



**STATEMENT OF PROPOSAL TO ADOPT THE KAPITI COAST  
DISTRICT COUNCIL SOLID WASTE MANAGEMENT AND  
MINIMISATION BYLAW 2020**

**30 July 2020**

## Contents

<b>CONSULTATION AND NEXT STEPS</b> .....	3
<b>INTRODUCTION</b> .....	4
<b>BACKGROUND</b> .....	5
<b>LEGISLATIVE REQUIREMENTS</b> .....	5
<b>CURRENT WASTE ISSUES AND OPTIONS TO MANAGE THESE ISSUES</b> .....	6
<b>APPROPRIATENESS OF A BYLAW</b> .....	16
<b>CONSIDERATION OF NZBORA</b> .....	17
<b>PROPOSED BYLAW SUMMARY</b> .....	18

## Have your say

The Council invites your views on the proposed new Kapiti Coast District Council Solid Waste and Minimisation Bylaw 2020.

### To have your say on the proposed Bylaw you can:

- Read the consultation documents and complete the online submission form at [www.kapiticoast.govt.nz/solid-waste-bylaw](http://www.kapiticoast.govt.nz/solid-waste-bylaw)
- Email your submission form to [waste@kapiticoast.govt.nz](mailto:waste@kapiticoast.govt.nz) marked 'Draft 2020 Solid Waste Management and Minimisation Bylaw'.
- Make a submission in writing, using the submission form. Submissions can be dropped off at Council or a Council Service Centre or they can be mailed to:

Kapiti Coast District Council  
Private Bag 60601  
Paraparaumu 5254

- You can speak to your submission to the councillors as part of a hearing on Thursday 29<sup>th</sup> October 2020. Please indicate in your submission if you wish to be heard by councillors and ensure you have included your contact details.
- You can get more copies of the consultation documents online at [www.kapiticoast.govt.nz/solid-waste-bylaw](http://www.kapiticoast.govt.nz/solid-waste-bylaw), the Council's Service Centres, libraries, and by emailing [waste@kapiticoast.govt.nz](mailto:waste@kapiticoast.govt.nz) or by phoning 04 296 4700.

**The formal consultation period will be from Friday 7 August to 5pm on Friday 11 September 2020.**

**Submissions will be heard on Thursday 29 October 2020.**

### What happens to your feedback?

Your submission, and those of other submitters will help inform Councillors and finalise the new Solid Waste Management and Minimisation Bylaw 2020.

## CONSULTATION AND NEXT STEPS

- 1.1 Please submit your feedback on the proposed Bylaw by 5pm on Friday 11 September 2020.
- 1.2 A report on the submissions will be considered by Council on 26 November, at the same time as Council will consider adopting the Bylaw.

Activity	Date
Council approved the draft 2020 bylaw, and this Statement of Proposal for public consultation	30 July 2020
Submissions open	7 August 2020
Submissions close	11 September 2020
Hearing of submitters	29 October 2020
Council decision to adopt bylaw	26 November 2020

## INTRODUCTION

- 1.3 This Statement of Proposal presents the proposed Draft Kapiti Coast District Council Solid Waste Management and Minimisation Bylaw 2020 (hereafter the Bylaw)
- 1.4 The Council has reviewed the current 2010 Solid Waste Bylaw. This review process has identified issues to be addressed in order for the Bylaw to effectively provide for a better response to the Wellington Region Waste Management and Minimisation Plan (WMMP), the NZ Waste Strategy and the Waste Minimisation Act 2008, and at the same time future proof this response for the next 10 years.
- 1.5 The new proposed Bylaw will enable the Council to meet its legal obligations, more effectively manage the negative impacts of waste on the environment, and manage waste management activities in the public space. This will also ensure the protection of the health and safety of the public, and those involved in waste management.
- 1.6 The proposed Bylaw has updated and extended the Council's current Solid Waste Bylaw provisions to ensure the requirements are clear, relevant and regionally consistent with current legislation, national practices, and with Council's Waste Management and Minimisation Plan and broader waste minimisation goals. Three provisions in the proposed Bylaw are new for the Kāpiti District. These provisions will enable the Council to take action on particular issues where this has not previously been possible, and relate to multi-unit dwellings, unaddressed mail, and the introduction of waste management plans for buildings/developments.
- 1.7 The proposed Bylaw will be a new bylaw. If adopted, it will be established as a standalone bylaw, and Part 7 (Solid Waste Bylaw 2010) of the existing Kapiti General Bylaw 2010 will be revoked.
- 1.8 This Statement of Proposal has been prepared in accordance with section 86 of the Local Government Act 2002 (LGA) and provides information about the review process and whether it is appropriate to have the proposed Bylaw for the Kāpiti Coast District.

## BACKGROUND

- 1.9 In 2017, all eight territorial authorities (city and district councils) <sup>1</sup> in the Wellington Region adopted the Wellington Region Waste Management and Minimisation Plan (WMMP) 2017-23.

This plan, as required under the Waste Minimisation Act 2008, is the second WMMP developed collaboratively by the councils. This sets a regional target to reduce the total quantity of waste sent to Class 1 landfills from 600 kilograms per person per annum to 400 kilograms per person per annum by 2026.

To achieve this, the WMMP outlines a number of council actions for achieving effective and efficient waste management and minimisation, including working collaboratively to advance solutions to regional waste management issues.

- 1.10 Under the umbrella of the WMMP, the councils agreed to *“investigate and if feasible develop, implement and oversee monitoring and enforcement of a regional bylaw, or a suite of regionally consistent bylaws”*. In line with this decision, a joint project was set up by the councils in 2018 to review the existing solid waste bylaws around the region.

Consistent with the bylaw-related WMMP actions, the Council also has a legal obligation to review its current Solid Waste Bylaw every 10 years.

- 1.11 The recent review process has resulted in the development of the new proposed Solid Waste Management and Minimisation Bylaw 2020. This bylaw has been developed in collaboration with the eight other Councils in the Wellington region and, as proposed, reflects a suite of regionally consistent bylaw provisions.

## LEGISLATIVE REQUIREMENTS

- 1.12 Under section 56 of the Waste Minimisation Act, a territorial authority may make bylaws for the following purposes:

- a) prohibiting or regulating the deposit of waste;
- b) regulating the collection and transportation of waste;
- c) regulating the manner of disposal of dead animals, including their short-term storage pending disposal;
- d) prescribing charges to be paid for use of waste management and minimisation facilities provided, owned, or operated by the territorial authority;
- e) prohibiting, restricting, or controlling access to waste management and minimisation facilities provided, owned, or operated by the territorial authority;
- f) prohibiting the removal of waste intended for recycling from receptacles provided by the territorial authority by anyone other than—

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<sup>1</sup> The eight councils are: Wellington City Council, Hutt City Council, Upper Hutt City Council, Porirua City Council, Kapiti Coast District Council, South Wairarapa District Council, Carterton District Council and Masterton District Council.

- the occupier of the property from which the waste in the receptacle has come; or
- a person authorised by the territorial authority to remove the waste.

Bylaws made for the purposes of regulating the collection and transportation of waste may also provide for the licensing of persons who carry out the collection and transportation of waste.

1.13 The Council may also make bylaws under sections 145 and 146 of the LGA, for the purposes of:

- a) protecting the public from nuisance;
- b) protecting, promoting, and maintaining public health and safety;
- c) minimising the potential for offensive behaviour in public places;
- d) regulating waste management; and
- e) regulating solid waste.

1.14 This Bylaw is further made pursuant to section 64 of the Heath Act 1956, and section 12 of the Litter Act 1979.

1.15 The Local Government Act 2002 requires that the Solid Waste Bylaw 2010 be reviewed by 1 July 2020, 10 years from the day it was adopted.

While undertaking this review, the LGA 2002 requires Council to consider whether the bylaw:

- a) continues to be the most appropriate way to manage waste in the District;
- b) is still the most appropriate form of bylaw; and/or
- c) gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

1.16 The LGA 2002 also requires that Council consult with the community on the bylaw review, and give public notice of when the new bylaw comes into operation. This process would involve revoking the existing Solid Waste Bylaw 2010 as Part 7 of the General Bylaw 2010, and adopting the proposed Solid Waste Management and Minimisation Bylaw 2020 in its place.

To enable public understanding of the bylaw review process, and the proposed amendments, the LGA 2002 requires Council to present this Statement of Proposal.

## **CURRENT WASTE ISSUES AND OPTIONS TO MANAGE THESE ISSUES**

1.17 The waste issues that have been identified and considered in this bylaw review include:

- a) Ensuring efficient and effective waste management;
- b) Managing waste storage, disposal and collection activities to minimise public nuisance issues and adverse impacts on urban amenity;
- c) Reducing kerbside waste;

- d) Littering, waste and public nuisance caused by unaddressed mail and advertising;
- e) Limited, incomplete and inconsistent waste data;
- f) Reducing construction and demolition (C&D) waste; and
- g) Event waste management and minimisation.

Each issue is discussed in more detail, along with information about any proposed bylaw changes.

## **ENSURING EFFICIENT AND EFFECTIVE WASTE MANAGEMENT**

### Kerbside collection services

- 1.18 Kerbside waste collection services in the Kāpiti Coast District are provided by a variety of commercial providers, and by the Council for public litter bins. Regulatory requirements and controls are necessary in order to set clear and transparent kerbside waste and recycling collection standards applicable to all waste and recycling service providers, and also for the users of these services.
- 1.19 Community education promoting the correct use of kerbside collection systems is essential for ensuring a collection service is effective and efficient. However, despite education being an effective tool for promoting understanding and behaviour change, it does not provide a satisfactory solution for a small percentage of people who knowingly breach collection rules.

Bylaw controls therefore remain an essential regulatory mechanism for the maintenance and potential enhancement of efficient and effective waste management operations across the city.

### Managing dangerous, hazardous and/or infectious waste

- 1.20 The current Bylaw prohibits the deposit of prohibited waste items and hazardous waste in Council approved receptacles. Regulating the disposal of dangerous, hazardous and infectious materials continues to be necessary, and Bylaw provisions must ensure that any risks such materials pose to human health, environmental wellbeing, and waste service provider safety are minimized and where possible avoided.
- 1.21 As such, the use of a non-regulatory approach (community education encouraging best practice behavior, and making drop off services available) is considered insufficient. This approach needs to be supported by Bylaw provisions.

In line with guiding legislation, specifically section 145(b) LGA 2002, and sections 23(e) and section 64(1)(a) of the Health Act, a Bylaw remains the most appropriate regulatory tool for controlling the deposition of dangerous, hazardous and infectious substances within the waste stream.

## **MANAGING WASTE STORAGE, DISPOSAL AND COLLECTION ACTIVITIES TO MINIMISE PUBLIC NUISANCE ISSUES AND ADVERSE IMPACTS ON URBAN AMENITY**

- 1.22 Waste and recycling collection activities in the public space have the potential to reduce the level of amenity enjoyed within the urban environment and to create public nuisance issues. This can include:
- the siting of wheelie bins in a manner that impedes footpath access;
  - noise disturbance associated with collection activities; and
  - inappropriate waste disposal in public places and on private property.
- 1.23 The existing Bylaw already provides these controls, but requires updating to ensure it can better address the issues associated with the increased use of various types of wheeliebins, the illegal disposal of waste, and the misuse of public collection points.
- 1.24 While community education may be effective in promoting behaviour change for kerbside service users, it is important to set clear minimum operational standards for the public space to work towards. The effectiveness of community education is likely to be limited where practices will result in a cost saving or time saving by a service user or service provider.

For this reason, the use of community education is best supported by Bylaw provisions that provide minimum regulatory standards that service users and providers should meet. A Bylaw is the primary regulatory tool available to the Council to effectively address these waste-related public nuisance and amenity issues.

### Ensuring efficient and appropriate waste management storage and servicing for multi-unit developments

- 1.25 As urban densities increase, not just in the Wellington Region's cities but also in the Kāpiti Coast District in the next 10 years, the inadequate provision of on-site waste management storage and servicing areas has the potential to cause issues within the public space in urban (high density) areas.
- 1.26 The inappropriate design of waste storage and servicing areas in multi-unit developments (developments with 10 or more residential units) can create difficult-to-access or no-access sites for waste collection vehicles. Insufficient space for waste and recycling receptacles, and inappropriately designed and located storage areas within the development, can also be problematic for residents, constraining them to sustainably manage and divert/minimise their waste.
- 1.27 In turn, associated waste and recycling servicing can create public place nuisance issues caused by the deposit of waste and a loss of amenity in the adjoining public space. As such, waste management for multi-unit developments is a specific category of residential waste that requires additional consideration in order to minimise public nuisance issues and adverse impacts on urban amenity.

- 1.28 Whilst the Building Code (Clause G15 Solid Waste) stipulates that such “buildings shall be provided with space and facilities for the collection, and safe hygienic holding prior to disposal, of solid waste arising from the intended use of the buildings”, this clause does not apply to multi-unit dwellings if there is an independent access, or if there is a private open space at the ground level.

For this reason, the Building Code provisions are considered inadequate both for amenity protection and for accommodating the waste management needs of residents. An exemption from Clause G15 does not guarantee that the provision of an independent site access means that the development is designed with sufficient on site waste and recycling storage areas, or that the provision of private open space is available or accessible for waste storage and servicing needs.

Where Clause G15 is deemed applicable to a development, it does not specify a minimum site size for on-site waste and recycling storage.<sup>2</sup> When considering potential solutions, it is important to differentiate between existing legally constructed multi-unit developments, and new (yet to be established) multi-unit developments. The use of a regulatory mechanism as a means to address the issues is only appropriate with respect to new multi-unit developments or buildings being converted into multi-unit developments.

Currently existing multi-unit developments are anticipated to be legally constructed in accordance with regulatory standards. Therefore, the Council cannot retrospectively apply new building development (design) standards to these buildings. However, the Council can regulate waste and recycling service collection requirements to both new and existing multi-unit developments.

- 1.29 For new multi-unit developments (and conversions), there are two main regulatory options available to Council in order to manage the design of storage and access. These include the introduction of amended or new District Plan requirements or the introduction of revised waste bylaw controls.
- 1.30 Currently the Kāpiti Coast District Council District Plan doesn't include a definition for multi-unit developments as such, but there are requirements for medium density housing developments to provide for waste collection and service points, as well as provide for screening of waste collection areas. These requirements cover the outdoor areas and focus on individual units/dwellings, whereas the proposed Bylaw provisions would allow Council to require a waste management plan that covers a wider array of requirements to ensure effective waste management for multi-unit developments.
- 1.31 As part of future reviews of the District Plan, the current requirements have the potential to be re-considered and amended as higher density housing increases to cover waste issues in multi-unit dwellings, but as long as that has not happened, bylaw provisions to

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<sup>2</sup> It is, however, noted that Building Code provision G15/AS1 provides detail of a possible 'acceptable solution' for waste storage, which when complied with, will be deemed acceptable in terms of Building Code compliance.<sup>2</sup>

encourage better planning and provision of waste facilities and servicing for multi-unit dwellings are considered to be appropriate.

- 1.32 With increasing levels of intensification also expected in the Kāpiti Coast District over the next decade, issues caused by inadequate waste management and storage facilities in multi-unit developments can be anticipated to increase. The Bylaw should provide the Council with the ability to require better consideration and provision of waste management for multi-unit developments.
- 1.33 The bylaw provision for Multi-Unit Dwellings will come into force 6 months after the commencement of the new Bylaw to allow for setting up a process to manage engaging with regulatory Council teams, as well as with stakeholders in the early stages of design and establish a collaborative and supportive approach to submitting waste management plans.

### REDUCING KERBSIDE WASTE

- 1.34 The use of non-regulatory action and the provision of kerbside recycling are important and necessary for waste minimisation behaviour change within the community. However, the relative effectiveness of these options for minimising waste should be considered against the region's moderate to high per capita waste to landfill disposal rate. While community education has the potential to decrease waste generation and increase the diversion of waste from landfill to reuse or recycling, the effectiveness of waste minimisation services could also be increased through appropriate Bylaw provisions and controls.
- 1.35 Potential opportunities to reduce kerbside waste within the proposed Bylaw are connected to:
- Licensing operators to ensure the appropriate collection, storage and processing of waste and recycling material;
  - Requiring business name identification and contact details to be provided on all waste and recycling containers used for collection from public places;
  - Providing the ability to require content control messaging on all kerbside waste and recycling containers;
  - Providing the ability to establish controls requiring waste separation, for example limiting the amount of green waste material allowed to be disposed of into residential kerbside waste receptacles and requiring recyclables to be clean; and
  - Providing the ability to establish a maximum size limit for residential waste containers, as it would be useful to have this option available if such an approach is considered appropriate in the future.
- 1.36 It needs to be noted that Kāpiti was the first (and is currently still the only) district in the Wellington Region to introduce licensing of operators and collectors in 2010 under the current Bylaw and since then private waste collectors and waste facility operators have been licensed by the Council. (Please also refer to discussion below on data collection.

The first two bullet points are opportunities that already have been implemented as a result of licensing.)

### **LITTERING, WASTE AND PUBLIC NUISANCE CAUSED BY UNADDRESSED MAIL AND ADVERTISING**

- 1.37 The practice of depositing advertising material in mailboxes and on car windows is common. The inappropriate disposal or depositing of such unaddressed mail in already full mailboxes can result in public nuisance issues for residents, litter in our streets and increased waste to landfill. It is currently estimated that 30kg of advertising circulars are delivered to each New Zealand home every year.
- 1.38 When waste is deposited in a public place (e.g. on car windscreens and handing out advertising flyers to the public), the resulting litter and waste often becomes the liability of the Council for removal and disposal. Council has no ability to recover the costs of removal or disposal by the waste generators.
- 1.39 The Council has three options available in order to address this issue: reliance on voluntary codes of practice, community education/promotional strategies, and bylaw regulation.
- 1.40 The voluntary Marketing Association Code of Practice for the distribution of unaddressed mail already exists. This voluntary standard advocates for the honouring of household “No Junk Mail” requests by advertisers, and is a standard that is, in principle, widely accepted by the marketing industry and endorsed by the Marketing Association and the New Zealand Retailers Association.
- 1.41 A number of residents choose to use letterbox stickers to specify the rejection of unaddressed mail but despite the availability and use of these stickers, numerous retailers and service providers (including real estate agents) continue to deliver unaddressed mail to non-stickered mailboxes, often resulting in overflowing mailboxes which in turn cause litter in the public space. This situation suggests that on its own, a voluntary approach is limited in its ability to address this issue.
- 1.42 The main advantage of regulating unaddressed mail through the proposed Bylaw is that it has universal application and will apply to all advertisers. A Bylaw response clarifying the acceptable and unacceptable ‘deposit’ of unaddressed mail is considered appropriate for better managing this issue.

For clarity; the proposed Bylaw provision does not prohibit the delivery of unaddressed mail to non-stickered letter boxes, as the owners of the letterboxes have not indicated they do not want to receive these materials. The provision does however prohibit the deposit of these materials in non-stickered letterboxes that are already full, in stickered letterboxes altogether and on any vehicle parked in a public place. This makes is clear that the purpose of the provision is to restrict littering, not advertising, in the public space.

## LIMITED, INCOMPLETE AND INCONSISTENT WASTE DATA

- 1.43 The limited and inconsistent nature of regional waste and recycling sector data currently constrains the waste sector's (including local councils) understanding of waste issues.
- 1.44 Section 56(3)(b) of the WMA enables territorial authorities to require the provision of waste data from operators through operator licensing. Licensing may also stipulate conditions that require a performance bond, security, or both for the performance of the work licensed, and reports setting out the quantity, composition, and destination of waste collected and transported by the licensee (for example, household waste to a disposal facility).
- 1.45 The establishment of waste collector and operator licensing for the region has the potential to address this data issue. Licensing of private servicing providers will be more effective when coordinated at the regional level and when developed regionally to give effect to the National Waste Data Framework.
- 1.46 Kāpiti Coast District Council has been licensing private collectors and operators since 2010 and has, as a result, better aggregated data on waste streams. However, creating a regionally consistent licensing system will improve overall data capture.
- 1.47 From a collectors'/operators' perspective, a regionally coordinated waste operator licensing regime would provide a 'level' playing field across the region, with the same requirements applying in each district/city.
- 1.48 Engagement with waste industry stakeholders in our region in 2018 has confirmed that requesting the voluntary provision of waste data would not secure the provision of data for the Councils. Accordingly, a number of territorial authorities in New Zealand have already established licensing via bylaw provisions in order to secure the provision of waste data.

As such, a bylaw is considered the only mechanism available to the Council to effectively address this issue. It is noted that appropriate data confidentiality protocols will need to be applied to safeguard the commercial viability of the waste operators supplying the data.

## REDUCING CONSTRUCTION AND DEMOLITION (C&D) WASTE

- 1.49 Construction and demolition activity can generate substantial quantities of waste material, much of which is potentially recoverable, such as brick and concrete, timber, plasterboard and metal. In 2013/14, approximately 32,099 tonnes of waste sent to municipal (Class 1) landfills in the Wellington Region was construction and demolition waste (being 12.7% of the Class 1 Landfill waste stream). However, available data also indicates that the majority of C&D waste is currently being sent to Class 2-4 landfills (landfills that accept non-putrescible wastes such as C&D waste and cleanfill).
- 1.50 In 2015 Class 2-4 landfill operators reported their C&D waste tonnages to be approximately 525,000 tonnes per annum. This converts into a per capita disposal rate of

1.06 tonnes per capita per annum (Wellington Region Waste Assessment, 2016, p.55). As a significant part of this waste stream is potentially recoverable, the Assessment identified construction and demolition waste as a priority waste stream that could be targeted by councils as a means to reduce waste to landfill (2016, p.87).

Currently it's estimated that 63% of Kāpiti's waste to landfill consists of C&D waste of which a large portion could be recovered (*Waste Minimisation Taskforce Final report December 2020*). [Final report of the Waste Minimisation Taskforce](#)

- 1.51 In late 2018, councils from the Wellington Region jointly commissioned a report from Tonkin & Taylor Ltd to analyse the waste minimisation issues and challenges associated with C&D waste, and to identify the range of options available to councils in response to these issues.
- 1.52 The key issues include, but are not limited to, constrained capacity to process and recover C&D waste, the availability of low cost disposal for C&D waste close to where many major projects are occurring, and a lack of incentives that would encourage or promote C&D waste minimisation.
- 1.53 While some of the identified options are not within the scope of Council's role (e.g. increasing the waste levy to incentivise diversion of C&D waste), some options exist for the Council to advance C&D waste minimisation. Such initiatives could include investing in C&D waste processing activities to stimulate the recovery market, and incorporating C&D waste minimisation into Council procurement considerations.
- 1.54 Alternatively, the Council could continue to rely on voluntary waste minimisation practices and sustainability certifications (e.g. the GreenStar building rating system) to promote C&D waste minimisation. This option reflects the current situation. However, despite being useful to reduce C&D waste on discrete projects, it is limited in its capacity to promote or bring about significant reductions in the amount of C&D waste generated in Wellington City or across the Region.
- 1.55 The establishment of Bylaw provisions that require the consideration of C&D waste minimisation associated with large commercial building projects exists as a starting point for C&D waste minimisation. Bylaw provisions have the potential to require the consideration of C&D waste minimisation design, planning, materials recovery and reuse.
- 1.56 It is important to recognise that the establishment of such Bylaw provisions alone will not significantly reduce the amount of C&D waste produced within the region in the absence of changes occurring in the Wellington Region waste market. Currently within the Wellington region, the disposal of C&D waste to Class 2-4 landfills is relatively cheap in comparison to disposal to Class 1 municipal landfill waste. In Kāpiti there are currently very few C&D waste and cleanfill disposal options, resulting in the majority of these wastes being transported to Class 2-4 landfills located near Wellington or these wastes ending up as part of the municipal waste stream into the Kāpiti transfer stations.
- 1.57 C&D diversion would be incentivised mostly and become more commercially viable if the cost of C&D waste disposal was to increase and if good alternative recovery options became available.

- 1.58 The Ministry for the Environment recently consulted on a potential increase, and expansion of the scope, of the waste disposal levy. The waste disposal levy is a \$10 levy that is currently charged to each tonne disposed of in a landfill. This charge is generally passed on to the disposer as part of disposal charges. It's the Minister's clear intention to increase the levy per tonne within the next year and this increase has the potential to increase the price of a C&D waste disposal in the region.

This increase in disposal cost would act as an incentive for industry to divert and recycle C&D waste. If this was to happen, the existence of Council required C&D waste minimisation plans would become a valuable tool for identifying the potentially divertible and recyclable waste material streams. Such plans would also contribute to the success of any C&D diversion facilities established within the region.

- 1.59 Bylaw provisions that require C&D waste management and minimisation planning on large C&D projects consequently could hold a key role in promoting C&D waste minimisation in the Wellington region.
- 1.60 The Bylaw provision allows Council to set a control requiring C&D waste management and minimisation planning. It is not Council's intention to set this control at this moment in time, as it is acknowledged that in Kāpiti work needs to be done first to establish increased and improved recovery and recycling alternatives for the local building industry. As part of that work Council will also consider what the most appropriate value would be of a building project on the coast to trigger the requirement of providing a C&D waste management and minimisation plan.

#### **EVENT WASTE MANAGEMENT AND MINIMISATION**

- 1.61 Large public events, such as outdoor festivals, parades and concerts have the potential to generate a significant amount of waste. However, as the amount of waste being generated at events typically remains unreported, the total volume of event waste generated within the district and across the region remains unknown. Large amounts of waste produced can also result in litter issues in and around the event area and adjoining public areas.
- 1.62 In response to this issue, Kāpiti Coast District Council already included a waste during events provision in the 2010 Bylaw. In provision 10 of the existing Bylaw, it is stated that the organiser of an event that requires resource consent under our District Plan *may* be required to provide a waste management plan for the event. Since this provision was included in 2010, a few waste management plans have been put forward to Council for assessment, but in general they have not been required.

Instead, waste minimisation staff have been leading the way to make all Council events zero waste events, working with food vendors on compostable food packaging and setting up recycling stations with monitors. Waste minimisation staff have also worked with private organisers to establish the same for their events. Council has, for example, made the bin hoods for recycling stations available for event organisers free of charge, provided information and advice, and organised volunteers if needed. Also a new guide "Reducing

waste at your event” has been developed by the regional officers group and workshops for organisers are being held.

- 1.63 If event organisers voluntarily choose to run waste free events, or promote recycling and organics diversion at events, it has the dual benefit of normalising and promoting waste minimisation behaviour change within the community, and reducing the amount of waste sent to landfill.
- 1.64 However, as event organisers may be able to save time and money by ignoring event waste reduction guidelines and techniques, and by sending all of their accumulated event waste to landfill, voluntary approaches to event waste minimisation are consequently limited in their capacity to reduce waste.
- 1.65 From a regional perspective, due to the limited effectiveness of non-regulatory event waste management approaches, a bylaw provision is considered the most appropriate means to address these event waste-related issues. The use of regionally consistent bylaw provisions would establish basic waste-related planning considerations for large events throughout the region and support the regional education approach. For the implementation of this provision in the proposed Bylaw, an event will be considered ‘significant’ if it has an expected attendance of 1,000 or more people across the duration of the event.
- 1.66 It is proposed to delay the commencement of this provision to 1 July 2021 to allow Council to work in partnership with the other Wellington councils to establish further appropriate guidance and resourcing to support event managers.

## **SETTING CONTROLS UNDER THE NEW BYLAW**

- 1.67 Under provision 7 of the Bylaw Council can make, amend or revoke controls for the safe and efficient operation of waste collection services from a public place. Controls that can be set by Council resolution are listed in provision 7.2. Before making, amending or revoking any controls, Council must comply with the rules for public consultation as set out in Subpart 1 of Part 6 of the Local Government Act 2002. Any resolution made by Council in relation to a control must be made publically available.
- 1.68 The controls that are proposed to be set by Council resolution following Bylaw adoption (which will happen at the same Council meeting) are attached to this proposal for enhanced transparency. In summary the proposed controls:
  - Set out what approved receptacles are for waste and recycling collections in the District;
  - Set out the permitted times and days for waste collection services;
  - Set out requirements for the separation of waste types in the approved receptacles;
  - Restrict the storage of waste in public places; and
  - Restrict the deposit of specific waste material including prohibited waste.

The proposed Bylaw and associated controls will apply throughout the Kāpiti Coast District. Controls for C&D waste management plans will be set by Council resolution if and when improved recovery and recycling options are available.

## **APPROPRIATENESS OF A BYLAW**

- 1.69 When making or reviewing bylaws, Council is required by the LGA 2002 to ensure the bylaw is necessary and is the most appropriate form of a bylaw.

### **Most Appropriate Way to Address the Problems/Issues**

- 1.70 The discussion above outlines the range of waste management issues relevant to the Kāpiti Coast District and the Wellington Region and the options considered to address these issues.
- 1.71 In summary, while non-regulatory guidance (e.g. community education, guidelines and information provision) and appropriate operational practices can help address a range of waste management issues, bylaw regulation is necessary as a means to establish a range of baseline waste management and minimisation standards for waste service users and service providers.

Together, regulatory standards, non-regulatory actions and operational practice will support the delivery of effective and efficient waste management and minimisation within the Kāpiti District.

- 1.72 While some of the provisions in the Bylaw have the potential to be covered by common law remedies, such as public nuisance or negligence offences, it is preferable for the Council to retain provisions in the Bylaw for these matters.

### **Most Appropriate Form of Bylaw**

- 1.73 The proposed Bylaw effectively and efficiently addresses the identified issues by addressing a number of unwanted consequences resulting from the management and minimisation of waste. The proposed Bylaw also provides flexibility and allows for changing circumstances to be recognised by enabling Council to be able to take action on matters if required.
- 1.74 Controls (rules) to support the implementation of the proposed Bylaw can be made by Council resolution following Bylaw adoption. This separation allows the controls to be amended as appropriate rather than requiring a full review of the Bylaw. This gives Council the necessary flexibility to recognise that changes may be needed to procedures or other associated implementation matters over time.
- 1.75 The proposed Bylaw clearly states the Council's position by stating whether an activity is permitted or prohibited. The proposed Bylaw sets out what action needs to be taken to comply with it, for example, whether prior written permission of the Council is required. It also sets out some considerations that will be taken into account in granting consents.

- 1.76 The proposed Bylaw is consistent with the goals, aims and actions of the WMMP goals identified by the Council.
- 1.77 The review of Council's current Solid Waste Bylaw provisions has also considered whether the proposed Bylaw should remain part of the General Bylaw 2010 or be split into a stand-alone bylaw as has recently been done with other Council bylaws. Standalone bylaws are now common practice with other Councils, and are considered to provide advantages including:
- Improved interpretation and understanding of bylaws with all relevant information located together within a single document, and
  - Allowing the Council to establish a more staggered and clear approach to reviewing its bylaws.
- 1.78 The proposal is that the Solid Waste Management and Minimisation Bylaw 2020 would be established as a standalone bylaw, in effect, replacing the existing bylaw provisions in Part 7 of Council's General Bylaw 2010. Part 7 of the existing General Waste Bylaw would be revoked.
- 1.79 For these reasons, Council considers that a Solid Waste Management and Minimisation Bylaw continues to be necessary and the most appropriate way to manage waste in the District.

## CONSIDERATION OF NZBORA

- 1.80 Before making a bylaw, section 155 of the Local Government Act requires the Council to determine whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). No bylaw may be made which is inconsistent with the NZBORA.
- 1.81 Section 5 of the NZBORA provides for justified limitations on rights, specifically that the rights and freedoms contained in the NZBORA may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.
- 1.82 The only rights or freedoms under the NZBORA potentially engaged by the proposed Bylaw are likely to be the rights to freedom of movement and freedom of expression. Limitations on these rights must be no more than is reasonably necessary to achieve the purpose of the Bylaw. The proposed Bylaw limits these rights only to the extent that they create a danger to health and safety or a nuisance to others or the public generally, or create the potential for environmental harm. In addition, while the Bylaw will require waste collectors and operators to be licensed and comply with minimum standards, it does not limit public access to these services. The Bylaw only controls the methods used to carry out these services in order to meet waste management goals.
- 1.83 The proposed Bylaw does not raise any implications under and is not inconsistent with the NZBORA, because any limitations of the rights in question are justified in accordance with the NZBORA.

## PROPOSED BYLAW SUMMARY

The Bylaw must be consistent with the WMMP. The proposed Bylaw supports the key goals of the WMMP which include maximising opportunities to reduce the amount of waste sent to landfill, reduce the harmful and costly effects of waste, and improve efficiency of resource use.

### Summary of key changes proposed

Waste management responsibilities	
<p><i>Current bylaw:</i> Outlines some responsibilities but not in a comprehensive manner.</p>	<p><i>Proposed Bylaw:</i> Provides greater clarity and detail in terms of the general and specific responsibilities of owners, managers and occupiers of premises, and of waste collectors and waste operators.</p>

Licensing of waste collectors and operators	
<p><i>Current bylaw:</i> There is a licensing requirement in the current bylaw</p>	<p><i>Proposed Bylaw:</i> Introduces additional considerations that Council may take into account when considering a licence application and lists additional terms and conditions Council may include in the licence.</p> <p>The provision establishes a <i>regional</i> mandatory registration (licensing) system for waste collectors and waste operators to enable Councils to:</p> <ul style="list-style-type: none"> <li>• Effectively regulate private collection services to ensure they are aligned with the WMMP and Council’s waste management objectives</li> <li>• Collect better data on waste streams, waste management and service operations, and</li> <li>• Fulfil its responsibilities to promote effective and efficient waste management and minimisation.</li> </ul> <p>As licensing in Kapiti is already in place, the new provisions will be considered when licenses are reviewed where appropriate and practical (taking into account that establishing an appropriate regional system (and resourcing) will take time and that this provision will come into effect in the other districts/cities of the region on a later date.</p>

Waste Management for Multi-Unit Developments	
<p><i>Current bylaw:</i> There are no requirements for dealing with waste generated by multi-unit developments.</p>	<p><i>Proposed Bylaw:</i> Multi-unit developments (defined under the proposed Bylaw as 10 or more residential units) such as apartments, townhouses, retirement villages and gated communities have the potential to be problematic in terms of waste management and minimisation, particularly if inadequate provision is made for waste storage and servicing within the development. The proposed provision requires appropriate planning and provision for waste management in all multi-unit developments, and ensures that adequate provision is made for waste management facilities and servicing in new multi-unit developments.</p>

<b>Waste Management for Events</b>	
<p><i>Current bylaw:</i> There is a provision in the current bylaw for waste management for events. A waste management plan may be required by Council.</p>	<p><i>Proposed Bylaw:</i> The provision requires the preparation of a waste management plan (for approval by Council) for public events of a significant scale (an expected attendance of 1,000 or more people over its duration) that will generate waste (exceptions apply). The intent is to encourage better planning and management of waste and to ensure adequate provision is made for waste management facilities and services for events.</p> <p>It is proposed to delay the commencement of this provision by 6 months to 1 July 2021 to allow Council to work in partnership with the other Wellington councils to establish further appropriate guidance to support event managers, and the collection and analysis of the waste data provided.</p>

<b>Management of Construction and Demolition (C&amp;D) Waste</b>	
<p><i>Current bylaw:</i> There are no requirements for dealing with waste generated by C&amp;D activities.</p>	<p><i>Proposed Bylaw:</i> Waste generated from construction and demolition activities can be a significant issue. The provisions provide the ability for Council to make a control to require the preparation of a waste management plan (for approval by Council) for building work over a certain specified dollar value (as set by Council). Providing the ability for Council to set a control to require the preparation of a waste management plan aims to reduce waste by encouraging the consideration of waste issues early in the building/ construction process. It also supports the WMMP objectives for construction and demolition waste.</p> <p>It will help improve local and regional data on the management of construction and demolition waste, encourage reuse and recycling, and help ensure residual materials are taken to an appropriate disposal or recovery facility. Better data will also support increased understanding of construction and demolition waste issues and will inform and support the development of appropriate tools to help manage these issues.</p> <p>The supporting control setting the estimated value over which it will be required to submit a C&amp;D waste management plan will be developed in conjunction with developing improved options for recovery and recycling in the District before any control is set by public Council resolution.</p>

The proposed Bylaw is attached to this proposal. The following provides a summary outline of the key sections of the proposed Bylaw.

### Outline of proposed Bylaw provisions

Clause	Description	Purpose / Reasons
<b>PART A: INTRODUCTION</b>		
1	<b>Title and Application</b>	Specifies the title of the Bylaw and the district to which it applies.
2	<b>Commencement</b>	Specifies the date the Bylaw is adopted by Council and comes into effect. Also lists some exceptions to allow for the delayed start of some Bylaw provisions (e.g. event waste management plans) to give Council time to put in place appropriate implementation, mechanisms and systems.
3	<b>Revocation</b>	Confirms the existing Bylaw that the proposed Bylaw will replace.
4	<b>Purpose</b>	Explains why the Bylaw has been adopted, the context for the Bylaw, its intention and the key outcomes it seeks to achieve. Also identifies the relevant legislation the Bylaw is made under.
5	<b>Compliance with Bylaw</b>	Provides clarity and specifies that no person can act in a way that is not in accordance with the Bylaw, and that compliance with the Bylaw doesn't remove the need to comply with any other applicable legislation, regulation, Council bylaws or rules of law.
6	<b>Interpretation</b>	Supports the interpretation and implementation of the Bylaw. Defines key terms used in the Bylaw. Where possible, defined terms from existing relevant legislation, Council plans or national strategies and guidelines have been used.
7	<b>Controls</b>	Enables the Council to make/amend/revoke specific controls to support the implementation of the Bylaw. Controls can be used to prohibit, restrict or control any matter related to waste deposit, collection, transportation, storage or disposal from any property or premises. Controls must be made by a resolution of Council that is made publicly available. The clause provides assurance to any person as to the process that will be undertaken to make controls. Confirms that Council is complying with its significance and engagement policy.
<b>PART B: DEPOSIT, COLLECTION, TRANSPORTATION, STORAGE, PROCESSING AND DISPOSAL OF WASTE</b>		
8	<b>General responsibilities</b>	Outlines the general responsibilities of all people and agencies for solid waste management and minimisation under the Bylaw. Includes households, occupiers, and the owners and managers of any premises. Provides clarity as to what the expectations are in terms of waste disposal, storage, transportation and collection and who is responsible for what.

<b>Clause</b>	<b>Description</b>	<b>Purpose / Reasons</b>
<b>9</b>	<b>Waste collections from a public place</b>	Sets out basic requirements for waste collections from any public place. Explains what waste is acceptable for collection and what types of waste must not be placed in a public place for collection. Also enables Council to ensure waste collection receptacles provided for waste collections (approved containers, bins, bags etc) are appropriate, fit for purpose, and are labelled clearly and appropriately.
<b>10</b>	<b>Approved Collection Points</b>	Provided for clarity and ensures Council can set controls in relation to approved collection points for the collection of waste (for example, in rural areas or any areas not served by kerbside services).
<b>11</b>	<b>Licensing of Waste Collectors and Waste Operators</b>	Requires waste collectors and waste operators to obtain an approval (licence) from Council. Provides the ability for Council to take action if a licensed waste collector or operator is not fulfilling their requirements under the Bylaw.
<b>12</b>	<b>Multi-Unit Developments</b>	Provides the ability for Council to make a control to require the preparation of a waste management plan (for approval by Council) for new multi-unit developments, and for existing developments where there are issues in terms of inadequate provision for waste storage and disposal. Enables councils to set controls, if required, in relation to the deposit, collection, transportation or storage of waste from multi-unit developments. Supports the achievement of the goals and actions set out in the WMMP and clarifies waste management roles and responsibilities during planning, construction and occupation of multi-unit developments.
<b>13</b>	<b>Events</b>	Requires the preparation of a waste management plan (for approval by Council) for public events of a significant scale (an expected attendance of 1,000 or more people over its duration) that will generate waste (exceptions apply). The intent is to encourage better planning and management of waste and to ensure adequate provision is made for waste management facilities and services for events. The proposed 6 months delay in the commencement of these provisions under the Bylaw (refer clause 2) allows Council to work in partnership with the other Wellington councils to establish appropriate guidance and resourcing to support waste plan development and the collection and analysis of the data provided.
<b>14</b>	<b>Construction Site and Demolition Waste Management Plans</b>	Provides the ability for Council to make a control to require the preparation of a waste management plan (for approval by Council) for building work over a certain specified dollar value (as set by Council). The focus is on builds that generate significant amounts of waste.
<b>15</b>	<b>Inorganic waste</b>	This clause can be used by Council (if and as may be needed) to ensure that any potential inorganic collection service can be regulated and managed appropriately and issues like scavenging can be prevented.
<b>16</b>	<b>Nuisance and litter</b>	Supports the Council to take action on issues such as responsibility for waste or diverted material accumulations, use of approved receptacles, the burying of waste, waste disposal or scavenging, to

Clause	Description	Purpose / Reasons
		ensure that they do not become offensive, a public nuisance, or likely to be injurious to health.
17	<b>Unaddressed mail and advertising material</b>	This clause supports and enables Council to regulate and take action on waste and litter issues that are caused by unaddressed mail and advertising material.
18	<b>Donation Collection Points</b>	There can be a number of waste-related issues associated with donation collection points on public places such as illegal dumping, littering and scavenging. This clause gives Council the ability to manage and prevent any such issues.
<b>PART 3: OTHER MATTERS</b>		
19	<b>General Offences and Penalties</b>	This clause sets out the enforcement action available to Council for breaches of the Bylaw and any controls made under it. In some cases enforcement is easier and more effective through other mechanisms such as the Litter Act; but in other cases specific provision needs to be made through this Bylaw.
20	<b>Other Enforcement Powers</b>	Provides for additional enforcement action to be taken by Council under the Bylaw where the specific provisions of a sub-section enable other actions, besides prosecution, to be taken. For example, the withdrawal or suspension of waste collection services for non-compliance with the Bylaw requirements, or the issue of a written warning or suspension of a waste collection licence for non-compliance with the licence terms and conditions.
21	<b>Exceptions and Saving Provisions</b>	Provided for clarity.
22	<b>Fees</b>	Provided for clarity. The Council may in accordance with the provisions of section 150 of the Local Government Act 2002 set prescribed fees under this Bylaw, and may refund, remit or waive any fee as it sees fit.
23	<b>Forms and processes</b>	Provided for clarity.