

AKBIDS

BUSINESS IMPROVEMENT DISTRICTS OF AUCKLAND

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Auckland Council
Waste Management and Minimisation Bylaw
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Submission to Proposed Waste Management and Minimisation Bylaw 2019

Introduction

The Auckland Business Improvement Districts welcome the opportunity to make this Submission on the Proposed Waste Management and Minimisation Bylaw 2019. Auckland Council is asking for feedback on proposed changes to its Waste Management and Minimisation Bylaw. As part of the five-yearly bylaw review process, the Council has checked to see how well the current rules are working, and what improvements could be made. Public consultation has opened and closes on 16 June 2019.

Background

The new bylaw proposes to:

- require people to deposit and dispose of waste appropriately
- require waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins to obtain a licence from council (although there will be some exceptions)
- align the definition of cleanfill with the Auckland Unitary Plan, which may require some previously exempt waste management facilities to obtain a licence
- require a waste management and minimisation plan for all trading, events, and filming that takes place in a council-controlled public place
- require a waste management and minimisation plan for any existing or planned multi-unit developments (although there will be some exceptions)
- clarify the rules to minimise the potential for shopping trolleys and unaddressed mail to become waste.

In particular, the proposed new Bylaw and amendments extend to all trading and events in council-controlled public places and to mixed-use residential/commercial multi-unit developments.

Auckland Council is now asking for feedback on the new proposed Waste Management and Minimisation Bylaw 2019, with a number of specific questions. Our feedback is set out below corresponding to the questions set out in the Council's on-line Submission template.

Proposal 1: Clarify where and how a person must dispose of or discard material (Clauses 6, 7, 8, 9 and 10)

Council wants to better address the disposal and discarding of material to minimise waste and prevent nuisance, obstruction, litter and health and safety risks. Council has replaced the word "waste" with "material" to focus on a circular economy in which materials are redirected to their next productive use where possible. Council has asked whether submitters agree or disagree?

Overall, the Association agrees with the amended purposes of the proposed new bylaw 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.

The Association agrees with the amendment to replace the word "waste" with "material" to focus on a circular economy. However, we note that while the word "material" is not defined in clause 5 of the bylaw, the word "waste" is defined.¹

The Association agrees with the proposal to clarify where and how a person may deposit or dispose of material depending on factors such as the type, origin and storage of the material (for example, in certain circumstances to a waste collector on a public or private place, at a waste management or resource recovery facility, in a donation collection bin, in a public waste bin, or on premises a person owns or occupies). The Association also agrees with not including clauses in the bylaw about the deposit of inorganic material on a public place because inorganic material is now required to be collected from private property.

With regard to the bylaw requirements for the correct use of public waste bins (clause 10),² we note from section 4.12 of the *Auckland Council Solid Waste Bylaw 2012-2019 Findings Report* concerns about the misuse of public receptacles 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; and contamination of recyclable waste, increasing the volumes of landfilled waste. The Association supports methods to address these issues, including: educating the public; erecting signage; and especially working with retailers to ensure the provision of additional or larger bins where there are issues with waste overflow (for example, outside takeaway food outlets). The Association also supports more frequent service provision to ensure full bins are emptied.³

Proposal 2: Clarify how a person may dispose of or discard material on premises they own or occupy (Clause 8)

Council wants to make rules about the disposal of material on private premises easier to understand and to better address nuisance and safety risks from the burial and composting of material. Council has asked whether submitters agree or disagree?

As this clause of the bylaw does not directly affect our Association, we have no submission to make on this Proposal.

¹ We suggest that more clarity may be required as to what is covered by the term "material" rather than relying on its natural meaning. It might be the case that the term needs to be defined.

² We note that Council currently provides 3,720 public litter receptacles and 138 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.

³ On a more technical detail, we note in the definition of "public waste bin" a reference to "refuse" which is not defined as a term in the bylaw.

Proposal 3: Clarify that any owner and person responsible for a premises must provide adequate areas for storage and collection of disposed of or discarded material (Clause 14)

Council wants to reduce nuisance and health and safety risks from the storage and collection of material on premises. Council have clarified that owners and people responsible for the management of a premises must provide adequate space on the premises for storage and collection of material resulting from activity on the same premises. Council has asked whether submitters agree or disagree?

We note from section 4.1 of the *Auckland Council Solid Waste Bylaw 2012-2019 Findings Report*, concerning kerbside collection, that Council has concerns that some commercial businesses (especially retailers) are storing kerbside collection bins permanently on the kerbside due to a lack of space on the premises. The Association would welcome discussions between Waste Solutions and BIDs to identify the reasons for this problem more clearly and work towards a solution.

Further, the Association suggests that clause 14 of the proposed new bylaw could be supported by including an 'Explanation' setting out in plain English the rules regarding the storage of kerbside collection bins.

Proposal 4: Clarify that Council may make controls about management and minimisation of disposed of or discarded material (Clause 19)

Council wants to make information about controls easier to understand. Council have clarified what types of controls council can make in one clause. Council have also used a broader wording to reduce the number of subclauses and allow adaptation to future waste considerations whilst ensuring that the ability to make the same types of controls as in the Solid Waste Bylaw remains. Council has asked whether submitters agree or disagree?

The Association agrees with the approach taken in clause 19 of the proposed new bylaw to the use of Controls. Rather than having to amend the bylaw, the Association agrees that the bylaw delegate the making, amending, replacement and revocation of bylaw Controls to the Regulatory Committee. The Association notes that to make such a decision, the Regulatory Committee must still comply with the decision-making requirements under the Local Government Act 2002, and in that regard the Association asks that BIDs be included as one stakeholder group with whom the Council will consult regarding any future Controls or amendments.

Proposal 5: Clarify that waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins require an approval to operate from council (Clauses 11, 12 and 13)

Council wants to make the rules about who requires an approval from council easier to understand. Council has clarified that waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins must obtain an approval from Council. Council has asked whether submitters agree or disagree?

The Association agrees with these clauses of the proposed new bylaw, particularly clause 13 which provides that donation collection bin operators require an approval to operate on or near a council-controlled public place.

Proposal 6: Use definition of cleanfill material as provided in the Auckland Unitary Plan (Clause 12) and clarify the timeframe in which a person must apply for a new proposal (Clause 32)

Council has updated the definition of cleanfill material to be the same as in the Auckland Unitary Plan. This change streamlines regulation and may require some previously exempt waste management facilities to obtain an approval from Council. Council has asked whether submitters agree or disagree?

The Association agrees with these clauses of the proposed new bylaw should align with the definition of cleanfill in the Auckland Unitary Plan. We note that the definition of cleanfill under the Auckland Unitary Plan includes natural material that consists of soils, rock, aggregates and gravels, sand, clay or other inorganic inert virgin natural resources, but excludes inert manufactured material such as bricks, ceramics, concrete, tiles, pavers and pipes.

Proposal 7: Clarify that a waste management and minimisation plan is required for trading, events and filming in council-controlled public places (Clause 15 and amendments to clauses 10 and 11, Trading and Events in Public Places Bylaw 2015).

Council wants to better address issues related to disposal of material from temporary activities in public places. Council has asked whether submitters agree or disagree?

The Association accepts that clause 15 of the proposed new bylaw and the proposed amendments to clauses 10 and 11 of the Trading and Events in Public Places Bylaw 2015 clarify that a waste management and minimisation plan is required for trading, events and filming in council-controlled public places.

Nonetheless, the Association wishes to note ongoing wider issues for many BIDs regarding the 'zero waste event' obligations in waste management and minimisation plans and the consequent high operational costs for small scale community events.⁴ In this regard, the Association would welcome discussions between BIDs and Waste Solutions to work towards a solution.

Proposal 8: Clarify that a waste management and minimisation plan is required for certain existing and planned residential multi-unit developments (Clause 16).

Council wants to better address issues related to insufficient waste storage areas in multi-unit developments (MUDs) and poor access to the waste storage areas by occupants and collection vehicles. MUDs are those consisting of 10 or more residential and/or mixed-use units. Council has clarified that a waste management and minimisation plan is required for all new MUDs (through the resource consent process) and any existing MUDs that cannot dispose of waste on a public place. Council has asked whether submitters agree or disagree?

The Association agrees that clause 16 clarifies that a waste management and minimisation plan is required for certain existing and planned residential and mixed-use multi-unit developments.⁵

The Association notes issues related to the collection of waste from MUDs are expected to grow and include: increased waste traffic and noise issues from multiple collections during the day or week; pavement clutter, road obstruction and configuration of sites with narrow frontages and limited berm space; and limited space to manoeuvre and load bins onto waste collection vehicles. Again, the Association would welcome discussions between BIDs and Waste Solutions on these matters.

Of importance is that the waste management and minimisation plans are drafted to cover the needs of businesses in mixed-use multi-unit developments as well as other businesses adjacent to MUDs.

Proposal 9: Minimise potential for shopping trolleys to become waste and introduce new rules for businesses which provide shopping trolleys for public use (Clause 17).

Council wants to minimise nuisance, obstruction as well as health and safety risks for pedestrians and vehicles from the abandonment of shopping trolleys on public places. Council has clarified that no person may remove a shopping trolley from the business premises where it belongs. Certain rules have been put in place concerning shopping trolleys (such as contact details, signage, retrieval, reimbursement and annual records). Council has also retained the ability for alternative rules to be agreed with the industry in an accord. Council approved an accord with Retail New Zealand titled the "Code of Practice for the Management of Shopping Trolleys" on 17 June 2014. Council has asked whether submitters agree or disagree?

The Association agrees with the proposal in clause 16 to minimise potential for shopping trolleys to become waste and the introduction of new rules for businesses which provide shopping trolleys for public use. In particular, the Association agrees with the rules set out in clause 16 and that they will not apply if an industry accord has been approved covering a business or the business provides less than 10 shopping trolleys.

⁴ See also recognition of this in section 4.7 of the *Auckland Council Solid Waste Bylaw 2012-2019 Findings Report*, page 62.

⁵ The Association notes that the definition of 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. As a consequence, the definition excludes multi-unit developments that are purely for businesses.

Proposal 10: Minimise potential for unaddressed mail to become waste and clarify rules for mail delivery (Clause 18).

Council wants to address the issue of unwanted mail, the potential litter from unaddressed mail falling out of letterboxes or off car windows, and the dumping of surplus material. Council has retained the ability for alternative rules to be agreed with the industry in an accord about unaddressed mail. The Marketing Association adopted the "National Code of Practice for the Distribution of Unaddressed Mail" on 22 May 2006. Council has asked whether submitters agree or disagree?

The Association agrees with the proposal in clause 18 to minimise the potential for unaddressed mail to become waste and to clarify rules for mail delivery.

Proposal 11: Clarify that council may require certain information when evaluating an application for an approval, approve or decline the application and stipulate conditions for an approval (Clauses 20, 21, 22, 23 and 24)

Council wants to make information about approvals (such as licences or waste management and minimisation plans) easier to understand. Council has included all information about approvals in one subpart of the bylaw. Council has asked whether submitters agree or disagree?

The Association agrees with this proposal in the new bylaw.

Proposal 12: Clarify that the duration of an approval is no more than five years, approval conditions may be reviewed and transfer of approvals is not allowed (Clauses 25, 26 and 27)

Council wants to make information about approvals (such as licences or waste management and minimisation plans) easier to understand. Council has asked whether submitters agree or disagree?

The Association agrees with this proposal in the new bylaw.

Proposal 13: Clarify action council may take to enforce this bylaw and statutory powers and penalties (Clauses 28, 29 and 30)

Council wants to better communicate how council may enforce this bylaw. To improve ease of understanding council has clarified the actions that council may take against a person who holds an approval. Council has also clarified the statutory powers and penalties available to enforce this bylaw. Council has asked whether submitters agree or disagree?

The Association agrees with this proposal in the new bylaw. In particular, the Association welcomes the information included in the bylaw that better explains the requirements of the bylaw.

Proposal 14: Clarify what happens to existing accords, controls, approvals, applications and inquiries under the Solid Waste Bylaw 2012 (Clauses 31, 33 and 34)

Council wants to ensure that existing or unresolved activities continue to be addressed when the current Solid Waste Bylaw 2012 expires in October 2019.

The Association agrees with this proposal in the new bylaw.

Do you have any other feedback on the proposed new Waste Management and Minimisation Bylaw 2019

In terms of other feedback, the Association notes that one of its objects is to advocate to local authorities for the improvement of amenity, streetscapes and for cleaning for the benefit of the Association's precinct.

As with a number of other business improvement districts (BIDs) in the Auckland region, the Association has been actively involved in activities related to waste management and minimisation

efforts. Some BIDs have introduced initiatives to assist local businesses to minimise waste to landfill. These include educational forums, annual pallet collections and recycling initiatives.

The Association supports the Auckland Council Waste Management and Minimisation Plan 2018. In this regard, the Association would like to say that the business improvement district model is an excellent way for Council to partner with the commercial sector to find ways to reduce and divert waste from landfill. BIDs have asked that Council use a portion of the current Council Waste Minimisation Fund to partner with BIDs and business sectors so that the BIDs can maintain and enhance these initiatives in a sustainable ongoing way.

BIDs have said that the priority must be the three largest waste items - construction and demolition, plastic and organic waste and would like to encourage the Council to consider these matters specifically in the bylaw. The Association asks generally that Council pay particular attention to the nature and frequency of its collections in business areas as one way of addressing these waste streams. The Association supports Council continuing to establish community recycling centres and leading by example through its own operations and procurement practices.⁶

The Association also supports Council asking central government to introduce a container deposit scheme for plastic/glass bottles and cans, and product stewardship schemes for hard to dispose products like tyres and e-waste. The Association also supports Council asking central government for an increase in the Waste Levy beyond \$10 per tonne provided the revenue is 'ringfenced' to provide the necessary infrastructure to ensure waste is diverted from landfills and that any increase is phased in over a well signalled time period.

Do you have any other feedback on the amendments to the Trading and Events in Public Places Bylaw 2015?

As noted earlier, the Association accepts that clause 15 and the proposed amendments to clauses 10 and 11 of the Trading and Events in Public Places Bylaw 2015 clarify that a waste management and minimisation plan is required for trading, events and filming in council-controlled public places.⁷

Nonetheless, the Association wishes to note ongoing wider issues for many BIDs regarding the 'zero waste event' obligations in waste management and minimisation plans and the consequent high operational costs for small scale community events.

Conclusions

Again, AKBIDs welcomes the opportunity to make this Submission on the Proposed Waste Management and Minimisation Bylaw 2019. Although we understand that there will be no opportunity to make a presentation on this Submission, should there be any questions or other matters arising from this Submission, we would be pleased to respond to those.

⁶ For example, by using recycled demolition concrete in its own works.

⁷ On a more technical detail, we note the use of the term "waste plan" in clauses 10 and 11 of the Trading and Events in Public Places Bylaw 2015. This term is not defined in that bylaw nor the proposed Waste Management and Minimisation Bylaw 2019. We suggest the term "waste management and minimisation plan" be used instead in clauses 10 and 11 of the Trading and Events in Public Places Bylaw 2015.