

Solid Waste Bylaw 2024



As at 18 September 2023 (Resolution by Council CNCL-2024-___)

1 Title

- (1) This Bylaw is the "Solid Waste Bylaw 2024".

2 Commencement

- (1) This Bylaw comes into force on _____, 2024.

3 Application

- (1) The Bylaw applies to the Whanganui District.

4 Purpose

- (1) The purpose of this Bylaw is to regulate waste services in the Whanganui District.

5 Interpretation

In this Bylaw unless the context requires otherwise or where otherwise expressly provided:

Act means the Waste Minimisation Act 2008

Approval or **Approved** means written permission granted by council to undertake an activity allowed under this bylaw.

Approved Container means any container approved by Council for the collection, transportation or disposal for a category of waste and collected by or on behalf of Council.

Bylaw means the Solid Waste Bylaw 2024

Cleanfill material means:

- a) Any inert material that does not undergo any physical, chemical, or biological transformation that, when deposited or with the effluxion of time, is unlikely 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) liquid waste; and
- d) Has less than two per cent by volume by load of tree or vegetable matter.

Construction and demolition waste means waste generated from any building work including renovation and repair, and includes but is not limited to concrete, plasterboard, insulation, nails, wood, brick, paper, cardboard, metals, roofing metals, wool/textiles, plastic or glass, as well as any waste origination from site preparation, such as dredging materials, tree stumps, asphalt and rubble.

Council means the Whanganui District Council and includes Council staff and any person delegated or authorised to act on its behalf.

Deposit means to cast, place, throw or drop any waste or diverted material, and for the avoidance of doubt includes leaving waste or diverted material in an accessible location for collection by waste collectors.

Dispose or **disposal** means, unless context requires otherwise:

- a) The final (or more than short-term) deposit of waste into or onto land set apart for that purpose; or
- b) The incineration of waste.

Diverted material means any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded.

Event means:

- (a) Any organised temporary activity of significant scale in terms of expected attendance, length, or waste generation that is either open to the public or ticketed, and is likely to create waste, and;
 - (i) receives Council funding, or
 - (ii) is held on Council land such as parks, reserves, roads or Council owned or managed venues, or
 - (iii) the organiser seeks Council support for event waste management and minimisation; and
- (b) Does not include regularly occurring recreational activities (such as weekly sporting or cultural events).

Green waste means lawn clippings, weeds, plants, other soft vegetable matter or other organic waste, which by nature or condition and being free of any contaminants will degenerate into compost. This does not include cooked food, timber, ponga trees, agapanthus, flax, bamboo, ginger plant, gorse cuttings, cabbage tree, Norfolk pine, tree stumps or branches greater than 100mm in

diameter, or species of plant defined as a plant pest under the *Horizons Regional Council Regional Pest Management Plan* or the *National Pest Plant Accord*.

Hazardous substance has the meaning given by the Hazardous Substances and New Organisms Act 1996 and means, unless expressly provided otherwise by regulations, any substance-

- (a) With 1 or more of the following intrinsic properties:
 - (i) explosiveness;
 - (ii) flammability;
 - (iii) a capacity to oxidise;
 - (iv) corrosiveness;
 - (v) toxicity (including chronic toxicity);
 - (vi) ecotoxicity, with or without bioaccumulation; or
- (b) Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).

Hazardous waste means waste that:

- (a) Contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by the 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 1965 and Regulations 1982.

It does not include household waste, commercial waste, industrial waste, inorganic material, or construction and demolition waste.

Household waste means, unless context otherwise requires, waste from a household that is not entirely from construction, renovation, or demolition of the house.

Landfill has the meaning given by the Technical Guidelines for Disposal to Land (Waste Management Institute of New Zealand) or by Government standards or regulation.

A waste disposal site used for the controlled deposit of solid wastes onto or into land.

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.

Multi-unit development means any residential land containing four or more separately used or inhabited parts of a rating unit (as that term is defined in the Council's Funding Impact Statement) where there is common or shared access to the separate parts including unit title developments, blocks of flats, apartments, gated communities and properties with access via a shared right of way. For the avoidance of doubt, this excludes standalone houses, lifestyle blocks and farms.

Occupier means the inhabitant of any property or premises, and in any case where any property or premises are unoccupied includes the owner of that property or premises.

Organic means relating to or derived from living matter.

Owner (of any property or premise) means any person who would be entitled to receive the rack rent of the property or premises, if the property or premises was let to a tenant at a rack rent, and where any person is absent from New Zealand, includes that person's attorney or agent, or any other person acting on their behalf. For the purposes of making separate arrangements for waste collection under clause 8, an owner can also include a body corporate, building manager, or such other person or group who manages administrative affairs for the multi-unit development.

Person means an individual, a corporation sole, a body corporate, and an unincorporated body.

Premises means any separately occupied land, dwelling, building, or part of the same.

Public place means:

- (a) A place that is;
 - (i) under the control or management of the Council and/or
 - (ii) open to being used by the public, whether admission is free or on payment of a charge; and
- (b) Includes;
 - (i) a road, whether or not the road is under the control of the Council and including the berm and footpath; and
 - (ii) any part of any public place.

Recovery means extraction of materials or energy from waste or diverted material for further use or processing, and includes making waste or diverted material into compost.

Recyclable material means types of waste that are able to be recycled and that may be specified by Council from time to time under this Bylaw.

Recycling means the reprocessing of waste or diverted material to produce new materials.

Waste means any thing disposed of or discarded and 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 to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.

Waste collector means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste (for example community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example a person taking household garden waste to a landfill).

Waste disposal facility means a facility, including a landfill, at which waste is disposed of, and at which the waste disposed of includes household waste, and that operates, at least in part, as a business to dispose of waste, and any other facility or class of facility at which waste is disposed of that is prescribed as a disposal facility.

Waste management and minimisation plan means a waste management and minimisation plan adopted by a territorial authority under section 43 of the Act.

6 Controls

- (1) Council may, by resolution publicly notified, make, amend or revoke controls or rules to support the implementation of this Bylaw. The controls or rules may relate to a number of matters including but not limited to:
 - (a) The weights, numbers, types and contents of approved containers for disposal of waste, recyclable material or food;
 - (b) Recycling, including procedures for disposal of newspapers and flattened cardboard;
 - (c) The separation of recyclable material, food waste and residual waste;
 - (d) Commercial waste collection on either an ad hoc or ongoing basis;
 - (e) The days and hours that a Council operated transfer station or landfill will be available for solid waste disposal and management;
 - (f) The types of waste Council operated landfills may accept, including whether they will accept special waste or hazardous waste;
 - (g) The ability for Council to require a fee for receiving a service under this bylaw;
 - (h) The ability for Council to allow for the rebate of a fee;
 - (i) The ability for Council to remit a rate, in accordance with a rates remission policy adopted in accordance with the Local Government Act 2002, for receiving part of a service or not receiving a service under this bylaw;
 - (j) The size, location, quantity and general management of proprietary bins allowed in public places; or
 - (k) The types of information licence-holders under the bylaw must record, in what format, and when they must report it to Council.
- (2) Controls implemented by Council may:
 - (a) Regulate, control or prohibit any matter or thing generally, for any specified classes of case, or in a particular case;
 - (b) Apply to all waste or any specified category or type of waste;
 - (c) Apply to the Whanganui District or to a specified part of it; and/or
 - (d) Apply at all times or at any specified time or period of time.
- (3) Before making, amending or revoking controls or rules in clause 6(1), Council must:
 - (a) Comply with the requirements under Subpart 1 of Part 6 of the Local Government Act 2002 except where such consultation has already taken place, for example as part of the Waste Plan 2021-27;
 - (b) Be satisfied that the controls or rules ensure that the purpose of the Bylaw will be met;
 - (c) Have regard to:
 - (i) the feasibility and practicality of effecting a transition from current practices to new practices and any adverse effects that may result from such a transition; and
 - (ii) any other matters considered relevant by Council.
- (4) Any control or rule made or amended under clause 6(1) must be made publicly available and shall be enforceable under this Bylaw.

- (5) To avoid doubt, compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws and rules of law.

7 Waste Collection Services

- (1) The following only applies in respect of waste collection services provided by Council.

Use of Council Waste Collection Services

- (2) Occupiers and/or managers must:
 - (a) sort waste into types identified by council waste collection services;
 - (b) deposit sorted waste into the approved containers specified for each waste type;
 - (c) place approved containers out after 5pm the night before the collection day, and before 7am on the day of the collection; and
 - (d) collect approved containers from kerbside by midday following the day of collection.
- (3) The occupier and/or the manager of any premises must ensure that:
 - (a) All approved containers and waste receptacles are appropriately secured to deter scavenging and to prevent waste escaping;
 - (b) Any approved container is regularly emptied when it is full; and
 - (c) The contents of any approved container are protected from rain, dispersal by wind, or ingress or egress of flies, vermin and animals.
- (4) The occupier and/or the manager of any premises must ensure that:
 - (a) All approved containers are kept in a safe location, are hygienic, in good repair, and are without any modifications or alterations to their appearance other than an indication of the address of the premises;
 - (b) The contents of any approved container do not seep or escape so as to be injurious or dangerous to health, cause an offensive smell or be a source of litter;
 - (c) The approved container is placed upright either at an approved collection point or for collection in a position off the carriageway, in front of the premises from which the waste originated and as close to the kerbside as possible;
 - (d) The approved container is placed so that it does not disrupt or obstruct pedestrian, wheelchair or vehicular traffic, and so that access to the premises is preserved; and
 - (e) The approved container is placed for the collection of waste and is retrieved in accordance with any applicable control specified by the Council under this Bylaw.
- (5) The occupier and/or the manager of any premises is responsible for any waste generated on that premises until it has been collected.
- (6) The occupier and/or the manager of any premises is responsible for any waste not collected because of non-compliance with this Bylaw. Any waste or recyclables not collected shall be removed from the roadside by the occupier and returned to the occupier's premises by noon on the day following collection or within such other time period as specified by a control made under this Bylaw.

- (7) To enable the occupier and/or the manager of any premises to be able to comply with clause 7 an authorised officer may approve placement of approved receptacles in a location other than directly outside that premises.
- (8) The occupier and/or the manager of any premises must ensure that the household waste from the premises is separated into waste types as determined by Council and deposited for collection in the correct approved container.
- (9) No person may deposit material in a container that is not approved for that type of container.
- (10) For the avoidance of doubt:
 - (a) Household waste containers must not contain green waste; but can contain those organic materials excluded from the definition of green waste;
 - (b) Recycling containers must only contain the items approved as recycling by Council; and
 - (c) Food scrap containers must only contain the items approved as food waste by Council.
- (11) No person shall deposit waste:
 - (a) In a damaged container;
 - (b) In any container that is not approved by Council;
 - (c) In a container that is in a condition that allows spillage of waste or is not of a sufficient size to contain the waste;
 - (d) In a way that is likely to cause injury to the waste collector;
 - (e) In a manner or condition that, in the opinion of the Council, or the waste collector or waste operator where applicable, is unsanitary or offensive;
 - (f) That is or includes waste prohibited under this Bylaw;
 - (g) In a container or in any manner that does not comply with the rules under this Bylaw in terms of type, size, volume, weight, numbers, colour, placement or any other detail;
 - (h) In a greater number of approved containers than the authorised number of containers for the property, unless approved by an authorised officer; or
 - (i) In any other manner which the Council, or the waste collector or operator, deems would cause a health and safety concern or operational obstacle to the waste collection operation.
- (12) No person shall:
 - (a) Put waste into an approved container allocated to any other person, without that other person's consent;
 - (b) Remove waste from, or interfere with any waste deposited in, an approved container, except the Council, a waste collector, or the person who deposited the waste; or
 - (c) Remove an approved container provided to the premises to which it has been allocated, except with the prior written approval of the Council or the waste collector.
- (13) Where any breaches of the conditions in clause 7 occurs, the waste collector shall not be obligated to collect the waste.

- (14) No waste shall be transported by vehicle through, over or upon any road or public place unless such waste is sufficiently and adequately covered to prevent any of the waste from falling or otherwise escaping on to any road or other public place.
- (15) Any waste or diverted material deposited in or on a public place or disposed of in a manner that is in breach of this Bylaw, and/or any controls made under clause 6 of the Bylaw, shall be deemed to be litter under the Litter Act 1979 and will be subject to enforcement action under that Act.
- (16) No industrial waste or commercial waste will be removed or disposed of as part of household waste collection without written approval of an authorised officer.

8 Multi-Unit Developments

- (1) Subject to approval by Council, the owner or owners of a multi-unit development may deposit waste for collection otherwise than as laid out in clause 7, to be decided on a case-by-case basis.
- (2) Council may require the owner or owners of a multi-unit development to complete a waste management and minimisation plan to set out:
 - (a) an estimate of the types and amounts of waste to be generated on a monthly basis;
 - (b) how waste generated is to be minimised;
 - (c) the steps to maximise the collection and use of recyclables and reusable material;
 - (d) an explanation of the bin storage location and collection point, and description of the management of any health and safety matters;
 - (e) the person or persons responsible for the management, collection and disposal of waste and the methods to be used; and
 - (f) any other matters relating to waste management and minimisation that may be specified by Council.
- (3) The owner or owners of the multi-unit development must comply with any Council approved waste management and minimisation plan and with this bylaw.
- (4) Where the owner or owners of a multi-unit development have complied with clause 8(1) – (3) of this bylaw, the Council may, in accordance with the Council's rates remission policy, remit some or all of the relevant costs of the service if the conditions and criteria in the rate remission policy are met.

9 Events

- (1) Any organiser of an event is responsible for the waste created by the event and must have a Council-approved event waste management and minimisation plan.
- (2) Any organiser of an event must obtain approval from the Council of their event waste management and minimisation plan at least 15 working days prior to the event.

- (3) The Council may approve or decline a proposed event waste management and minimisation plan and, before it is approved, may require an event 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 reduction of waste and/or collection and use of recyclable, compostable 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) any support that Council will provide in relation to the event waste management and minimisation;
 - (g) the requirement to provide a waste analysis following the conclusion of the event; and
 - (h) any other matters relating to event waste management and minimisation that may be specified by the Council.
- (4) The organiser of an event must comply with the approved event waste management and minimisation plan.
- (5) The organiser of an event must, if required, provide Council with a report 30 working days on the implementation of the event waste management and minimisation plan, including a waste analysis which sets out the predicted and actual types and amounts of waste generated by the event, and which waste management facility was used to recover, recycle, treat, or dispose of this waste.

10 Licensing

General requirements

- (1) The determination and issuing of licences shall be in accordance with clause 10 of this bylaw.
- (2) An application for a licence must be made on the application form which is available from Council, and must be accompanied by any application fee and the information required by the Council to process the application.
- (3) The holder of an existing licence may apply to Council for a renewal of that licence.
- (4) A licence may be granted or refused at the discretion of Council, and if granted may be on such terms and conditions as Council thinks fit.
- (5) A licence is personal to the holder and is not transferable.
- (6) The holder of a licence under this clause must comply with the conditions of the licence.
- (7) When considering whether to grant a licence and conditions to impose under it, 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 Council's Waste Plan and waste reduction initiatives; and
 - (b) The applicant's experience, reputation and track record in the waste and diverted material industry, including any known past operational issues which may impact, now or in future, the applicant's performance, and any breaches of previous licence conditions.
- (8) Council may impose such terms and conditions on any licence as it determines, which may include without limitation;
- (a) Term – a licence may be granted for a term of up to five years but will be reviewed annually to ensure compliance.
 - (b) Fee – the licence holder must pay an annual licence fee in an amount determined by the Council from time to time and publicly notified.
 - (c) Bond – 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 any relevant Council 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; and
 - (ii) provision of waste collection services within reasonable times specified by Council.
 - (e) Provision of information – the licence holder must provide waste data to Council during the term of the licence in the form and at the times determined by Council from time to time including, in respect of waste collectors:
 - (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 and/or disposal process;
 - (ii) weighbridge receipts; and
 - (iii) gate records of waste tonnage.
- (9) Council will take all reasonable measures to keep commercially sensitive information confidential including by the aggregation of such information for recording purposes.

Waste collectors

- (10) No person shall be a commercial waste collector or engage in commercial collection of waste or diverted materials unless licensed to do so by Council.
- (11) In addition to the matters listed under clause 10(7), when considering whether to grant a licence for commercial waste collection Council may take the following additional matters into consideration:
- (a) The quantity and type of waste to be collected or transported;

- (b) The manner of treatment (if any) and disposal of the waste type, and the identity of the waste disposal facility at which it is proposed that recycling, recovery, treatment or disposal will occur;
- (c) The terms and conditions under which such disposal of waste is permitted and the existence of or need for any statutory approvals, authorisations or consents required to be held or complied with in respect of such disposal;
- (d) The frequency and location of the waste collection, transportation or disposal services; and
- (e) The specifications of the vehicles, equipment and approved containers to be used for the collection, transportation or disposal of waste.

Waste disposal facilities

- (12) Any operator who operates a waste disposal facility must obtain a licence to do so from Council.
- (13) Clause 10(12) does not apply to land used for the disposal of cleanfill material where such disposal:
 - (a) Is of cleanfill material sourced directly from that land; or
 - (b) Consists solely of:
 - (i) cleanfill that is natural or uncontaminated or cover material, or both; or
 - (ii) not more than 30 cubic metres, or such greater amount as Council may approved, of other cleanfill material measured over any continuous twelve-month period.
- (14) Council may grant a licence in the case of a:
 - (a) Municipal Solid Waste Industrial Waste Landfill,
 - (b) Cleanfill Site,
 - (c) Controlled/Managed Fill Site,
 - (d) Construction and Demolition Industrial Waste Landfill.

11 Offences and Penalties

- (1) Any person commits a breach of this bylaw who fails to comply with the requirements of this bylaw and the decisions made under this bylaw and is liable to a penalty under (without limitation) the Waste Minimisation Act 2008, the Local Government Act 2002, the Health Act 1956 and/or the Litter Act 1979.
 - (a) For the avoidance of doubt, every person undertaking an activity that requires a licence but without having a valid licence for that activity will be subject to penalties under the Act.
- (2) Every licence holder breaches this bylaw who fails to act in full compliance with the terms and conditions of its licence, this bylaw and the decisions made under this bylaw.

12 Other Enforcement Powers

- (1) Where a person does not comply with this bylaw or a decision made under it, Council may (without limitation) undertake following actions against them:
 - (a) Issue a non-compliant notification including a time period to rectify the issue;
 - (b) Reject (i.e. not collect) the contents of any approved container left out by that person for collection in a public place, if the contents or placement of that container is non-compliant;
 - (c) Remove the contents of any approved container left out for collection from a public place, subject to payment of the costs of removal, administrative costs and any other reasonable costs incurred by Council. If compliance is not reached within the specified time period of the notification, then Council may rectify or organise for the issue to be rectified and recover all costs from that person in doing so; and
 - (d) Any other steps that may be taken by Council at law.
- (2) Where Council has issued three (3) or more non-compliant notifications to one owner/occupier, or the time period specified in a non-compliant notification has elapsed and the non-compliance has not been rectified, Council may (without limitation):
 - (a) Suspend waste collection services for up to three (3) months; and
 - (b) Reclaim any approved containers held by the owner/occupier either temporarily or permanently.

Licensed Operators

- (3) Council may suspend, amend or revoke a licence if the licence holder fails to comply with this bylaw, any of the terms or conditions of the licence, any relevant controls under this bylaw, or acts in a manner which Council considers, on reasonable grounds and in light of the purpose of this bylaw, is not suitable for the holder of a licence.
- (4) Where a licence holder fails to comply with any of the terms or conditions of the licence, Council may take one or more of the following steps;
 - (a) Issue a written warning to the licence holder, which may be treated 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 bond where Council has incurred any cost as a result of the breach of the licence condition, including where 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 in the amount of performance bond or security; or
 - (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, the Waste Minimisation Act 2008, the Health Act 1956, and/or the Local Government Act 2002; and

- (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.

13 Fees

- (1) Council may in accordance with the provisions of section 150 of the Local Government Act 2002 set prescribed fees under this bylaw.

14 Transitional Provisions

- (1) The requirements under clause 9 of this bylaw to submit a waste management and minimisation plan shall come into effect on the day which is twelve months from the date on which this bylaw comes into force.
- (2) Any person required under clause 10 to obtain a licence must do so within twelve months of that clause coming into force.

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