduced visual amenity and nuisance.

Material collected is incinerated to the mainland for disposal.

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Waste Bylaw Statement of Proposal
4.5 Collection of hazardous waste from a public place

4.5.1 Key findings
- Residual waste and other issues from the collection of hazardous waste from public places include contamination of land and waterways and risks to health and safety.
- The Bylaw currently prohibits the placement of hazardous waste in a public place for collection.
- Bylaw implementation Waste Solutions focuses on proactive approvals for collection (no approvals have been granted), inspections and complaint response.
- Issues associated with the collection of hazardous waste from public places remain, however there is limited data on the scale of issues.
- The Bylaw is useful to set expectations for the types of waste able to be collected from a public place. Enforcement is difficult because hazardous waste is often concealed.
- Stakeholders suggest the Bylaw could be made more certain and easier to understand.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with the collection of hazardous waste from public places remain. A bylaw is the most appropriate way to address these issues to reduce harm from residual waste, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form could be made clearer.

4.5.2 Explanation
Hazardous wastes have flammable, explosive, corrosive, toxic or oxidising properties, or can develop these properties on contact with air or water. They have limited scope for reuse or recycling and often require further treatment before disposal to prevent contaminants from entering the land, water or air. Data suggests that between 33 and 44 tonnes of hazardous waste is generated annually in Auckland.

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Waste Bylaw Statement of Proposal

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4.5.3 Residual waste issues

Hazardous waste can cause residual waste issues such as:

- land contamination from untreated hazardous waste or soil containing asbestos
- waterway contamination from illegal dumping of hazardous wastes.

Hazardous waste can also pose health and safety risks, for example from:

- concealment of cancer causing asbestos in refuse, stockpiling of hazardous waste by households and commercial entities, and disposal of medical waste (such as sharps, fluid bags and tubing) in domestic refuse bins
- fire caused by lithium batteries and pool cleaners in collection vehicles, transfer stations and landfills.

4.5.4 Bylaw approach

The Bylaw currently prohibits placement of hazardous waste in a public place for collection unless authorised by council under the Bylaw (clause 13(2)). Controls under the Bylaw prevent inclusion of prohibited waste in domestic recycling bins and disposal at clean-fills and managed fills.\textsuperscript{50}

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.5.5 Bylaw implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Approvals for collection of prohibited waste from public places. Recycling bin inspections.</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to complaint response (for example auditing of recycling bins, leaving bins red-tagged and uncollected, warnings, prosecution).</td>
</tr>
</tbody>
</table>

\textsuperscript{50} Separation of Domestic Waste Collected from a Public Place Control 2013 and Disposal of Waste to Land Control: 2013.
Waste Solutions has a proactive and reactive approach to bylaw implementation (Table 4.5.5.1).

Council has not authorised the collection of prohibited waste from a public place. Hazardous wastes must be collected from private property or disposed of at a collection facility (refer to other approaches for further discussion).

Council inspects the content of recycling bins daily and if hazardous items are found, bins are left red-tagged and uncollected, and a warning letter is sent to the household.

There have been no prosecutions under the Bylaw.

4.5.6 Are the residual waste issues still an issue?

Issues associated with the collection of hazardous waste from public places remain, however there is limited data on the scale of the issue.38 Research and stakeholders indicate that:

- hazardous waste continues to be deposited in domestic refuse and recycling bins and is concealed in general refuse by commercial entities;
- an estimated 4,800 tonnes of domestic hazardous waste is annually deposited to landfill from kerbside bins, including lithium batteries and pool cleaners;
- “potentially hazardous” waste39 (including e-waste) deposited in domestic kerbside refuse increased by 0.5 per cent from 1,449 tonnes in 2011 to 2,818 tonnes in 2016;
- disposal of medical waste such as sharps, fluid bags and tubing in domestic refuse bins has increased due to limited hospital space and high discharge rates;
- in 2018, one District Health Board received six complaints (an increase) about health and safety risks from disposal of medical waste;
- an increase in illegal dumping and concealment of asbestos in refuse at transfer stations correlates with an increase in building renovations and demolitions;
- hidden asbestos is common at the Waitakere Transfer Station.

4.5.7 Is the Bylaw effective and efficient?

The Bylaw is useful to set expectations for the types of waste able to be collected from a public place. Enforcement is difficult because hazardous waste is often concealed.

Stakeholders consider that hazardous waste must be regulated and that the Bylaw provides helpful guidance to the industry and residents.

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38 Volume of hazardous commercial waste and unknown volume of household hazardous waste are difficult to define due to disposal in the household organic services, Appendix 3 Draft household hazardous waste policy, Waste Assessment 2017, p32.
39 Data is available for the year 2009/2010 where the former council HazWaste collected 44 tonnes of household hazardous waste from the two per cent of Auckland households using the service.
Matters related to hazardous waste disposal outside of the scope of the Bylaw review have been referred to Waste Solutions:

- Bylaw enforcement requires more adequate resourcing
- Māori whānau and mataawaka representatives consider that transporting hazardous waste across Tamaki and placing it into Papatuanuku is against Te Ao Māori25 and that monitoring is needed of hazardous waste businesses or those who pollute
- an increase in soil and sludges removed via hydro excavation since 2012 due to technological advancement, often disposed of in clean-fills with minimal testing to determine content or contamination
- poor understanding of "potentially" hazardous wastes
- need for easier methods of household hazardous waste disposal
- limited collection, treatment, recycling and disposal options for hazardous waste such as asbestos, sanitary waste, household batteries, and tyres
- low cost of landfill compared to other disposal options
- lack of specialist treatment infrastructure
- limited numbers of product stewardship schemes26
- a small recovery treatment and disposal market - Intenwaste, Chemwaste Industries (owned by EnviroWaste) and Nuplex Medismart (owned by Waste Management) are the three core operators
- no consistent national definition of hazardous waste creates disposal issues as waste facilities may accept different components of hazardous wastes.

4.5.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw to be unclear, unstructured and too technical. They suggested the following improvements:

- clarity definition of “prohibited waste” and streamlining interchangeable terminology such as special waste, hazardous waste, medical waste and prohibited waste
- consider broader terms for application to a range of situations
- consider mandatory reporting of hazardous waste
- consider mandatory separation of construction and demolition waste
- consider licence companies dealing with any hazardous waste (including wastes removed via hydro excavation and asbestos removers)
- consider minimum standards for containment or storage of hazardous wastes.

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25 They advocated for treatment of hazardous waste at source and identified that hazardous waste disposal affects water quality, karākia, and the ability of Māori to conduct cultural practices.
26 Councils advocating for product stewardship schemes for hazardous wastes.
4.5.9 Are there any implications under the NZBORA 1990?

The bylaw about the collection of hazardous wastes from public places does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.5.10 Is the bylaw inconsistent with the 2018 Waste Plan?

A bylaw about the collection of hazardous wastes from public places is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.5.11 Other approaches?

Waste Plan 2018 non-regulatory approach

Council identified actions in the Waste Plan 2018 concerning hazardous wastes:

- development of a household hazardous waste strategy, to address collection systems, data requirements and public education
- increase number of Community Recycling Centres to collect hazardous waste
- advocate for commercial hazardous waste tracking
- advocate for national asbestos identification and disposal system targeting DIY home owners.

Council has also drafted a Hazardous Household Waste Policy to explore options to increase council’s role in managing and reducing these wastes.

These are important methods but would not provide any enforcement powers or penalties to address incidents of inappropriate hazardous waste disposal when they occur.

Service provision

Council funds facilities for hazardous waste processing, recycling or disposal (Table 4.5.11.1). This is an important method but would not provide any enforcement powers or penalties to address incidents of inappropriate hazardous waste disposal when they occur.

Table 4.5.11.1 Facilities accepting hazardous wastes

<table>
<thead>
<tr>
<th>Facilities accepting hazardous wastes</th>
<th>Hazardous wastes accepted&lt;sup&gt;a&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claris Recycling Centre (Claris Landfill, Great Barrier Island)</td>
<td>household chemicals (including garden chemicals)</td>
</tr>
<tr>
<td>Constellation Drive Refuse Transfer Station</td>
<td>persistent Organic Pollutants</td>
</tr>
<tr>
<td>Pilkes Point Transfer Station</td>
<td>old chemicals (30 year or older, in any state)</td>
</tr>
<tr>
<td>Pukenake Transfer Station</td>
<td>lead-based and bituminous products</td>
</tr>
<tr>
<td>Silverdale Refuse Station</td>
<td>solvents</td>
</tr>
<tr>
<td>Waitakere Island Recycling Centre</td>
<td>potentially explosive or dangerous chemicals</td>
</tr>
<tr>
<td>Waitakere Refuse and Recycling Transfer Station</td>
<td>mercury and mercury containing items (excluding lamps)</td>
</tr>
<tr>
<td>Waikato Refuse and Recycling Transfer Station</td>
<td>flares and other explosive materials and devices</td>
</tr>
</tbody>
</table>

<sup>a</sup> A mixture of council and privately-owned facilities. Waste Assessment 2017, pp 67-68.

<sup>b</sup> Waste Assessment 2017, pp 88.
It is noted that asbestos is not accepted at Auckland transfer stations. Asbestos must be removed and isolated by certified professionals.

Council plans to increase the number of Community Recycling Centres (CRCs) from five to 12 by 2024. Where possible the Community Recycling Centres will include drop-off points for hazardous wastes.

Auckland, Waitakere and Counties Manukau District Health Boards offer the Dispose of Unwanted Medicine Properly (CUI/UP) service which enables residents to return redundant or expired medicines and sharp items to pharmacies. This service does not apply to most home care wastes.

Other non-regulatory approaches
Stakeholders representatives suggested non-regulatory measures to address hazardous waste issues:

- reinstatement of the HazMobile
- relationship building with producers
- free asbestos tests funded by council
- public education campaigns including collaboration between council and other entities (for example, product stewardship schemes)

Current central government legislation
Central government legislation such as the Hazardous Substances and New Organisms Act 1996 (HSNO) addresses the import, manufacture and classification of hazardous wastes. The Health and Safety at Work Act 2015 and the HSNO address the safe use, handling and storage of hazardous waste in the workplace for health and safety. WorkSafe New Zealand is now responsible for rules relating to hazardous substances and workplace health and safety, and the Environmental Protection Agency approves hazardous substances for use in New Zealand.

This legislation is too broad to address specific issues identified in Auckland.

Auckland Unitary Plan
The Auckland Unitary Plan addresses the storage of hazardous substances on land and in the coastal marine area which present a health or environmental risk. Storage of hazardous wastes may require a resource consent depending on the type, quantity and zone of the waste stored (E 31.4.1). Non-compliance with these provisions is an offence under section 9 of the Resource Management Act 1991.

Where the quantity of hazardous substances stored above ground is greater than that used for domestic purposes, the substances must be stored in a rainwater-proof container and within a second containment device resistant to chemical attack from substances stored inside (E 33.8.1.1 (3)). Storage of quantities of waste addressed under Part 4 of the Hazardous Substances (Emergency Management) Regulations 2001 are considered to comply with...
E 33.6.1.1 (5), while those not covered by Part 4 are considered to comply depending on specific requirements under E 33.6.1.1 (7).

A resource consent may be required for the discharge of contaminants from industrial or trade activity areas including landfills or from hazardous materials storage or treatment depending on discharge levels (E 33.4.2). Non-compliance is an offence under section 15 of the Resource Management Act 1991.

This approach does not address issues associated with the inappropriate disposal of all domestic hazardous waste.
4.6 Collection of waste from multi-unit developments

4.6.1 Key findings

- Residual waste issues from the collection of waste from multi-unit developments arise when inadequate consideration of waste management results in waste contamination, reduced incentive to minimise waste, fewer opportunities for on-site composting of organic wastes, and illegal dumping.
- Other issues include health and safety risks, misuse of public places, increased waste traffic and noise and additional costs to residents from extra waste services.
- The Bylaw requires multi-unit developments to have an approved waste management and minimization plan and to comply with any controls about the deposit, collection, transportation and management of waste.
- Implementation of the Bylaw by council’s Waste Solutions Unit focuses on proactive technical feedback and approval, and complaint response.
- Issues associated with collection of waste from multi-unit developments remain and are expected to increase with population growth and housing density.
- The Bylaw is a useful tool to address waste issues in multi-unit developments due to limited waste provisions in the Auckland Unitary Plan, but is a less useful enforcement tool and has not been implemented for existing multi-unit developments.
- Stakeholders suggest the Bylaw form could be improved to make it clearer.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with the collection of waste from multi-unit developments remain. A bylaw is the most appropriate way to address these issues to reduce harm from residual waste until alternative measures become available. A bylaw would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form could be made easier to understand.

4.6.2 Explanation

Multi-unit developments (MUDs) are defined as developments consisting of 10 or more residential and/or commercial units. MUDs have complex waste storage and access requirements for residents and waste operators.

4.6.3 Residual waste issues

The inadequate consideration of waste management for MUDs in the design process (for example, insufficient space and poor or no access to waste storage areas) can cause residual waste issues such as:

- waste contamination
- reduced incentive to minimise waste
- fewer opportunities for on-site composting of organic wastes
- illegal dumping where waste systems are insufficient.
Other issues include:
- odour and vermin from insufficient provision of waste storage space
- restricted pedestrian flow and misuse of public places (for example, when parking and open space areas or adjacent public places are used for waste storage)
- increased traffic and noise issues from more frequent waste collections
- additional cost to residents from extra maintenance or bespoke collection services.

It is noted that residents already pay a fixed charge on their rates for council waste collection services. Private collectors provide waste services to multi-unit developments where council’s kerbside collection does not suit the site. This typically takes place in multi-story developments that are higher than three levels and those developments with communal waste systems.

4.6.4 Bylaw approach

The Bylaw requires MUDs to have an approved waste management and minimization plan and to comply with controls in relation to the deposit, collection, transportation and management of waste (Table 4.6.1).

Table 4.6.1 Summary of Bylaw provisions related to collection of waste from MUDs

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Exemptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner and manager to:</td>
<td>If:</td>
</tr>
<tr>
<td>- provide for management of all waste (clause 2(1));</td>
<td>- costs of compliance are disproportionate to waste management and minimization benefits;</td>
</tr>
<tr>
<td>- obtain and comply with a council approved waste management and minimization plan (clause 2(2) and 2(3));</td>
<td>or</td>
</tr>
<tr>
<td>- must comply with any multi-unit development controls in relation to the deposit, collection, transportation and management of waste (clause 2(4));</td>
<td>- owner or manager satisfies council that refuse, recyclable material and organic waste are separately and regularly collected (clause 2(5));</td>
</tr>
<tr>
<td>Waste plan must include:</td>
<td></td>
</tr>
<tr>
<td>- accessible waste storage area</td>
<td></td>
</tr>
<tr>
<td>- methods to minimise noise and odour, prevent vermin, theft and vandalism, and ensure hygiene</td>
<td></td>
</tr>
<tr>
<td>- means and route of access and egress to waste storage area</td>
<td></td>
</tr>
<tr>
<td>- estimate of volumes of refuse, recyclables, and organic matter generated</td>
<td></td>
</tr>
<tr>
<td>- further steps to be taken to minimise waste (clause 2(6));</td>
<td></td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarized in global findings.

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81 Multi-unit developments with 10 or more residential units in the former Auckland City Council area can opt out of the council waste collection service by choosing an approved alternative provider. Residents receive a one-off remission of $12.57 (GST exclusive) for refuse and $53.57 (GST exclusive) for recycling services. Amendments to Auckland Council’s Long-Term Plan 2010-2016, Rates remission and postponement policy, pp. 26.

83 Council generally provides a kerbside collection for refuse (weekly) and recycling (fortnightly) for multi-unit developments in some areas; council’s service provision is increasingly tailored to on-site collections and provision of larger bins. Waste can be collected from a development through either kerbside collection (waste bins located onto the street berm for public collection) or on-site waste collected by trucks from within the site.

86 Anecdotally, private collectors have an almost total market share in those developments. Rubbish Direct is among the most active private service providers, servicing approximately 60-80 per cent of apartments in the central business district. Tailored services include management of rubbish chutes, larger or multiple bins, manual movement of bins, bin replacement and washing, higher frequency of collection or collection in areas with restricted access or where security arrangements such as a swipe card are in place.

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Waste Bylaw Statement of Proposal
4.6.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.6.2).

Table 4.6.2 Bylaw implementation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
<th>Waste Solutions provides advice and technical feedback on the waste plans before approval. Council uses a graduated approach to complaints.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Advice and technical feedback, approval on MUD waste management and minimization plans</td>
<td>No prosecutions have been made under the Bylaw.</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to compliance.</td>
<td></td>
</tr>
</tbody>
</table>

4.6.6 Are the residual waste issues still an issue?

Issues related to collection of waste from multi-unit developments remain and are expected to grow due to regional focus on increasing housing supply:

- increased waste traffic and noise issues from multiple collections during the day or week, for example daily for refuse and up to three times per week for recycling
- pavement clutter, road obstruction and configuration of sites with narrow frontages and limited verges
- limited space to maneuver and load bins onto waste collection vehicles relates to poor access to waste storage areas and health and safety risks.

Waste collectors also identify issues that affect their operations, including:

- access concerns for a pedestrian-only central Auckland\footnote{In November 2019, councilors voted unanimously to trial in 2019 pedestrian-only central Auckland to prioritize public transport, walking and cycling. The trial would make Queen Street inaccessible to all vehicles except for buses, delivery vehicles and essential services vehicles such as rubbish trucks.}
- increased kerbside parking and the addition of cycling lanes between footpaths and roads widens the distance between collection vehicles and kerbside bins, prevents waste collection and poses a safety risk for cyclists and other road users
- replacement of full-time building managers with fixed-time or no managers reduces the likelihood of well-managed and maintained waste storage areas
- more transient nature of MUD occupants requires more education on waste separation and provision of signage presented both in multiple languages and pictures
- impracticalities of existing early collection times in the central business district area result in transport inefficiencies and noise complaints.

There is limited data on the extent of the issues, but the scale of issues are expected to increase due to rapid population growth and housing density:

- the population in the Auckland region is expected to exceed 2.3 million by 2043
- population aged over 85 years will more than double between 2013 and 2043, up from 162,700 to 386,900 people\footnote{Statistics New Zealand.}
- building consent data indicates that the number of units in specialized retirement villages almost doubled from 443 units in 2013 to 888 in 2017
- approximately 1,522 sites in the Auckland region contain more than 10 dwellings per site which equates to a total of 66,377 dwellings or 12.5 per cent of Auckland’s overall residential properties.
- between January and November 2018, council issued 94 consents for multi-unit developments anticipated to deliver 2,868 residential units (Table 4.6.4).
- by 2024 around one third of Aucklanders will live in an adjoining dwelling.

### Table 4.6.4 Resource consents issued by council for multi-unit developments

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Resource consents</th>
<th>Dwellings consented</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>11</td>
<td>279</td>
</tr>
<tr>
<td>2011</td>
<td>18</td>
<td>528</td>
</tr>
<tr>
<td>2012</td>
<td>23</td>
<td>651</td>
</tr>
<tr>
<td>2013</td>
<td>34</td>
<td>1,360</td>
</tr>
<tr>
<td>2014</td>
<td>59</td>
<td>1,992</td>
</tr>
<tr>
<td>2015</td>
<td>50</td>
<td>2,123</td>
</tr>
<tr>
<td>2016</td>
<td>56</td>
<td>1,950</td>
</tr>
<tr>
<td>2017</td>
<td>61</td>
<td>2,568</td>
</tr>
<tr>
<td>2018</td>
<td>94</td>
<td>2,868</td>
</tr>
</tbody>
</table>

#### 4.6.7 Is the Bylaw effective and efficient?

The Bylaw is useful to address waste-related issues in MUDs through waste plans:
- stakeholders consider the Bylaw necessary due to limited waste provisions in the Auckland Unitary Plan (refer to other approaches for further details).
- some stakeholders consider that the Bylaw provides consistent expectations and a helpful framework that can drive behavioural change.
- Waste Solutions noted that since 2015, all new multi-unit developments have been required to submit a waste plan as part of the resource consent process. While the Bylaw clause has not necessarily directly affected the consent assessments, it has filled the gap for waste provisions in multi-unit developments.

### Table 4.6.5 Waste plans approved by Waste Solutions

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>1</td>
</tr>
<tr>
<td>2016</td>
<td>35</td>
</tr>
<tr>
<td>2017</td>
<td>72</td>
</tr>
<tr>
<td>2018</td>
<td>64</td>
</tr>
</tbody>
</table>

The Bylaw is less useful as an enforcement tool:
- stakeholders consider that lack of enforcement hinders the effectiveness of the Bylaw.
- Waste Solutions identified that the Bylaw has not been implemented for existing multi-unit developments as the roll-out of consistent refuse, recycling and food scrap services across the region has been delayed.

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**Waste Bylaw Statement of Proposal**

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68 Site information (residential footprints) captures all multi-unit properties which contain more than 10 dwellings per site.
69 Data based on Auckland Council RMAI population.
70 Only applies to multi-unit developments containing more than 10 units.
71 This data reflects the number of waste management plans submitted to Waste Solutions until October 2018.
72 The 2012 Waste Plan provided provision of consistent waste services across the region from 2013.
4.6.8 Is the Bylaw the most appropriate form of bylaw?
Stakeholders consider the Bylaw to be unclear and too technical. They note that it includes provisions already referenced in other regulation.
Stakeholders recommend that the Bylaw be clarified and suggest the following improvements:
- definition of multi-unit developments to capture variability of MUD types
- clarify terminology such as “adequate area” and “owner and manager”
- define and reference property developers
- align provisions with the Building Code and other regulations
- consider greater focus on waste minimization, not just waste management.

4.6.9 Are there any implications under the NZBORA 1990?
The Bylaw about the collection of waste from multi-unit developments does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.6.10 Is the Bylaw consistent with the 2018 Waste Plan?
A bylaw about the collection of waste from multi-unit developments is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.6.11 Other approaches?
Building Code in the Building Regulations 1992
The Building Code requires designers and developers of multi-unit developments to provide “space and facilities for collection, and safe hygienic holding prior to disposal, of solid waste arising from the intended use of the building.” The purpose of this clause is to safeguard people from injury or illness caused by infection or contamination from solid waste.
However, these requirements do not address issues related to the size of waste storage areas, vehicle access and waste minimization.

Auckland Unitary Plan (AUP)
The Unitary Plan currently provides no effective requirement for waste separation, storage and collection for MUDs within the Residential Terraced Housing and Apartment Buildings zone. Council is currently proposing amendments within this zone (PC10) to enable additional considerations for waste storage in all dwellings. Public consultation on the proposed changes closed on 31 January 2019. A hearing is likely to be held in April – May 2019.
Until such time as this plan change becomes operative, a bylaw would continue to be useful.
In the Mixed Housing Suburban and Mixed Housing Urban zones, the Unitary Plan does however require decision-makers to consider whether there are “waste collection and recycling facilities in locations conveniently accessible and screened from streets and public open spaces” in developments of four or more dwellings. These zones however are not MUD zones.

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Multi-unit development Solid Waste Calculator and design guide

Waste Solutions has developed the Solid Waste Calculator which estimates the average volume of waste per person per week, the maximum occupancy of a building and how much waste will need to be stored for a set collection frequency.76

Council is also currently completing development of a design guide, Design Element R7: Waste Management for residential dwellings. This non-statutory design guide aims to assist developers, designers and planners in achieving policy outcomes under the Auckland Unitary Plan.

These non-regulatory tools would complement regulatory methods, including the Bylaw.

76 The Solid Waste Calculator (http://www.aucklanddesignmanual.co.nz/resources/tools/owc) was adopted by Resource Consents and Auckland Design Manual teams.
4.7 Waste Management at Events

4.7.1 Key findings
- Residual waste issues from events include litter, waste contamination, unnecessary waste to landfill, and illegal dumping.
- Other issues from events include nuisance, safety risks, and high operational costs.
- The Bylaw currently requires event organisers to gain prior council approval of an event waste management and minimisation plan and comply with the approved plan.
- Implementation of the Bylaw Waste Solutions focuses on assessment of waste management and minimisation plans and response to complaints.
- Issues associated with events remain, but data is unavailable on their scale.
- The Bylaw is a useful tool to encourage waste management and minimisation.
- Stakeholders suggest the Bylaw form could be improved to make it clearer.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with events remain. A bylaw is the most appropriate way to address these issues to reduce harm from residual waste and other issues, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form could be made clearer.

4.7.2 Explanation
Events are organised temporary activities that include open-air markets, parades, protests, festivals, film shoots, concerts, celebrations and other organised gatherings. Events of significant scale generate a large quantity of recyclable and landfill waste.

4.7.3 Residual waste issues
Events can cause residual waste issues such as:
- Litter from inadequate containment of waste and insufficient or poorly-located bin stations, waste contamination from disposal of waste into inappropriate bins
- Unnecessary waste to landfill from poor separation of organic and recyclable material
- Legal disposal of event waste (particularly from smaller events due to fiscal constraints), and corporate giveaways (flyers, balloons and the like) by attendees.

Events can cause nuisance, safety and operational issues such as:
- Nuisance from inadequate containment of waste
- Safety risks for unaccompanied children from insufficient and poorly-located bin stations
- High operational cost of event waste management, especially for local events.\textsuperscript{76}

\textsuperscript{76}Particularly bins located solely at event entrance
\textsuperscript{77}Identified by mana whenua and community representatives. Representatives agreed with other issues identified by stakeholders.
\textsuperscript{78}Input from stakeholders included individual local board members

Waste Bylaw Statement of Proposal
4.7.4 Bylaw approach

The Bylaw requires a waste management and minimisation plan for events (event waste plan) (See Table 4.7.1).

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Possible requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Event organiser must obtain an event waste plan approval from council prior to the event (refer clause 23(1))</td>
<td>Council may require:</td>
</tr>
<tr>
<td>Event organiser must comply with approved event waste plan (refer clause 23(3))</td>
<td>• estimate of types and amounts of waste generated</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

It is noted that under the Trading and Events in Public Places Bylaw 2015 organiser of an event in a public place must obtain a council permit from Arts, Community and Events (ACE). A condition of the permit is to comply with an event waste plan under the Solid Waste Bylaw 2012.79

4.7.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.7.2).

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Event waste plan requirement, feedback and approval</td>
</tr>
<tr>
<td>Reactive</td>
<td>Follow-up with event organiser about complaints</td>
</tr>
</tbody>
</table>

Waste Solutions provides advice and technical feedback on event waste plans and uses a graduated compliance model to reactively respond to complaints by following up with event organisers. No prosecutions have been made under the Bylaw.

4.7.6 Are the residual waste issues still an issue?

Events continue to contribute to litter, waste contamination and poor waste separation.

No data is available on the number of event waste plans approved by council since the adoption of the Bylaw. However, council issued 1435 permits for events on public places from 1 July 2017 to 30 June 2018 under the Trading and Events in Public Places Bylaw 2015 (Table 4.7.3).

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79 Anecdotally, councils declined one event permit due to the lack of compliance with waste plan requirements.
80 If council is required to clean up after a permitted event, the event organiser is charged.
81 Data source: Auckland Council, Arts, Community and Events Unit
Table 4.7.3 Number of permits for events on public places by local board area 2017/2018

<table>
<thead>
<tr>
<th>Local Board</th>
<th>Total number of permitted events</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waitakere</td>
<td>291</td>
</tr>
<tr>
<td>Devonport-Takapuna</td>
<td>267</td>
</tr>
<tr>
<td>Hibiscus and Bays</td>
<td>148</td>
</tr>
<tr>
<td>Orakei</td>
<td>142</td>
</tr>
<tr>
<td>Albert-Eden</td>
<td>79</td>
</tr>
<tr>
<td>Rodney</td>
<td>63</td>
</tr>
<tr>
<td>Whau</td>
<td>60</td>
</tr>
<tr>
<td>Henderson-Massay</td>
<td>57</td>
</tr>
<tr>
<td>Franklin</td>
<td>55</td>
</tr>
<tr>
<td>Waitakere Ranges</td>
<td>44</td>
</tr>
<tr>
<td>Kapiti</td>
<td>41</td>
</tr>
<tr>
<td>Howick</td>
<td>34</td>
</tr>
<tr>
<td>Maungakiekie-Tamaki</td>
<td>32</td>
</tr>
<tr>
<td>Paketteka</td>
<td>27</td>
</tr>
<tr>
<td>Manurewa</td>
<td>25</td>
</tr>
<tr>
<td>Otara-Papatoetoe</td>
<td>21</td>
</tr>
<tr>
<td>Waiheke</td>
<td>18</td>
</tr>
<tr>
<td>Upper Harbour</td>
<td>17</td>
</tr>
<tr>
<td>Mangere-Otahuhu</td>
<td>10</td>
</tr>
<tr>
<td>Papakura</td>
<td>9</td>
</tr>
<tr>
<td>Great Barrier Island</td>
<td>0</td>
</tr>
</tbody>
</table>

Stakeholders indicate that events continue to contribute to issues:

- all stakeholders highlighted waste contamination as a significant issue, although there is no data available on contamination rates. Waste operators noted that at many events compostable waste outweighs refuse and recyclable waste, and additional compostable waste bins are often required to prevent contamination of recyclable materials.
- some stakeholders highlighted increasing operational costs as a barrier to effective waste minimisation. Some stakeholders indicated that some event organisers outsource waste management, focus on the cheapest option to do the bare minimum and do not engage in post-event waste analysis. Māori whenus and mataawaka representatives considered that event organisers need a greater focus on Papatuanuku not putea (finances).
- some stakeholders consider that there is a growing awareness of waste issues. Event trends include provision of washing stations and compostable packaging, and encouragement of attendees to bring their own cutlery, reusable straws and water bottles. One large event organisation noted that there has been a gradual reduction in total waste and waste contamination due to general awareness of waste issues. One

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This includes mana whenua and mataawaka representatives.

The 2015 Pamati Rose Festival was recognised as one of the most sustainable events by Auckland Zero Waste Alliance with 36 per cent of waste diverted from landfill, including 91 per cent composted, eight per cent recycled and two per cent landfilled.
event organiser commented on the value of partnerships with large event sponsors such as Coca Cola and the need to consider their obligations to help minimise waste.

4.7.7 Is the Bylaw effective and efficient?

All stakeholders agreed that the Bylaw is useful and necessary to encourage waste management and minimisation.

- Some stakeholders noted that the Bylaw provides consistent expectations and normalises the need for the event waste plans.
- The Bylaw is the only regulatory tool that implements the Zero Waste Events guidelines.\textsuperscript{84}

Stakeholders considered that the Bylaw focus could be broadened to better minimise waste:

- Some stakeholders considered that the Bylaw focuses too much on waste management rather than waste minimisation.
- Some event organisers feel “targeted” by Bylaw requirements and consider that waste minimisation efforts should be shared more equitably with other businesses or organisations using public places. They identified inconsistent requirements for provision of bins to separate waste for different entities.

Stakeholders consider that the Bylaw enforcement is limited by a lack of staff resourcing. These operational matters are outside of the Bylaw review scope and have been referred to Waste Solutions:

- Stakeholders consider that advice on waste plans is untimely and inconsistent. Some stakeholders suggested a standardised online hub with tools similar to the existing multi-unit development calculator to ensure a more coordinated approach.
- Events are not audited to ensure compliance with event waste plans. Some stakeholders estimate that 80% of event organiser do not comply with their event waste plan and suggested regular audits\textsuperscript{85} to ensure compliance.
- Sufficient data collection systems remain undeveloped.\textsuperscript{86}

4.7.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw to be concise and user-friendly, but lacking clarity. Stakeholders suggested the following improvements:

- Specify types of events requiring event waste plans instead of citing particular in event definition.
- Clarify reference to “celebrations” and “protests” as granting approval could be perceived as council’s support of the particular protest or celebration.
- More effectively address waste minimisation.

\textsuperscript{84} Since 2012, all events organised by council or on council land are required to work towards zero waste. Events held on council land need a waste plan if the event is going to generate a lot of waste, is on an environmentally or culturally sensitive site, or is going to attract more than 100 people. Zero Waste Events guidelines provide advice on event waste minimisation (https://www.waikato.govt.nz). Many events organised and sponsored by council are now run as zero waste, including Airbury Farm Day, Parnell Festival of Roses and the 2016 Movember Parks series.

\textsuperscript{85} Waste Solutions audited large events in 2014/2015 and 2015/2016 event seasons to ensure enforcement and understand on-ground logistics.

\textsuperscript{86} This includes marae Whakauku and marae kaupapa reo wairarapa.
more closely align to the Trading and Events in Public Places Bylaw and assess the practicalities of waste plans for community events, picnics, weddings or small events that generate little or no waste

- explore the obligations of food vendors as main producers of compostable waste and address corporate giveaways.

4.7.9 Are there any implications under the NZBORA 1990?
The Bylaw about events does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.7.10 Is the Bylaw inconsistent with the 2018 Waste Plan?
A bylaw about events is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.7.11 Other approaches?

Litter Act 1979
Council may enforce issues related to litter and illegal dumping under the Litter Act 1979. The Act enables council to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice. There is a maximum $600 infringement fine or maximum $5,000 fine for littering by an individual.

The Litter (Increased Infringement Fee) Amendment Bill to increase the maximum fine to $1,000 is currently at Select Committee.

This Act however is reactive, for example the Act does not require event waste plans.

Trading and Events in Public Places Bylaw 2015
The Trading and Events in Public Places Bylaw regulates events on roads and other public places by requiring operators to obtain a permit from council. Approval conditions require compliance with an event waste plan.

When a person does not comply with the conditions of approval, council may issue or a written warning, review the approval by amending, suspending, withdrawing the approval or taking no further action. Any breach of the trading and events bylaw is liable to a penalty under the Local Government Act 2002, the Land Transport Act 1988, the Health Act 1956 or the Litter Act 1979.

Stakeholders noted their preference to retain waste related issues in the Solid Waste Bylaw.

Unitary Plan
Venues that regularly attract crowds or are specifically designed for events (stadiums, theatres and entertainment venues) require a resource consent under the Unitary Plan. The Resource Management Act 1991 provides penalties for breach of a resource consent.

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69 Litter Act, sections 7(2), 7(3), 10(1), 12.
68 Litter Act, sections 15(1)(2), 16, 20, 21
67 Trading and Events in Public Places Bylaw, clause 6(1)(b)
66 Trading and Events in Public Places Bylaw, clause 11(1)(b)
4.8 Litter

4.8.1 Key findings

- Residual waste issues from litter include environmental harm.
- Other issues include decreased visual amenity and community pride, high maintenance costs to council and health and safety risks.
- Litter and illegal dumping are addressed under the Litter Act 1979 and Resource Management Act 1991 through proactive monitoring of hotspot areas and response to complaints. These Acts are more effective than bylaw powers and penalties. For example, the Litter Act provides $400 infringement notices.
- The Bylaw is limited to requiring people to take all reasonable steps to prevent the display of flags, balloons, posters and the like from becoming litter. The Bylaw addresses a perceived regulatory gap in the Litter Act 1979 about accidental littering.
- The Bylaw is administered Waste Solutions but has not been used.
- While issues of litter and illegal dumping remain, the need to regulate accidental littering has not occurred.
- Waste Solutions considers the Bylaw to be unnecessary. A bylaw however may help address emerging issues associated with the use of flexi-bins.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with the risk of accidental littering could be removed from the Bylaw. A bylaw however may help address emerging issues associated with the use of privately provided flexi-bins. Issues of litter and illegal dumping remain but they are sufficiently addressed under the Litter Act 1979 and Resource Management Act 1991. In addition, council uses proactive monitoring and community based initiatives.

4.8.2 Explanation

Littering is the acts of placing, dropping, leaving or disposing of waste without authorization or outside of designated receptacles in public or private places.

4.8.3 Residual waste issues

Litter can cause residual waste issues such as environmental harm from the release of contaminants or interference with ecological systems.52

Other issues include:
- decreased visual amenity and community pride
- high maintenance costs to council from removal of illegally dumped waste
- health and safety risks for residents from dangerous or unsanitary items
- obstructions.

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4.8.4 Bylaw approach

The Bylaw is limited to requiring people to take all reasonable steps to prevent the display of flags, balloons, posters and the like from becoming litter (Table 4.8.4.1). The Bylaw fills a perceived regulatory gap in the Litter Act 1979 which does not include accidental littering from premises in the definition of depositing litter.

All other forms of litter and illegal dumping are regulated under the Litter Act 1979 and Resource Management Act 1991 (see other approaches for more information):

- the Litter Act 1979 is used for prosecutions to address commercial waste dumping, excessive dumping or repeat offending and to issue infringement notices
- the Resource Management Act 1991 is used for prosecutions to address commercial waste dumping where there is high environmental harm.

Table 4.8.4.1 Summary of Bylaw related to littering

<table>
<thead>
<tr>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>The owner, occupier or manager of any premises on which any flag, banner, buntings, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter must take steps to the satisfaction of council to prevent it becoming litter, and to clean up any litter caused by the display (refer clause 27(2)).</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.8.5 Bylaw implementation

The Bylaw is administered by Waste Solutions but has not been used.

As stated in the Bylaw approach, litter and illegal dumping are addressed using the Litter Act 1979 and the Resource Management Act 1991 (see other approaches).

4.8.6 Are the residual waste issues still an issue?

The need to regulate accidental littering has not occurred.

Littering and illegal dumping of domestic and commercial waste continue to contribute to environmental harm and attract additional littering and illegal dumping if not addressed. As stated in the Bylaw approach, these issues are addressed using other legislation (see other approaches).

Stakeholders and research identified new trends and emerging issues related to littering and illegal dumping (see Table below).
New trends and emerging issues related to litter and illegal dumping

- approximately one complaint per week\(^{29}\)
  to council about flex-bin\(^{30}\)s
- decreased illegal dumping on the kerb-side due to the new on-site
  inorganic collection service.\(^{31}\)
- inadequately-sized domestic bins\(^{32}\)
  for waste produced by large households
  contributes to dumping of household
  waste.\(^{33}\)
- illegal dumping on private property,
  often vacant land\(^{34}\)

Of the new trends, a bylaw may help address issues associated with privately provided flex-bins.

All other new trends can be addressed through service provision and enforcement using the


4.8.7 Is the Bylaw effective and efficient?

The Bylaw addresses a perceived regulatory gap in the Litter Act 1979, but Waste Solutions has not received any complaints, and the Bylaw has not been used.

Littering and illegal dumping continue to be issues, but these are addressed under the Litter Act 1975 and Resource Management Act 1991 alongside non-regulatory community-based initiatives (refer other approaches).

4.8.8 Is the Bylaw the most appropriate form of bylaw?

Waste Solutions considers the Bylaw requiring people to take all reasonable steps to prevent the display of flags, balloons, posters and the like from becoming litter to be unnecessary and indicate that it could be removed.

There may also be a need to address the emerging issues associated with flex-bins.

4.8.9 Are there any implications under the NZBORA 1990?

The Bylaw about littering and illegal dumping does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.8 (Global Findings) of this document for further discussion.

4.8.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about littering and illegal dumping is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

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\(^{29}\) One to three per cent of total illegal dumping complaints.

\(^{30}\) Large portable bins for waste or green waste provided by several companies, often kept on curbs for long periods
of time which amounts to illegal dumping. The number of complaints comprises a minor proportion of the number
of bags in circulation at any time.

\(^{31}\) Anecdotally, 30 per cent (for 8000 bales) of the material collected as part of the former kerbside inorganic
collection service was illegally dumped.

\(^{32}\) In 2013 the following local board areas had the highest average household sizes in Auckland: Mangere Otahuhu
(5.0 people), Otautapu-Peak (3.5 people) and Manurewa (3.5 people), compared to an average New Zealand

\(^{33}\) RFS records indicated an increased dumping rate in Manukau due to the service change from unlimited rubbish
bags to one bin. Mana whenua and ratana/awaka representatives reported a subsequent trend of black rubbish bag
accumulation.

\(^{34}\) A few complaints received each year, often on rural or isolated private property. Recent incidents in Manurewa led
to complaints about odour, vermin, nuisance and health and safety. Council cannot remove dumped items unless
there is a health risk.
4.8.11 Other approaches?

Litter Act 1979

Council can address litter and illegal dumping under the Litter Act 1979. Litter includes:

- any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of alike nature
- the deposit of litter includes casting, placing, throwing, or dropping litter
- allowing litter to be cast, thrown, dropped, or to escape, from a vehicle or trailer.

The Act prohibits the deposit of litter and the wilful breaking of bottles or glass in a public place or on private and without consent.

The Act enables council to require offenders to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice.50

There is a maximum $400 infringement fine or maximum $5,000 fine for littering by an individual.100 The Litter (Increased Infringement Fee) Amendment Bill proposes to increase the maximum fine from $400 to $1,500 and is currently being considered at Select Committee.

Approach to compliance under the Litter Act 1979

Waste Solutions monitors hot spot areas using enforcement staff, CCTV107 and a graduated approach to complaints received via the council illegal dumping hotline, call centre, email or website (Table 4.8.11.1).102

Table 4.8.11.1 Council approach to littering and illegal dumping

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Illegal dumping hotline, CCTV, enforcement staff monitoring hotspot areas</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to compliance (for example, education, warnings, flyer drops, community service, prosecution)</td>
</tr>
</tbody>
</table>

---

100 Litter Act 1979, sections 15(1)(a), 16, 20, 21.
102 Council launched an illegal dumping campaign in February 2018 which included a new illegal dumping hotline (9980 LCOUP), increase in the number of enforcement staff and contractors monitoring hot spot areas to nine and increase in the number of CCTV cameras in dumping hotspots to 14. The hotline initially averaged 250 calls per week, reducing to 110 calls per week in June-August 2018. Calls to the hotline increased by 83 per cent between February and July 2018. Illegal Dumping Campaign Update to Mayor, August 2018.
107 Complaints about flyovers left on drains and the roadside are referred to the companies which provided the bit.
Waste Solutions takes a multi-step approach to address illegal dumping incidents (Table 4.8.11.2)

**Table 4.8.11.2 Council illegal dumping response process**

- resident reports incident via council hotline, complaints centre, email, or website
- request for service (RFS) raised
- stickers placed on items (Figure 4.8.4.1) and 24-hour removal notices posted
- investigation to gather evidence (including door knocking to identify witnesses)
- rubbish collected by staff or contractor within five working days of RFS
- follow up investigation if appropriate
- hotspots fitted with “No Dumping” signage (Figure 4.8.12.1).

![Stickers for illegally dumped items](image)

Stakeholders and research identified that littering and illegal dumping have increased:

- illegal dumping has increased by 32 per cent (Figure 4.8.11.5) and requests for service (RFS) have increased by 44 per cent since 2013\(^{103}\)
- the number of tyres dumped since 2014 has increased by 236 per cent (Figure 4.8.11.8)\(^{104}\)
- anecdotally, the scale of these issues increases over spring and summer months.

\(^{103}\) In the year 2017/2018, council collected 1,590 tonnes and received 17,163 requests for service.

\(^{104}\) Waste Solutions identified that the decrease in tyre dumping in 2017/2018 may be due to an industry tyres processing project which began in 2017, however there is no data to support this statement.
Figure 4.8.11.5 Illegal dumping volumes 2013-2018

Illegal dumping volumes (excluding community facilities)


0 200 400 600 800 1,000 1,200 1,400

Figure 4.8.11.6 Number of illegally dumped tyres 2014-2018

Number of incidents: 10+ tyres


0 10 20 30 40 50 60 70

Stateholders and research identified commonly littered or dumped items and locations:

Commonly dumped items:
- Domestic waste (mattresses, furniture, inorganic materials, domestic refuse, green waste and hazardous waste)
- Commercial waste (tyres, construction and demolition materials, soil, concrete, oil drums, trees, and grass clippings)
- Rubbish bags and furniture are the most commonly dumped items (Table 4.8.11.7)

Common dumping locations:
- Rural areas
- Uncontaminated piles of building materials/waste
- Local parks and reserves (especially those adjacent to properties)
- Areas beside public litter bins
- Commercial areas
- Roadside
- Private properties (especially vacant land)
- Waterways
- 74 per cent of litter is found one to ten metres from a bin

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Table 4.8.11.7 Illegally dumped materials identified through council RFS records

- Rubbish bags
- Furniture
- Other materials
- Garden waste
- Other household items
- Vehicles
- Building/demolition material
- Mattresses
- Other household appliances
- Tyres
- Televisions
- Other organics
- Soil and rock

Research identified council enforcement action and recent incidents:

<table>
<thead>
<tr>
<th>Council enforcement action</th>
<th>Recent incidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>• over $1 million spent annually on recovering illegally dumped material 196</td>
<td>• over 700 witnesses report of littering and illegal dumping between April and September 2018</td>
</tr>
<tr>
<td>• 10 prosecutions for illegal dumping from 2013 to March 2018 including two or three prosecutions annually under the Litter Act (mainly for commercial entities)</td>
<td>• three instances of commercial oil drum dumping in 2017 and 2016</td>
</tr>
<tr>
<td>• 539 fines from 2013 to March 2018, totalling $116,000</td>
<td>• anecdotally, three motor vehicles dumped in waterways in rural Rodney in recent years</td>
</tr>
</tbody>
</table>
| • 186 fines in 2018. | • anecdotally, rare incidents of waste collection companies and construction contractors dumping waste.


198 Waste Management and Minimisation Plan 2018, p. 47

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Resource Management Act 1991
The Resource Management Act prohibits the discharge of contaminants into the environment and sets out restrictions for the use of land (sections 9 and 15).

Council can issue abatement notices (section 322), enforcement orders (section 314), infringement notices, and has powers of search and entry (sections 332, 333).

Penalties include:
- imprisonment not exceeding two years or a fine not exceeding $300,000 for individuals
- a fine not exceeding $600,000 for organisations
- a fine not exceeding $10,000 a day for continuing offences (section 330)
- an additional penalty for commercial gain from an offence requires the payment of three times the value of any commercial gain (section 339B).

Community-based programmes
Community-based programmes have been successful in reducing incidents of illegal dumping. Many are funded by local boards and include collaboration between council and community groups. Initiatives include:
- Keep Auckland Beautiful campaign
- Clendon Pride Hot Spot Project
- Beautiful People campaign
- Trade and Exchange Hubs
- Tidy Kiwi campaign
- Tread Lightly and other school-based programmes
- Neat Streets.

Mana whenua and matawaka representatives and individual local board members suggested approaches such as:
- product stewardship schemes to increase corporate responsibility and reduce reliance on cheaper, single-use packaging
- reinstatement of former inorganic street collection.
4.9 Unaddressed mail

4.9.1 Key findings

- Residual waste issues from unaddressed mail include litter, nuisance and illegal dumping.
- The Bylaw currently prohibits a person from leaving unaddressed mail on vehicles and letterboxes with “no junk mail” signs with some exceptions, for instance election material.
- Implementation of the Bylaw by Waste Solutions focuses on proactive industry accords and response to complaints.
- Issues associated with unaddressed mail remain, but are presumed to have reduced because businesses now use cheaper digital advertising options.
- The Bylaw is useful to encourage voluntary compliance through industry accords and expectations for deliveries to “addressed mail only” letterboxes.
- Stakeholders suggest the Bylaw form could be improved to make it easier to understand.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.
- The Litter Act 1979 is less effective than the Bylaw because the Act is limited to the person who delivers unaddressed mail (not the company or person who orders the delivery).

Conclusion: Residual waste issues associated with unaddressed mail remain. A bylaw is the most appropriate way to address these issues and reduce harm from residual waste, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form however could be made easier to understand.

4.9.2 Explanation

Unaddressed mail includes advertising material, community newspapers, clothing donation bags, circulars, leaflets, brochures, samples and flyers. These items are frequently left in letterboxes or on car windows for promotional purposes.

4.9.3 Residual waste issues

Unaddressed mail can cause residual waste issues such as:

- litter from unaddressed mail falling out of letterboxes or off car windows
- illegal dumping of surplus material in private recycling bins, public rubbish bins, local parks or streams.

Other issues include:

- nuisance to people not wanting to receive unaddressed mail.
4.9.4 Bylaw approach

The Bylaw prohibits a person from leaving unaddressed mail on vehicles and letterboxes with "no junk mail" signs with some exceptions, for instance election material (Table 4.9.4.1).

Table 4.9.4.1 Summary of Bylaw provisions related to unaddressed mail

<table>
<thead>
<tr>
<th>Prohibition</th>
<th>Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prohibited to leave unaddressed mail in</strong></td>
<td></td>
</tr>
<tr>
<td>any letterbox marked &quot;addressed mail only&quot;, &quot;no junk mail&quot; or words to similar effect (s/26(1) and 26(3)(a))</td>
<td></td>
</tr>
<tr>
<td>unsecured letterboxes if unaddressed mail is likely to escape and become litter (s/26(2)(b))</td>
<td></td>
</tr>
<tr>
<td>on vehicles parked on public places (s/26(3)(c))</td>
<td></td>
</tr>
<tr>
<td><strong>Full exceptions:</strong></td>
<td></td>
</tr>
<tr>
<td>public notices from government bodies, local authorities or New Zealand Post (s/26(2)(b) and 26(4)(d))</td>
<td></td>
</tr>
<tr>
<td>election material up to two months before polling day (s/26(2)(b) and 26(4)(d))</td>
<td></td>
</tr>
<tr>
<td><strong>Partial exceptions:</strong></td>
<td></td>
</tr>
<tr>
<td>parties to a council approved industry accord (s/26(5))</td>
<td></td>
</tr>
<tr>
<td>partial exceptions where marked letterbox uses words other than &quot;addressed mail only&quot;:</td>
<td></td>
</tr>
<tr>
<td>newspapers, community newspapers or magazines (s/26(4)(c))</td>
<td></td>
</tr>
<tr>
<td>communications from local community organisations, charities or charitable institutions (s/26(4)(d))</td>
<td></td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in section 3 (Global Findings) of this document.

4.9.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.9.5.1). As the representative body of the distribution industry, the Marketing Association developed an industry accord in 2006 (National Code of Practice for the Distribution of Unaddressed Mail).

The industry accord is supported by two major companies, ReachMedia and PMP Distribution who distribute 95 per cent of unaddressed mail in New Zealand. The industry accord outlines rules for delivery of mail and promotes self-regulation. Where self-regulation falls short, council steps in to address unresolved complaints.

Waste Solutions approach to addressing complaints differs between members of the Marketing Association and non-members. Where the unaddressed mail is from a member of Marketing Association, a three-tier approach is taken to address complaints that integrates industry self-regulation into council’s enforcement process (Table 4.9.5.2).
Table 4.9.5.2 Three-tier approach to unaddressed mail complaints

<table>
<thead>
<tr>
<th>Tier</th>
<th>Approach</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Residents or Waste Solutions contact the Marketing Association Helpline to complain about inappropriate delivery of unaddressed mail. Complaints are investigated within 48 hours by area supervisor. Disciplinary steps taken by the industry include additional training, formal warning, direct supervisor intervention and contract termination.</td>
</tr>
<tr>
<td></td>
<td>Complex issues are escalated to the National Field Management team. Responses include issuing a reminder notice to all area supervisors.</td>
</tr>
<tr>
<td></td>
<td>Unresolved issues are investigated by Waste Solutions. Waste Solutions may directly contact the Marketing Association, review service delivery, or send a formal letter outlining the Bylaw breach.</td>
</tr>
</tbody>
</table>

If a complaint is made about a non-member of the Marketing Association, Waste Solutions seeks a review of service delivery and formally advises distributor of Bylaw breach.

Where an offender is uncertifiably and unaddressed mail becomes loose litter, a request for services can be lodged by residents to the council or alternatively, residential streets are cleaned of litter on a four-week rotation.

No prosecutions have been made under the Bylaw.

4.9.6 Are the residual waste issues still an issue?

Unaddressed mail continues to contribute to litter, nuisance and illegal dumping, however limited data is available on the extent of the issue. The scale of the issue is presumed to have reduced because businesses are using cheaper digital advertising options.

Stakeholders indicate that unaddressed mail continues to be an issue:

- the Marketing Association reported receiving weekly complaints about inappropriate distribution of unaddressed mail by local sport clubs, charities and real estate agents
- stakeholders highlighted distribution of samples, such as pet food, as an emerging issue
- there is evidence of marketing flyers being left on cars at events and in public carparks.

Since 2013, council received 40 complaints about unaddressed mail (Table 4.9.4), and no complaints about car window advertising.

In terms of the use of unaddressed mail by businesses, the Marketing Association noted that distribution of unaddressed mail has decreased by approximately 50 per cent since 2012 due to increased use of cheaper digital options.

Table 4.9.4 Unaddressed mail complaints

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>3</td>
</tr>
<tr>
<td>2014</td>
<td>7</td>
</tr>
<tr>
<td>2015</td>
<td>11</td>
</tr>
<tr>
<td>2016</td>
<td>9</td>
</tr>
<tr>
<td>2017</td>
<td>7</td>
</tr>
<tr>
<td>2018</td>
<td>3</td>
</tr>
</tbody>
</table>

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*The (0800) 111 981 is financed by Raechmeda and PMP Distribution*
4.9.7 Is the Bylaw effective and efficient?

The Bylaw is a useful tool to encourage voluntary compliance through industry accords and stated expectations for deliveries to “addressed mail only” letterboxes:

- stakeholders consider the Bylaw is useful and provides helpful guidance to the industry, particularly when addressing long term, complex issues
- the Marketing Association notes that the Bylaw has led to development of similar bylaws across New Zealand
- a 2006 study found that “no-junk’’ stickers decreased the amount of unaddressed mail received in residential areas by 67 per cent.

The Bylaw is less useful as an enforcement tool:

- Waste Solutions note that resolving complaints about unaddressed mail is time consuming and costly (no detailed time or cost data is available)
- a 2006 study found that real estate agents were the most likely to deliver promotional material, even when “no-junk” signage was present 109
- enforcement action presents a reputational risk to council when the deliverer is likely to be a minor, a recent migrant or otherwise vulnerable member of the community
- distribution companies identified issues related to the visibility of “no-junk” stickers on letterboxes and the short-term nature of their contracts for services.

4.9.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw to be lengthy, repetitive and inconsistently applied. They recommend that it be streamlined and suggest the following improvements:

- define unaddressed mail rather than listing all types of mail in the clause
- clarify terms such as circulars, community newsletter and advertising material
- align terminology with the National Code of Practice for the Distribution of Unaddressed Mail and other legislation
- set clearer explanation of terms such as charity, community organisations, charitable institutions and unsecured letterbox
- clarify exemptions for community newspapers
- consistently apply provisions related to unsecured letterboxes and litter.

Waste Solutions note that unaddressed mail issues appear to be more about nuisance than residual waste and that consideration should be given to the definition of waste.

4.9.9 Are there any implications under the NZBORA 1990?

The Bylaw about unaddressed mail does not relate to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. Refer to section 3.6 (Global Findings) of this document for further discussion.

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109 Envisen New Zealand Ltd, Unaddressed advertising material – assessment of effectiveness of a voluntary code of practice, May 2006. In late October 2018, NZ Herald reported a case of Barbou and Thompson real estate agents pasting flyers to the inside lot of private recycling bins left on the kerbside. The thieves drew criticism from residents and the council [https://www.nzherald.co.nz/environment/news/article.cfm?id=18606152].
4.9.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about unaddressed mail is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.9.11 Other approaches?

Litter Act 1979

Council can enforce issues related to litter and illegal dumping under the Litter Act 1979. The Act enables council to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice. There is a maximum $400 infringement fine or maximum $5,000 fine for littering by an individual.

Only the person who physically delivers unaddressed mail can be prosecuted; this excludes the company or person who ordered the delivery.

The Litter (Increased Infringement Fines) Amendment Bill is currently being considered at Select Committee. The Bill proposes to increase the maximum fine from $400 to $1,000.

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10. Litter Act 1979 sections 7(2), 7(3), 10(1), 15
11. Litter Act 1979 sections 19(1), 20, 21, 22
4.10 Abandoned shopping trolleys

4.10.1 Key findings
- Residual waste issues from abandoned shopping trolleys relate to illegal dumping.
- Other issues include environmental harm, obstruction, nuisance and safety risks.
- The Bylaw currently prohibits leaving a shopping trolley unattended on a public place.
- Implementation of the Bylaw by Waste Soutions focusses on proactive industry accords and response to complaints.
- Issues associated with abandoned shopping trolleys remain a problem.
- Council considers the Bylaw to be a useful tool to encourage voluntary compliance through industry accords.
- Retail New Zealand considers abandoned shopping trolleys to be theft, not a waste issue for which retailers should not be responsible and sees limited benefits in being an accord member.
- Stakeholders suggest the Bylaw form could be improved to make it easier to understand.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Residual waste issues associated with abandoned shopping trolleys remain. A bylaw is the most appropriate way to address these issues and to reduce harm from residual waste, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form however could be made easier to understand.

4.10.2 Explanation
Shopping trolleys provided by supermarkets and other retailers are frequently abandoned in public and private places including parks, reserves, waterways, footpaths, berms and carparks.

4.10.3 Residual waste issues
Abandoned shopping trolleys can cause residual waste issues such as:
- illegal dumping on public and private places
- environmental harm from the obstruction of waterways and drains.

Other issues include:
- obstruction of public places and ease of movement
- safety risks to pedestrians and others
- nuisance to drivers and possible damage to vehicles.
4.10.4 Bylaw approach

The Bylaw currently prohibits leaving a shopping trolley unattended on a public place (Table 4.10.4.1).

Table 4.10.4.1 Summary of Bylaw provisions related to abandoned shopping trolleys

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person</td>
<td>• may not leave a shopping trolley unattended on a public place other than on the premises that provide the shopping trolley (clause 59(1))</td>
</tr>
<tr>
<td>Owner or managers</td>
<td>• may not allow a person to remove a shopping trolley from the premises onto a public place (clause 30(3))</td>
</tr>
<tr>
<td></td>
<td>• must take reasonable measures to prevent removal of any shopping trolleys from the premises onto any public place (such as signage) (clause 30(3))</td>
</tr>
<tr>
<td></td>
<td>• must ensure that shopping trolleys provided by a business are legibly and identifiably marked (such as by a toll-free number or address) (clause 30(4))</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarized in global findings.

The Bylaw provides an exemption for parties to a council-approved industry accord. Currently, this is limited to signatories to the Retail New Zealand Code of Practice for the Management of Shopping Trolleys (Code).12

4.10.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to Bylaw implementation (Table 4.10.5.1). As the representative body of the retail industry, Retail New Zealand developed an industry accord in 2014 (Retail New Zealand Code of Practice for the Management of Shopping Trolleys).

Where a party is a signatory to the Code, council and the industry rely on the Code in the first instance, with action taken under the Bylaw as a back-up response. Complaints to council are generally redirected to industry. Council relies on the Bylaw where issues arise mainly with respect to smaller retailers who are not signatories to the Code.

Retail New Zealand Code of Practice for the Management of Shopping Trolleys

Many larger retailers such as supermarkets are signatories to the Code (Table 4.10.5.2).

12 Since 2014.
Table 4.10.5.2 Retail New Zealand Code of Practice

<table>
<thead>
<tr>
<th>Key code requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Retailers</strong></td>
</tr>
<tr>
<td>provide identification on trolleys</td>
</tr>
<tr>
<td>retrieve abandoned trolleys outside of business premises within 2, 24, or 72 hours depending on the risk to public safety and accessibility</td>
</tr>
<tr>
<td>submit quarterly data on abandoned trolleys to Retail New Zealand</td>
</tr>
<tr>
<td>reimburse council if council retrieves trolleys when timeframe is not met</td>
</tr>
<tr>
<td><strong>NZRA</strong></td>
</tr>
<tr>
<td>collects data from signatories and provide it to council</td>
</tr>
<tr>
<td>facilitates meetings with council and signatories to address unresolved issues</td>
</tr>
<tr>
<td>develops reduction targets with council</td>
</tr>
<tr>
<td><strong>Council</strong></td>
</tr>
<tr>
<td>notifies retailer of abandoned trolleys</td>
</tr>
<tr>
<td>has quarterly meetings with NZRA and retail representatives</td>
</tr>
</tbody>
</table>

Table 4.10.5.3 Summary of complaints process

<table>
<thead>
<tr>
<th>Complaint process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code signatory</td>
</tr>
<tr>
<td>council directs complainant to the retailer to retrieve the trolleys</td>
</tr>
<tr>
<td>if issues persist council contacts Retail New Zealand, Retail New Zealand works with the retailer to improve response rates.</td>
</tr>
<tr>
<td>Retailer not signatory to Code</td>
</tr>
<tr>
<td>if retailer is identifiable, council contacts retailer to retrieve trolley.</td>
</tr>
<tr>
<td>if issues persist council retrieves trolley and charges for collection</td>
</tr>
<tr>
<td>council retrieves the trolley if retailer is unidentifiable</td>
</tr>
</tbody>
</table>

No prosecutions have been made under the Bylaw because offenders are difficult to identify and when they are identifiable, they are often vulnerable members of the community.

4.10.6 Are the residual waste issues still an issue?

Abandonment of shopping trolleys in public and private places continues to contribute to illegal dumping, environmental harm, obstruction, nuisance, and health and safety issues.

The number of illegally dumped shopping trolleys reported to council fluctuated between 2014 and 2018 but increased significantly, by 74 per cent, in 2017/2018 (Figure 4.10.8.1 and Table 4.10.8.2).

No data is available regarding trolley location or retrieval time.
Figure 4.10.6.1 Number of complaints received by council

<table>
<thead>
<tr>
<th>Year</th>
<th>No. trolleys</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014/2015</td>
<td>50</td>
</tr>
<tr>
<td>2015/2016</td>
<td>20</td>
</tr>
<tr>
<td>2016/2017</td>
<td>15</td>
</tr>
<tr>
<td>2017/2018</td>
<td>87</td>
</tr>
<tr>
<td>Total</td>
<td>172</td>
</tr>
</tbody>
</table>

Research has identified that shopping trolleys abandoned in retailer car parks obstruct access to parking spaces and can increase safety risks, particularly for users of disability car parks.

Data provided by Retail New Zealand shows 750 shopping trolleys were abandoned between 2015 and 2018 (Table 4.10.6.3). Trolleys were found on a public street (54 per cent), at a private residence (30 per cent), business (10 per cent), and park or reserve (five per cent). The location of less than one per cent of recorded trolleys was unknown.

Table 4.10.6.3 Number of shopping trolleys recorded as abandoned by Retail New Zealand

<table>
<thead>
<tr>
<th>Quarter</th>
<th>No. trolleys</th>
</tr>
</thead>
<tbody>
<tr>
<td>4th quarter 2015</td>
<td>78</td>
</tr>
<tr>
<td>1st quarter 2016</td>
<td>83</td>
</tr>
<tr>
<td>2nd quarter 2016</td>
<td>73</td>
</tr>
<tr>
<td>3rd quarter 2016</td>
<td>70</td>
</tr>
<tr>
<td>4th quarter 2016</td>
<td>50</td>
</tr>
<tr>
<td>1st quarter 2017</td>
<td>80</td>
</tr>
<tr>
<td>2nd quarter 2017</td>
<td>62</td>
</tr>
<tr>
<td>3rd quarter 2017</td>
<td>97</td>
</tr>
<tr>
<td>4th quarter 2017</td>
<td>57</td>
</tr>
<tr>
<td>1st quarter 2018</td>
<td>71</td>
</tr>
<tr>
<td>2nd quarter 2018</td>
<td>98</td>
</tr>
<tr>
<td>Total</td>
<td>750</td>
</tr>
</tbody>
</table>
4.10.7 Is the Bylaw effective and efficient?

Waste Solutions noted that the Bylaw is useful because it encourages voluntary compliance through industry accords:

- eighty-two per cent of shopping trolleys were retrieved by retailers within 2-24 hours and 16 per cent within 24-48 hours. Less than one per cent were found within two hours or over 48 hours.

Waste Solutions indicates that generally the Code is working well and that retailers are collecting their abandoned trolleys. Issues however emerge when retailers opt out to replace trolleys as more cost-effective option. Operator failure to comply with the requirement to label shopping trolleys exacerbates this issue and increases council’s operational costs.

Retail New Zealand however considers limited benefits to be a member under the current accord, and proposed a new draft code to Waste Solutions in 2018. Concerns with the current code include that:

- the code is unclear and sets more compliance measures than the Bylaw
- data collection is difficult and has a high administrative cost
- the value of data collected and its usability by council are unclear
- retailers are already incentivised to retrieve trolleys due to their high cost ($500 - $600 per trolley) and desire to protect their reputation.

The Bylaw is less useful as an enforcement tool:

- Waste Solutions notes that resolving complaints about shopping trolleys is time consuming and costly (no detailed time or cost data is available)
- enforcement action presents a reputational risk to council when the offender is likely to be a vulnerable member of the community
- smaller retailers are less likely to label their shopping trolleys
- Retail New Zealand does not consider abandoned shopping trolleys to be a waste issue but theft for which retailers should not be made responsible.

Waste Solutions note that issues concerning abandoned shopping trolley appear to be more about nuisance than residual waste and that consideration should be given to the definition of waste.

4.10.8 Is the Bylaw the most appropriate form of bylaw?

Stakeholders consider the Bylaw to be lengthy, unclear and in parts outdated.

They recommend the following improvements:

- remove the time requirement for trolleys to be identifiably labelled
- clarify terms such as “reasonable measures”
- include timeframe requirement for retailers to retrieve their trolleys.

4.10.9 Any there any implications under the NZBORA 1990?

The Bylaw about abandoned shopping trolleys does not give rise to any indicators under the New Zealand Bill of Rights Act 1990. Refer to section 3.8 (Global Findings) of this document for further discussion.
4.10.10 Is the Bylaw inconsistent with the 2016 Waste Plan?

Inclusion of abandoned shopping trolleys in a bylaw is not inconsistent with the 2016 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.10.11 Other approaches?

Litter Act 1979

Council can enforce issues related to litter and illegal dumping under the Litter Act 1979. The Act enables council to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice. There is a maximum fine of $400 or maximum $5,000 fine for littering by an individual.

The Litter (Increased Infringement Fines) Amendment Bill is currently being considered at Select Committee. The Bill proposes to increase the maximum fine from $400 to $1,000.

Crimes Act 1961

Removing a shopping trolley from premises can be considered theft if there is intent to deprive the owner permanently of that property or of any interest in that property. There is a maximum term of imprisonment of seven years depending on the value of the stolen item.

Proposed Public Safety and Nuisance Bylaw 2019

The proposed Public Safety and Nuisance Bylaw prohibits parking, leaving or abandoning any object, vehicle, material or structure in a public place likely to cause a safety risk, nuisance, damage, obstruction, disturbance, or interference to any person in their use or enjoyment of the public place. Penalties include a fine not exceeding $500 or $20,000, and a further maximum $50 fine per day for a continuing offence.

Industry self-regulation

Industry self-regulation could include:

- an accord, such as the Retail New Zealand Code of Practice
- another informal or formal agreement
- reliance on industry best practice
- fixed schemes such as coin-operated or electronic locking systems (identified by stakeholders including mana whenua and mataawaka representatives).

Retail New Zealand considers that a collaborative rather than regulatory approach is more effective to address shopping trolley issues and believes a bylaw or accord is unnecessary.

Upcycling

Mana whenua and mataawaka representatives suggested an “up-cycling” system to repurpose unclaimed abandoned trolleys.

\[13\] Litter Act 1979 sections 7(2), 7(3), 10(1), 11
\[14\] Litter Act 1979 sections 15(1), 13, 16, 19, 21
\[15\] Crimes Act 1961, section 219
4.11 Waste nuisance

4.11.1 Key findings

- Issues from waste nuisance range from environmental harm and health and safety risks from accumulation of waste on private property to inappropriate use of approved containers.
- The Bylaw currently addresses accumulation of waste on private properties, disposal of waste outside approved facilities and burning or burying waste material on public and private land. Some exemptions apply to rural areas and to burying companion pets.
- The scale of issues is unknown. Anecdotally, issues concerning waste accumulation on private properties are common in Auckland.
- The Bylaw clauses addressing burning or burying of waste material and disposal of waste outside approved facilities have not been used. In some instances, the Litter Act 1979 is used to address waste accumulation.
- Waste Solutions noted that the Bylaw is useful but needs to be amended to improve clarity and ease understanding.
- The Bylaw does not raise any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.

Conclusion: Issues related to waste nuisance remain. A bylaw would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form however could be amended to improve clarity.

4.11.2 Explanation

Definition of nuisance under the Bylaw ranges from accumulation of waste on private property to disposal of waste outside approved facilities and burning or burying waste material on public and private land. Some exemptions apply, for example to rural areas.

4.11.3 Residual waste issues

Stakeholders identified the following residual waste issues:

- Nuisance from accumulation of waste on private properties
- Nuisance from misuse of approved containers
- Environmental harm, and health and safety risks from burning and burying waste.

4.11.4 Bylaw approach

The Bylaw, with some exceptions, prohibits a person from activities on private and public places that may cause nuisance (See Table 4.11.1).
Table 4.11.1 Bynaw summary of waste nuisance

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Provision</th>
<th>Clause</th>
</tr>
</thead>
<tbody>
<tr>
<td>No person may</td>
<td>allow accumulation of waste on private property so it becomes offensive, pose nuisance or be injurious to health</td>
<td>28(1)(a)</td>
</tr>
<tr>
<td></td>
<td>use an approved container in a way that creates a nuisance, be offensive or be injurious to health</td>
<td>28(1)(b)</td>
</tr>
<tr>
<td>No person may exceptions apply</td>
<td>burn or allow any waste to be burned except organic matter in rural areas on property they own, occupy or manage</td>
<td>28(2)(a)</td>
</tr>
<tr>
<td></td>
<td>bury or allow to be buried any waste on any property—except organic waste (including dead farm animals in rural areas), dead companion animals and nuisance pests, or for the purposes of home composting</td>
<td>28(2)(b)</td>
</tr>
<tr>
<td></td>
<td>dispose any waste on any premises—except at a landfill, clean-fill, managed fill, or mono-fill sites or for the purpose of home composting</td>
<td>28(2)(c)</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.11.5 Bylaw implementation

Waste Solutions has a reactive approach to Bylaw implementation (Table 4.11.2).

When dealing with accumulation of waste on private properties, council:
- encourages the fencing of properties to hinder illegal dumping
- places stickers on illegally dumped materials notifying residents that the items should be removed.

For issues related to bin misuse, council:
- encourages use of bigger bins
- for larger households or suggests the use of tailored services by private operators
- issues warnings and removes bins if there is ongoing misuse
- encourages owners of commercial properties to use private services if other steps have failed.

4.11.6 Are the residual waste issues still an issue?

Council has a limited data available on waste nuisance. Any data related to illegal dumping is captured in the litter and illegal dumping section (section 4.8) of this document.

Stakeholders commented on an increasing number of issues related to accumulation of household waste in private areas and illegal dumping of household waste and commercial materials such as tyres on public and private places.

Council has not received any complaints about burning or burying of waste. Mana whenua and mataawaka representatives noted however that waste burning occurs frequently.

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Waste Bylaw Statement of Proposal

Attachment B

Item 10

Attachment A

Item 26

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4.11.7 Is the Bylaw effective and efficient?
Waste Solutions noted that the Bylaw is useful in particular clauses 26(1), however, its enforcement is limited.

When dealing with accumulation of waste on private properties, council can either use the Bylaw or the Litter Act 1979. Enforcement officers noted that they are more likely to use the Litter Act as it provides the ability to issue infringements and requires litter removal. Council cannot remove waste from private property unless there is a health risk.

There have been no prosecutions under the Bylaw.

The Bylaw has not been used for clauses 26(2).

4.11.8 Is the Bylaw the most appropriate form of bylaw?
Stakeholders considered the Bylaw to be too lengthy and unclear.

Stakeholders indicated that the Bylaw should be amended to:

- provide greater clarity when accumulation of waste on private property becomes “offensive”, such as its visibility from the road
- ease understanding by aligning clauses 19 and 28 concerning disposal of waste on land
- better communicate specific exemptions for urban and rural areas

Waste Solutions indicated that home composting exceptions are useful as allow further minimisation of waste.

4.11.9 Are there any implications under the NZBORA 1990?
The Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990. Refer to section 3.8 (Global Findings) of this document for further discussion.

4.11.10 Is the Bylaw inconsistent with the 2018 Waste Plan?
A bylaw about litter receptacles is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.11.11 Other approaches?
Waste accumulation on private property

The Property Maintenance Bylaw 2015

The Property Maintenance Bylaw 2015 could be used to address waste accumulation that is offensive, injurious to health or poses a nuisance. The Property Maintenance Bylaw requires maintenance of private property to avoid nuisance.
The Bylaw prevents a person from allowing any material or thing to be deposited, accumulated, used, processed or stored on any private property under their control in a manner that causes or may cause a nuisance (clause 6(1)(a)). Council may remove anything found on that property in breach of the Bylaw (clause 9(1)).

Auckland Unitary Plan provisions

A resource consent may be required for recycling, recovery or disposal of tyres under the Auckland Unitary Plan depending on the size of the activity area and the timeframe involved (E.33.4.2). Where resource consent is required and has not been granted, use of land without resource consent for activities involving tyres is an offence under section 9(2) of the Resource Management Act 1991 as contravening a regional rule.

Litter Act 1979

Under the Litter Act 1979 council can serve a written notice requiring the occupier of any private land to remove or conceal litter which "grossly defaces or defiles" the area within 14 days or another specified time (section 10).

It is an offence to deposit litter in or on private land without the consent of the occupier (section 15).

Health Act 1956

Council has a duty under the Health Act 1956 to improve, promote and protect public health. A person commits an offence if they cause or allow a nuisance to occur or continue (section 30).

The District Court can require the owner and occupier to stop the recurrence of the nuisance or require works to be done to prevent the nuisance (section 33). If the owner or occupier of the land or premises cannot be found or is unknown, the court can direct council to address the nuisance without notice (section 34).

Burning of waste on private property

The Auckland Unitary Plan prohibits the outdoor burning of waste to protect human health from discharge of contaminants into the air (E.14.4.1 (A123)). Exceptions include:

- dead farm animals in rural areas (burning is permitted or requires resource consent depending on quantity and in low air quality areas (burning permitted)) (E.14.4.1 (A125), (A126))
- green waste generated on the same premises as it is burnt in rural areas and low air quality areas (permitted) (E.14.4.1 (A131))
- green waste not generated on the premises in all areas (resource consent required) (E.14.4.1 (A132)).

Any burning of waste contrary to this is an offence under the Resource Management Act 1991 (section 9(2) and 15).

The Auckland Unitary Plan does not address the burning of food scraps and allows the burning of dead animals, something not included under the definition of organic waste in the Bylaw, although its inclusion is implied in clause 26(2)(b) "organic waste, including dead farm animals."
Item 10

Disposal of waste outside designated facilities

A resource consent may be required for the discharge of contaminants from industrial or trade activity areas including landfills depending on discharge levels (E 33.4.2). Non-compliance is an offence under section 13 of the Resource Management Act 1991.

There are no alternative approaches to address inappropriate use of an approved container or burial of waste on private property.
4.12 Litter receptacles

4.12.1 Key findings

- Residual waste issues arising from the misuse of public litter receptacles include illegal dumping, waste over-flow, health and safety risks and contamination of recyclable waste.
- Other issues include damage and vandalism which result in high maintenance cost to council.
- The Bylaw currently prohibits depositing waste other than litter in public litter receptacles.
- Implementation of the Bylaw Waste Solutions focuses on service provision of litter receptacles and response to complaints.
- Issues associated with the misuse of public litter receptacles still remain despite an 11 per cent reduction in the quantity of litter from public litter receptacles since 2013.
- The Bylaw is useful to encourage voluntary compliance and address deposit of household or commercial waste in bins (this cannot be addressed as illegal dumping under the Litter Act 1979).
- The Bylaw enforcement is difficult and some parts of the Bylaw have never been used.
- Stakeholders suggest the Bylaw form could be improved for clarity, ease of understanding and removal of irrelevant clauses.
- The Bylaw does not raise any implications under the New Zealand Bill of Rights Act 1990.
- The Bylaw is not inconsistent with the revised 2018 Waste Plan.
- There are alternative approaches to some issues identified in the Bylaw such as the Litter Act 1979, the Crimes Act 1961, Summary Offences Act 1951, the Health Act 1956, and operational policy.

Conclusion: Residual waste issues from misuse of litter receptacles remain. A bylaw is the most appropriate way to address these issues and reduce harm from residual waste, would not raise any implications under the New Zealand Bill of Rights Act 1990 and would not be inconsistent with the Waste Plan. The Bylaw form however could be improved for clarity, ease of understanding and removal of irrelevant clauses.

4.12.2 Explanation

Litter receptacles or bins for refuse and recycling are provided by council in a wide range of public places and are used by many people. Council is required to provide suitable litter receptacles in public places under the Litter Act 1979.119

4.12.3 Residual waste issues

Misuse of public receptacles can cause residual waste issues such as:

- illegal dumping of household and commercial waste by residents and businesses
- litter and nuisance from waste over-flow
- health and safety risks from waste spillage
- contamination of recyclable waste increases the volumes of landfilled waste.

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119Litter Act 1979, section 9(1)
Item 26

Stakeholders also identified issues related to:

- damage and vandalism which result in high maintenance costs to council.

4.12.4 Bylaw approach

The Bylaw currently prohibits a person from depositing waste other than litter in council provided litter receptacles (see Table 4.12.1).

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Provision</th>
<th>Clause</th>
</tr>
</thead>
<tbody>
<tr>
<td>No person may</td>
<td>deposit of household or business waste</td>
<td>27(1)(a)</td>
</tr>
<tr>
<td></td>
<td>remove any waste where this results in any waste being deposited outside the receptacle</td>
<td>27(1)(b)</td>
</tr>
<tr>
<td></td>
<td>deposit litter if the receptacle is full or litter is likely to escape</td>
<td>27(1)(c)(i)(ii)</td>
</tr>
<tr>
<td></td>
<td>fix or attach a flag or similar thing to any litter receptacle</td>
<td>27(1)(d)</td>
</tr>
<tr>
<td></td>
<td>damage any litter receptacle</td>
<td>27(1)(e)</td>
</tr>
<tr>
<td>Owner, occupier or manager of any premises on which any flag or similar thing is displayed</td>
<td>27(1)(f)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>must take all steps to prevent it from becoming litter and to clean up any litter caused by the display</td>
<td>27(2)</td>
</tr>
</tbody>
</table>

Powers to enforce the Bylaw and penalties are summarised in global findings.

4.12.5 Bylaw implementation

Waste Solutions has a proactive and reactive approach to bylaw implementation (see Table 4.12.2).

<table>
<thead>
<tr>
<th>Approach</th>
<th>Methods</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proactive</td>
<td>Service provision,</td>
</tr>
<tr>
<td>Reactive</td>
<td>Graduated approach to complaint response for example education, signage, warnings, temporary removal of receptacles from the location, prosecution</td>
</tr>
</tbody>
</table>

Council currently provides 3,720 public litter receptacles and 135 public recycling receptacles across Auckland. Litter receptacles are designed to leave only a small gap to prevent the deposit of larger items or commercial waste. This service is funded by council rates.

Where household or commercial waste is deposited in or around public receptacles council’s approach to addressing these issues includes:

- educating the public by letter drops in neighbourhoods
- erecting signage
- issuing written warnings to those who dispose of household and commercial waste
- temporarily removing a litter receptacle from the location.

Council works with retailers to ensure that they provide additional or larger bins where there are issues with waste overflow (for example takeaway food outlets).

Waste Bylaw Statement of Proposal
Comments from stakeholders about current service provision have been referred to Waste Solutions because they are outside the scope of the Bylaw review:

- some individual local board members would like to see more recycling bins104
- Mana whenua and mataawhā representatives noted that bins are not emptied frequently enough, that the public has limited opportunity to separate waste, that there is an unequal distribution of bins between affluent and less affluent areas and that bins in affluent areas were more attractive and well-designed.

4.12.6 Are the residual waste issues still the same?

Issues remain (Table 4.12.3) despite the quantity of litter collected from public litter receptacles having declined by 11 per cent since 2013 (Table 4.12.4).

Table 4.12.3 Scale of issues associated with the misuse of public receptacles

<table>
<thead>
<tr>
<th>Issue</th>
<th>Scale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial and household waste deposit</td>
<td>• Anecdotally common</td>
</tr>
<tr>
<td></td>
<td>• Commercial waste deposit commonly occurs (in small town centres)</td>
</tr>
<tr>
<td></td>
<td>• Household waste deposit increases with freedom camping.</td>
</tr>
<tr>
<td>Litter receptacle overflow</td>
<td>• Increase near beaches and picnic spots in the summer. In</td>
</tr>
<tr>
<td></td>
<td>response bins are emptied three times a day</td>
</tr>
<tr>
<td></td>
<td>• Frequent outside premises that produce large volumes of waste</td>
</tr>
<tr>
<td></td>
<td>(such as take-away food outlets)</td>
</tr>
<tr>
<td></td>
<td>• Annual council receives approximately 315 requests to empty</td>
</tr>
<tr>
<td></td>
<td>over-flowing public litter receptacles. 105 The number of requests</td>
</tr>
<tr>
<td></td>
<td>has remained consistent although hard data is unavailable.</td>
</tr>
<tr>
<td>Vandalism</td>
<td>• Anecdotally, particularly frequent in South Auckland.</td>
</tr>
<tr>
<td>Recyling bin contamination</td>
<td>• Current contamination rate is approximately 50 per cent</td>
</tr>
<tr>
<td></td>
<td>• Data is unavailable or trends over time.</td>
</tr>
</tbody>
</table>

Table 4.12.4 Volume of litter collected from public receptacles annually

<table>
<thead>
<tr>
<th>Year</th>
<th>Total tonnes</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013/14</td>
<td>5,010</td>
</tr>
<tr>
<td>2014/15</td>
<td>5,060</td>
</tr>
<tr>
<td>2015/16</td>
<td>4,548</td>
</tr>
<tr>
<td>2016/17</td>
<td>4,643</td>
</tr>
<tr>
<td>2017/18</td>
<td>4,463</td>
</tr>
</tbody>
</table>

104 It is noted that council has a limited budget to expand the current number of public recycling receptacles and they are not regarded as a cost-effective or practical way to recycle due to high contamination rates.

105 Yard data is unavailable for requests logged to enable an overflowing bin from Request for Service (RFS) reports. There is no sub-category for “litter overflow” in the RFS system. An RFS about an overflowing bin is usually classified under the “Bin Emptying” category. 85-90 per cent of requests in this category are raised for “overflowing bins” to be emptied. Approximately 300 requests are received annually.
4.12.7 Has the Bylaw implementation been effective and efficient?

Waste Solutions noted that the Bylaw is useful to:
- encourage voluntary compliance
- respond to complaints
- address deposit of household or commercial waste in bins, particularly as this cannot be addressed as illegal dumping under the Litter Act 1979.

However, Waste Solutions also noted that several provisions in the Bylaw have never been used, for example clauses 27(1)(c), (d), and (e). Waste Solutions indicated that Bylaw enforcement is limited due to difficulties in identifying offenders and obtaining photographic or witness evidence.

There have been no prosecutions under the Bylaw.

4.12.8 Is the clause the most appropriate form of clause?

The Bylaw form lacks clarity, is repetitive and includes provisions that have never been used.

Stakeholders noted that the Bylaw should be amended to:
- improve clarity by addressing the repetitive nature of this section
- reference the need to separate waste if separate receptacles are in place
- remove provisions relating to attaching any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle (clause 27(1)(d)) which have never been used. (The issue was raised during the Rugby World Cup 2011, when large quantities of material were fixed to bins and became a nuisance and litter risk).

4.12.9 Are there any implications under the NZBORA 1990?

The Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1960. Refer to section 3.6 (Global Findings) of this document for further discussion.

4.12.10 Is the Bylaw inconsistent with the 2018 Waste Plan?

A bylaw about litter receptacles is not inconsistent with the 2018 Waste Plan. Refer to section 3.7 (Global Findings) of this document for further discussion.

4.12.11 Other approaches?

Litter Act 1979

The Litter Act 1979 enables council to request offenders to remove or correctly dispose of litter, request names and addresses of those allegedly involved, and issue an infringement notice (sections 7(2), 7(3), 10(1) and 13).

Council can issue a maximum $400 infringement fine to an individual for littering. Alternative penalties include a maximum $5,000 fine for an individual and maximum $20,000 fine for a body corporate. For dangerous litter, penalties include a maximum
one-month imprisonment or maximum $7,500 fine for an individual, and a maximum
$30,000 fine for a body corporate.\textsuperscript{12}

The Litter Act can address the removal of waste from a litter receptacle where this results in
waste deposited outside of the receptacle. However, the Act cannot address household or
business waste placed in public litter receptacles as it does not distinguish between different
sources of waste and cannot address the deposit of litter in a receptacle where the receptacle
is full or where the litter is likely to escape as this does not entail leaving litter in a public place.

A council litter officer can intervene to prevent wilful damage to a public litter receptacle under
section 7(1)(c), however the Act provides no penalties for damage.

Council can also require occupiers to provide litter bins in public places to address excessive
litter generated on their premises that is disposed of in a public place under the Litter Act 1979
(section 9(3)). For example, council has used the Litter Act 1979 to require pizza takeaway
outlets in the central business district to provide their own bins for customer pizza boxes.

The litter (increased infringement Fee) Amendment Bill to increase the maximum fine to
$1,000 is currently at Select Committee.

Operational policy
Inappropriate deposit or removal of waste from litter receptacles could be addressed as part of
council’s operational policy. Current education and enforcement practices could continue and
where appropriate issues could be addressed under the Litter Act 1979.

Crimes Act 1961
Damage to any public litter receptacle could be addressed under section 268 of the Crimes
Act 1961 as it is intentional or reckless damage to property. Penalties include a maximum
imprisonment of seven years.

Summary Offences Act 1981
Damage to any public litter receptacle could be addressed under section 11 of the Summary
Offences Act 1981. There is a maximum imprisonment of three months or a fine not exceeding
$2,000.

Vandalism of any public litter receptacle could be addressed under section 11A of the Summary
Offences Act 1981. An offender may receive a community-based sentence\textsuperscript{13} or a fine not
exceeding $2,000.

Local Government Act 2002
Damage to any litter receptacle could be addressed under section 133 of the Local Government
Act 2002 for wilful, malicious or negligent damage to works or property under the control of a
local authority. Penalties include a maximum $20,000 fine, maximum three years imprisonment,
or both, and could include repayment of cost of damage.

\textsuperscript{12} Sections 15(1)(2)16, 29, 21.
\textsuperscript{13} A community-based sentence means community work, supervision, intensive supervision, or community detention
(Reparation Act 1992, section 44).
Health Act 1956
Council has a duty to protect public health and is empowered to abate or remove nuisances or conditions likely to be injurious to health or offensive under section 23 of the Health Act 1956.

Non-regulatory approaches
Matawhaere and mataaweka representatives identified value of the following approaches:

- greater education
- better-designed bins to accept cigarettes
- voice-controlled or solar-powered bins which lock when the bin is full
- container deposit schemes
- rubbish compactors inside bins to increase capacity
- more frequent service provision to empty bins that are full.
## Attachment A: Solid Waste Bylaw 2012 Review Stakeholder List

### Internal stakeholders

<table>
<thead>
<tr>
<th>Stakeholder group</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Solutions</td>
<td>Waste Planning</td>
</tr>
<tr>
<td></td>
<td>Waste Contracts and Compliance</td>
</tr>
<tr>
<td>Environmental Services</td>
<td>Waste Enterprises and Refuse</td>
</tr>
<tr>
<td>Sustainable Schools</td>
<td>Resource Recovery</td>
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<tr>
<td>Auckland Design Office</td>
<td>Customer Enhancement</td>
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<tr>
<td>Urban Design Strategy</td>
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<tr>
<td>Plans and Policy</td>
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<tr>
<td>Planning</td>
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<td>Resource Consents</td>
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<tr>
<td>Resource Consents South</td>
<td></td>
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<tr>
<td>Arts, Community and Events</td>
<td></td>
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<tr>
<td>Event Facilitation</td>
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<tr>
<td>Auckland Tourism, Events, and Economic Development</td>
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<tr>
<td>Health and Safety</td>
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<td>Community Facilities</td>
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<td>Community Parks and Places</td>
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<td>Healthy Waters</td>
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<tr>
<td>Wai Ora Partnerships</td>
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<tr>
<td>Licensing and Regulatory Compliance</td>
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<tr>
<td>Regulatory Compliance</td>
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</tbody>
</table>

### External stakeholders

<table>
<thead>
<tr>
<th>Stakeholder group</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial industry</td>
<td></td>
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<tr>
<td>Parkinson and Holland</td>
<td></td>
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<tr>
<td>Global Action Plan Oceania</td>
<td></td>
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<tr>
<td>Civic Ltd/Civcon</td>
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<tr>
<td>Eco Maintenance</td>
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<tr>
<td>Clean New Zealand</td>
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<tr>
<td>Dnworks Limited</td>
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<td>National Road Carriers</td>
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<tr>
<td>IBC Retaining and Construction</td>
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<tr>
<td>Civil Contractors NZ</td>
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<tr>
<td>Gleeson and Cox</td>
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<td>Reclalm</td>
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<tr>
<td>Waste Management</td>
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<tr>
<td>Northland Waste</td>
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<tr>
<td>Downer</td>
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<tr>
<td>Rubbish Direct</td>
<td></td>
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<td>Aggregate and Quarry</td>
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<tr>
<td>Association New Zealand</td>
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<tr>
<td>All Heart New Zealand</td>
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<tr>
<td>We Compost</td>
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<tr>
<td>Clean Events</td>
<td></td>
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<tr>
<td>Best Events</td>
<td></td>
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<tr>
<td>Retail New Zealand</td>
<td></td>
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<tr>
<td>Reach Media</td>
<td></td>
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<td>Marketing Association</td>
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<tr>
<td>Multi-unit development residents</td>
<td>Survey of residents</td>
</tr>
<tr>
<td>District Health Boards</td>
<td>Counties Manukau DHB</td>
</tr>
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<td></td>
<td>Auckland DHB</td>
</tr>
<tr>
<td></td>
<td>Watemata DHB</td>
</tr>
</tbody>
</table>
Solid Waste Bylaw 2012
Te Ture Ā Rohe Para Māro 2012
(as at 25 October 2012)

Governing Body of Auckland Council
Resolution in Council
25 October 2012

Explanatory note: The Auckland Solid Waste Management and Minimisation Plan has the long term aspirational goal of zero waste by 2040. It contains the policy direction and a multi-pronged approach to intensify the reduction of waste to landfill and encourage a transformational shift in the way Aucklanders reduce, recycle, reuse and recover resources. Collaboration with industry and the community is vital. The bylaw is only one part of this strategy and is not intended to target those who are demonstrating good waste reduction practice.

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<tr>
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<th>Description</th>
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<td><strong>Part 3</strong></td>
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<td>13</td>
<td>Subpart 2 - Collection and transportation of waste</td>
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<td>Deposit at and collection of waste from a public place</td>
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<td>16</td>
<td>Use of a public place for collection of waste</td>
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<td>17</td>
<td>Subpart 3 - Disposal of waste and recovery of resources</td>
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<td>18</td>
<td>Disposal of waste on land</td>
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<td>19</td>
<td>Licensing of resource recovery facilities and fill sites</td>
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<td>20</td>
<td>Subpart 4 - Licensing process and conditions</td>
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<td>21</td>
<td>Application for licence</td>
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<td>22</td>
<td>Consideration of application for licence</td>
</tr>
<tr>
<td>23</td>
<td>Conditions of licences</td>
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<td>24</td>
<td>Subpart 5 - Additional controls relating to the collection, transportation and disposal of waste</td>
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<td>25</td>
<td>Controls for the collection, transportation and disposal of waste</td>
</tr>
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<td>32</td>
<td>Areas specified for inorganic collection</td>
</tr>
<tr>
<td>33</td>
<td>Controls for inorganic material collection</td>
</tr>
<tr>
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</tr>
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<td>Subpart 9 - Nuisance and litter</td>
</tr>
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</table>

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Item 26

Regulatory Committee
11 April 2019

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27  Litter
28  Unaddressed mail
29  Donation collection points
30  Shopping trolleys

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31  Non-compliance with conditions of a licence
32  Non-compliance with conditions for collection of waste from a public place
33  Non-compliance with controls for council collection points
34  Non-compliance with controls for the collection of inorganic material

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Offences and Penalties
35  Bylaw breaches

Part 6
Exceptions, revocation and saving provisions
36  Exceptions
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38  Savings and transitional provisions

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Waste Bylaw Statement of Proposal

Page 318
1 Title
This bylaw is the Solid Waste Bylaw 2012.

2 Commencement
(1) Subject to subclauses (2), (3), (4) and (5), this bylaw comes into force on 1
November 2012.
(2) Clause 12(1) comes into force on 31 October 2013.
(3) Subpart 2 of part 3 (disposal of waste and recovery of resources) comes into
force on 31 October 2015.
(4) Subpart 6 of part 3 (multi-unit developments) comes into force on 31 October
2015.
(5) Subpart 7 of part 3 (events) comes into force on 31 October 2013.

3 Application
(1) This bylaw applies to Auckland.

Part 1
Preliminary provisions

4 Purpose
(1) The purpose of this bylaw is to contribute to:
(a) the promotion and delivery of effective and efficient waste management and
minimisation in Auckland;
(b) the implementation of the council’s waste management and minimisation
plan;
(c) the purpose of the Act and the goals in the New Zealand Waste Strategy;
(d) the regulation of the collection and disposal of waste from public places or by
persons licensed by the council;
(e) the protection of the health and safety of waste collectors, waste operations
and the public;
(f) the management of litter and nuisance in public places.

5 Interpretation
(1) In this bylaw, unless the context otherwise requires,—


Approved container means any container approved by the council for the collection of any
type of domestic waste from a public place, with approval criteria based on the prevention
of nuisance and the protection of the health and safety of waste collectors and the public.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

Clean fill material means waste that:
(a) does not undergo any physical, chemical or biological transformation that, when
deposited or with the effluxion of time, is likely to have adverse effects on the
environment or human health; and
(b) is not diverted material and
(c) includes virgin materials such as clay, soil and rock, and other inert materials
such as concrete or brick that are free of:
(i) combustible, putrescible, degradable or leachable components;
(ii) hazardous waste;
(iii) products or materials derived from hazardous waste treatment,
     hazardous waste stabilisation or hazardous waste disposal practices;
(iv) materials that may present a risk to human health or the environment and
(v) liquid waste.
(d) has less than two per cent by volume by load of tree or vegetable matter.

Clean fill site means the land used for the disposal of clean fill material.

Commercial waste means waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking.

Construction and demolition waste means waste generated from any building construction or demolition work and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass.

Council means the Auckland Council or any person delegated or authorised to act on its behalf.

Council collection points mean places or containers in locations such as high density areas, marine areas or rural areas where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical.

Cover material means material specified by the council under clause 20 as suitable for use as cover material at a landfill site, managed fill site, clean fill site or mono-fill site, as the case may be.

Deposit means to cast, place, throw or drop any waste or diverted material.

Disposal has the meaning given by the Waste Minimisation Act 2008.

Diverted material has the meaning given by the Waste Minimisation Act 2008.

Domestic waste means waste consisting of refuse, recyclable material or organic matter (food waste and/or green waste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise.

Event means any organised temporary activity of significant scale that is likely to create litter in a public place including an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration.

Food waste means domestic waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discard, and any other similar food waste.

Green waste means waste that is organic in origin and that results from domestic gardening activities or arbicultural business activities and includes lawn clippings and plant material.

Hazardous waste means waste that:
(a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2000 under the Hazardous Substances and New Organisms Act 1996, or
(b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and NZ Standard 5433. 1999 – Transport of Dangerous Goods on Land, or
(c) meets the definition for radioactive material included in the Radiation Protection Act 1985 and Regulations 1986; or it does not include domestic waste, commercial-domestic waste, inorganic material, construction and demolition waste or commercial waste.

Home composting means the activity of creating decaying organic matter from domestic green waste and/or food waste into compost.

Inorganic material means waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the council as suitable for:
(a) collection from a public place by the council;
(b) collection from any premises by the council; or
(c) delivery to a resource recovery facility.

Landfill site means land used for the disposal of waste by burying it, or placing it upon land or other waste.

Licence means a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.

Litter means any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature.

Litter receptacle means a receptacle provided for the collection of refuse, recyclable material or organic matter.

Managed fill site means land used for the disposal of soil with low levels of contamination.

Manager means a person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event.

Mono-fill site means land used for the disposal or storage of waste of a category specified by the council and that originates from a specified source or location.

Multi-unit development means a development consisting of 10 or more residential or residential and commercial units on any premises. It includes a unit title development and any development with controlled or restricted access.

Natural hardfill material means materials specified by the council as suitable for use as natural hardfill material at a clean fill site.

Nuisance has the meaning given by the Health Act 1966.

Occupier, in relation to any property or premises, means the inhaibitant occupier of that property or premises.

Organic matter means food waste and/or green waste that is specified by the council under clause 20 as organic matter.

Other hardfill material means materials other than natural hardfill material specified by the council under clause 20 as suitable for use as hardfill material at a clean fill site.

Owner in relation to any property or premises, means the person entitled to receive the rack rent of the property or premises, or who would be so entitled if the property or premises were let to a tenant at a rack rent.
Person includes an individual, a corporation sole, a body corporate, and an unincorporated body.

Premises means any separately occupied land, building, or part of the same.

Prohibited waste means waste containing:
(a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;
(b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;
(c) any material that may endanger any person, animal, or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;
(d) any liquid or any viscous fluid;
(e) any radioactive wastes, but excluding domestic smoke detectors;
(f) any used oil and lead-acid batteries;
(g) any hazardous waste;
(h) medical waste;
(i) any material prohibited by the council under clause 20.

Public place means
(a) a place that is-
   (i) under the control of the council and/or
   (ii) that is open to or being used by the public, whether or not there is a charge for admission and
(b) includes:
   (i) a road, whether or not the road is under the control of the council, and
   (ii) any part of the public place.

Recyclable material means waste specified by the council under clause 20 as suitable for recycling. It does not include diverted material.

Recycling means the reprocessing of waste to produce new materials.

Refuse means waste which:
(a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material;
(b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the council under clause 20 of this bylaw.

Resource recovery facility means any facility that receives, collects, sorts, stores or processes waste to ensure waste minimisation and includes a commercial composting operation, a recovery operation, a material's recovery facility, a transfer station and a recycling depot. It excludes any facility that receives, collects, sorts, stores or processes diverted material unless a significant component or element of the diverted material is disposed of or discarded.

Waste has the meaning given by the Waste Minimisation Act 2008. It does not include diverted material.

Waste collector means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste.

Waste operator means a person who owns or manages a landfill site, clean fill site, managed fill site, mono fill site or a resource recovery facility.
Waste management and minimisation plan means the waste management and minimisation plan adopted by the council under section 43 of the Act.

(2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act.

(3) Explanatory notes and attachments are for information purposes only and do not form part of this bylaw.

(4) The Interpretation Act 1999 applies to this bylaw.

Part 2
General

6 Controls specified under the bylaw

(1) Any control specified by the council under clauses 14, 20 and 22:

(a) must, after consultation pursuant to the Local Government Act 2002, be made by a council resolution that is publicly notified; and

(b) may:

(i) prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;

(ii) apply to all waste or to any specified category of waste;

(iii) apply to Auckland or to a specified part of Auckland;

(iv) apply at all times or at any specified time or period of time.

7. Compliance with bylaw

(1) No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this bylaw.

(2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.

Part 3
Collection, transportation and disposal of waste

Subpart 1- Separation of waste for collection and use of approved containers

8 Use of approved containers for domestic waste collection from a public place

(1) The council may approve the type, size and construction of containers for the collection of domestic waste from a public place.

(2) The occupier and the manager of a premises must ensure that the domestic waste from the premises is separated into refuse, recyclable material and organic matter and deposited for collection in the correct approved container.

(3) No person may deposit in the approved containers, material that is not approved for it.

9 Deposit or removal of domestic waste

(1) No person may put waste into an approved container provided to any other person, without that other person’s consent.

(2) No person may remove waste from, or interfere with any waste deposited in, an approved container, except the council, a licensed waste collector or the person who deposited the waste.
(3) Except with the prior written approval of the council, no person may remove a container provided by the council from the premises to which it has been allocated.

(4) The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

10 Responsibilities of occupiers and managers

(1) The occupier and the manager of any premises must ensure that:
   (a) reasonable steps are taken to prevent the waste from escaping from any waste container;
   (b) there are minimal adverse effects of waste on surrounding occupiers;
   (c) any waste container is regularly emptied when it is full;
   (d) the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals;

(2) In addition, the occupier and the manager of any premises who is in control of an approved container must ensure that:
   (a) the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
   (b) waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
   (c) unless the container is placed at a council collection point, the container is placed for collection in an upright position off the roadway, in front of the premises from which the waste originated and as close to the kerbside as possible;
   (d) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises;
   (e) the container is placed for the collection of waste and retrieved in accordance with any applicable control specified by the council.

11 Deposit of waste at council collection points

(1) The council may specify:
   (a) any place, or receptacle in a public place or on or barge in a marine area, as a council collection point for the collection of domestic waste;
   (b) controls relating to the deposit of waste at the council collection point including the use of specified containers.

(2) No person may deposit waste at a council collection point other than in accordance with any applicable control.

Subpart 2 - Collection and transportation of waste

12 Licensing of the collection or transportation of waste

(1) Subject to subclause (3), any person who collects or transports waste from or to land in Auckland that on 31 October 2010 was part of Auckland City, Manukau City, Papakura District or Franklin District must obtain a licence to do so from the council.

(2) Subject to subclause (3), any person who collects or transports waste from or to land in Auckland that on 31 October 2010 was part of Waitakere City, North Shore City or Rodney District must obtain a licence to do so from the council.

(3) A licence is not required under subclause (1) or subclause (2) if the total amount of waste collected by that person in a 12 month period does not exceed 20 tonnes.
Deposit at and collection of waste from a public place

1. Waste that can be placed on a public place for collection includes:
   a. domestic waste;
   b. green waste;
   c. inorganic material deposited for collection by or on behalf of the council.

2. Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorized by the council under this bylaw.

3. Any waste collector who collects or transports domestic waste from a public place must:
   a. make available to the occupier or manager of a premises one or more approved containers to enable any refuse, recyclable material or organic matter from the premises to be collected separately;
   b. not collect or dispose of at a landfill site any domestic waste which has not been separated into refuse, recyclable material and organic matter, unless the amount of recyclable material and/or organic matter mixed with the refuse, or the amount of the recyclable material mixed with the organic matter or vice versa, does not exceed the maximum allowable limits specified by the council under clause 20;
   c. not dispose to a landfill site, managed fill site, monofill site or cleanfill site any recyclable material or organic matter that is capable of being reused or recycled.

Use of a public place for collection of waste

1. The council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
   a. the area to which the control applies;
   b. the type, size and construction of approved containers that may be used for the storage and collection of refuse, organic matter and recyclable materials;
   c. the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a public place;
   d. the conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection times and restrictions on the number and weight of approved containers;
   e. requirements to ensure the correct separation of refuse, organic matter and recyclable materials into approved containers;
   f. the locations, access times and conditions of use of council waste collection points;
   g. any other operational matter required for the safe and efficient operation of a collection service from a public place.

2. Any person providing or using a waste collection service in or from a public place must comply with all controls made by the council relating to that collection.

Subpart 3 - Disposal of waste and recovery of resources

Disposal of waste on land

1. Waste must be disposed of on land in accordance with this bylaw.

2. This clause does not apply to the disposal:
   a. on the land of less than 30 cubic metres, or such greater amount as the council may approve, of clean fill material measured over any continuous 12 month period.
Hibiscus and Bays Local Board
15 May 2019

Regulatory Committee
11 April 2019

Attachment A

Item 26

Item 10

Attachment B

of waste that in the opinion of the council is not likely to contain a significant level of recyclable or organic material that may be recovered in a cost effective manner;
(c) of waste for home composting;
(d) of dead companion animals and nuisance pests;
(e) of dead farm animals in rural areas.

16 Licensing of resource recovery facilities and fill sites
(1) Any person who operates a resource recovery facility, landfill site, clean fill site, managed fill site or mono-fill site must obtain a licence to do so from the council.
(2) Clause 16(1) does not apply to land used for the disposal of clean fill material where such disposal:
(a) is of clean fill material sourced directly from that land; or
(b) consists solely of:
   (i) hardfill that is natural or uncontaminated or cover material, or both, or
   (ii) not more than 30 cubic metres, or such greater amount as the council may approve, of other hardfill material specified pursuant to clause 20, measured over any continuous 12 month period.
(3) The council may grant a licence:
(a) in the case of a landfill site, for the receipt, processing and disposal of any waste of a category specified by the council;
(b) in the case of a clean fill site, for the disposal of clean fill material;
(c) in the case of a managed fill site, for the disposal of contaminated soil on the land;
(d) in the case of a mono-fill site, for the disposal or storage of waste of a category specified by the council and that originates from a specified single source or location, in or on specified land;
(4) The holder of a licence under this clause must comply with the conditions of the licence.

Subpart 4 – Licensing process and conditions

17 Application for licence
(1) Applications for licences must be made in the prescribed form, describe the activities in respect of which the licence is sought and be accompanied by payment of the application and processing fees and such further supporting information as the council may require to enable processing of the application.
(2) The holder of an existing licence may apply to the council for a renewal of that licence.
(3) Licences may be granted or refused at the discretion of the council, upon such terms and conditions as the council thinks fit.
(4) A licence is personal to the holder and is not transferable.

18 Consideration of application for licence
(1) When considering an application for a licence and the conditions to be imposed under it, the council may take into account matters relating to the suitability of the applicant to hold a licence including but not limited to the following:
(a) the extent to which the licensed activities will promote public health and safety and achievement of the council’s waste management and minimisation plan and waste reduction initiatives;
(b) the applicant’s experience, reputation and track record in the waste industry, including any known past operational issues which may affect, or may in the future affect, the applicant’s performance;
19 Conditions of licences

(1) The terms and conditions upon which a licence may be granted include, but are not limited to the following:

(a) term – a licence may be granted for a term of up to five years;
(b) licence fee – the licensee must pay an annual licence fee in an amount determined by the council from time to time and publicly notified;
(c) bond – the council may require a licence holder to post a bank guaranteed bond;
(d) compliance with standards – the licence holder must comply with the council's standards and policies for waste collection, transportation or disposal services including, in respect of collection services:
   (i) the collection of any litter within five metres of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process;
   (ii) provision of waste collection services within reasonable times specified by council;
(e) provision of information – the licence holder must provide waste data to the council during the term of the licence in the form and at the times determined by the council from time to time including the following data:
   (i) waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;
   (ii) weighbridge receipts;
   (iii) pallet records of waste tonnage.

(2) The council will take all reasonable measures to keep commercially sensitive information confidential including by the aggregation of such information for recording purposes.

Subpart 5 – Additional controls relating to the collection, transportation and disposal of waste

20 Controls for the collection, transportation and disposal of waste

(1) The council may specify controls for the following matters in relation to the collection, transportation or disposal of waste:

(a) types of domestic waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable material, organic matter, or refuse.
Subpart 5 - Multi-unit developments

21 Collection from multi-unit developments

(1) The owner and manager of a multi-unit development must make provision for the management of all waste generated within the property.

(2) The owner and manager of a multi-unit development must obtain approval from the council for a waste management and minimisation plan for the development unless they comply within clause 2(5).

(3) A waste management and minimisation plan must include but is not limited to:

(a) Identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licensed waste operator to enable separate collection and transportation of refuse, recyclable material and organic material;

(b) The methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;

(c) Identification of the means and route of access and egress to the waste storage area;

(d) An estimate of the volumes of refuse, recyclable material and organic material that will be generated;

(e) The steps which will be taken to further the objective of waste minimisation.

(4) Any person who owns, occupies or manages a multi-unit development must comply with an approved waste management and minimisation plan.

(5) The council may provide a written exemption on application to any person who manages a multi-unit development from full compliance with the requirements of this clause if:

(a) In the opinion of the council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or

(b) The manager or owner demonstrates to the satisfaction of the council that refuse, recyclable material and organic waste are separately and regularly collected.

22 Multi-unit developments controls

(1) The council may specify controls for the following matters in relation to the collection or transportation of waste from multi-unit developments:

(a) The categories of recyclable material, organic matter and refuse that may be deposited at or collected from a multi-unit development;
Subpart 7 - Events

23 Waste Management and Minimisation Plans for events
   (1) Any organiser of an event must obtain prior approval from the council of a waste management and minimisation plan for the event.
   (2) The council may require a waste management and minimisation plan to set out:
       (a) an estimate of the types and amounts of waste to be generated by the event;
       (b) how waste generated by the event is to be minimised;
       (c) the steps to maximise the collection and use of recyclables and reusable material;
       (d) the equipment to be provided for the storage, collection and transportation of waste and diverted material;
       (e) the person responsible for the collection and disposal of waste and the methods to be used;
       (f) a waste analysis following the conclusion of the event.
   (3) The organiser of an event must comply with the approved waste management and minimisation plan.

Subpart 8 – Inorganic material

24 Areas specified for inorganic collection
   (1) The council may specify areas where inorganic material may be deposited on a public place for collection by the council.
   (2) No person may remove inorganic material deposited on a public place for collection by the council if the inorganic material is removed in a manner likely to cause:
       (a) injury to any person; or
       (b) dispersal of inorganic material or any element or component thereof; or
       (c) damage to or destruction of any items placed for collection.

25 Controls for inorganic material collection
   (1) The council may specify controls for the following matters in relation to the collection of inorganic material from a public place:
       (a) the weight, size and nature of inorganic materials that may be deposited for collection by the council;
       (b) the categories of inorganic waste that may be deposited for collection by the council;
       (c) the times, locations and conditions applicable to the collection by the council of inorganic material from a public place;
       (d) the collection methods that cause health and safety risks;
Subpart 9 – Nuisance and litter

26 Nuisances

(1) No person may:

(a) allow any accumulation of waste or diverted material on any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;

(b) use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.

(2) Except as provided for under this bylaw, no person may:

(a) burn or allow to be burnt on any property they own, occupy or manage any waste except organic matter in rural areas;

(b) bury or allow to be buried on any property they own, occupy or manage any waste except:

(i) organic waste, including dead farm animals in rural areas;

(ii) dead companion animals and nuisance pests;

(iii) for the purposes of home composting;

(c) dispose of any waste on any premises except at:

(i) a landfill site, clean fill site, managed fill site, mono-fill site, or

(ii) on any premises they own, occupy or manage, for the purposes of home composting.

27 Litter

(1) No person may:

(a) deposit any waste arising from that person’s household or that person’s business activities in any litter receptacle provided by the council in any public place;

(b) remove any waste from any litter receptacle provided by the council in any public place, where this results in any waste being deposited outside the receptacle unless authorised by the council to do so;

(c) deposit or attempt to deposit any litter in any receptacle provided by the council in any public place if

(i) the receptacle is full; or

(ii) the litter is likely to escape;

(d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle provided by the council in any public place; or

(e) damage any litter receptacle provided by the council in any public place.

(2) The owner, occupier or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all steps to the satisfaction of the council to prevent it becoming litter and to clean up any litter caused by the display.

28 Unaddressed mail

(1) No person may deposit, cause, permit or authorise the deposit of any unaddressed mail, advertising material, community newspapers, clothing donations bags, circulars, leaflets, brochures, samples or flyers in any letterbox which is clearly marked “addressed mail only”.

Waste Bylaw Statement of Proposal
(2) Subclause (1) does not apply to:
(a) public notices from government bodies, local authorities or New Zealand Post;
(b) election material during the period beginning two months before polling day and ending with the close of the day before polling day.

(3) No person may deposit, cause, permit or authorise the deposit of any advertising material, clothing donations bags, circulars, leaflets, brochures, samples or flyers:
(a) in any letterbox which is clearly marked “no circulars”, “no junk mail”, or words with similar effect;
(b) on a vehicle parked in a public place;
(c) in a letterbox in unsecured circumstances, if it is likely to escape and become litter.

(4) Subclause (3) does not apply to:
(a) any daily or regular newspaper, community newspaper or magazine;
(b) public notices from government bodies, local authorities or New Zealand Post;
(c) communications from local community organisations, charities or charitable institutions;
(d) election material during the period beginning two months before polling day and ending with the close of the day before polling day.

29 Donation collection points
(1) Any person who places a container for the collection of donations of goods:
(a) on a public place; or
(b) on privately owned premises where the donated goods are likely to be left or on an adjoining public place or carried from or to otherwise escape from that premises onto an adjoining public place;
must obtain a licence to do so from the council.

(2) Any person who places a container on a public place or privately owned premises pursuant to this clause, must take all steps to the satisfaction of the council to prevent the donated goods from:
(a) being carried from or otherwise escaping from the approved container onto a public place or from becoming litter;
(b) accumulating on a public place within a radius of 10 metres from the container.

30 Shopping trolleys
(1) No person in control of a shopping trolley may leave it unattended on a public place other than the premises of the commercial enterprise that provided the shopping trolley.

(2) No owner or manager of a commercial enterprise that provides shopping trolleys for customer use may allow a person to leave a shopping trolley unattended on a public place other than the premises of that commercial enterprise.

(3) Any owner or manager of a commercial enterprise must take reasonable measures to prevent the removal of any shopping trolley from any premises occupied by the commercial enterprise or any public place. Such measures includes the erecting of signage to prevent the removal of a shopping trolley from the premises.

(4) Within six months of the commencement of this bylaw no shopping trolleys provided by a commercial enterprise to its customers for the conveyance of goods obtainable from its commercial premises must be legibly marked in a manner that enables the council to identify the commercial enterprise responsible for providing the shopping trolley. Identification may be by way of a toll free number or address.
31 Non-compliance with conditions of a licence
   (1) Where a licence holder does not comply with the terms and conditions of the licence, the council may take one or more of the following steps:
   (a) Issue a written warning to the licence holder, which may be considered as evidence of a prior breach of a licence condition during any subsequent review of the licence;
   (b) Review the licence, which may result in:
       (i) amendment of the licence, or
       (ii) suspension of the licence, or
       (iii) withdrawal of the licence;
   (c) Have recourse to any performance bond or security where the council has incurred any cost as a result of the breach of the licence condition, including where the council has itself performed or arranged for the performance of any licensed activity on the default of the licence holder;
   (d) Review the amount and nature of the performance bond or security, which may result in:
       (i) an increase of the amount of the performance bond or security;
       (ii) a change to the nature of the security that has been provided;
   (e) Enforce any offence that may have been committed under the Litter Act 1979;
   (f) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

32 Non-compliance with conditions for collection of waste from a public place
   (1) Where a person does not comply with clauses 8, 9, 10, 13 or 14 the waste collector may:
       (a) Reject (i.e. not collect) the contents of any approved container left out by that person for collection from a public place, if the contents or placement of the container is noncompliant;
       (b) Remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container is noncompliant, subject to payment of the costs of removal, administrative costs and an additional penalty equivalent to the amount due for the collection of the largest available size of approved container of refuse from that premises;
       (c) Withdraw or suspend the collection service provided by the waste collector to that person.
   (2) Where a person does not comply with clauses 8, 9, 10, 13 or 14 the council may:
       (a) Enforce any offence that may have been committed under the Litter Act 1979;
       (b) Enforce breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

33 Non-compliance with controls for council collection points
   (1) Where a person does not comply with a control made by the council under clause 11 the council may:
       (a) Issue a trespass notice against that person to prevent them from using the collection point;
(b) Suspend that person's use of any service provided by the council at any or every waste collection service;
(c) Enforce any offence that may have been committed under the Litter Act 1979;
(d) Enforce any breach of this bylaw as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

34 Non-compliance with controls for the collection of inorganic material

(1) Where a person does not comply with a control made by the council under cause 25 the council may:
(a) Reject (i.e. not collect) the inorganic material, if the inorganic material or placement is noncompliant;
(b) Remove the inorganic material, where the inorganic material or placement is noncompliant, subject to payment of the costs of removal, administrative costs and an additional penalty specified by the council;
(c) Enforce any offence that may have been committed under the Litter Act 1979;
(d) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

Part 5
Offences and Penalties

35 Bylaw breaches

(1) A person who fails to comply with Part 2 or Part 3 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008, the Local Government Act 2002 and/or the Health Act 1956.

Explanatory Note: As at 1 July 2012, the penalty for breach of a bylaw made under the Waste Minimisation Act 2008 is a fine not exceeding $20,000.

(2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

Part 6: Exceptions, revocation and saving provisions

36 Exceptions

(1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.
(2) A product stewardship scheme accredited under the Act may be exempted from the requirements of this bylaw.
(3) Parties to an industry accord approved by the council may be exempted in whole or in part from the requirements of clauses 28 (unaddressed mail) and 30 (shopping trolleys).

37 Revocation

(1) The following bylaws are revoked:
(a) Auckland City Council Solid Waste Bylaw 2006;
(b) Franklin District Council Waste Bylaw 2006;
(c) Chapter 20 (Waste Management) of the Manukau City Consolidated Bylaw 2008;
(d) Part 4 (Solid Waste Management & Minimisation) of the North Shore City Council Bylaw 2000.
Controls made under the Solid Waste Bylaw 2012 for approved containers for waste collected from a public place  
(Containers for Kerbside Collection General)  
(Tianga Kōhiti (pu Pōhara te Taha Hauraki))  
(as at 19 September 2013)  

Regional Development and Operations Committee  
Resolution RDO/2013/134  
19 September 2013  

Explanatory note: Chapters 8, 14(2) and 20 of the Solid Waste Bylaw provide that the council may establish controls containing detailed provisions by resolution. This control contains detailed provisions in relation to approved containers that may be placed for collection from a public place.
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1. **Title**
   This control is titled *Controls made under the Solid Waste Bylaw 2012 for containers collected from a public place and may be referred to as the Containers for Kerbside Collection Control.*

2. **Commencement**
   This control comes into force on 31 October 2013.

3. **Application**
   This control applies to Auckland.

4. **Purpose**
   This control regulates the placement and collection of waste in approved containers from a public place.

5. **Interpretation**
   (1) In this control, unless the context otherwise requires,—
   
   - Bylaw means the Solid Waste Bylaw 2012.
   
   Container means a container approved by the council for the collection of domestic or commercial waste from a public place.
   
   Public place in this control does not include school premises, privately-owned car parks, privately-owned access ways and privately-owned roads that are not under the control of the council, any of the council controlled organisations or the NZ Transport Agency.
   
   (2) Unless the context requires another meaning, a term or expression that is defined in the Act or the bylaw used, but not defined, in this control has the meaning given by the Act or bylaw.

   (3) Explanatory notes are for information purposes only and do not form part of this control.

   (4) The Interpretation Act 1999 applies to this control.

6. **Commercial, urban and rural waste collection areas**
   The council may from time to time specify commercial, urban and rural waste collection areas.

7. **Standards for containers**
   (1) The following weight requirements apply for the collection of domestic and commercial waste from a public place:

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<th>Maximum weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bins</td>
<td>1 to 800 litres</td>
<td>&lt;200 kg</td>
</tr>
<tr>
<td></td>
<td>801 to 1200 litres</td>
<td>&lt;200 kg</td>
</tr>
<tr>
<td></td>
<td>1201 to 1499 litres</td>
<td>&lt;350 kg</td>
</tr>
<tr>
<td></td>
<td>1500 to 2499 litres</td>
<td>&lt;600 kg</td>
</tr>
<tr>
<td></td>
<td>2500 to 3999 litres</td>
<td>&lt;900 kg</td>
</tr>
<tr>
<td>Bags</td>
<td>1 to 80 litre bag</td>
<td>&lt;10 kg</td>
</tr>
</tbody>
</table>

   (2) Any container used for the collection of any domestic or commercial waste must meet the relevant minimum standards required by the council, contained in Attachment A1 to A3.
8. Placement and collection of domestic waste in rural and urban waste collection areas

(1) A container deposited for collection of domestic waste from a public place must be placed directly adjacent to the premises from which it emanates, as close to the kerb as possible and without restricting the access to any premises or footpath.

(2) Except with the approval of the council, no container containing domestic waste may only be placed for collection or collected from any part of a public place except as provided in subclause (1).

(3) Except with the approval of the council, any container containing domestic waste may only be placed on a public place in a rural or urban waste collection area for collection between 7am of the day before collection and 7am on the morning of the collection.

(4) Except on arterial routes and streets approved by the council, the collection of any container containing domestic waste in a rural or urban collection area must take place between 7 am and 7 pm on any day, except Sunday. The council may on application approve the collection of any container containing domestic waste on any arterial route or street in a rural and urban collection area to commence from 6am on any day, except Sunday.

(5) Regardless of whether the waste has been collected, the owner or occupant of the premises from which domestic waste has been set out for collection in a rural or urban collection area must remove the container from the public place by 7 am of the day following the scheduled collection day.

9. Placement and collection of domestic and commercial waste in commercial centres

(1) A container deposited for collection of domestic or commercial waste from a public place must be placed directly adjacent to the premises from which it emanates, as close to the kerb as possible and without restricting the access to any premises or footpath.

(2) Except with the approval of the council, no container containing domestic or commercial waste may be placed for collection or collected from any part of a public place except as provided in subclause (1).

(3) Any container containing domestic waste may only be placed on a public place for collection in a commercial waste collection area between 7 am on the day before collection and 7 am on the morning of the collection.

(4) Subject to clause 9(7), the collection of any container containing domestic waste in a commercial waste collection area must take place between 7 am and 7 pm on any day, except Sunday.

Commercial waste normally collected by day

(5) Any container containing commercial waste that is normally collected by day must be placed for collection on a public place in a commercial waste collection area up to one hour before the start of the collection and must be removed with one hour after collection.

Commercial waste normally collected at night

(6) Any container containing commercial waste that is normally collected by night must be placed for collection on a public place in a commercial waste collection area between 9:00 pm and 5:00 am on the collection day and must be removed by 7:00 am on the day following collection.

High-density commercial centre collection

(7) In a high density commercial waste collection area, a container containing waste:

(a) can only be put on a public place on any day:

(i) from 12.00 am to 4.00 am; and

(ii) from 5.00 am to 6.00 pm (excluding Sundays).

(b) may only be collected from a public place on any day:

(i) from 4.00 am to 6.00 am; and

(ii) from 6.00 pm to 9.00 pm (excluding Sundays).
Regardless of whether the waste has been collected, the owner or occupant of the premises from which domestic or commercial waste has been set out for collection must remove the container from the public place as soon as reasonably possible after the scheduled collection time.

The council may on application approve the extension of the hours for the placement and collection of any container containing domestic or commercial waste on a specific route or street in a commercial waste collection area or high density commercial collection area.

Part 2 – Responsibilities of waste collectors

10. Responsibilities of waste collectors for commercial and domestic waste collection

(1) Every waste collector must provide its customers on an ongoing basis with current information on collection times and days of collection.

(2) The waste collector is responsible for removing any spillage that results from the deposit or collection of waste on a public place, including spillage before, during or after collection.

(3) A waste collector is responsible for the collection of waste deposited on a public place in any container provided by the collector regardless of the day or time of deposit. This includes the deposit on days that the waste collector does not provide a collection service, or on days the council has notified as collection days for services, or on days affected by public holidays, or due to the early deposit of waste by the customers for collection.

(4) If waste is not collected or a container is not removed from a public place by the owner or occupant of the premises from which it has been set out for collection, the council may require the waste collector-
   (a) whose particulars are on the container, or
   (b) who is responsible for that collection service
   to collect the waste or remove the container before 8:30am on the day following the collection day.

(5) Regardless of subclause (4), if any waste or container causes a nuisance or affects public health and safety, the council may collect the waste or remove the container as soon as practicable possible.

(6) The council may recover the costs provided for in clause 32(1)(b) of the bylaw from the waste collector referred to in subclause (4) for the removal of waste or any container.
STANDARDS FOR APPROVED CONTAINERS: DOMESTIC WASTE BINS FOR COLLECTION FROM PUBLIC PLACES

Mobile garbage bins (the "bin") used for the collection of domestic waste from a public place must meet the following requirements:

1. The bin will have the waste collector’s name (and logo, if any) printed on the bin in such a manner that the responsible waste collector may easily be identified from a collection vehicle on a roadway when the bin is deposited on a public place for collection. The waste collector may identify the premises on the bin to which the bin has been allocated.

2. Every waste collector must place a legible educational sticker on the inside of the bin lid informing the customer of the material that may be collected as refuse, recyclable material, or food waste (relevant to whatever the purpose of the specific bin may be) as well as the standard collection times and days provided by the waste collector.

3. Bins must meet the latest edition of the following standard or its replacement:

4. Bins must also either:
   a) meet the latest editions of the either of the following standards or their replacements:
      - BS EN 840-1:2012 Mobile waste and recycling container: 2 wheels up to 400 litres;
      - AS 4123: 2008 Mobile Waste Containers (Addresses dimensions and design, performance requirements, testing methods, colours, markings and recycled content of a mobile waste container);
   b) be approved by the council.

5. The council shall approve the bins under 4(b) if:
   a) the bins are demonstrated to be "fit-for-purpose" i.e., operationally efficient, durable and able to securely contain the waste until collection, and able to ensure that the contents are not trapped when the bin is emptied; and
   b) the bins do not create a risk of injury to any person (including employees of the waste collector) or damage to the public place or anything on the public place.

6. Every bin supplied to a customer will be free from defects that might affect its performance. Bins which have been damaged or which are incomplete or faulty and that are no longer fit for purpose may not be placed on a public place for the collection of waste.
STANDARDS FOR APPROVED CONTAINERS: DOMESTIC WASTE BAGS FOR COLLECTION FROM PUBLIC PLACES

Bags used for the collection of domestic waste from a public place must meet the following requirements:

1. The bag will have the waste collector's name (and logo, if any) printed on the bag in such a manner that the waste collector responsible may easily be identified from a collection vehicle on a roadway when the bag is deposited on a public place for collection.

2. Every waste collector must print legible educational material on the bag informing the customer of the material that may be collected as refuse, recyclable material or food waste (relevant to whatever the purpose of the specific bag may be) as well as the standard collection times and days provided by the waste collector.

3. Bags must either:
   a) meet the latest edition of either of the following standard or their replacements:
      - BS EN 13521: 2007 Specification for disposable plastics refuse sacks made from polyethylene or its replacement, or
      - NZS 7803:1979 Specification for refuse bags for local authority collection (low density polyethylene), or
   b) be approved by council.

4. The council shall approve the bag under 3(c) if:
   a) the bag is demonstrated to be fit for purpose, i.e. operationally efficient, durable and able to securely contain the waste until collection; and
   b) the bag does not create a risk of injury to any person (including employees of the waste collector) or damage to the public place or anything on the public place.

5. Bags must be of a standard that does not allow liquid content in its content to leak onto the public place.

6. Every bag supplied to a customer will be free from defects that might affect its performance. Bags which have been damaged or which are incomplete or faulty and that are no longer fit for purpose may not be placed on a public place for the collection of waste.
STANDARDS FOR CONTAINERS: FOR THE COLLECTION FROM PUBLIC PLACES OF WASTE OTHER THAN DOMESTIC WASTE

Bins used for the collection from a public place of waste other than domestic waste must meet the following requirements:

1. The bin will have the waste collector’s name (and logo, if any) printed on the bin in such a manner that the responsible waste collector may easily be identified from a collection vehicle on a roadway when the bin is deposited on a public place for collection. The waste collector may identify the premises on the bin to which the bin has been allocated.
2. Mobile garbage bins must either:
   a. meet the latest edition of each of the applicable following standards or their replacements;
      - BS EN 840-1:2012. Mobile waste and recycling container (2 wheels up to 400 litres)
      - BS EN 840-2:2012. Mobile waste and recycling containers (1 wheels up to 1,300 litres)
      - BS EN 840-3:2012. Mobile waste and recycling containers (1 wheels up to 1,300 litres)
      - BS EN 840-4:2012. Mobile waste and recycling containers (4 wheels up to 1,700 litres)
      - BS EN 840-5:2012 Test methods
      - AS 4123: 2003. Mobile Waste Containers (Addresses dimensions and design, performance requirements, testing methods, colours, markings and recycled content of a mobile waste container);
   b. be approved by the council.
3. The council shall approve the mobile garbage bins under 2(b) if:
   a. the bins are demonstrated to be ‘fit-for-purpose’, i.e. operationally efficient, durable and able to securely contain the waste until collection, and able to ensure that the contents are not tipped when the bin is emptied; and
   b. the bins do not create a risk of injury to any person (including employees of the waste collector) or damage to the public place or anything on the public place.
4. Stationary bins must either:
   a. meet the latest edition of each of the applicable following standards or their replacements:
      - BS EN 13071-1:2008 Stationary waste containers up to 5000 L, top lifted and bottom emptied. General requirements
      - BS EN 13071-2:2008 Stationary waste containers up to 5000 L, top lifted and bottom emptied. Additional requirements for underground or partly underground systems
      - BS EN 12574-3:2006 Stationary waste containers. Safety and health requirements
      - BS EN 12574-2:2006 Stationary waste containers. Performance requirements and test methods
      - BS EN 13071-3:2011 Stationary waste containers up to 5000 L, top lifted and bottom emptied. Recommended lifting connections
      - BS EN 13071-1:2008 Stationary waste containers up to 5000 L, top lifted and bottom emptied. General requirements
      - BS EN 13071-2:2008 Stationary waste containers up to 5000 L, top lifted and bottom emptied. Additional requirements for underground or partly underground systems
• BS EN 12374:1:2006 Stationary waste containers. Containers with a capacity up to 1000 l with flat or dome lid(s), for munition, double munition or pocket lifting device.

or

b) be approved by the council.

5. The council shall approve the stationary bins under 4(b) if,

a) the bins are demonstrated to be "fit-for-purpose", i.e. operationally efficient, durable and able to securely contain the waste until collection, and able to ensure that the contents are not trapped when the bin is emptied; and

b) the bins do not create a risk of injury to any person (including employees of the waste collector) or damage to the public place or anything on the public place.

6. Every bin supplied to a customer will be free from defects that might affect its performance. Bins which have been damaged or which are incomplete or faulty and that are no longer fit for purpose may not be placed on a public place for the collection of waste or diverted material.
Controls made under the Solid Waste Bylaw 2012 concerning the separation of domestic waste collected from a public place
(Separation of Domestic Waste Controls)
(Tīkanga Tātari i te Para Mārā s-Kāngi)
(as at 19 September 2013)

Regional Development and Operations Committee
Resolution RDO/2013/154
19 September 2013

Explanatory note: Clauses 6, 14(2), and 20 of the Solid Waste Bylaw stipulate that the council may establish controls containing detailed provisions by resolution. This control contains detailed provisions in relation to the separation of domestic waste in containers for collection from a public place.

Waste Bylaw Statement of Proposal
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<td>Maximum permissible amount of recyclable material and organic waste allowed in refuse container</td>
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<td>Maximum permissible amount of contamination in recycling containers</td>
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<td>Material that may be placed in organic waste containers</td>
</tr>
<tr>
<td>9</td>
<td>Prohibition on green waste in containers used for refuse and recyclable material</td>
</tr>
</tbody>
</table>
1. **Title**  
This control is titled Controls made under the Solid Waste Bylaw 2012 concerning the separation of domestic waste collected from a public place and may be referred to as the Separation of Domestic Waste Control.

2. **Commencement**  
This control comes into force on 31 October 2013.

3. **Application**  
This control applies to Auckland.

4. **Purpose**  
This control regulates the separation of domestic waste collected from a public place.

5. **Interpretation**  
(1) In this control, unless the context otherwise requires,—  
**Act** means the Waste Minimisation Act 2008.  
**Bylaw** means the Solid Waste Bylaw 2012.  
**Public place** means any place not included in the definitions of “school premises”, “privately-owned car parks”, and “privately-owned access ways” in the Local Government Act 1974, or in the definition “public road” in the NZ Transport Agency Act 2002.

**Organic waste container** means a container approved by the council for the collection of organic matter from a public place.

**Recycling container** means a container approved by the council for the collection of recyclable material from a public place.

**Refuse container** means a refuse bag or stationary or mobile garbage bin approved by the council for the collection of refuse from a public place.

(2) Unless the context requires another meaning, a term or expression that is defined in the Act or the bylaw used, but not defined, in this control has the meaning given by the Act or bylaw.

(3) Explanatory notes are for information purposes only and do not form part of this control.

(4) The Interpretation Act 1999 applies to this control.

6. **Maximum permitted amounts of recyclable material and food waste allowed in refuse container**  
(1) The total proportion of recyclable material in a refuse container left for collection from a public place must not exceed five per cent by volume of waste in that container.

(2) Upon introduction of a separate organic waste collection service in Auckland, the total proportion of food waste in a refuse container on a public place anywhere in Auckland (including rural areas) must not exceed five per cent by volume of waste in that container.

7. **Material that may be placed in recycling containers**  
(1) Only recyclable material listed in clause 1 of Attachment A may be deposited in a recycling container left for collection from a public place.

(2) Material listed in clause 3 of Attachment A must not be deposited in a recycling container left for collection from a public place.
8. Material that may be placed in organic waste containers
   (1) Upon introduction of a separate organic waste collection service in Auckland, only organic matter listed in clause 1 of Attachment B may be deposited in an organic waste container left for collection from a public place.
   (2) Organic matter listed in clause 2 of Attachment B must not be deposited in an organic waste container left for collection from a public place.

9. Prohibition on green waste in containers used for refuse and recyclable material
   (1) Subject to the exemption in sub-clause (2), no green waste may be deposited in a refuse container left for collection from a public place.
   (2) Pest plants listed in Attachment C may be deposited in a refuse container left for collection from a public place.
   (3) No green waste may be deposited in a recycling container left for collection from a public place.
STANDARDS FOR RECYCLABLE MATERIAL THAT MAY BE COLLECTED FROM PUBLIC PLACES

1) Except where the council notifies the public otherwise, the following dry recyclable material may be placed in a recycling container left for collection from a public place:
   a) plastic marked with the international symbol for recycling in categories 1, 2, 3, 4, 5, 6 (except meat and food trays) and 7
   b) cardboard, paper, egg cartons, newspapers and magazines
   c) glass bottles and jars
   d) aluminium, steel and tin cans
   e) aseptic packaging ("tetra-pak"-type containers), subject to acceptance by the applicable material recovery processing facility. The council will notify the public where aseptic packaging will be collected as recyclable material.

2) Where the council has notified the public that there will be a separate collection of domestic waste paper and cardboard products, such as cardboard, paper, egg cartons, newspapers and magazines from a public place in an area or areas of Auckland, no person may place cardboard and other waste paper products in a recycling container. In such areas, cardboard and other waste paper products must be placed separately from other recycling material and be securely contained or bound for collection on the public place.

3) Material not included in clause (1) above must not be placed in a recycling container left for collection from a public place. For the avoidance of doubt, the following materials must not be placed in a recycling container left for collection:
   a) organic waste
   b) polystyrene packaging material
   c) meat and food trays (even if they are marked with the international symbol for recycling)
   d) ceramic crockery and cookware
   e) pyrocathetral glass cookware (commonly known by the brand "Pyrex")
   f) perspex and similar non-recyclable plastic
   g) paint and containers that contained paint
   h) motor oil and grease and containers that contained motor oil and grease
   i) batteries
   j) disposable nappies
   k) light bulbs
   l) shoes, textiles and clothes
   m) window glass, mirrors and similar material
   n) construction and demolition waste
   o) plastic bags
   p) electric cables, rope, string and similar material
   q) gas bottles
   r) prohibited waste
   s) any liquid
STANDARDS FOR ORGANIC MATTER THAT MAY BE COLLECTED FROM PUBLIC PLACES

1) Except where the council notifies the public otherwise, the following organic matter may be placed in an organic waste container left for collection from a public place:
   • to be determined by the council by resolution

2) Matter not included in clause (1) above must not be placed in an organic waste container left for collection from a public place. For the avoidance of doubt, the following matter must not be placed in an organic waste container left for collection:
   • to be determined by the council by resolution
Attachment C

PEST PLANTS THAT MAY BE DEPOSITED IN A REFUSE CONTAINER LEFT FOR COLLECTION FROM A PUBLIC PLACE

<table>
<thead>
<tr>
<th>Total control plants</th>
<th>As described in the current Regional Pest Management Plan</th>
</tr>
</thead>
</table>
| Other pest plants (containment pest plants, surveillance pest plants, community initiative pest plants) | Whole plant:  
- Senegal tea  
- Old man's beard  
- Parvinille  
- Knotweed species  
- Camel thorn  
- Mistletoe  
- Century plant  
- Mauritius hemp  
- African leather grass  
- Chilean needle grass  
- Elaeagnus species  
- Giant reed  
- Coral tree  
- Rhizomes:  
  - Strong lily  
  - Maram grass  
  - Chilean rhubarb  
- Tubers:  
  - Mauka vine  
  - Acacia lilly  
  - Elephant ear  
  - Ginger  
- Root masses:  
  - Agapanthus species  
- Fruits and seed heads:  
  - Mophead plant  
  - Chilean rhubarb  
  - Ginger  
| Other plants | Flax species  
- Palm species fronds  
- Cabbage tree  
- Pampas  
- Ti leaf (cutty grass)  
- Vucco species  
- Bamboo species  
- Dicenca species |
Controls made under the Solid Waste Bylaw 2012 for the Disposal of Waste to Land
(Land Disposal Control)
(Tukuhanga Pora ki te Whenua)
(as at 8 October 2015)

Regional Strategy and Policy Committee
Resolution number REG 2015/77
8 October 2015

Explanatory note: Clauses 6, 14(2) and 20 of the Solid Waste Bylaw provides that the council may establish controls containing detailed provisions by resolution. This control contains provisions in relation to the disposal of waste pursuant to Clause 20.
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<tr>
<td>6</td>
<td>Controls on waste that is disposed to a clean fill site</td>
</tr>
<tr>
<td>7</td>
<td>Controls on waste that is disposed to a managed fill site</td>
</tr>
</tbody>
</table>

**Schedule A**  
Materials that are suitable for disposal to a clean fill site

**Schedule B**  
Prohibited materials that may not be disposed of at a clean fill site

**Schedule C**  
Materials that are suitable for disposal to a managed fill site

**Schedule D**  
Prohibited materials that may not be disposed of at a managed fill site
1. Title
   This control is titled Controls made under the Solid Waste Bylaw 2012 for the Disposal of Waste to Land.

2. Commencement
   This control comes into force on 31 October 2015.

3. Application
   This control applies to Auckland.

4. Purpose
   This control regulates the disposal of waste to cleanfill and managed fill sites.

5. Interpretation
   (1) In this control:
       Bylaw means the Solid Waste Bylaw 2012.
       Clean fill material means waste that:
       (a) does not undergo any physical, chemical or biological transformation that, when deposited or with the efflux of time, is likely to have adverse effects on the environment or human health; and
       (b) is not diverted material; and
       (c) includes virgin materials such as clay, soil and rock and other inert materials such as concrete or brick that are free of:
           (i) combustible, putrescible, degradable or leachable components;
           (ii) hazardous waste;
           (iii) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
           (iv) materials that may present a risk to human health or the environment; and
           (v) liquid waste;
       (d) has less than ten per cent by volume by mass of free or vegetable matter.
       Clean fill site means land used for the disposal of clean fill material.
   (2) Unless the context requires another meaning, a term or expression that is defined in the Act or the bylaw used, but not defined, in this control has the meaning given by the Act or bylaw.
   (3) Explanatory notes are for information purposes only and do not form part of this control.
   (4) The Interpretation Act 1999 applies to this control.
6. Controls on waste that is disposed to a clean fill site

   (1) Material that may be disposed of at a clean fill site pursuant to clause 16(2)(b)(i), 16(2)(b)(ii), 20(1)(d) and 20(1)(e) of the bylaw is set out at Schedule A.

   (2) Prohibited material that must not be disposed of at a clean fill site is set out at Schedule B.

7. Controls on waste that is disposed to a managed fill site

   (1) Material that may be disposed of at a managed fill site pursuant to clause 20(1)(d) of the bylaw is set out at Schedule C.

   (2) Prohibited material that must not be disposed of at a managed fill site is set out at Schedule D.

Schedule A: Materials that are suitable for disposal to a clean fill site

<table>
<thead>
<tr>
<th>Material Type</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Hardfill</td>
<td>Clean fill material that consists of soil, rock, aggregates and gravel, sand, clay or other inorganic inert vugular natural materials that does not contain any trace element specified in the Proposed Auckland Unitary Plan H4.5.2.1.3 Table 2 at a concentration greater than the background concentration in Auckland soils as specified in that Table. May include incidental tree or vegetative matter of less than 2 per cent by volume by load.</td>
</tr>
</tbody>
</table>
| Uncontaminated Hardfill| Clean fill material that is manufactured and inert and does not contain any trace element specified in the Proposed Auckland Unitary Plan H4.5.2.1.3 Table 2 at a concentration greater than the background concentrations in Auckland soils as specified in that Table. Includes:  
   - Bricks, ceramics and masonry blocks;  
   - Unreinforced concrete and reinforced concrete including exposed reinforcing rods of less than 1 metre in length;  
   - Pavers, pipes, tiles (clay, concrete, ceramic). May include incidental tree or vegetative matter of less than 2 per cent by volume by load. |
| Other Hardfill         | Other hardfill material as specifically provided for in a cleanfill resource consent. |
| Cover material         | Natural or other material that is suitable for use as cover at a cleanfill site. |
## Schedule B: Prohibited materials that may not be disposed of at a clean fill site

<table>
<thead>
<tr>
<th>Material Type</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibited Material</td>
<td>Any material that is not included in Schedule A. This includes, but is not limited to:</td>
</tr>
<tr>
<td></td>
<td>- Treated Timber</td>
</tr>
<tr>
<td></td>
<td>- Plaster Board</td>
</tr>
<tr>
<td></td>
<td>- Asbestos.</td>
</tr>
</tbody>
</table>

## Schedule C: Materials that are suitable for disposal to a managed fill site

<table>
<thead>
<tr>
<th>Material Type</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Managed Fill Material</td>
<td>- Natural hardfill</td>
</tr>
<tr>
<td></td>
<td>- Uncontaminated hardfill</td>
</tr>
<tr>
<td></td>
<td>- Other hardfill as specifically provided for in a managed fill resource consent</td>
</tr>
<tr>
<td></td>
<td>- Contaminated soil and other contaminated material that contain trace elements at a concentration greater than the background concentrations in Auckland soils, as specified in the Proposed Auckland Unitary Plan (4.5.2.1.3 Table 9)</td>
</tr>
<tr>
<td></td>
<td>- May include incidental or attached vegetative or biodegradable material of less than 2 percent by volume by weight.</td>
</tr>
</tbody>
</table>

## Schedule D: Prohibited materials that may not be disposed of at a managed fill site

<table>
<thead>
<tr>
<th>Material Type</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibited Material</td>
<td>Any material that is not included in Schedule C. This includes, but is not limited to:</td>
</tr>
<tr>
<td></td>
<td>- Hazardous substances or materials (such as municipal solid waste) likely to create leachate by means of biological breakdown</td>
</tr>
<tr>
<td></td>
<td>- Products or materials derived from hazardous waste treatment, stabilisation or disposal practices:</td>
</tr>
<tr>
<td></td>
<td>- Materials such as medical and veterinary waste, asbestos, or radioactive substances:</td>
</tr>
<tr>
<td></td>
<td>- Combustible compounds or</td>
</tr>
<tr>
<td></td>
<td>- Vegetative or biodegradable materials in excess of that provided in Schedule C.</td>
</tr>
</tbody>
</table>
Solid Waste Bylaw 2012 Review
2019 Options report

Introduction

This report analyses the options available to Auckland Council (council) in response to the review of the Auckland Council Solid Waste Bylaw 2012 (Bylaw).

The report draws on the “Auckland Council Solid Waste 2012: 2019 Findings Report” (findings). Staff presented the findings of the review to the Regulatory Committee on 14 February 2019. The Committee endorsed the following key findings (REG/2019/7):

- Council has a responsibility to promote waste management and minimisation
- The Bylaw is identified in the Auckland Waste Management and Minimisation Plan 2018: Working Together for Zero Waste (Waste Plan) as one tool to help reduce harm from residual waste
- Harm from residual waste remains a significant issue in Auckland and in the context of the Bylaw includes issues related to domestic waste, resource recovery sites, fill sites, hazardous waste, litter and illegal dumping
- The Bylaw is still necessary and effective (within the constraints of the resources available and current legislation) but could be improved.

The options considered in this report flow from these findings. The options focus on the whether a bylaw is required for each of the 12 topics contained in the current Bylaw. This approach was taken because each of the 12 topics are distinct areas of regulation. For example, kerbside waste collection is different to waste from events.

Options Report Executive Summary

To enable council to decide how to respond to the findings from the review of the Auckland Council Solid Waste Bylaw 2012 (Bylaw), staff prepared this options report.

Staff identified and assessed options for each of the 12 topics contained in the Bylaw using Waste Minimisation Act 2008 and Local Government Act 2002 criteria.

Staff recommend that a new waste bylaw is required to address 10 of the 12 topics contained in the current Bylaw:

- Waste collection from a public place
- Waste facilities (data collection)
- Donation collection points
- Hazardous waste
- Multi-unit developments
- Events
- Unaddressed mail
- Shopping trolleys
- Waste nuisance
- Litter receptacles

A new bylaw is required because the current Bylaw expires on 25 October 2019 under the Local Government Act 2002.

A new bylaw for the above topics would:

- Help implement the Waste Plan goal to reduce harm from residual waste, for example encourage waste minimisation, prevent inappropriate waste disposal and collect data
- Help manage the use of public places for the deposit, collection and transportation of waste and manage the appropriate use of public litter receptacles
- Be easier to understand than the current Bylaw.
A new bylaw is not required for two topics in the current Bylaw:
- kerbside inorganic collection
- litter from the display of flags and similar items

Council’s kerbside inorganic collection was replaced in 2015 with a new service that collects inorganic material from private property. This approach is identified in the Waste Plan.

The Bylaw to prevent the display of flags, balloons, posters and similar items from becoming litter has never been used. If any future issue arises, council can use existing powers under the Litter Act 1979, Signage Bylaw 2015 and Public Safety and Nuisance Bylaw 2013.

**Current bylaw and problem definition**

**Current bylaw**

The Bylaw *(which expires on 25 October 2019)* combines a framework and prescriptive approach which:
- provides a framework for the deposit, collection, transportation and disposal of waste
- establishes a licensing system for waste collectors, waste facility operators and operators of donation collection points
- enables the adoption of operational controls
- requires a waste management and minimisation plan for events and multi-unit developments
- addresses the risk of litter from unaddressed mail, donation bins and abandoned shopping trolleys
- manages litter receptacles and waste nuisance.

**Original problem statement**

When the Bylaw was made staff identified a range of issues related to limited data, litter and illegal dumping, misuse of kerbside waste collection services by residents, inconsistent requirements for kerbside waste collectors and poor waste diversion.

The Bylaw was introduced to respond to these issues by amalgamating all legacy bylaws to provide a single bylaw for the whole region.

**Current and future problem**

The current problem is that not all waste issues are covered by the Bylaw. In addition, some waste issues that are already covered by the Bylaw such as misuse of kerbside collection services, are still causing problems. In contrast other waste issues covered in the Bylaw, such as attaching flags and similar items to public litter bins, are no longer a problem.

Examples of waste issues not currently regulated by the Bylaw include:
- data from waste disposal outside of Auckland
- licensing of certain waste facilities
- privately-provided flexi bins
- disposal of hazardous waste (e.g. medical waste) in kerbside bins
- disposal of asbestos in fill sites
- noise and traffic issues
- collection limitations due to cycle lanes and kerbside parking
- inadequate storage space for kerbside bins.

Examples of waste issues covered by the Bylaw which are still causing problems include:

- general misuse of kerbside waste collection services by residents
- inadequate waste storage in multi-unit developments
- contamination of waste at events
- disposal of commercial and domestic waste in public bins
- litter and illegal dumping at donation collection points and from unaddressed mail
- abandoned shopping trolleys.

Waste issues can increase harm from residual waste or hinder council’s statutory obligation to collect data. For example:

- contamination of recyclable or organic material or their deposit in refuse bins reduces effective resource recovery and prevents diversion from landfill
- waste spillage, litter and illegally dumped material disrupt ecological systems through land and waterway contamination and reduce effective recovery of material
- insufficient design of waste storage areas in multi-unit developments (MUDs) and inadequate bin provision at events hinder waste separation and landfill diversion
- without sufficient data, council is unable to define the volumes and types of waste to landfill and meet its statutory obligation under the Waste Minimisation Act 2008.

Increased harm from residual waste can lead to broader impacts such as:

- greater greenhouse gas emissions from increased waste deposited in landfills
- increased cost to ratepayers to maintain old landfills (currently $5-8 million a year)
- decreased pride in the environment
- lost revenue from recyclable material sent to landfill.

Such waste issues are exacerbated by Auckland’s rapid population growth (projected to exceed 2.3 million by 2043) and the building boom.

The current Bylaw restricts council’s ability to address emerging problems through a lack of regulation and existing problems through poor structure and wording. The Bylaw also contains regulations that are no longer required.

Without intervention, harm from residual waste will increase because of the reduced incentive (requirement) to appropriately manage and minimise waste.

Scale and magnitude of the problem

There is limited data available on the scale and magnitude of waste issues. Available data and anecdotal evidence includes:

- one complaint per week about privately-provided flexi-bins (1.3 per cent of illegal dumping complaints)
- anecdotal increase in domestic hazardous waste and asbestos deposited to landfill
- anecdotal increase in complaints about medical waste in domestic refuse in 2018
- anecdotal lack of kerbside bin storage space for retailers and residents in the CBD, particularly in Newmarket
- increase in noise complaints about rubbish collection vehicles by 64 per cent between 2017 and 2018
- increased domestic recycling bin contamination from 5 to 12-14 per cent since 2011

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3 Sections 50 and 51 of the Waste Minimisation Act 2008.
4 Data limited accuracy pre-July 2017 due to other complaint systems.
Item 10

Attachment C

4 Auckland Council Solid Waste Bylaw 2017 - 2019 Findings Report, p. 10

Waste Bylaw Statement of Proposal

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Attachments
A more detailed description of the options is provided in each topic. In general:

- Option 1 (no waste bylaw) would rely on other existing regulations\(^5\) and where no regulations exist, it would rely on non-regulatory methods, such as education.
- Option 2 (new waste bylaw) would address current and emerging waste issues that are not appropriately addressed by other existing regulations.
- Both options would commence on 25 October 2019 which is the date the current Bylaw expires under section 180A of the Local Government Act 2002.
- Implementation of both options would be within existing resources and budgets, and staff would use a graduated approach to compliance when responding to complaints.

**Options assessment**

**Preliminary legal assessment**

Bylaws must comply with certain legal requirements to be valid, including that they are authorised by statute, and are not repugnant or unreasonable. Staff consider that a bylaw for 10 of the 12 topics meet these requirements. A bylaw about kerbside inorganic collection and flags and similar things may be unreasonable because they are no longer issues.

A bylaw about unaddressed mail raises potential limitations to freedom of expression. However, these are justified limitations to support waste management and minimisation, protect health and safety, and manage litter and nuisance in public places. Therefore, there are no implications and the options for all 12 topics are not inconsistent with the New Zealand Bill of Rights Act 1990.

A bylaw about kerbside inorganic collections would be inconsistent with the Waste Plan. The Waste Plan identifies actions to promote inorganic collection from private property (actions 16 and 17) and potential for collection services through Community Recycling Centres (action 18)\(^6\). A bylaw about the remaining 11 topics are not inconsistent with the Waste Plan.

**Assessment against criteria**

Staff used a comparative assessment against criteria for each of the 12 topics. These criteria are aligned to the 'objectives of a regulatory response' identified above:

1. Help implement the Waste Plan by ensuring appropriate regulation to manage and minimise waste, protects public health and safety, and manages litter and nuisance.
2. Meet legislative requirements under the Waste Minimisation Act 2008 (WA2008) and the Local Government Act 2002 (LGA2002) including:
   - Giving effect to the identified priorities and desired outcomes in an efficient and effective manner (s14 LGA2002)
   - Ensuring any bylaw is valid, including that it is authorised by statute, and is not repugnant or unreasonable
   - Ensuring any bylaw is not inconsistent with the Waste Plan (s56 WA2008)
   - Ensuring any bylaw does not give rise to any implications or is inconsistent with the New Zealand Bill of Rights Act 1990 (s155 LGA2002).

A summary of the assessment is shown in Table 1. The full assessment is in Appendix 1.

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\(^{5}\) Examples include the Auckland Council and Auckland Transport Towing and Event Bylaw 2015 (collections) and Public Safety and Litter Bylaw 2013 (nuisance). Health Act 1990 (nuisance), Litter Act 1993.

\(^{6}\) Auckland Unitary Plan (Mfcs, waste facilities), Summary Offences Act 1911 and Crimes Act 1961 (damage).

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Waste Bylaw Statement of Proposal

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### Table 1: Summary of comparative assessment of options against stated objectives for all 12 waste topics

<table>
<thead>
<tr>
<th>Topic</th>
<th>Efficiency at managing and minimising waste</th>
<th>Attachment C</th>
<th>Attachment A</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Waste collection from a public place</td>
<td>Option 1 (no waste bylaw) (recommended)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>2. Recyclables</td>
<td>Option 2 (new waste bylaw) (recommended)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>3. Donation collection points</td>
<td>Option 3 (new waste bylaw)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>4. Inorganic kerbside collection</td>
<td>Option 4 (new waste bylaw) (recommended)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>5. Hazardous waste</td>
<td>Option 5 (new waste bylaw)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
<tr>
<td>6. Multifamily dwellings</td>
<td>Option 6 (no waste bylaw) (recommended)</td>
<td>✔️</td>
<td>✔️</td>
</tr>
</tbody>
</table>

The ✔️ and ✗ reflect the impact of the option against each object relative to other options. For instance, the more ✗, the better the option.

**Waste Bylaw Statement of Proposal**
<table>
<thead>
<tr>
<th>Topic</th>
<th>Item 26</th>
<th>Item 10</th>
<th>Attachment C</th>
<th>Attachment A</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Events</td>
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<tr>
<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>2. Litter from display of flags, balloons, posters and the like</td>
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<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>3. Options for all villages</td>
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<tr>
<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>4. Option B &amp; D</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>5. Option E</td>
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<td>6. Option F</td>
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<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>7. Option G</td>
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<td>8. Option H &amp; I</td>
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<td>9. Option J &amp; K</td>
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<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>10. Option L</td>
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<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>11. Option M</td>
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<td>Option 2 (new waste bylaw)</td>
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<td>12. Option N &amp; O</td>
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<td>Option 1 (no waste bylaw)</td>
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<td>Option 2 (new waste bylaw)</td>
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</tbody>
</table>

Effectiveness at managing and minimising waste:
- n/a
- x

Is a bylaw valid and consistent with Bill of Rights and Waste Plan?:
- ✓
- n/a
- x

Efficiency at managing and minimising waste:
- ✓
- ✓
Analysis and recommendations

To enable council to decide how to respond to the findings from the review of the Auckland Council Solid Waste Bylaw 2012 (Bylaw), staff prepared this options report.

Staff identified and assessed options for each of the 12 topics contained in the Bylaw using Waste Minimisation Act 2008 and Local Government Act 2002 criteria.

Staff recommend that a new waste bylaw is required to address 10 of the 12 topics contained in the current Bylaw:

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<th>Waste collection from a public place</th>
<th>Events</th>
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<tr>
<td>Waste facilities (data collection)</td>
<td>Unaddressed mail</td>
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<tr>
<td>Donation collection points</td>
<td>Shopping trolleys</td>
</tr>
<tr>
<td>Hazardous waste</td>
<td>Waste nuisance</td>
</tr>
<tr>
<td>Multi-unit developments</td>
<td>Litter receptacles</td>
</tr>
</tbody>
</table>

A new (as opposed to an amended) bylaw is required because the current Bylaw expires on 25 October 2019 under the Local Government Act 2002.

A new bylaw for the above topics would:
- help implement the Waste Plan goal to reduce harm from residual waste, for example by encouraging waste minimisation, preventing litter and inappropriate disposal of waste, and enabling data collection
- help manage the use of public places for the deposit, collection and transportation of waste and manage the appropriate use of public litter receptacles
- be easier to understand than the current Bylaw.

A new bylaw is not required for two topics in the current Bylaw:
- kerbside inorganic collection
- litter from the display of flags and similar items

Kerbside collection of inorganic material by council has been replaced with a new service that collects inorganic material from private property since 2015. This approach is identified in the Waste Plan.

The Bylaw to prevent the display of flags, balloons, posters and similar items from becoming litter has never been used. If any future issue arises, council can use existing powers under the Litter Act 1979, Signage Bylaw 2015 and Public Safety and Nuisance Bylaw 2013.
Appendix 1: Assessment of waste issues

This appendix contains a full assessment for each of all 12 topics including:

context:
- what the current Bylaw requires
- how the current Bylaw is implemented
- the statutory authority under which a bylaw can be made
- the issues and outcomes the current Bylaw sought to address and achieve when it was first made in 2012
- the current and emerging issues to be addressed and outcomes sought in 2019.

analysis:
- whether a bylaw can help address the current and emerging issues and outcomes
- the effectiveness and efficiency of the current Bylaw to address the current and emerging issues and outcomes
- whether the current Bylaw is clearly written
- options to address the current issues and outcomes
- pros, cons, risks and risk mitigation for each option
- the effectiveness and efficiency of each option.

advice:
- recommendations.
TOPIC 1: WASTE COLLECTION FROM A PUBLIC PLACE (CLAUSES 3-14, 20)

EXISTING BYLAW
- Bylaw sets out obligations of council, waste collectors and transporters, occupiers and managers of premises, and the public relating to the collection, transportation and disposal of waste from public places. This includes separation of waste into separate containers, licensing of waste collectors and nuisance behaviours.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS
- Proactive implementation includes daily auditing of over 2,000 recycling bins for contamination, and licencing of collectors. Council issued 112 licences in 2017/2018, up from 80 in 2014/2015.
- Graduated compliance response to service issues (for example letter drops, door knocks, audits, warnings, bin rejection and removal) and licence breaches (for example warnings).
- No prosecutors have been made under the bylaw.

STATUTORY AUTHORITY
- Waste Minimisation Act 2008 (WA2008) and/or the Local Government Act 2002 (LGA2002) bylaws can address issues about public place waste collection. Relevant bylaw powers and penalties to issues include property inspection, obtaining information7 and maximum court fines of $20,000.10 LGA2002 also provides for cost recovery for damage to bins.11
- Health Act 1953 (s64(1)(a)) and Litter Act 1979 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than the WA2008 and LGA2002, for example the maximum penalty under the Health Act is $500.

ISSUES AND OUTCOMES SOUGHT IN 2012
- Issues concerning collectors were waste not collected on time, fully, or not kept separate on collection, cost to remove uncollected waste, noise nuisance, litter and health and safety risks from bag use and spillage and lack of control over collectors not contracted to council.
- Issues concerning use of approved bins by residents were waste deposit in inappropriate bins, pedestrian and vehicle obstruction, litter, damage and reduced amenity from bins left on the kerbside outside collection times, and ratepayer cost of replacement if bins stolen. A potential issue was the deposit of waste into neighbouring household bins on implementation of the dispose-pays system.
- Outcome sought was standardised levels of service for kerbside collection services to ensure all waste and recycling collection services contributed to Waste Plan objectives, to protect public health and safety, and to retain amenity value of public areas.

ISSUES AND OUTCOME SOUGHT NOW
- Issues remaining from 2012 are noise nuisance exacerbated by frequent collections, litter and health and safety risks from use and spillage of bags, pedestrian and vehicle obstruction, and litter, damage and reduced visual amenity from bins on the kerbside outside of collection times.
- Emerging issues include flex-bins left on the kerbside;13 contamination of recyclable waste; environmental harm, litter and health and safety risks from spillage and overflow of collection vehicles and bins; deposit or removal of materials from other households' bins; illegal dumping in and around bins, and theft of bins.

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7 Applies to section 4.3 of this paper.
8 WA2008, section 56(a) and (b) and LGA2002, section 140.
10 WA2008, section 66.
11 LGA2002, section 175.
13 Large flexible bins provided by several companies, often kept on beams for long periods of time but must be collected from private property.
The scale and magnitude of issues are moderate. There is approximately one complaint per week about flex-bins. \(^\text{14}\) Conversion of recycling bins increased from 5 per cent in 2011 to 13 per cent in 2018 and council received 74 noise complaints in 2018 about collection vehicles. Anecdotally bin misuse is common. 

**Outcome sought** is to reduce harm from residual waste. Achieving this outcome would also address issues of health and safety, nuisance, obstruction, damage and visual amenity.

### BYLAW EVALUATION

Still a problem requiring a bylaw response? 
- Yes. There is still an issue that regulation can help address. 
- There are feasible alternatives to a bylaw to address licensing of collectors: 
  - Trading and Events in Public Places Bylaw 2013 (c6) requires people trading in a public place to have council approval with conditions (s111, 19). 
  - There are feasible alternatives to a bylaw to address some kerbside collection issues: 
    - Unit Plan (E25) under the Resource Management Act 1991 (s277) can address noise from collection vehicles affecting private property from a public place.
    - Litter Act 1970 (s115) can actively address litter and illegal dumping on public places or private land without occupier consent, including flex-bins.\(^\text{15}\) 
    - Health Act 1956 (s30) prohibits permitting or causing nuisances, including any accumulation or deposit that is offensive or injurious to health (s29(b)).
    - Public Safety and Nuisance Bylaw 2013 can address leaving objects in a public place likely to cause a safety risk, nuisance, damage or obstruction that impacts the enjoyment of the public place. This can address a range of issues including pedestrian and vehicle obstruction but not the misuse of containers or types of waste deposited to the kerbside. 
    - Crimes Act 1961 (s219) can address theft of bins.
    - Summary Offences Act can address damage (s111) and vandalism (s11A). Penalties include up to three months in prison, maximum $2,000 fine or community-based sentence.\(^\text{16}\) 
    - Local Government Act (s212) can also address damage and recover cost of damage (s175) and penalties of a maximum $20,000 fine, three years imprisonment or both.

- There are no feasible alternatives to a bylaw to address some kerbside collection issues: 
  - Bin contamination, deposit or removal of materials from bins, inadequate bin storage space on the kerbside and litter from spillage or overflow of bins, bags or vehicles.\(^\text{17}\)

Is the current bylaw effective and efficient at managing and minimising waste? 
- Bylaw useful to set out obligations of persons depositing waste for collection and collecting waste from a public place. The majority of licenced collectors comply with licence conditions. 
- Low awareness and understanding of Bylaw. 
- Enforcement of bin misuse, waste separation and licensing provisions is limited due to difficulties in identifying offenders and obtaining evidence. 
- Licensing requirement for data collection may duplicate resource consent requirements under the Resource Management Act 1991 in some cases.

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\(^\text{14}\) Number of complaints comprises a minor proportion of the number of bags in circulation at any one time. 
\(^\text{15}\) Powers include requirement to remove and appropriately dispose of litter deposited from a public place onto private land without consent (s705). Penalties include fine not exceeding $400 (s134), fine not exceeding $5,000 (individual) or $25,000 (body corporate) for litter (s151), imprisonment not exceeding one month or fine not exceeding $7,500 (individual), or $25,000 (body corporate) for dangerous litter (s152). On conviction offenders can be required to clear area of litter (s153) and pay cost of removing litter (s327).
\(^\text{16}\) Powers include abatement of nuisance without notice and cost recovery for abatement (s34). Court may require premises owner and occupier to abate and/or prohibit recurrence of nuisance or specify abatement works (s33). Penalties include fine not exceeding $100 and $500 per day for a continuing offence (s136).
\(^\text{17}\) Community work, supervision, intensive supervision, or community detention (Sentencing Act 2002, s44).
### Item 26

#### Regulatory Committee
11 April 2019

**Attachment A**

**Attachment C**

<table>
<thead>
<tr>
<th>Options</th>
<th>Option 1: no solid waste bylaw</th>
<th>Option 2: new solid waste bylaw</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Pros</strong></td>
<td>Use trading and events bylaw to licence collectors.</td>
<td>New bylaw to set out obligations of persons depositing waste for collection and collecting or transporting waste from a public place.</td>
</tr>
<tr>
<td></td>
<td>Use Unitary Plan to address noise complaints.</td>
<td>Bylaw wording is easier to understand and updated for practicability.</td>
</tr>
<tr>
<td></td>
<td>Use Litter Act, Health Act or industry relationships to address litter and illegal dumping including flexi-bins.</td>
<td>Use Litter Act, Health Act, Unitary Plan provisions, Crimes Act, Summary Offences Act and Local Government Act to address litter and illegal dumping, noise, theft and damage.</td>
</tr>
<tr>
<td></td>
<td>Use public safety and nuisance bylaw to regulate obstruction of pedestrians and vehicles and behaviour of depositors.</td>
<td>Implementation</td>
</tr>
<tr>
<td></td>
<td>Use Crimes Act to address theft of bins.</td>
<td>Same as current implementation.</td>
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<tr>
<td></td>
<td>Use Summary Offences Act and Local Government Act to address damage and vandalism of bins.</td>
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</tr>
</tbody>
</table>

**Implementation**
- Council licenses waste collectors.
- Council and Police address issues. Council uses a graduated compliance approach.

**Pros**
- No change to how some issues are addressed currently e.g. noise nuisance.
- Council retains ability to collect data to fulfill statutory duty under WA2008.
- Council retains ability to licence collectors.

**Cons**
- Bin contamination, deposit or removal of materials from bins, inadequate kerbside bin storage space and litter from spillage or overflow of bins or vehicles not addressed.
- Public safety and nuisance bylaw would not address all issues about the use of containers and does not stipulate types of waste able to be deposited to the kerbside.
- Bylaw enforcement limited due to difficulty in identifying offenders and gathering evidence.
- Police unlikely to prioritise bin theft.

**Risks and risk mitigation**
- High risk that council has no ability to address continuing issues.
- High risk that council does not fulfill duty to promote effective and efficient waste management.

<table>
<thead>
<tr>
<th>Pros</th>
<th>All issues are addressed and council retains ability to licence waste collection and transport operators.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Provides clear framework to set expectations for waste deposit for collection and collection from a public place through one bylaw which is easier to understand.</td>
</tr>
<tr>
<td></td>
<td>No change to how some issues are addressed currently e.g. noise nuisance.</td>
</tr>
<tr>
<td></td>
<td>Council retains ability to collect data to fulfill statutory duty under WA2008.</td>
</tr>
<tr>
<td></td>
<td>Achieves council duty to promote waste management and minimisation and collect data.</td>
</tr>
</tbody>
</table>

**Cons**
- Bylaw enforcement is limited due to difficulty in identifying offenders and gathering evidence.
- Police unlikely to prioritise stolen council bins.
**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**

Based on the analysis against the criteria above and preliminary legal assessment of new waste bylaw (Option 2) is the most appropriate way to manage and minimise waste from the deposit of waste or collection and collection of waste from public places because it would:

- set clear and enforceable requirements for deposit of waste for collection or use and waste collection and transportation from a public place.
- enable council to fulfil its statutory duties to promote waste management and minimisation and to collect data.
- be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act, nor be inconsistent with the Waste Plan.
- use the Litter Act, Health Act, Unitary Plan, Crimes Act, Summary Offences Act and Local Government Act can still be used to address litter, illegal dumping, noise, theft and damage.
Hibiscus and Bays Local Board
15 May 2019

Regulatory Committee
11 April 2019

Topic 2: Waste Facilities

EXISTING BYLAW

- A licence is required to operate a resource recovery facility or fill site. Exceptions apply to clean-fill sites. A key aspect of these licences is a requirement for operators to report waste data.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS

- Proactively licences waste facility operators - 35 licences issued each year since 2012.
- Reactively responds to complaints using a graduated approach to compliance.
- No complaints data available. No prosecutions under the Bylaw.

STATUTORY AUTHORITY OF COUNCIL TO MAKE BYLAWS

- Waste Minimisation Act 2006 (WA2006) and/or the Local Government Act 2002 (LGA2002) bylaws can address waste issues. Relevancy bylaw powers and penalties include power of entry and maximum court fines of $20,000. LGA2002 also requires certain information. Health Act 1956 (s64(1)(a)) and Litter Act 1976 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than WA2006 and LGA2002. For example Health Act penalty is $500.

ISSUES AND OUTCOMES SOUGHT IN 2012

- Issues included limited information about the waste from generation to disposal, and the location of waste disposal facilities and the volumes and types of waste disposed of.
- Outcomes sought to ensure that council has accurate, timely and complete information to plan effectively and meet statutory obligations, and information about the location of waste facilities, volumes and types of waste accepted at these facilities.

ISSUES AND OUTCOMES SOUGHT NOW

- Issues include limited information on the volumes and types of waste disposed due in part to transportation of waste across regional boundaries and exclusions to clean-fill licencing.
- Other issues include increased volumes of commercial waste to landfill, contamination at fill sites from construction material, asbestos, contaminated soil or mining of volcanic soils and non-volcanic soils, illegal dumping, greenhouse gas emissions and noise issues.
- Emerging issues include increased construction activity and limited room for new clean-fill sites.
- The scale or magnitude of the issues is unknown. It is estimated that approximately 40 per cent of waste to landfills is currently trucked out of the region contributing to data limitations. This issue is addressed in Topic 1 (Waste Collection from a Public Place).
- Outcomes sought are to reduce harm from residual waste by having accurate data on the disposal of waste (total volumes and types of waste) to assist with waste planning and meet statutory requirements to collect data.

BYLAW EVALUATION

Is this still an issue that requires bylaw response?

☑ Yes, there are still issues that regulation can help address.
☑ Yes, there are no feasible alternatives to a bylaw for data collection to assist waste planning:
  - Unitary Plan (E13) requires resource consents to manage discharges of contaminate flows from clean-fills, managed tips and landfills to avoid or mitigate adverse effects on the environment and human health. While there may be a cross-over in reporting requirements for total volumes (not types) under some resource consent conditions and the Bylaw, not all consents...
require reporting of waste. If waste reporting is required, it is to manage discharge of contaminants which does not assist waste planning.

- **Climate Change Response Act 2002** (s62) requires that operators of waste disposal facilities must record the annual tonnage of waste entering their landfills as estimated emissions. This does not assist waste planning requirements under the WA2004.

- No. There are feasible alternatives to a bylaw for all other issues, for example:
  - **Unitary Plan** addresses contaminants at fill sites.
  - **Unitary Plan** B25 Noise and vibration under the Resource Management Act 1991 (s327) can address noise from collection vehicles affecting private property from a public place.
  - **Waste Plan** identifies specific actions to address increased volumes of commercial waste actions (89-79).

**Is the Bylaw effective and efficient in managing and minimising waste?**

- Yes. Bylaw is useful to licence waste facility operators to gather data.
- Yes. Council reviews data submitted (including its composition) from waste facilities.
- Yes. Unlicensed but lawful waste facilities are investigated by Waste Solutions as a Bylaw breach.
- No. Unlicensed and unlawful waste facilities are addressed as a breach of the Unitary Plan under the Resource Management Act 1991 due to potential effects on the environment and health.
- No. Noise issues are addressed under the Unitary Plan while commercial waste is addressed by specific (Bylaw unrelated) actions in the Waste Plan.
- No. Illegal dumping is investigated under the Litter Act.

**Is the Bylaw clearly written?**

- No. Bylaw is lengthy, unstructured, repetitive, too technical and difficult to understand.

**Options**

**Option 1: no waste bylaw**
- Use Unitary Plan to manage discharge of contaminants from clean-fills, managed fills and landfills to avoid or mitigate adverse effects on the environment and human health.
- Use Unitary Plan to address noise.
- Use Waste Plan 2018 to address increased volumes of commercial waste.
- Use Litter Act to address illegal dumping where appropriate.

**Implementation**
- Same as currently except that council would not licence waste facility operators to obtain data.

**Option 2: new waste bylaw**
- New easy-to-understand bylaw to enable licensing of waste facilities, primarily to obtain data. Exemptions may apply.
- Unitary Plan used to manage discharge of contaminants from clean-fills, managed fills and landfills to avoid or mitigate adverse effects on the environment and human health.
- Litter Act used to address illegal dumping where appropriate.

**Implementation**
- Same as current implementation.
Pros
- Environmental issues addressed.
- Regulation streamlined, one less bylaw.
- Reduced complexity or confusion around data requirements under both bylaw and Unitary Plan.

Cons
- Regulatory gap created. No ability to require data on the volumes and types of disposed waste by operators of waste facilities and limited ability to meet council statutory requirements to collect data.

Risks and risk mitigation
- High risk that waste management and minimisation requirements under WA2006 would not be met due to lack of data on the volumes and types of disposed waste.

Effectiveness at managing and minimising waste
- Less effective than Option 2 because there would be limited ability to collect data on the volumes and types of waste disposed of by waste facility operators to meet council statutory requirements to collect data.

Efficiency at managing and minimising waste
- Would avoid complexity or confusion around requiring data provision under both a bylaw and the Unitary Plan, but would not achieve the purpose of managing and minimising waste.

Pros
- All issues addressed.
- Prevents regulatory gap that requires data.
- Bylaw content and structure more certain.
- Council meets statutory requirements to collect data.

Cons
- There may be a cross-over in reporting requirements of data for total volumes of waste under some resourcing consent conditions and a new bylaw.

Risks and risk mitigation
- Some waste facility operators may continue to express concern about a cross-over in reporting requirements of data for total volumes of waste. Mitigation through internal systems, processes and public information.

Effectiveness at managing and minimising waste
- Option 2 would be more effective because it would fit gaps in data provision under the Unitary Plan relating to the volumes and types of waste disposed of to meet council statutory requirements to collect data.

Efficiency at managing and minimising waste
- Would retain complexity of data provision under both a bylaw and the Unitary Plan, but would achieve the purpose of managing and minimising waste.

SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS
Based on the analysis against the criteria above and preliminary legal assessment, a new waste bylaw (Option 2) is the most appropriate way to obtain waste data because it would:
- enable council to require and obtain data on the volumes and types of waste disposed of at waste facilities to meet its statutory requirements to collect data
- be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990 nor be inconsistent with the Waste Plan
- address issues about the discharges of contaminants from waste facilities in the Unitary Plan
- address issues about increasing volumes of commercial waste in the Waste Plan 2019
Waste Bylaw Statement of Proposal

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**Agent 26**

while the Trading and Events in Public Places Bylaw 2015 (cl 6(1)) licenses trading activities in public places, this would not apply to bins on private places where donations may litter public places.

**Is the current Bylaw effective and efficient in managing and minimising waste?**

- Yes. Bylaw is useful to identify bin operators and prevent donated goods becoming litter.
- Complaints are addressed directly through operators using the Bylaw. No data available.
- No data available on whether all bin operators have a licence. Anecdotal evidence suggests 95 per cent of bins are on public places, carparks and schools.
- Enforcement officers investigate litter and illegal dumping under the Litter Act 1979 (not Bylaw).

**Is the Bylaw clearly written?**

- No. Bylaw content lacks clarity, creates uncertainty and is difficult to understand.

**Options**

**Option 1: no waste bylaw**
- Use trading and events bylaw to licence bin operators on council controlled public places.
- Use Litter Act to reactively address people who litter and illegally dump in and around bins, wilful breaking of bottles or articles made of glass, obstruction of footpaths and roads from litter or illegal dumping and reduced visual amenity.
- Use Health Act to address nuisance, and health and safety risks from litter that is offensive or injurious.

**Implementation**

Same as existing implementation except that council cannot require bin operators on private land to address litter issues on nearby public places from their bins.

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation streamlined (one less bylaw)</td>
<td>Licensing gap for operators of donation bins on private places where donations may litter public places</td>
</tr>
<tr>
<td>No tool to encourage bin operators to address litter or illegal dumping near bins they provide.</td>
<td>Waste management and minimisation focus less explicit as trading and events bylaw is made under LGA2002.</td>
</tr>
</tbody>
</table>

**Risks and risk mitigation**

Moderate risk that waste requirements would be less explicit and licensing gap may contribute to higher clean-up costs to council. Mitigation through internal systems and processes, and public campaigns.

**Option 2: new waste bylaw**
- New bylaw to enable licensing of bin operators (including those operators on private places where donations may litter public places) and to require bin operators to address litter issues near their bins.
- Amend trading and events bylaw to avoid duplication of licensing requirements.
- Bylaw structure and content updated and made easier to understand.
- Litter Act and Health Act used where appropriate (same as Option 1).

**Implementation**

Same as existing implementation.

<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addresses all issues and applies licensing requirements to all bin operators.</td>
<td>Licensing requirements in both the trading and events bylaw and a new bylaw may create uncertainty for the public and staff.</td>
</tr>
<tr>
<td>Bylaw content and structure improved with a clear focus on waste management and minimisation.</td>
<td>Licensing requirements in trading and events bylaw and a new bylaw may create uncertainty for the public and staff. Mitigation through amendment to trading and events bylaw to ensure alignment.</td>
</tr>
<tr>
<td>New bylaw and trading and events bylaw aligned to avoid duplication of requirements.</td>
<td></td>
</tr>
</tbody>
</table>

Waste Bylaw Statement of Proposal
Effectiveness at managing and minimising waste √
- Option 2 would better address litter and illegal dumping associated with donation bins in a way that is easier to understand. This is because bin operators would continue to be required to take responsibility for area near bins they provide.

Efficiency at managing and minimising waste √
- Would continue to reduce complaints and clean-up costs to council.
- Would provide clear mandates for waste management and minimisation, and be easier to understand by improving structure and wording.

SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS
Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) that also amends the trading and events bylaw is the most appropriate way to manage and minimise waste from donation collection points on public places and private places where donations may litter public places because it would:
- Continue to enable council to licence bin operators (including those operators on private places where donations may litter public places) and proactively encourage bin operators to address litter or illegal dumping in or around bins they provide.
- Be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990 nor be inconsistent with the Waste Plan.
- The Litter Act 1979 and Health Act 1956 can still be used to reactively address litter and illegal dumping in and around bins, willful breaking of bottles or glass articles, obstruction of footpaths and roads from litter, reduced visual amenity, nuisance and health and safety risks.
## Item 26

### Topic 4: Kerbside Inorganic Waste Collection (Clauses 24, 25)

#### Existing Bylaw
- Allows deposit of inorganic material in a public place (kerbside) for collection by or on behalf of the council. Bylaw specifies controls, for example types of waste and collection methods.

#### Implementation of Existing Bylaw by Waste Solutions
- Bylaw not used since 2015 when the council service to collect inorganic material moved from kerbside deposit to collection from private property in accordance with the Waste Plan. 
- Inorganic material left on public places is investigated as illegal dumping under the Litter Act 1979.
- No complaints data available. No prosecutions under the Bylaw.

#### Statutory Authority of Council to Make Bylaws
- Waste Minimisation Act 2008 (WAS2008) and Local Government Act 2002 (LGA2002) bylaws can address waste issues. Relevant bylaw powers and penalties include maximum court fines of $20,000. LGA2002 also requires certain information.
- Health Act 1956 (s41(1)(a)) and Litter Act 1979 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than WAS2008 and LGA2002, for example Health Act penalty is $500.

### Issues and Outcomes Sought in 2012
- Issue included scavenging inorganic waste and recyclables put out for council’s collection.
- Outcome sought was to prevent scavenging of inorganic waste and recyclables.

### Issues and Outcomes Sought Now
- The issues from the kerbside collection of inorganic material no longer occur because services take place from private property.
- Outcome sought is to reduce harm from residual waste from litter and illegal dumping.

### Bylaw Evaluation
- Is this still an issue that requires bylaw response?
- No. The new inorganic collection service replaces the need for a bylaw.
- Is the current bylaw effective and efficient in managing and minimising waste?
- No. Bylaw has not been used since 2015 due to introduction of a new inorganic collection service.
- No. Litter Act (s15) is used to investigate illegal dumping issues (not the Bylaw).
- Is the bylaw clearly written?
- No. Bylaw wording is difficult to understand.

### Options

**Option 1: No waste bylaw**
- Uses terms and conditions for on-site inorganic collection and education to address inorganic collection from a private property.

**Option 2: New waste bylaw**
- New bylaw to allow kerbside inorganic collection.

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33 Reports to section 4.4 of the Findings Report.
34 Waste Minimisation Act 2008 (s41(1)(a)) and Litter Act 1979 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than WAS2008 and LGA2002, for example Health Act penalty is $500.
35 Waste Minimisation Act 2008 (s15) is used to investigate illegal dumping issues (not the Bylaw).
• Uses Litter Act to address illegal dumping.

**Implementation**
- Same as current implementation.

**Pros**
- Addresses illegal dumping.
- Reflects service provision, streamlines regulatory approach and is consistent with the Waste Plan.

**Cons**
- None.

**Risks and risk mitigation**
- Risk that public is unclear whether inorganic material can be deposited on public places.
- Mitigation through information about illegal dumping and a new bylaw about what waste can be deposited on a public place (Topic 1).

**Effectiveness at managing and minimising waste**
- Option 1 would reflect current service provision, be consistent with the Waste Plan and streamline council's regulatory approach.

**Efficiency at managing and minimising waste**
- Alignment with current service provision and the Waste Plan creates certainty and avoids confusion.

**Implementation**
- Same as current implementation.

**Pros**
- Addresses illegal dumping.
- Bylaw easier to understand.

**Cons**
- Bylaw inconsistent with the Waste Plan.

**Risks and risk mitigation**
- High risk of public uncertainty because the bylaw refers to a service which is not intended to be provided. Mitigation through service provision and public information.

**Effectiveness at managing and minimising waste**
- Option 2 would not reflect current service provision and any improvements to structure and content would create uncertainty to the public and staff. It would be inconsistent with the Waste Plan.

**Efficiency at managing and minimising waste**
- Option 2 would most likely increase complexity and uncertainty by retaining regulations for a service that no longer exists.

**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**
Based on the analysis against the criteria above and preliminary legal assessment, no bylaw (Option 1) is the most appropriate way to manage and minimise waste from kerbside inorganic collection because it would:
- remove regulations about a service that no longer occurs.
- use the Litter Act to address illegal dumping, including issue of infringement notices.
- use a new waste bylaw about waste collection from a public place (refer Topic 1) to address any public uncertainty and clarify that inorganic material cannot be deposited on public places.
- be consistent with directions in the Waste Plan to collect inorganic material from private (not public) places.

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* Waste Plan identifies actions to continue to provide an annual inorganic collection service from private property (actions 16 and 17) and potential review for inorganic collection services through Community Recycling Centres (section 16).
### Topic 5: Hazardous Waste (Clause 13(2))

**Existing Bylaw**
- Prohibits certain types of waste (including hazardous waste) in a public place for collection unless authorised by council. Controls under the Bylaw ban hazardous and/or prohibited waste in domestic recycling bins and disposal at clean-fills and managed fills.  

**Implementation of Existing Bylaw by Waste Solutions**
- Proactive approach includes approvals for the collection of prohibited waste from a public place (where there have been granted) and daily auditing of over 2000 recycling bins for contamination.
- Graduated compliance response includes leaving bins red-tagged and uncollected, warnings, removal of services and prosecution. There have been no prosecutions under the Bylaw.

**Statutory Authority**
- Waste Minimisation Act 2008 (WMA2008) and/or the Local Government Act 2002 (LGA2002) bylaws can address hazardous waste collection from public places. Relevant bylaw powers and penalties include seizure of property and maximum court fines of $20,000.  
- Health Act 1953 and Litter Act 1979 bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than the WMA2008 and LGA2002, for example the maximum penalty under the Health Act is $500.

### Issues and Outcomes Sought in 2012

- **Issues**
  - Wrote health and safety risks and environmental harm from untreated hazardous waste deposited in domestic kerbside bins, which enters landfill and releases contaminants.
  - Outcome sought was for kerbside collection services and terms and conditions to be met by all users to achieve operational efficiencies in kerbside collection services, retain amenity value of public areas and ensure public health and safety.

### Issues and Outcome Sought Now

- **Issues in 2012 remain. Emerging issues** include health and safety risks and environmental harm from deposit of medical waste, commercial hazardous waste in domestic refuse bins, fire caused by lithium batteries and pool cleaners in collection vehicles, transfer stations and landfills, asbestos at transfer stations, and illegal dumping of hazardous wastes.
- There is limited data on the scale and magnitude of issues. Anecdotally, hazardous waste including medical waste deposited in domestic kerbside bins has increased, alongside illegal dumping and concealment of asbestos in refuse at transfer stations.
- **Outcome sought is to reduce harm from residual waste. Achieving this outcome would also address health and safety risks.**

### Bylaw Evaluation

Still a problem requiring a bylaw response?
- Yes. There is still an issue relating to hazardous waste that regulation can help address.
- There are no feasible alternatives to address deposit of hazardous waste for collection on a public place.

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42. Section 5.5 of findings report
43. Separation of Domestic Waste Collected from a Public Place Control 2013 and Disposal of Waste to Land Control 2012
44. WA2008, sections 56(1) and (2b) and LGA2002, sections 148(a) and (b) and section 148(b)(v)
46. H41569 section 6(1)(a) and LA1979A, section 12.
47. H41569 section 66.
49. Currently no Auckland transfer stations accept asbestos due to health and safety concerns.
Waste Bylaw Statement of Proposal

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### Implementation
- Council uses graduated compliance approach.

#### Pros
- Best practice can still be communicated.
- Avoids duplicating existing regulation to address illegal dumping and asbestos deposited at transfer stations.

#### Cons
- Trading and events in public places bylaw would not address the owner/occupier of a premises who deposits the hazardous waste in the bin, only the collector who cannot control this.
- Public safety and nuisance bylaw is not specific enough to communicate behaviour change around hazardous waste collection.

### Risks and risk mitigation
- High risk of insufficient measures to address issues. Mitigation through use of education.
- Low risk that council perceived as not fulfilling statutory obligations to protect public health and promote waste management and minimisation. Mitigation through robustness of bylaw review.

### Effectiveness at managing and minimising waste
- Option 1 would not set clear, enforceable and sufficient behavioural expectations about the deposit of hazardous waste in a public place for collection and does not fulfill council's duty to protect public health and promote waste management and minimisation.

#### Efficiency at managing and minimising waste
- Would not require additional resources.

### Pros
- All issues are specifically addressed.
- Hazardous waste must be collected from private property or deposited at a collection facility.
- Avoids duplicating existing regulation to address illegal dumping and asbestos deposited at transfer stations.
- Prescribes clear behavioural expectations.
- Health and safety risks and environmental harm could be reduced.
- Maintains council rule to promote waste management and minimisation and protect public health.

#### Cons
- Bylaw enforcement is limited regardless of bylaw content due to difficulty in identifying offenders.

### Risks and risk mitigation
- N/A.

### Effectiveness at managing and minimising waste
- Option 2 specifically addresses all issues and sets clear and easy-to-understand obligations about deposit of hazardous waste in a public place for collection, although enforcement remains challenging.

### Efficiency at managing and minimising waste
- Option 1 would not require additional resources.

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**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**

Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste from the deposit of hazardous waste in a public place for collection because it would:

- set clear and easy-to-understand obligations about deposit of hazardous waste in a public place for collection
- be valid and not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan
- avoid duplicating existing regulations by using the Litter Act and Health Act to address illegal dumping and deposit of asbestos at a transfer station.
TOPIC 8: COLLECTION OF WASTE FROM MULTI-UNIT DEVELOPMENTS (CL AUSES 21, 22)

EXISTING BYLAW

- Owners or managers of multi-unit developments (MUDs) consisting of 10 or more units must obtain and comply with a council approved waste plan. The Bylaw specifies matters council may require in a waste plan. Council may set controls for collection and transportation of waste.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS

- Proactively provides advice and technical feedback on the waste plans for new multi-unit developments as part of the resource consent process under the Unitary Plan. In 2018, council issued 16 resource consents (2,668 units) and processed 69 waste plans.
- Reactively responds to complaints using a graduated compliance model by following up with the resource consents team on new developments or where possible, providing advice on alternative collection methods to mitigate waste issues related to existing developments.
- No complaints data available. No prosecutions under the Bylaw.

STATUTORY AUTHORITY OF COUNCIL TO MAKE BYLAWS

- Waste Minimisation Act 2008 (WA2008) and/or the Local Government Act 2002 (LGA2002) bylaws can address waste issues. Relevant bylaw powers and penalties include power of entry and maximum court fines of $20,000. LGA2002 also requires certain information.
- Health Act 1953 (s64(1)(a)) and Litter Act 1973 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar to or less than WA2008 and LGA2002; for example, Health Act penalty is $500.

ISSUES AND OUTCOMES SOUGHT IN 2012

- Issues included storage of waste and recyclables in and collection from MUDs.
- Outcomes sought were to ensure that developers consider waste management requirements when designing buildings and that waste management includes sufficient space provision, vehicle accessibility, and effective systems to minimise waste.

ISSUES AND OUTCOMES SOUGHT NOW

- Residual waste issues include waste contamination, illegal dumping due to insufficient waste storage and limited opportunities to minimise waste such as on-site composting of organic waste.
- Other issues include occur and vermin from insufficient waste storage, poor access to waste storage areas for collection vehicles, restricted pedestrian flow, road obstruction and misuse of public places from bin storage, increased traffic and noise from frequent waste collections, health and safety risks, and additional maintenance and bespoke service costs for residents.
- There is limited data available on the scale and magnitude of the issues. Anecdotally there are instances of multiple collections (daily for refuse and up to three times per week for recycling) from MUDs that contribute to increased traffic and noise. The scale of the issues is assumed to be increasing due to rapid population growth, housing supply, and concentration of people in specialised and high-density developments.
- Outcome sought is to reduce harm from residual waste by ensuring that MUDs provide adequate waste storage, vehicle access, and effective systems to minimise waste at the design stage.

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WA2008, section 66 and LGA2002, section 166(e)(v).
Is this still an issue that requires bylaw response?
✓ Yes. There are still issues that regulation can help address. These include waste contamination, inadequate waste storage, poor access to waste areas leading to illegal dumping, health and safety risks, misuse of public places and limited waste minimisation.
✓ Yes. There are currently no feasible alternatives to a bylaw in some circumstances:
  - **Unitary Plan in the Residential Terraced Housing and Apartment Buildings (RTHB) zone (H5)** currently provides no effective requirements for waste storage, separation and collection. Council is currently proposing amendments to the RTHB zone with a hearing likely to be held in April/May 2019 to enable consideration of waste storage for all dwellings. A **bylaw is necessary to fill this regulatory gap** until proposed changes to the RTHB zone become operational beyond the appeal.
  - **Building Code (Building Regulations 1992) (G15)** safeguards residents from injury and illness caused by infection or contamination from solid waste. While buildings are required to provide facilities for waste collection and holding, these requirements are outdated, inconsistently applied and do not effectively address vehicle access issues, space size or use, and waste minimisation.
✓ No. There are feasible alternatives for some issues:
  - **Unitary Plan in the Mixed Housing Suburban (H4) and Mixed Housing Urban (H5) zones** require decision makers to consider waste collection and recycling facilities that are accessible and screened from streets and public open spaces in developments of four or more dwellings as part of the resource consent process.
  - **Litter Act 1979** (s 15) can address illegal dumping.
  - **Health Act 1956** (s 34) can address a nuisance related to offensive or injurious waste, address odour and vermin and address health risks from unsanitary provision of waste storage.
  - **Unitary Plan E25 Noise and vibration under the Resource Management Act 1991** (s 327) can address noise from collection vehicles affecting private property from a public place.

Is the bylaw effective and efficient in managing and minimising waste?
✓ Yes. Bylaw has filled a regulatory gap in the Unitary Plan (RTHB zone) to require MUDs to provide adequate waste management and minimisation practices.
✓ Yes. Bylaw has enabled provision of technical feedback on waste plans as part of the resource consent process to ensure waste management requirements are considered at the design stage.
✓ No. Bylaw only implemented for new MUDs due to delay in rollout of consistent refuse, recycling and food scrap services across the region.

Is the bylaw clearly written?
✓ No. Bylaw is difficult to understand, and its structure and content provide uncertainty.
## Option 1: Allow bylaw to expire

- Use Unitary Plan to address waste requirements (space provision, vehicle access, and systems to manage waste).
- Use Litter Act, Health Act, Building Code of the Building Regulations and Unitary Plan provisions to address illegal dumping, nuisances, noise, and injury and illness.
- Use service provision and public information to address waste contamination issues.

### Implementation
- Enforcement officers respond to complaints using a graduated compliance model.
- Operational improvements at discretion of council staff.

### Pros:
- Streamlines regulatory approach.

### Cons:
- Regulatory gap for MUDs in RTHB zone. No requirement for waste storage, separation and collection until plan change completed. A public hearing will be held in April/May 2019.

### Risks and risk mitigation:
- High risk from insufficient provision of space storage, vehicle access and effective waste systems when designing MUDs. Mitigation is RTHB plan change and interim bylaw.
- Moderate risk from council not fulfilling its statutory role to promote waste management and minimisation. Mitigation from actions identified in the Waste Plan.

### Effectiveness at managing and minimising waste
- Option 1 would not be effective for MUDs in the RTHB zone or existing MUDs built prior to planning requirements to address waste issues. There are no requirements to address waste issues for those developments.

## Option 2: Adopt a new solid waste bylaw

- New easier to understand bylaw that continues to require waste plans for all MUDs.
- Exceptions to be evaluated during bylaw development. For example, whether MUDs assessed as part of the resource consent process should be exempt. Consideration also given to whether different criteria is required for existing and new MUDs.
- Use other regulations in Option 1 to address illegal dumping, nuisances, noise, and injury and illness caused by waste contamination.
- Use service provision and public information to address waste contamination issues.

### Implementation
- Same as current implementation but waste plans for existing (built) MUDs with no waste plan will be processed on a priority basis within existing budgets.

### Pros:
- Proactively address waste issues for MUDs.
- Bylaw easier to understand.
- Exemptions avoid Unitary Plan duplication.

### Cons:
- Regulation under the Unitary Plan and a bylaw is more complex and may cause confusion.

### Risks and risk mitigation:
- Low reputational risk that council perceived to not enforce waste plans for all existing MUDs. Mitigation to clearly communicate implementation approach.
- Low risk that planning process results in regulations perceived to not address all waste issues. Mitigation through bylaw amendment.
- Moderate risk that alignment between Unitary Plan and bylaw regulations may cause confusion. Mitigation through close drafting of a new bylaw.

### Effectiveness at managing and minimising waste
- Option 2 would be more effective than Option 1 because it requires a waste plan for MUDs in RTHB zone and existing MUDs built prior to waste requirements in the Unitary Plan.

### Efficiency at managing and minimising waste
-
Efficiency at managing and minimising waste ✓
- Would be efficient because no additional resources required, and all regulations contained in the Unitary Plan.
- Would not require additional resources but regulation under the Unitary Plan and a bylaw is more complex and may cause confusion.

**RECOMMENDATIONS**

Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste from multi-unit developments because it would:
- Continue to enable council to proactively address waste issues for MUDs built prior to adequate requirements for waste in the Unitary Plan by requiring a waste plan
- Be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan
- Streamline council’s regulatory approach by using the Litter Act, Health Act, Building Code and Unitary Plan to address illegal dumping, nuisances, noise, injury and illness.
**Existing Bylaw**

- Event organisers must obtain and comply with a council-approved event waste plan. Bylaw requires matters council may require in an event waste plan, for example, waste estimates. Bylaw applies to events on both public and private places.

**Implementation of Existing Bylaw by Waste Solutions**

- Event waste plans are processed for events in council-controlled public places as part of the event permit process, under the trading and events bylaw. No data available on event waste plans. 1435 event permits were however issued in the year to 30 June 2018.
- Waste plans are required for events on council-controlled public places that generate a lot of waste, are on environmentally or culturally sensitive sites, or attract more than 500 people.
- Large events in 2014/2015 and 2015/2016 were audited for compliance and logistics.
- For events with an approved event waste plan, complaints are followed up with organiser. As a condition of approval, if council removes any litter the organiser is charged. No data available.

**Statutory Authority of Council to Make Bylaws**

- Waste Minimisation Act 2008 (WA2008) and/or Local Government Act 2002 (LGA2002) bylaws can address waste issues. Relevant powers and penalties are similar, including powers of entry and court fines on prosecution not exceeding $20,000.
- Health Act 1956 and Litter Act 1979 bylaws are limited to public health, nuisance, and litter (not waste minimisation for example) and powers and penalties are similar or less than the WA2008 and LGA2002.

**Issues and Outcomes Sought in 2012**

- Issues included the need to reduce residual waste, litter as people come and go from large public events on private land, litter from waste overflowing or escaping from litter bins at the event or surrounding public places and cost to council of removing litter from public places.
- Outcome sought was to reduce residual waste (increase recycling) and ensure event organisers remove and dispose of any litter from their event on public places.

**Issues and Outcomes Sought Now**

- Issues about the need to reduce residual waste, litter and cost to remove litter remain. Examples include excessive packaging by vendors, recycling bin contamination, litter from smaller events due to fiscal constraints and litter from corporate giveaways (flyers, balloons).
- Emerging issues identified by stakeholders include nuisance from litter and safety risks for unaccompanied children from insufficient and poorly-located bin stations, a need to focus more on waste minimisation and application of Bylaw to trading in public places.
- No data on the scale or magnitude of the issues. Stakeholders highlight that waste contamination is a significant issue and increasing operational costs are a barrier to effective waste minimisation. In the event of greater awareness of waste issues and initiatives to reduce waste, for example, compostable packaging.
- Outcome sought is to reduce harm from residual waste. Achieving this outcome would also address issues of nuisance and safety risks.

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**Bylaw Evaluation**

*Refers to section 4 of the findings report*

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Still a problem requiring a bylaw response?

- Yes. There is still an issue that regulation can help address.
- For waste issues with events and trading on council controlled public places, there are no feasible alternatives to a bylaw. The Unitary Plan specifically refers to bylaws to manage and minimise waste.
- For large public events on private places, there are feasible alternatives to address the issue of litter on public places. Section 9(3) of the Litter Act 1979 allows council to require event venues to provide appropriate litter receptacles. This would not however promote waste minimisation. The Unitary Plan addresses waste management and minimisation to varying degrees in 20 major recreational facilities.

Is the current bylaw effective and efficient at managing and minimising waste?

- Bylaw is useful for events in council controlled public places.
- Bylaw about large public events on private places not currently applied or used.

Bylaw clearly written?

- No. Bylaw structure and wording difficult to understand. Hard to know when an event waste plan is required. Interrelationship with trading and events bylaw is unclear.

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<table>
<thead>
<tr>
<th>OPTIONS</th>
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<tbody>
<tr>
<td>Option 1: no waste bylaw</td>
<td></td>
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</tbody>
</table>
| - Waste plan can be required for events and trading on council controlled public places under trading and events bylaw.  
  - No requirement for an event waste plan for public events on private places. However, waste in public places can be addressed using section 9(3) of the Litter Act.  
  - Implementation  
    - For events on council controlled public places the same as now. The definition of event in the trading and events bylaw is however broader, and the bylaw provides discretion for when an event waste plan is required and what it must contain.  
    - Statutory powers and penalties in Litter Act can still be used to address litter (bylaw not needed to allow their use). |                             |
| Option 2: new waste bylaw   |                             |
| - New bylaw to require waste plan for events and trading on council controlled public places.  
  - Waste in public places from large public events on private places addressed using section 9(3) of the Litter Act and Unitary Plan the same as now.  
  - Trading and events bylaw amended to more clearly align with new bylaw.  
    - Bylaw structure and wording made easier to understand. Exemptions to be evaluated during bylaw development. For example, where waste issues addressed in a resource consent.  
    - Where appropriate, matters in waste plan to be proportionate to scale of event or trading.  
  - Implementation  
    - For events and trading on council controlled public places the same as now.  
    - Statutory powers and penalties in Health Act and Litter Act can still be used to address health, nuisance and litter (bylaw not needed to allow their use). |                             |

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<table>
<thead>
<tr>
<th>Pros</th>
<th>Cons</th>
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</table>
| - Issues addressed.  
  - Regulations streamlined, one less bylaw. | -                          |

---

- Refer E-0 Temporary Activities of the Auckland Unitary Plan, specifically policy 540.30(1)(d).
- Refer H26 Special Purpose – Major Recreation Facility Zone
- Course 6(1), 6, 10 (in particular 10(3)(c)), 11 (in particular 11(h)(d) of the Auckland Council Trading and Events Bylaw 2015
Regulatory Committee
11 April 2019

- Mandate to promote waste minimisation less explicit because trading and events bylaw made under Local Government Act 2002 rather than the Waste Minimisation Act 2008.
- References in trading and events bylaw to waste not easy to understand.

**Risks and risk mitigation**
- Moderate risk that waste requirements are unclear. Mitigation through information and education to increase awareness.

**Effectiveness at managing and minimising waste**
- While this option would address waste issues, the mandate to promote waste minimisation in trading and events bylaw and Litter Act is unclear.

**Efficiency at managing and minimising waste**
- Would not require additional resources, but unclear mandate, structure and wording may result in uncertainty in both public understanding and staff administration about waste requirements.

**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**
Based on the analysis against criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste from events and trading on council controlled public places, but not large public events on private places because it would:
- provide a clear mandate to require events and trading in council controlled public places to address waste issues and minimise waste
- be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor inconsistent with the Waste Plan
- align requirements contained in the new bylaw and trading and events bylaw about waste
- enable waste from large public events on private property entering public places to be addressed using the Litter Act 1979 and Auckland Unitary Plan.
TOPIC 6: LITTER FROM FLAGS AND SIMILAR THINGS (CLAUSE 2(2))

EXISTING BYLAW
- The owner, occupier or manager of a premises where any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing is displayed that is likely to become litter must take steps to prevent it becoming litter and clean up resulting litter.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS
- The bylaw has not been used however a graduated compliance response is likely.

STATUTORY AUTHORITY
- Waste Minimisation Act 2008 (WA2008) and/or the Local Government Act 2002 (LGA2002) bylaws can address waste issues. Relevant bylaw powers and penalties include seizure, return and disposal of property and maximum court fines of $20,000. The LGA2002 also empowers officers to require certain information.
- Health Act 1953 (s64(1)(a)) and Litter Act 1979 (s12) bylaws can address public health, nuisances and litter. Relevant bylaw powers and penalties are similar or less than the WA2008 and LGA2002, for example the maximum penalty under the Health Act is $500.

ISSUES AND OUTCOMES SOUGHT IN 2012
- Issues induced the need to reduce obstruction of stormwater drains and gutters, and poor visual amenity caused by flags and similar things.
- Outcomes sought were appropriate disposal of litter, litter-free public places and for people to make conscious decisions about purchases, minimisation of rubbish and responsible disposal.

ISSUES AND OUTCOMES SOUGHT NOW
- Issues relating to the display of flags or similar things were not raised with council in 2019.
- There is no data available on the scale or magnitude of the issue.
- Outcome sought is to reduce harm from residual waste.

BYLAW EVALUATION
Still a problem requiring a bylaw response?
- No. No issues have been raised regarding the display of flags or similar things on premises.
- There are feasible alternatives to a bylaw that are proportionate to the issue under the:
  - Litter Act 1979 (s8(2)) allows council to require occupiers of premises to take reasonable steps to prevent litter escaping from the premises onto a public place.
  - Signage Bylaw 2015 (s8(2)) requires the owner, occupier, or manager of any premises displaying publicly visible things deemed to be signage to ensure they do not become a nuisance or create a risk to public health and safety.
- Public Safety and Nuisance Bylaw 2013 prohibits a person from placing, leaving or abandoning any object, material or structure in a public place likely to cause a safety risk.

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82. Section 4.5 of findings report.
83. WA2008, section 56(i) and (ii), LGA2002, section 146.
85. Sections 164 and 170, 178, 183 and 142 LGA2002.
87. Include an advertisement, message or notice advertising a product, business, service, event or acts to inform or warn any person, including banners, flags, posters and balloons.
88. Powers include signage removal or alteration and cost recovery, and penalties include fine not exceeding $3,000 (Local Transport Act 1980, s32A(3)(a)) or $20,000 (Signage Bylaw 2015, s33-34) LGA2002, s34(4)
<table>
<thead>
<tr>
<th>Options</th>
<th>Item 26</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option 1: no waste bylaw</strong></td>
<td><strong>Option 2: new waste bylaw</strong></td>
</tr>
<tr>
<td>- Use Litter Act, signage bylaw and public safety and nuisance bylaw to address litter from the display of flags or similar things on premises should issues arise in the future.</td>
<td>- New easy-to-understand bylaw to prevent litter from the display of flags or similar things on premises.</td>
</tr>
<tr>
<td><strong>Implementation</strong></td>
<td><strong>Implementation</strong></td>
</tr>
<tr>
<td>- Council uses a graduated compliance approach.</td>
<td>- Same as Option 1.</td>
</tr>
<tr>
<td><strong>Pros</strong></td>
<td><strong>Pros</strong></td>
</tr>
<tr>
<td>- Removes unused bylaw about display of flags or similar things on premises which are no longer an issue.</td>
<td>- Behavioural expectations stated in a way that are proactive, positive, easy to understand and more clearly promote waste management and minimisation.</td>
</tr>
<tr>
<td>- Streamlines council’s regulatory approach.</td>
<td><strong>Cons</strong></td>
</tr>
<tr>
<td><strong>Cons</strong></td>
<td><strong>Cons</strong></td>
</tr>
<tr>
<td>- Approach is reactive (when issues occur).</td>
<td>- Issues do not occur.</td>
</tr>
<tr>
<td>- Enforcement is limited by difficulties in obtaining evidence and identifying offenders.</td>
<td>- Current Bylaw has not been used.</td>
</tr>
<tr>
<td>- Low reputational risk that council is perceived as not fulfilling statutory obligation to promote waste management and minimisation.</td>
<td>- Other regulation available to address issues.</td>
</tr>
<tr>
<td>- Risks and risk mitigation</td>
<td>- Enforcement is limited by difficulties in obtaining evidence and identifying offenders.</td>
</tr>
<tr>
<td>- Mitigation through robust bylaw review process and identification of alternate approaches.</td>
<td>- Bylaw clause is very specific. Other Bylaws can address wider range of issues.</td>
</tr>
</tbody>
</table>

**Effectiveness at managing and minimising waste**
- Option 1 would address any issues of litter from premises from the display of flags or similar things (should they arise).

**Efficiency at managing and minimising waste**
- Option 1 would not require additional resources to implement and streamline

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Note: “nuisance” includes a thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person, and for these purposes can include nuisance from litter at a certain threshold, for example high quantity or offensive litter.

Bylaw powers include seizure, return and disposal of property, cost recovery for damage and penalty notice and address (LGAA2002, s164-166, 175-177 and 178). Penalties include a maximum $20,000 fine (LGAA2002, s74(4)), or maximum $500 fine and $50 per day for a continuing offence (VA1993, s66).

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"Waste Bylaw Statement of Proposal" Page 389
Section 155 Local Government Act 2002 Recommendations

Based on the analysis against the criteria above and preliminary legal assessment, no bylaw (Option 1) is the most appropriate way to manage and minimise waste from the display of flags or similar things on premises because it would:

- remove an unused bylaw about matters which are no longer an issue
- leave any future issues to the Litter Act and signage and public safety and nuisance bylaws.
TOPIC 9: UNADDRESS MAIL (CLAUSE 26)

EXISTING BYLAW

- No person may deposit unaddressed mail on vehicles and in letterboxes that are unsecured or marked "unaddressed mail only", "no junk mail" or similar words. Exceptions apply to industry accord (Code), election material, government notices, community newspapers or charities.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS

- Proactively addresses issues through the industry accord with the Marketing Association.77
- Members of the Marketing Association (95 percent of the distribution industry) respond directly to complaints and only repeatedly involve council if complex or unresolved issues arise.78
- Reactively responds to complaints from non-members of the Marketing Association using a graduated compliance model such as education and warnings.
- Since 2013 council received 40 complaints about unaddressed mail and no complaints about car window advertising. Anecdotally, marketing flyers are left on car windows at events and in public carparks. No prosecutions under the Bylaw.

STATUTORY AUTHORITY OF COUNCIL TO MAKE BYLAWS

- Waste Minimisation Act 2005 (WA2005) and/or the Local Government Act 2002 (LGA2002) bylaws can address waste issues.80 Relevant bylaw powers and penalties include maximum court fines of $20,000. LGA2002 also requires certain information.81
- Health Act 1956 (s64(1)(a)) and Litter Act 1979 (s12) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than WA2005 and LGA2002, for example Health Act penalty is $500.

ISSUES AND OUTCOMES SOUGHT IN 2012

- Issues included littering caused by the delivery of unaddressed mail.82
- Outcome sought was to ensure appropriate disposal of unaddressed mail.

ISSUES AND OUTCOMES SOUGHT NOW

- Residual waste issues include litter from unaddressed mail falling out of letterboxes or off car windows and illegal dumping of surplus items in private and public bins, local parks and streams.
- Other issues include nuisance from not wanting to receive unaddressed mail.
- Emerging issues include sample material such as pet food, location of stickers on letterboxes, increased (weekly) complaints to Marketing Association about unaddressed mail by local sport clubs, charities and increased complaints about real estate agents (not signatories to the Code).
- According to the Marketing Association, the scale or magnitude of the issues decreased by approximately 50 percent since 2012 due to increased use of cheaper digital options.
- Outcome sought is to reduce harm from residual waste from litter and illegal dumping. Achieving this outcome would also address nuisance related issues.

BYLAW EVALUATION

Is this still an issue that requires bylaw response?

- Yes. Issues related to unaddressed mail remain and regulation can help to address them.
- There are no other feasible alternatives to a bylaw:
  - a bylaw is the only regulatory tool that enables prosecution of the person who ordered the delivery (unlike the Litter Act 1979 that focuses on those who physically deliver mail).

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77 Refer to section 4.9 of the Findings Report.
78 National Code of Practice for the Distribution of Unaddressed Mail.
79 The helpline (0800 111 001) is financed by Reachmedia and PMP Distribution.
80 WA2005, section 56(a)(ii) and LGA2002, section 146(3)(ii).
• a bylaw is the only regulatory tool that can address nuisance to people not wanting to receive unaddressed mail, junk mail or similar (s145(a) LGA2002), otherwise it is a civil matter.
• powers to address nuisance in the Health Act (s29(b) and s34) are limited to deposit or accumulation of unaddressed mail in a way that is offensive or injurious to health.\textsuperscript{49}

Is the Bylaw effective and efficient in managing and minimising waste?
Yes. Bylaw is useful to encourage self-regulation (industry accord) and to set expectations for delivery of unaddressed mail to letterboxes marked “addressed mail only” or “no junk mail”.

A 2006 study found that “no-junk” stickers decreased the amount of unaddressed mail received in residential areas by 67 per cent.

The same study found that real estate agents were the most likely to deliver promotional material, even when “no-junk” signage was present (not signatories to the Code).

Resolving complaints is costly and time-consuming (no data available).

Is the bylaw clearly written?
No. Bylaw is wordy, repetitive, inconsistent with the Code and difficult to understand.

<table>
<thead>
<tr>
<th>OPTIONS</th>
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<tbody>
<tr>
<td><strong>Option 1:</strong> no waste bylaw</td>
</tr>
<tr>
<td>Litter Act used to address litter and illegal dumping but only by the person who physically delivers unaddressed mail (not the company or person who ordered delivery).</td>
</tr>
<tr>
<td>Use LGA2002 and Health Act to address nuisance.</td>
</tr>
</tbody>
</table>

**Implementation**
Council uses a graduated compliance approach to complaints.

**Pros**
Less compliance costs to industry from council regulation (no bylaw).
Litter and illegal dumping by physical deliverer still addressed.

**Cons**
No ability to prosecute a company or a person who ordered the delivery under the Litter Act.
Members of the Marketing Association may not choose to continue to be signatories to the voluntary Code of Practice after the Bylaw expires.

**Risks and risk mitigation**
Enforcement against a delivery person under the Litter Act presents a reputational risk to the council because they are likely to be a minor, a recent migrant or vulnerable.

| **Option 2:** new waste bylaw |
| New easy-to-understand bylaw to prohibit deposit of unaddressed mail on vehicles and unsecured or marked letterboxes (with exemptions). |
| Exceptions for industry accord remain. |

**Litter Act, Health Act and LGA2002 used to address litter, illegal dumping and nuisance.**

**Implementation**
Same as current implementation.

**Pros**
Bylaw enables industry self-regulation which reduces complaint resolution by council.
Provides council with ability to prosecute companies or persons who order delivery and set expectation for no delivery to marked or unsecured letterboxes.

**Cons**
Enforcement is limited.
Resolution of complaints is time-consuming.

**Risks and risk mitigation**
Enforcement against delivery person can pose reputational risk to council as delivery persons are likely to be minors, recent migrants or vulnerable community members.

\textsuperscript{49} Powers include assessment of nuisance and cost recovery (s34). The Court may require the owner and occupier of a premises to cease and/or prohibit the recurrence of the nuisance or specify works to be done to do so (s33). Penalties include fine not exceeding $500 and $50 per day for a continuing offence (s136).
community member. There is no effective mitigation to this risk other than a new bylaw.

**Effectiveness at managing and minimising waste**
- Limiting enforcement options to litter and illegal dumping by delivery persons is ineffective and presents a reputational risk to council.

**Efficiency at managing and minimising waste**
- Limiting enforcement options to the delivery person is inefficient. It may result in withdrawal of industry from accords and increase complaints to council which are time-consuming to address and difficult to enforce.

**Effectiveness at managing and minimising waste**
- Current approach is shown to be effective based on 2006 study and industry accords have reduced the number of complaints to council.

**Efficiency at managing and minimising waste**
- Option 2 would continue to reduce operational costs by encouraging industry responsibility and provide a clearer mandate for waste management and minimisation.

**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**

Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste issues from unaddressed mail because it would:
- Fill a regulatory gap by enabling prosecution of the person who ordered the delivery (unlike the Litter Act, which focuses on those who physically deliver mail), support self-regulation through exemptions for industry accords and set expectation for no delivery of unaddressed mail to marked or unsecured letterboxes (with exceptions).
- Provide clearer wording that is easier to understand.
- Be valid and not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan.
- Still allow the use of LGA2002, Litter Act, Health Act where appropriate.
Topic 16: Abandoned Shopping Trolleys (Clause 30)\(^{16a}\)

**Existing Bylaw**

- Shopping trolleys must not be abandoned on a public place outside of the business premises that provided them. Businesses must not allow trolleys to be abandoned outside of premises, must take measures to prevent removal (for example signage) and include the business contact details on their trolleys. Exemptions apply to signatories to council-approved industry accords.

**Implementation of Existing Bylaw by Waste Solutions**

- Where an individual or business is identifiable, a graduated compliance response is used. This may include education, warnings, cost of retrieval and prosecution.
- The Retail New Zealand (\(\text{RNZ}\)) industry accord for the management of shopping trolleys (\(\text{Code}\)) was adopted in 2014 to address shopping trolley abandonment in public places.
- Complaints are firstly directed to the retailer who then retrieves the trolley or secondly to \(\text{RNZ}\) if there is a continuing issue. \(\text{RNZ}\) works with retailers to improve retrieval rates.
- Council requests identifiable retailers who are not Code signatories\(^{20}\) to retrieve their trolleys.
- Council may retrieve trolley where the owner is unidentifiable.
- There is no data available on complaints to or trolleys retrieved by council.

**Statutory Authority**

- Waste Minimisation Act 2008 (\(\text{WA2008}\)) and/or the Local Government Act 2002 (\(\text{LGA2002}\)) bylaws can address waste issues related to abandoned shopping trolleys.\(^{27}\) Relevant bylaw powers and penalties include seizure, return and disposal of property and maximum court fines of $20,000.\(^{86}\) The \(\text{LGA2002}\) also enables officers to require certain information.\(^{86}\)
- Health Act 1956 (\(\text{s64(1)(a)}\)) and Litter Act 1979 (\(\text{s12}\)) bylaws can address public health, nuisance and litter issues. Relevant bylaw powers and penalties are similar or less than the \(\text{WA2008}\) and \(\text{LGA2002}\), for example the maximum penalty under the Health Act (\(\text{s66}\)) is $200.

**Issues and Outcomes Sought in 2012**

- Issues\(^{20}\) were illegal dumping, environmental harm, nuisance, reduced visual amenity, obstructed waterways and retrieval costs from trolleys and baskets in public places.
- Outcome sought was to prohibit illegal dumping of waste and recover costs to council of removal and disposal of illegal dumping from the disposing.

**Issues and Outcomes Sought Now**

- Issues from 2012 remain however abandoned shopping baskets are no longer a problem.
- Emerging issues include obstruction of public places and ease of movement, health and safety risks to pedestrians and others, nuisance to drivers and possible damage to vehicles.
- The scale and magnitude of the issue is considered to be under-reported. There were 87 complaints to council in 2018. \(\text{RNZ}\) reported 750 abandoned trolleys between 2015 and 2018, with incidents per year remaining stable. Locations where found included a public street (54 per cent), private residence (30 percent, business (10 per cent) and park or reserve (five per cent).
- Outcome sought is to reduce harm from residual waste. Outcome would also address issues of obstruction, health, safety, nuisance, reduced visual amenity, damage and costs.

**Bylaw Evaluation**

\(^{16a}\) Relates to section 4.10 of findings report.

\(^{20}\) Mainly small retailers.

\(^{86}\) WA2008, sections 50(a) and (b), LGA2002, section 146.


\(^{86}\) Sections 164 vs 239, 178, 178 and 242 LGA2002.

### Still a problem requiring a bylaw response?
- Yes. There is still an issue that regulation can help address.
- There are no feasible proactive regulatory alternatives available to require business to label trolleys, prevent removal from premises or to encourage a council-approved industry accord.
- There are feasible alternatives to a bylaw to address some instances of abandonment, but they are reactive and target the individual who abandons the trolley:
  - Litter Act 1979 (s15) prohibits depositing of litter on a public place or on private land without consent. Application to abandonment is limited to where trolleys become litter, such as being left in a hindered location such as down a cliff or in a waterway.
  - Public Safety and Nuisance Bylaw 2013 prohibits placing, leaving or abandoning any object in a public place likely to cause a safety risk, nuisance, damage, obstruction, disturbance or interference. There is a high threshold for nuisance – the trolley must unreasonably interfere with the peace, comfort or convenience of another person.

### Is the current Bylaw effective and efficient at managing and minimising waste?
- Bylaw encourages voluntary compliance through the Code. Many larger retailers such as supermarkets are Code signatories. Generally, retailers collect trolleys although sometimes council involvement is necessary. Code requires retailers to label and retrieve trolleys, submit data, and reimburse council for any retrieval costs.
- Retailer failure to label their trolleys (mainly smaller retailers) prevents cost recovery of retrieval.
- Bylaw enforcement is difficult. There are challenges identifying offenders, obtaining evidence, time, cost and reputational issues when offender is a vulnerable society member.
- Bylaw clearly written?
  - No. Wording unclear (for example meaning of “reasonable measures”), lengthy and outdated.
  - The Bylaw is less stringent than the Code making its purpose and value unclear.

### OPTIONS

<table>
<thead>
<tr>
<th>Option 1: no waste bylaw</th>
<th>Option 2: new waste bylaw</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Litter Act to address situations where abandoned trolleys are litter.</td>
<td>New easier to understand bylaw to address abandonment of trolleys. This may include prohibiting removal of trolleys from business premises onto a public place, requiring retailers to prohibit removal, taking measures to prevent removal, retrieving abandoned trolleys, labelling trolleys and other matters contained in the Code.</td>
</tr>
<tr>
<td>Use Public Safety and Nuisance Bylaw to address where abandoned trolleys are a safety risk, nuisance, damage, obstruction, disturbance or interference to any person in their use or enjoyment of that place.</td>
<td>Exemption for industry Code to remain.</td>
</tr>
</tbody>
</table>

### Implementation

- Council Litter Control Officers and enforcement officers use a graduated approach to compliance.
- Same as current implementation.

### Pros

- Most issues are still addressed.

### Cons

- Power to require removal and correct disposal of litter and to request offender details. Penalties include a maximum $400 enforcement fine, $5,000 court fine for individuals and litter removal costs.
- Power to seize, return and disposal of property, cost recovery for damage and power to request name and address (LCA2002 s64-66, 175-176 and 178). Penalties include a maximum $20,000 fine ($CA2002 s42(4)) or maximum $3000 fine and $30 per day for a continuing offence (PA1992 s88).
Abandoned trolleys that are not litter, a safety risk, nuisance, cause damage, obstruction, disturbance, or interfere with any person in their use or enjoyment of that place are not addressed, although regardless there is a low likelihood of identifying offenders.

Risks and risk mitigation
- High risk that Code is dissuaded. Mitigation through current relationship with Retail NZ.
- Moderate risk that no measures are available to address situations not covered by Litter Act and Public Safety and Nuisance Bylaw. Mitigation through education.
- Low risk that council is perceived as not fulfilling statutory obligations to promote waste management and minimisation. Mitigation through robustness.

Effectiveness at managing and minimising waste
- Council would not be able to address all issues or ensure retailer accountability. The Litter Act and Public Safety and Nuisance Bylaw do not address all issues and focus on abandonment by individuals, not retailer accountability, and the Code would likely dissolve without a regulatory incentive.

Effectiveness at managing and minimising waste
- Option 2 would address all waste issues and require retailer accountability which reduces the need for complaint response by council. The Bylaw provides clearer wording that is easier to understand, fills a regulatory gap for trolley retrieval by retailers, and supports continuance of the Code.

Efficiency at managing and minimising waste
- Likely increase in complaints and associated costs to council (and ratepayer).

Efficiency at managing and minimising waste
- Would not require additional resources.

SECTION 153 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS
Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste issues from abandoned shopping trolleys on public places because it would:
- Fill a regulatory gap by requiring retailers to prevent and to retrieve abandoned trolleys in a way that also supports self-regulation through exemptions for industry accords
- Provide clearer wording that is easier to understand
- Be valid and not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan
- Still allow the use of the Litter Act and Public Safety and Nuisance Bylaw where appropriate.

Cost and reputational concerns are not sufficient incentives to encourage industry-wide trolley retrieval.
TOPIC 11: WASTE NUISANCE (CLAUSE 15, 26)
EXISTING BYLAW

- No person may allow accumulation of waste on private property or use an approved container (bin) in a way that is offensive, a nuisance or is injurious to health.
- A person may only dispose of waste (including by burning or burning) where allowed on the kerbside or at fill sites. 98 Exceptions apply to cleanfill, home composting, and burning or burial on private property of organic matter in rural areas, dead farm and companion animals and pests.

IMPLEMENTATION OF EXISTING BYLAW BY WASTE SOLUTIONS

- Graduated compliance response to waste accumulation and bin misuse includes education, signage, ticketing of illegally dumped items, 99 warnings, temporary bin removal, prosecution and encouraging private property fencing, larger bin use 97 or private waste collection services. 100
- No implementation for burning or burying of waste.
- No data available on implementation. No prosecutions made under the Bylaw.

STATUTORY AUTHORITY

- Waste Minimisation Act 2008 (WA2008) and the Local Government Act 2002 (LGA2002) bylaws can address waste nuisance. 101 Relevant bylaw powers and penalties include seizure of property, 102 power to inspect property and obtain information, 103 require certain information, 104 power of entry, cost recovery for damage and maximum court fines of $2000. 105
- Health Act 1956 (s64(1)(a)) bylaws can address public health and nuisance issues. Relevant bylaw powers and penalties are similar or less than the WA2008 and LGA2002.

ISSUES AND OUTCOMES Sought IN 2012

- Issues 106 were nuisance and health and safety risks from accumulation of waste on private property leading to odour, reduced visual amenity and vermin.
- The key outcome sought was to reduce harm to visual amenity, health and safety risks and vermin due to waste accumulation on private property.

ISSUES AND OUTCOMES Sought NOW

- Issues remain from 2012. Emerging issues include nuisance from misuse of approved containers and environmental harm and health risks from burning and burying of waste. Although not identified as issues in 2012, the Bylaw does address burning and burying.
- Limited data on scale and magnitude of issues. Anecdotally, illegal dumping of household waste and commercial materials (e.g. tyres) is common on private property. Illegal dumping volumes increased by 32 per cent and requests for service by 44 per cent since 2013. The proportion of incidents occurring on private property is however unknown. No complaints received about waste burning, burying or disposal. Anecdotally burning issues are common.
- Outcome sought is to reduce harm from residual waste. Achieving this outcome would also address nuisance and health and safety risks.

BYLAW EVALUATION

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101 Refer to section 411 of findings report.
102 Landfill, cleanfill, managed-fill and nano fill sites.
103 To notify residents, failures should be removed.
104 In particular, larger households or commercial properties.
105 WA2008, section 56(a) and (b) and LGA2002, section 148.
107 WA2008, section 78.
108 LGA2002, sections 172, 176 and 181.
110 Section 22 of Proposal: Review of solid waste bylaws, July 2012, p. 44.
Still a problem requiring a bylaw response?

Yes. There are still issues that regulation can help address.

- There are no feasible alternatives to a bylaw to address bin misuse:
  - Public Safety and Nuisance Bylaw 2013 is limited to address bin use that is a nuisance or injurious to health in a public place and cannot address offensive bin use.

- There are feasible alternatives to address burning of waste, excluding food scraps:
  - The Auckland Unitary Plan (E 14 Air quality) prohibits outdoor burning of waste (including domestic and commercial waste) in all zones (A123) to manage discharge of contaminants into the air, with exceptions.106
  - Outdoor burning is allowed in all rural zones of green waste generated on the same premises, or on property under the same ownership or operation, excluding (A131) those:
    - Rural - Countryside Living Zone in an Urban Fire District on properties less than 1ha or greater than 1ha if a council fire permit is not obtained.
    - Rural - Rural Conservation Zone in an Urban Fire District.
  - Outdoor burning of green waste generated on the same premises, or property under the same ownership or operation in Auckland is allowed by resource consent (A132).
  - The Unitary Plan and the bylaw have a common purpose to minimise environmental harm. Harm from waste burning is the release of contaminants affecting air quality. The Unitary Plan is a feasible alternative as it addresses air quality and specific land use and needs.

- There are no feasible alternatives to a bylaw to address burning of food scraps:
  - The Auckland Unitary Plan does not address outdoor burning of food scraps. Food scraps could be included as “domestic waste” under E14, A123. However, this would contradict the approach to other organic wastes (green and dead farm animals) in the plan. A bylaw would fill a regulatory gap for the burning of food scraps.

- There are feasible alternatives to a bylaw about burial of waste (clause 26(2)(e)) or waste disposal (clause 16 and 26(2)(e)). These clauses are a fundamental part of the bylaw framework which stipulates where waste can be disposed of.

- There are feasible alternatives to address accumulation of waste on private property:
  - Litter Act 1979 (s15) prohibits litter on private land without occupier consent and s10 allows council to require removal or concealment of litter which grossly defaces or defiles area.107
  - Property Maintenance Bylaw 2015(c16(1)(a)) prevents a person from allowing items to be accumulated on property under their control in a way that causes a nuisance.108
  - Health Act 1956 (s33) prohibits permitting or causing nuisances, including any accumulation or deposit that is offensive or injurious to health (s29(b)).

Bylaw effective and efficient at managing and minimising waste?

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106 Powers under the Resource Management Act 1991 address the discharge of contaminants into the environment (s15). Powers include enforcement orders, abatement notices, powers of entry (s34, 322, 322). Penalties include imprisonment not exceeding 7 years or fine not exceeding $300,000 ($30,000).

107 Powers include requirement to remove and appropriately dispose of litter deposited from a public place onto private land without consent (s27(2)). Penalties include imprisonment not exceeding $400 (s13.14), fine not exceeding $500 (individual) or $23,560 (body corporate) for litter (s16(1)). Imprisonment not exceeding one month or fine not exceeding $7,560 (individual), or $30,000 (body corporate) for dangerous litter (s14(2)). On conviction offenders can be required to clear area of litter (s26) and pay cost of removing litter (s21).

108 Council can remove materials found on the property in breach of the bylaw and recover costs of removal (s9). Powers include seizure, return and disposal of property (LGA 2002 s165-168) and power of entry (LGA 2002 s172). Penalties include maximum fine of $20,000 (LGA 2002 s243) or $500 (NA 1950 s60).

109 Powers include abatement of nuisance and cost recovery (s34). The Council may require the owner and occupier of a premises to cease and/or prohibit the recurrence of the nuisance or specify works to be done to do so (s33). Penalties include fine not exceeding $3500 and $250 per day for a continuing offence (s34).
## Option 1: No waste bylaw
- Use information and education to address bin misuse, burning of food scraps, and waste burial and disposal.
- Use the Unitary Plan to address burning of waste (excluding food scraps).
- Use Litter Act, Property Maintenance Bylaw and Health Act to address accumulation of waste on private property.

### Implementation
- Same as current implementation for accumulation issues.

### Pros
- Best practice can still be communicated.
- Burning of waste excluding food scraps and waste accumulation can still be addressed.
- Removes regulatory duplication as Litter Act used to address accumulation issues.

### Cons
- Bin misuse issues continue to occur but there would be no regulatory measures to address this.
- Creates a regulatory gap. No regulatory measures to set expectations for burning of food scraps and waste burial and disposal.
- This could increase harm from residual waste as contaminants are released due to inappropriate disposal.

### Risks and risk mitigation
- High risk of insufficient measures to address issues. Mitigation through education.
- High reputational risk that council perceived as not fulfilling statutory obligations to protect public health and promote waste

## Option 2: new waste bylaw
- New easy-to-understand bylaw to address bin misuse, burning of food scraps, and waste burial and disposal.
- Use Unitary Plan, Litter Act, Property Maintenance Bylaw and Health Act to address burning of waste (excluding food scraps) and accumulation of waste on private property.

### Implementation
- Same as current implementation.

### Pros
- Fills regulatory gap by addressing bin misuse, burning of food scraps and waste burial and disposal.
- Sets bylaw framework that waste can only be disposed to the kerbside or fill sites with limited exceptions, to reduce harm from residual waste.
- Does not duplicate existing regulation for burning of waste (excluding food scraps) and waste accumulation on private property.

### Cons
- Bylaw enforcement is limited regardless of bylaw content due to limited resources.

### Risks and risk mitigation
- N/A

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*Council cannot remove waste from private property unless there is a health risk.*
management and minimisation. Mitigation through robust bylaw review.

**Effectiveness at managing and minimising waste**
- Option 1 creates regulatory gaps, would not set clear and enforceable behavioural expectations about use of bins, burning of food scraps, and waste burial and disposal and does not fulfil council's duty to protect public health and promote waste management and minimisation. However, it would remove duplication of existing regulation.
- Enforcement likely to remain limited due to the difficulty in identifying offenders.
- Efficiency at managing and minimising waste
  - Would not require additional resources.

**Effectiveness at managing and minimising waste**
- Option 2 would fill regulatory gaps by setting clear and enforceable behavioural expectations about use of bins and burning of food scraps and enable a bylaw framework stipulating that waste can only be disposed to the kerbside or fill sites (with exceptions) that are easier to understand.
- Option 2 would remove duplicated regulation. Enforcement likely to remain limited due to the difficulty in identifying offenders.
- Efficiency at managing and minimising waste
  - Would not require additional resources.

### SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS

Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste issues from bin misuse, burning of food scraps and waste burial and disposal because it would:
- Set clear and enforceable behavioural expectations about bin use and burning of food scraps
- Maintain a bylaw framework that restricts depositing of waste to the kerbside or fill sites (with exceptions)
- Be easier to understand
- Fill regulatory gaps about the use of bins, burning of food scraps and disposal of waste
- Be valid, not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan
- Avoid duplicating existing regulations by using the Unitary Plan, Litter Act, Property Maintenance Bylaw and Health Act to address burning (excluding food scraps) and accumulation of waste.
TOPIC 12: COUNCIL LITTER AND RECYCLING BINS IN PUBLIC PLACES \(^\text{(Clause 27(1))}\)

EXISTING BYLAW

- No person can deposit household or business waste in a bin, remove waste where this results in litter outside the bin, put waste in a full bin or in a way that is likely to escape (waste overflow), fix or attach a flag or similar thing to a bin or damage a bin.

IMPLEMENTATION OF EXISTING BYLAW

- Council uses a graduated compliance response to issues, including neighbourhood litter drops, signage, written warnings, temporary removal of bins, increased bin-emptying frequency, collaboration with retailers to provide additional or larger bins\(^\text{11}\), and prosecution.

STATUTORY AUTHORITY OF COUNCIL TO MAKE BYLAWS

- Waste Minimisation Act 2008 (WA2008) and/or the Local Government Act 2002 (LGA2002) bylaws can address waste issues.\(^\text{12}\) Relevant bylaw powers and penalties include seizure of things attached to bins and maximum court fines of $20,000. LGA2002 also enables cost recovery for damage and requiring information.\(^\text{13}\)
- Health Act 1956 and Litter Act 1979 bylaws can address public health, nuisance and litter issues.\(^\text{14}\) Relevant bylaw powers and penalties similar or less than WA2008 and LGA2002, for example the maximum penalty under the Health Act is $500.\(^\text{15}\)

ISSUES AND OUTCOMES SOUGHT IN 2012

- Issues\(^\text{16}\) were misuse of bins for household and business waste, litter, illegal dumping and risks to health and safety from waste overflow in and around full bins, visual amenity concerns from flags or similar things attached to bins, cost to ratespayer for removal and disposal of additional waste and contamination of public recycling bins from non-recyclables.
- Outcome sought was the appropriate use of public litter bins.

ISSUES AND OUTCOMES SOUGHT NOW

- Issues in 2012 remain with exception of visual amenity concerns from flags or similar things which was not identified as an issue.
- Emerging issues include nuisance and damage (including vandalism) of bins. Although not identified as an issue in 2012, damage was included in the bylaw.
- Scale and magnitude are high. Council receives 315 requests to empty over-flowing bins on average each year. On average there is a 50 per cent contamination rate in recycling bins. Anecdotally waste overflow is common during summer months and outside premises that produce large volumes of waste (for example takeaway food outlets), misuse of bins for household and business waste is common and vandalism is frequent in South Auckland.
- Outcome sought is to reduce harm from residual waste. Achieving this outcome would also address issues of health and safety, visual amenity, nuisance, damage and removal costs.

BYLAW EVALUATION

\(^{10}\) Refers to section 4.1 of findings report.
\(^{11}\) Litter Act 1979, section 9(3).
\(^{12}\) WA2008, sections 56(a) and (b), LGA2002, sections 145(a), (b) and section 146(a)(b).
\(^{13}\) Sections 61 via 63 WA2008 and sections 104 via 239, 170, 178 and 242 LGA2002 respectively.
\(^{14}\) HA1996, section 59(1)(a) and LA1979, section 12.
\(^{15}\) HA1996, section 60.
Still a problem requiring a bylaw response?

Yes. There is still an issue that regulation can help address.
Yes. A bylaw is the only feasible alternative to:
- prevent deposit of household and business waste in a bin or bin contamination as the Litter Act (s15) does not distinguish types of litter placed in a bin.
- prevent waste overflow around bins as the Litter Act (s15) does not address leaving waste in a bin in a way that it is likely to escape as this is the act, of littering. 117

No. There are feasible alternatives to a bylaw under:
- Litter Act (s15) to reactively address litter and illegal dumping in and around bins. 118
- Health Act (s34) to abate or remove nuisances including an offensive or injurious to health accumulation or deposit. 119
- Signage Bylaw 2015 (d7(2)) to address signage attached to bins. 120
- Public Safety and Nuisance Bylaw 2013 to address things attached to bins that are a safety risk, nuisance, damage, obstruction, disturbance or interference. 121
- Summary Offences Act can address damage (s11) and vandalism (s11A). 122
- Local Government Act (s232) can also address damage. 123
- Litter Act (s7(1)(c)) also allows officers to intervene to prevent damage.

Is the current Bylaw effective and efficient at managing and minimising waste?

Bylaw useful to address household or commercial waste in bins, encourage voluntary compliance and respond to complaints.

While issues occur, clauses about waste overflow, contamination, and damage not used.

Clause about fines or similar things not used and council has received no complaints.

Difficult to identify offenders and obtain evidence. No prosecutions under the Bylaw.

Bylaw clearly written?

No. Bylaw wording is unclear, repetitive and has insufficient detail to address contamination.

<table>
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<tr>
<th>Options</th>
<th>Option 1: no waste bylaw</th>
<th>Option 2: new waste bylaw</th>
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117 Litter Act does not relate to accidental littering in relation to depositing litter.
118 Powers include requirement to remove and appropriately dispose of litter deposited in a public place.
119 Penalties include a maximum $400 infringement fine, $5,000 court fine for an individual, one month imprisonment, $300,000 court fine for a body corporate and cost of removing litter (LA18/19 s2(3), (5), 14, 15, and 21).
119 Powers include cost recovery for statement (HA1995, section 34). The District Court may require the owner or occupier of a premises to abate and/or prohibit the recurrence of the nuisance or specify works to be done to do so (HA1995, section 30). Penalties include fine not exceeding $500 and $50 per day for a continuing offence (HA1995, section 13).
119 Signage on bins requires Auckland Transport or Auckland Council approval. Powers include removal and cost recovery (Signage Bylaw 2015, clause 13). Penalties include maximum fine of $1,000 (S23A(6)(b) Land Transport Act 1998) or $2,000 (G79K2012, section 24).
120 Penalties include seizure, return and disposal of property, cost recovery for damage and power to request name and address (s164 A18, 175-175, and 176 LCA2002). Penalties include a maximum $20,000 fine (LG40/02, section 24(14)) or maximum $500 fine and $50 per day for a continuing offence (HA1055, s68).
121 Penalties include up to three-months in prison, maximum $2,000 fine or community-based sentence (Community work, supervision, intensive supervision, or community detention (Sentencing Act 2002, s44)).
122 Penalties include recovery of cost of damage and penalties include a maximum $20,000 fine, three years imprisonment or both (s175 and 247).
- Use information and education to address household or business waste in bins, waste overflow and contamination of recycling bins.
- Use signage and public safety and nuisance bylaws for things attached to bins.
- Use Litter Act to reactively address litter and illegal dumping in and around bins.
- Use Health Act to address nuisance.
- Use Summary Offences Act, Local Government Act and Litter Act for damage.

**Implementation**
- Council officers and Police respond to complaints using a graduated approach.
- Operational improvements at discretion of council staff.

**Pros**
- Addresses litter, illegal dumping and damage.
- Removes unnecessary bylaw about flags or similar things that are no longer an issue.
- Does not duplicate legislation (streamlines council's regulatory approach).

**Cons**
- Does not address deposit of household or business waste, waste overflow and contamination which remain issues.
- Enforcement is difficult in terms of identifying offenders and obtaining evidence.
- Police unlikely to prioritise response to damage or vandalism.

**Risks and risk mitigation**
- Moderate risk that issues about deposit of waste increase. Mitigation through education.
- Low risk that council perceived as not fulfilling statutory obligations to promote waste management and minimisation in relation to deposit of waste in bins. Mitigation through robustness of bylaw review.

**Effectiveness of managing and minimising waste**
- Council would no longer be able to address all the current issues, particularly the misuse of bins (household or business waste, waste overflow, and contamination). The Litter Act

**Pros**
- New easy to understand bylaw to prohibit household or business waste in bins, waste overflow and contamination of recycling bins.
- Use other bylaws and legislation in Option 1 for things attached to bins, litter and illegal dumping, nuisance and damage.

**Implementation**
- Same as Option 1.

**Cons**
- Enforcement is difficult in terms of identifying offenders and obtaining evidence.
- Police unlikely to prioritise response to damage or vandalism.

**Risks and risk mitigation**
- Low operational risks from current operational issues. Mitigation through improving operational process.
does not distinguish between litter sources or address litter risk. Council would not be able to address complaints about these issues which continue to occur (although difficult to enforce) and does not promote waste management and minimisation.

**Efficiency at managing and minimising waste**
- Option 1 would not require additional resources (the approach to implementation remains unchanged) and removes bylaws that duplicate existing legislation or are unnecessary.

**Efficiency at managing and minimising waste**
- Same as Option 1.

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**SECTION 155 LOCAL GOVERNMENT ACT 2002 RECOMMENDATIONS**

Based on the analysis against the criteria above and preliminary legal assessment, a new bylaw (Option 2) is the most appropriate way to manage and minimise waste from the misuse of council litter and recycling bins in public places because it would:
- continue to enable council to address the misuse of bins in a way that is easy to understand (for example what is contamination)
- fill a regulatory gap for issues which continue to occur (although difficult to enforce) and helps promote waste management and minimisation
- be valid and not give rise to any implications and would not be inconsistent with the New Zealand Bill of Rights Act 1990, nor be inconsistent with the Waste Plan.