



chatham islands council

*“Working towards a **sustainable future**”*

Draft Chatham Islands Waste Management and Minimisation Bylaw 2023

Revision schedule

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PART ONE: INTRODUCTION

1 Title

- 1.1 This bylaw shall be known and referred to as the “Chatham Islands Waste Management and Minimisation Bylaw 2023”.
- 1.2 This bylaw came into force on Day Month Year.

2 Purpose

- 2.1 The purpose of this Bylaw is to:
- (a) Promote and deliver effective and efficient waste management and minimisation for the Chatham Islands as required under the Waste Minimisation Act 2008;
 - (b) implement the Council’s Waste Management and Minimisation Plan;
 - (c) give effect to the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
 - (d) regulate the collection, transportation, and processing of waste and diverted material;
 - (e) protect the health and safety of waste collectors, waste operators and the public; and
 - (f) manage litter and nuisance in public places.

3 Compliance with the Bylaw

- 3.1 No person may deposit, collect, transport, sort, store, process or dispose of waste and diverted material other than in accordance with this Bylaw.
- 3.2 To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, regulations, Bylaws, and rules of law.

4 Interpretation

- 4.1 In this Bylaw, unless the context requires otherwise, the following definitions of terms shall apply:

Act means the Waste Minimisation Act 2008.

Approved means authorised in writing by Council.

Approved container means any container (including any Reusable Container), bag or Official Council container or bag, used for the collection of Waste and/or Recyclable Materials.

Authorised officer means any officer of the Council or other person authorised by the Council to administer and enforce its Bylaws, and any person appointed especially or generally by the Council to enforce the provisions of this Bylaw.

Building work means the same as defined in the Building Act 2004 and includes any work for, or in connection with, the construction, alteration, demolition, or removal of a building. It can include sitework and design work relating to the building work.

Cleanfill material means waste that:

- (a) does not undergo any physical, chemical or biological transformation that, when deposited or with the effluxion of time, is likely to have adverse effects on the environment or human health; and
- (b) is not diverted material; and
- (c) includes materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:
 - (i) combustible, putrescible, degradable or leachable components;
 - (ii) hazardous waste;
 - (iii) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
 - (iv) materials that may present a risk to human health or the environment; and
 - (v) liquid waste; and
- (d) has less than two percent by volume by load of tree or vegetable matter.

Cleanfill site means the facility used for the disposal of cleanfill material.

Commercial property means any property used for business, manufacture, process, trade, market or other undertakings.

Commercial waste means waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertakings

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

Council means the Chatham Islands Council, or any person delegated or authorised to act on its behalf.

Council collection points means places or containers where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical.

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

Dispose or **Disposal** means the same as defined in the Waste Minimisation Act 2008

Diverted material means as defined in the Waste Minimisation Act 2008.

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

Estimated value means the same as defined in the Building Act 2004.

Event means any organised temporary activity that is likely to create Litter in a Public Place including, but not limited to, an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration.

Food waste means waste that is derived from any item of food and is organic in origin and free of contamination and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste.

Footpath means the same meaning as in section 315 of the Local Government Act 1974.

Green waste means compostable plant material including lawn clippings, weeds, plants and other soft vegetable matter, which by nature or condition, and being free of any contaminants will degenerate into compost. This does not include flax, bamboo, pampas, flowering gorse, palm trees or cabbage trees.

Handling waste means removing, collecting, transporting, storing, treating, processing or disposing of waste.

Hazardous waste means waste that is reasonably likely to be or contain a substance that meets one or more of the classification criteria for substances with explosive, flammable, oxidising, toxic, corrosive or ecotoxic properties under the Hazardous Substances (Classification) Notice 2017. Hazardous waste does not include household waste, inorganic material, construction and demolition waste, or commercial or industrial waste.

Home composting means the activity of creating decaying organic matter from domestic green waste and/or food waste into compost.

Household waste means waste consisting of recyclable material, organic waste or residual waste originating from any residential household but does not include, commercial or industrial waste, prohibited waste, hazardous waste, trade waste, liquid waste, or construction and demolition waste.

Illegal dumping means the disposal of waste in an unauthorised or non-dedicated area.

Litter means any refuse (waste), rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature.

Litter container means a container provided for the collection of litter.

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

Nuisance means a nuisance in terms of the Health Act 1956

Occupier means in relation to any property or premises, the inhabitant occupier of that property or premises and, in any case where any building, house, tenement, or premises is unoccupied includes the owner.

Owner means in relation to any property or premises, the person entitled to receive the rack rent of the property or premises, or who would be so entitled if the property or premises were let to a tenant at a rack rent.

Person 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.

Prohibited waste means waste containing:

- (a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;
- (b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;
- (c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;

- (d) any radioactive wastes, but excluding domestic smoke detectors;
- (e) any used oil and lead-acid batteries;
- (f) any hazardous waste;
- (g) medical waste;
- (h) any material identified by the Council under clause 9.9 of this Bylaw as posing an unacceptable risk of nuisance to the public or to public health and safety, subject to a control made under clause 9.8 below.

Public place means the same as defined in the Litter Act 1979.

Recovery means the same as defined in the Waste Minimisation Act 2008

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

Recycling means the same as defined in the Waste Minimisation Act 2008.

Road means the same as defined in section 315 of the Local Government Act 1974.

Site means an area of land that is the subject of an application for a building consent or an area of land where a specific development or activity is located or is proposed to be located.

Special wastes mean any wastes, whether from a trade premise or any other source, which is hazardous, toxic or by its nature requires special disposal because of environmental considerations, or landfill operational requirements.

Treatment means the same as defined in the Waste Minimisation Act 2008.

Waste means the same as defined in the Waste Minimisation Act 2008. For clarity 'refuse' means the same as 'waste'.

Waste management facility means a facility, authorised by Council, which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste. It includes, but is not limited to waste transfer stations, resource recovery stations, recycling centres, composting facilities, landfills or cleanfill sites, or hazardous waste facilities.

Waste management facility operator means a person who owns or manages a waste management facility.

Waste management and minimisation plan means a waste management and minimisation plan adopted by the Council under section 43 of the Waste Minimisation Act 2008.

Waste operator means a person who is a waste operator or operates a waste management facility.

PART TWO: WASTE MANAGEMENT

5 Controls

5.1 The Council may make, amend or revoke controls for the safe and efficient operation of waste collections services from a public place.

5.2 The controls made by Council in clause 5.1 may relate to the following matters:

- (a) The type, size, capacity/volume, weight, number, colour and construction of approved containers that may be used for the disposal, storage and collection of waste and recyclable material;
- (b) The types of household waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable, organic waste, or other residual waste;
- (c) The types and categories of waste that may be deposited in approved containers;
- (d) The conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
- (e) Requirements to ensure the correct separation of wastes into approved containers, including content control messaging and symbology on an approved container that specifies the permitted and prohibited content;
- (f) Maximum allowable limits of a specified waste type that may be deposited, collected or transported from a public place in an approved container;
- (g) Maximum allowable limits of a waste type that may be placed in a container that is approved for another type of waste;
- (h) Types of waste that are prohibited;
- (i) The locations, access times and conditions of use of approved collection points;
- (j) Requirements relating to the safe and secure transportation of waste;
- (k) Requirements applicable to waste service users and/or to waste handling and collection if traffic or pedestrian safety have the potential to be adversely impacted by the deposit of material in a public place or by waste servicing operations; and
- (l) Any other operational matter required for the safe and efficient operation of a waste collection service from a public place.

5.3 Any control specified by the Council to support the implementation of this Bylaw:

- (a) Must, after consultation pursuant to the Local Government Act 2002, be made by a resolution of Council that is publicly notified; and
- (b) May:
 - (i) prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;

- (ii) apply to all waste or to any specified category of waste and diverted materials; and
- (iii) apply to the Chatham Islands or to a specified part of the Chatham Islands; and/or
- (iv) apply at all times or at any specified time or period of time.

6 Collection, transportation, processing and disposal of waste and recyclable materials

General responsibilities

6.1 The Occupier and/or Manager of a premises must ensure that:

- (a) reasonable steps are taken to prevent waste or recyclable material escaping from any container;
- (b) waste or recyclable material from the premises has no more than a minimal adverse effect on neighbouring occupiers;
- (c) any container for waste or recyclable material is regularly emptied when it is full;
- (d) the contents of any container for waste or recyclable material, excluding containers for green waste and glass recycling, are protected from rain or ingress or egress of flies and animals; and
- (e) steps are taken to ensure that no waste or recyclable material is deposited in or about any building or its surrounding area (including kerbside) except in accordance with this Bylaw.

6.2 The occupier and/or the manager of any premises who is in control of an approved container must ensure that:

- (a) the container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance;
- (b) 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) if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
- (d) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises; and
- (e) the container is placed for the collection of waste or recyclable material, where a collection service is provided, and retrieved in accordance with any applicable control specified by the Council.

6.3 No person may:

- (a) put waste or recyclable material into an approved container provided to any other person, without that other person's consent;
- (b) remove waste or recyclable material from, or interfere with any waste or recyclable material deposited in an approved container, except the Council, an Authorised Officer or the person who deposited the waste or recyclable material;
- (c) remove or interfere with any mode of identification of any approved container;

- (d) remove an approved container if provided by the Council from the premises to which it has been allocated, except with the prior written approval of the Council.

6.4 The occupier and/or the manager of any premises is responsible for any waste generated or recyclable material on the premises until it has been collected or disposed of.

Collections from a public place

6.5 The Council may provide a collection service for the collection, transportation and disposal of waste and/or recyclable material from a public place.

6.6 Any person providing or using a collection service for waste or recyclable material in or from a public place must comply with this Bylaw.

6.7 The Council may specify controls for the following matters in relation to the collection or transportation of waste and/or recyclable material from a public place:

- (a) the area to which the control applies;
- (b) the type, size, colour, and construction of approved containers that may be used for the storage and collection of waste or recyclable material;
- (c) the types of waste or recyclable material that may be collected in various types of approved containers;
- (d) the categories of wastes that may be deposited at or collected from a public place;
- (e) the conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers;
- (f) requirements to ensure the correct separation of categories of wastes into approved containers;
- (g) maximum allowable limits of a specified waste type that may be deposited, collected or transported from a public place in an approved container;
- (h) maximum allowable limits of a waste type that may be placed in a container that is approved for another type of waste;
- (i) types of waste that are prohibited;
- (j) the locations, access times and conditions of use of Council waste collection points;
- (k) any other operational matter required for the safe and efficient operation of a collection service from a public place.

6.8 Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this Bylaw.

General Controls

6.9 The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste or recyclable material from any property:

- (a) Types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable material, organic matter, or refuse;
- (b) maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
- (c) maximum allowable limits of a waste type that may be placed in a container approved for another waste type;

- (d) types of waste that may be handled at any class 1 – 5 landfill and material that may be used as cover material at any such site;
- (e) materials that may be used as natural or other hardfill material at a clean fill site;
- (f) types of waste that are prohibited.

6.10 Waste or recyclable material must not be placed on or in a public place for collection unless it is:

- (a) A type of waste or recyclable material specified and approved by the Council as able to be placed on or in a public place for collection; and
- (b) Placed in an approved container for collection by the Council or Authorised Officer.

7 Nuisance and litter

7.1 No person may:

- (a) allow any accumulation of waste or diverted material on any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health; or
- (b) use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.

7.2 Except as provided for under this Bylaw, no person may:

- (a) bury or allow to be buried any waste on any property they own, occupy or manage except:
 - (i) Organic waste, including dead farm animals in rural areas;
 - (ii) Dead companion animals and nuisance pests; or
 - (iii) For the purposes of home composting;
 - (iv) Waste, including fish factory wastes, deposited in a farm refuse dump or an offal pit that is consented or complies with the permitted activity conditions of the Chatham Islands Resource Management Document.
- (b) dispose of any waste on any premises except at –
 - (i) A waste management facility, or
 - (ii) Any premises they own, occupy or manage, for the purposes of home composting.

7.3 No person may:

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

7.4 The owner, occupier or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all steps to the

satisfaction of the Council to prevent it becoming litter and to clean it up in the event that it does become litter.

8 Construction site and demolition waste

- 8.1 The Council may make a control under this Bylaw to require any person that is applying for a building consent for building work of a certain estimated value or higher to submit a construction site and demolition waste management plan to the Council for approval prior to the commencement of any building work.
- 8.2 At a minimum, a construction site and demolition waste management plan must set out:
- (a) The name of the client, principal contractor, and person who prepared the site waste management and minimisation plan;
 - (b) The location of the site;
 - (c) The estimated total cost of the building work;
 - (d) A description of each type of waste expected to be produced;
 - (e) An estimate of the quantity of each type of waste; and
 - (f) The proposed method of waste management for each type of waste (e.g. recovery, recycling, disposal).
 - (g) The proposed method for minimising and capturing litter associated with the project and the building work.
- 8.3 While the building work is being carried out, the principal contractor will:
- (a) Review the plan as necessary;
 - (b) Record quantities and types of waste produced; and
 - (c) Record the types and quantities of waste that have been:
 - (i) reused (on or off site)
 - (ii) recycled (on or off site)
 - (iii) sent to other forms of recovery (on or off site)
 - (iv) sent to landfill
 - (v) otherwise disposed of.
- 8.4 Within three months of completion of the building work the Council may require the principal contractor to report:
- (a) Confirmation that the plan has been monitored and updated;
 - (b) A comparison of estimated quantities of each type of waste generated against the actual quantities of each waste type;
 - (c) An explanation of any deviation from the plan;
 - (d) An estimate of any cost savings that have been achieved by completing and implementing the plan.

- 8.5 The principal contractor must ensure that a copy of the plan is kept on site, and that every contractor knows where it can be found. It must be available to any contractor carrying out any work described in the plan.

9 Waste Management Facilities

- 9.1 Council may own and operate Waste Management Facilities, and this bylaw will apply to all waste management facilities under the control of Council.
- 9.2 The disposal of waste on any land or premises set aside by Council for the disposal of waste will be subject to conditions that Council may impose. This may include the hours of operation, the nature of the waste which may be disposed, disposal charges, the position in any such place in which waste may be placed, and any other matter which Council may consider necessary or desirable.
- 9.3 All waste and recyclable materials or things deposited and left at any Waste Management Facility by any person are deemed then and there to have been abandoned by that person who from that time onwards has no rights of ownership, but such abandonment does not relieve that person from liability for damage flowing in any way from such action, nor from the penalties provided for Offences against this Bylaw.
- 9.4 No person may move or remove any item, material or waste found in a Waste Management Facility without the permission of an Authorised Officer.
- 9.5 Every person using the Waste Management Facility or entering any portion of it must comply in all respects with any direction or instructions given verbally by any Authorised Officer, or appearing in any signs erected at the area for that purpose, and any such direction or instructions may include a requirement for the person depositing material to sort the same into separate classes (for example but not to be taken as exclusive: glass, ferrous metal, nonferrous metal), to facilitate reuse, recycling and recovery of materials.
- 9.6 Persons using any Waste Management Facilities and services must pay such amounts as set through Council's annual Schedule of Fees and Charges.
- 9.7 Every person committing any breach of the provisions of this Bylaw:
- (a) must on request by an Authorised Officer or the Council immediately leave any Waste Management Facility taking with them the material which they brought there and as the Authorised Officer considers to be of a kind which is prohibited under this Bylaw; and
 - (b) is also liable to be prosecuted for that breach; and any person failing with all reasonable speed to comply with such request commits a further Offence.

Owenga Landfill Waste Acceptance

- 9.8 Waste, including Special Waste, shall be accepted at the landfill provided acceptance is in accordance with the Waste Acceptance Protocol in the latest version of the Landfill Development and Management Plan.

Deposit of certain materials prohibited

- 9.9 Unless authorised by Council under this Bylaw, no person shall deposit or cause or permit or allow to be deposited in any approved container or at any waste management facility:
- (a) explosive, highly inflammable or infectious material or hot ashes;
 - (b) liquids, acids, printer's ink, paint, or any other viscous fluid;

- (c) broken bottles, glass, glass articles, broken crockery, china or other such sharp articles or materials unless such sharp articles or materials are wrapped so as to prevent injury to persons engaged on collection or disposal work;
- (d) any matter, thing or refuse of any kind whatsoever, other than household refuse;

Provided that if rigid wall containers are used, item 11.1(c) shall not apply.

10 Events

- 10.1 Prior to and during an event, the event organiser must make available litter containers for the collection of waste and recyclable material.
- 10.2 During an event, the event organiser must take all steps to the satisfaction of the Council to minimise and capture litter associated with the event.
- 10.3 On completion of the event, the event organiser must arrange for the collection, transportation and disposal of all waste, recyclable material and litter associated with the event.

PART THREE: OTHER MATTERS

11 General offences and penalties

- 11.1 Any person who fails to comply with this Bylaw and the decisions and controls made under this Bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable to a fine as specified in section 242(4) of the Local Government Act 2002.
- 11.2 A person who commits a breach of this Bylaw that is an offence under the Litter Act 1979, the Waste Minimisation Act 2008 or the Health Act 1956 is liable to a penalty (without limitation) under those Acts, as relevant.

12 Other enforcement powers

Non-compliance with general responsibilities and waste collection requirements

- 12.1 Where a person does not comply with the requirements of this Bylaw and/or any controls made under the Bylaw in relation to the waste and diverted materials collection service that applies to them, the Council or Authorised Officer may take the following action(s) against the person:
- (a) Reject (i.e., not collect) the contents of any approved container left out by that person for collection from a public place, if the contents or placement of the container is non-compliant;
 - (b) Remove the contents of any approved container left out for collection from a public place where the contents or placement of the container is non-compliant, subject to payment of the costs of removal, administrative costs and an additional penalty equivalent to the amount payable for the collection of the largest available size of approved container from that premises;
 - (c) Withdraw or suspend the collection service being provided to that person;
 - (d) Enforce any offence that may have been committed under the Litter Act 1979; and/or
 - (e) 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.
- 12.2 Where action has been taken against a person under clause 12.1(c), the Council can authorise the reinstatement of the collection service once it is satisfied on reasonable grounds that the Bylaw will be complied with.

Non-compliance with approved collection point requirements

- 12.3 Where a person does not comply with a control made by the Council under clause 5 of this Bylaw the Council may:
- (a) Suspend that person's use of any service provided by the Council at any or every waste collection service;
 - (b) Enforce any offence that may have been committed under the Litter Act 1979; or
 - (c) 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.

Non-compliance with waste management plan requirements

- 12.4 Where a person does not comply with any of the requirements in clause 8 (Construction Site and Demolition Waste) and/or any controls made under the Bylaw, the Council may take one or more of the following steps:
- (a) Enforce any offence that may have been committed under the Litter Act 1979; and/or
 - (b) 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 Exceptions and saving provisions

- 13.1 A person is not in breach of this Bylaw if that person proves that the act or omission was in compliance with the directions of an Authorised Officer.
- 13.2 A product stewardship scheme accredited under the Act may be exempted from the requirements of this Bylaw.

14 Fees and charges

- 14.1 The Council may in accordance with the provisions of section 150 of the Local Government Act 2002 set prescribed fees under this Bylaw.
- 14.2 The Council may refund, remit or waive any fee prescribed by this Bylaw or charge payable for an authority, approval, permit or consent from, or inspection by, the Council, for any reason it thinks fit.
- 14.3 The Council may recover costs associated with enforcement of this Bylaw in accordance with the Local Government Act 2002 or other legislation.

15 Forms and processes

- 15.1 The Council may prescribe the form of, and process to be followed for, any application, approval, or other document, which is required under this Bylaw (or any related controls made by Council). These forms and processes may be altered or amended at any time.

