Auckland Council 2019 Bylaw and Controls about waste minimization and management

2025 Review Findings Report

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Summary of Key Findings

Waste continues to cause problems

Waste on private properties and in public places continues to cause problems. Bins still block footpaths, 20 per cent of materials in recycling bins are non-recyclable and construction and demolition waste make up over 30 per cent of waste to Class 1 landfills.

The Auckland Council Waste Bylaw and Controls help address these problems

The current Auckland Council Waste Management and Minimisation Bylaw 2019 and associated Controls help address these problems.

They provide a framework of rules to set standardised behavioural expectations, support educational activities and waste minimisation goals, and enable council to collect data and respond to problems.

This means a bylaw about waste is still required

A bylaw about waste minimisation and management is still required.

In general, a bylaw remains the best way to address public nuisance, health and safety risks, and to minimise waste to landfill from the storage and disposal or discarding of waste and material on premises and in council controlled public places in Auckland.

Alternatives are less effective than a bylaw as they lack clear powers to address all matters in the Bylaw or in practice are limited to effects rather than direct regulation of behaviour.

However, the current Bylaw will expire in August 2026

The current Bylaw will expire in August 2026. To avoid a regulatory gap, a new bylaw must be made.

And any new bylaw should consider identified improvements

While the current Bylaw and Controls are generally ‘fit for purpose’, improvements have been identified. These improvements should be considered when making any new bylaw, including to:

- address onsite waste storage and collection issues (for example to stop waste being blown off private properties)
- remove provisions that are not being used or duplicate existing legislative provisions (for example removing the requirement for approvals for multi-unit developments)
- ensure definitions capture the required matters (for example clarifying what is meant by a resource recovery facility)
- remove ambiguities in the approval framework (for example the range of conditions that can be applied to a granted approval).

However, more research is required about construction and demolition waste

More research is required to confirm whether a bylaw to require site waste management plans is the most appropriate way to help address problems associated with construction and demolition waste. This includes whether a bylaw would be helpful, reasonable, proportionate and able to be successfully implemented. This research is unable to be completed as part of this review.

A separate work programme is being developed to complete this research and council can initiate an amendment to the new bylaw in response at any time if it wishes.

The next step is to prepare and options report and proposal

The next step would be to develop an options report and proposal in response to the findings.

1. Background to Bylaw and Controls review

Summary

- This review is to establish whether a bylaw about waste is still required and whether the current Bylaw and Controls are fit for purpose.
- The scope of the review is limited to the matters in the current Bylaw, directions in the 2024 Waste Plan and any new bylaw issues (it excludes for example illegal dumping covered in the Litter Act).
- The review applies statutory review requirements under the Local Government Act 2002.
- The review analyses six key questions to comply with legislative requirements. Research and engagement methodology inform the analysis, noting there are limitations to information collected.

1.1. This report reviews council's Waste Bylaw and Controls

This report presents findings from the review of Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para 2019 | the Auckland Council Waste Management and Minimisation Bylaw (Bylaw), the Waste Management and Minimisation Bylaw (Collections) Control 2023 (2023 Control) and the Containers for Kerbside Collection Control 2013 (2013 Control).

1.2. The Bylaw and Controls will expire in August 2026

Auckland Council made the Bylaw on 22 August 2019 (GB/2019/83) to replace the Auckland Council Solid Waste Bylaw 2012. Council also made two Controls under the 2012 Bylaw that were saved in 2019 and updated under the current Bylaw in December 2023.

The Bylaw was made under section 56 of the Waste Minimisation Act 2008 (WMA) and sections 145 and 146 of the Local Government Act 2002 (LGA).

A statutory review of the Bylaw under the Local Government Act 2002 was due to be completed by 22 August 2024.1 This statutory deadline was not met due to the Auckland Council Te Mahere o te Tau 2024 hei Whakaheke, hei Whakahaere hoki i te Para ki Tāmaki Makaurau: Ki te Para Kore | Auckland's Waste Minimisation and Management Plan 2024: Towards Zero Waste (Waste Plan)2, which the Bylaw seeks to help implement, being adopted after this review date in October 2024.

This means the current Bylaw and Controls will expire in August 2026, and to avoid a regulatory gap, a new bylaw (and if necessary, any controls) must be made before that date.

1.3. The scope of the review is limited to waste minimisation and management

The review is informed by the scope of the review outlined in the Table below.

Scope of Bylaw and Control review

Matters within scope	Matters outside scope
Issues identified in the Waste Plan as a current or potential future bylaw topic.	Implementation of the Waste Plan not bylaw related.
Issues addressed in the current Bylaw.	Issues in the Waste Plan addressed through non-regulatory methods, such as education, collaboration and partnership activities.

[1] Sections 158 – 159 of the Local Government Act 2002 require council to review the Bylaw within five years of its adoption and then within ten years of the last review. See section 2.2 for more details.

[2] Auckland Council Te Mahere Hukihuki mō te Whakahaeretanga me te Whakaitinga o te Para | Waste Management and Minimisation Plan 2024

Matters within scope	Matters outside scope
Any new issues identified during the review.	Waste and litter issues addressed by other bylaws or legislation (for example illegal dumping under the Litter Act 1979).
Issues identified in the current Controls.	

Out-of-scope feedback provided by stakeholders to inform this report has been referred to relevant council staff for their information and discretionary action as an internal matter.

1.4. Specific legislative requirements must be met

This report uses statutory bylaw review and criteria under the Local Government Act 2002 and Waste Minimisation Act 2008 to complete the findings.

To complete the review findings, council must first determine whether a bylaw is still the most appropriate way of addressing the problem. If it is, council should decide whether the current Bylaw is the most appropriate form of bylaw, whether it gives rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990 and is not inconsistent with the Waste Plan.[3]

There are no specific legislative requirements to review controls made under a bylaw. The statutory requirements for a bylaw review are used to inform the best practice approach.

General decision-making requirements for the review require council to consider community views in proportion to the significance of the decision and alignment with any council policy or plan.[4]

1.5. Six key questions are analysed to comply with legislative requirements

The review asked the following key questions to meet council's statutory requirements:

- Is there still a problem and is the problem the same?
- Are council's desired objectives and outcomes the same?
- Has the Bylaw and Controls helped to achieve the desired objectives and outcomes?
- Is a bylaw and controls still the best way to address the problem (no better alternatives)?
- Are the Bylaw and Controls 'fit for purpose' (no change required)?
- Do the Bylaw and Controls comply with legislation?

To provide context to the above key questions, this report provides an overview of:

- the regulatory and strategic framework the Bylaw operates within
- what the Bylaw and Controls allows and requires people to do
- how the Bylaw is implemented.

1.6. Research and engagement methodology inform the analysis

Staff undertook research and engagement to answer the six key questions. Methods included:

- workshops, surveys, emails and meetings (online and in person) with relevant selected:
  - council units, including Waste Planning, Community Waste Wise, Waste Refuse and Enterprises, Waste Customers and Operations, Waste Contracts and Compliance, Planning and Resource Consents, Parks and Community Facilities, Healthy Waters, and Auckland Council Events
  - relevant external stakeholders including submitters to the Waste Plan, Bylaw licensees, developers, business and industry groups, construction and demolition industry members,

[3] Section 155 of the Local Government Act 2002 and section 56(2) of the Waste Minimisation Act 2008.
[4] Section 79 and 80 of the Local Government Act 2002.

social enterprises and charitable organisations with a waste focus and mataawaka organisations.
- direct invitation to Ngati Whatua Ōrakei and Te Ahiwaru to provide feedback following their contributions to the Waste Plan
- mana whenua engagement through the Interim Mana Whenua Engagement Forum
- clause-by-clause analysis of the Controls to investigate any gaps or duplication
- a high-level Bylaw analysis in response to issues raised through internal and external feedback
- data analysis, including council complaints, service provision data, approval and waste data
- environmental scans in terms of central government approaches to waste management issues and other local authority waste management and minimisation bylaw approaches.

1.7. There are limitations to the information collected

There are limitations to the information and data collected through this review, including:

- council complaints data are collected and recorded to support the resolution of enquiries and complaints rather than to allow for analysis of the problems that the Bylaw and Controls seek to address (for example nearly 2000 refuse bin misuse complaints between Jan 2021 and Jan 2025 have no sub-categories or keyword search functions to allow for detailed analysis)
- council complaints and service provision data are indicative only of the range and scale of Bylaw problems due to availability, changes to record systems and retrieval using keyword searches
- limited availability of additional internal data to support anecdotal staff feedback
- limited responses to the stakeholder survey (of 651 direct recipients only 53 responses received)
- limited feedback from mana whenua and mataawaka:
  - Ngāti Whātua Ōrakei provided substantive feedback with suggested improvements to the Bylaw and Controls that have been incorporated into the findings (for example to improve definitions and to address construction and demolition waste)
  - other feedback from Ngāti Whātua Ōrakei and Ae Ka Taea e Koe (mataawaka) related to operational matters that have been referred to Waste Solutions to address separately from this review (for example providing more accessible information, tools, guides and education).

2. Wider regulatory and strategic framework

Key findings

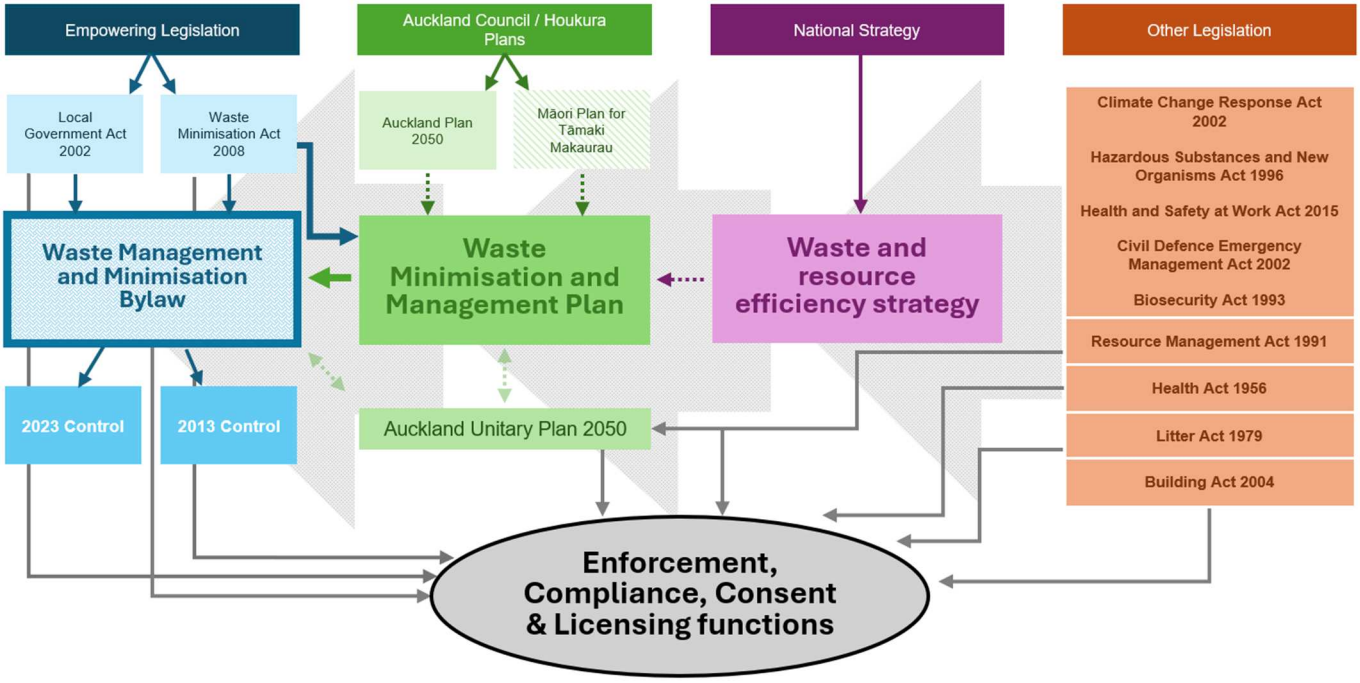
- The Bylaw and Controls form part of a wider regulatory and strategic framework that includes central government legislation, national strategies and council and Houkura plans and strategies.
- National legislation relies on the use of a bylaw for council to regulate waste issues and to support the implementation of its Waste Plan.
- Central government is reviewing the Waste Minimisation Act 2008 and the Litter Act 1979 and is considering potential changes to the bylaw provisions as part of this review. It is currently unclear how these changes may impact on this review process at this time.

2.1. The Bylaw and Controls are part of a wider legislative and strategic framework

The Bylaw and Controls are part of a wider legislative and strategic framework that addresses waste minimisation and management activities, services and issues using a range of regulatory tools. This includes legislation, strategies and plans shown in the Figure below.

Appendix 2 provides a more detailed assessment of how the Bylaw and Controls align with the outcomes of the Auckland Plan 2050 as well as the Māori Plan for Tāmaki Makaurau.

Key elements of legislative and strategic framework for waste management and minimisation



2.2. The Bylaw is made under two statutes (Acts of parliament)

The Bylaw is made under both the Waste Minimisation Act 2008 (WMA) and the Local Government Act 2002 (LGA). Both provide enforcement powers and penalties as summarised in the Table below, noting that:

- WMA bylaw related provisions are specifically waste focused.
- LGA provisions are broader and include the ability to address waste related to public health and safety and nuisance matters.

Overview of legislation authorising a bylaw about waste

Legislation	Bylaw-making provisions	Bylaw enforcement powers and penalties
Waste Minimisation Act 2008	Sets out provisions to encourage waste minimisation and a decrease in waste disposal. Part 4 of the Act sets out the responsibilities of territorial authorities in relation to waste management and minimisation which include: • a requirement to adopt waste management and minimisation plans (s43) • the ability to make bylaws to regulate waste related matters (s56) • that a bylaw made under section 56 must not be inconsistent with a waste management and minimisation plan (s56(2)).	**Enforcement powers:** • inspect property • obtain information • seizure of property • disposal of property (ss 79, 81- 82, 85). **Penalties:** • court fine on successful prosecution not exceeding $20,000 (s66)
Local Government Act 2002	• To protect, promote and maintain public health and safety, protect public from nuisance, minimise potential for offensive behaviour in public places (s145). • To regulate waste management and solid wastes (s146(1)(a)(ii)(iv)).	**Enforcement powers:** • court injunction • removal of works • seizure of property • entry • cost recovery for damage • request name and address (ss 163,164-168,171-174,176,178) **Penalties:** • court fine on successful prosecution not exceeding $20,000 for bylaw breach (s242). • Recovery of costs incurred by the council to remedy breach after conviction of an offence (s176).

2.3. The Bylaw helps implement the Auckland Council Waste Plan

Unlike other council functions (for example stormwater), waste services are not provided solely by council and a significant portion of waste is collected and managed by the private sector.

However, the WMA requires territorial authorities to encourage effective and efficient waste minimisation and management. This includes a requirement to adopt a waste plan and that any WMA bylaw not be inconsistent with it. The Bylaw is a key tool to help implement and support achieving the waste plan.

The 2018 Waste Plan, which informed the 2019 Bylaw, was recently reviewed. The Auckland Council Te Mahere Hukihuki mō te Whakahaeretanga me te Whakaitinga o te Para / Waste Minimisation and Management Plan 2024 (Waste Plan) was adopted by the Policy and Planning Committee on 10 October 2024 (PEPCC/2024/111).

The Action Plan contained in the Waste Plan includes a general action to review the Bylaw to ensure it is consistent with the Waste Plan, as well as four further specific actions relating to the Bylaw. These are referenced in this report where appropriate.

2.4. Making the Bylaw under two statutes has limitations and complexities

As the **Bylaw** is made under two statutes, it must be administered in accordance with the relevant provisions of each Act.

This creates complexities for meeting statutory review timeframes:

- the WMA requires a bylaw to be reviewed every 10 years (section 58)
- the LGA requires the Bylaw to be reviewed within five years of first being made (section 158(2)) and no later than every 10 years after that (section 159). If the Bylaw is not reviewed in time, it will expire two years later, and a new bylaw must be made that must be reviewed within five years
- the WMA requires a Waste Plan to be reviewed at intervals of not more than 6 years and any WMA bylaw cannot be inconsistent with that Plan.

This creates the risk that the Bylaw will always expire, and council must keep making a new bylaw every seven years instead of every 10 years as envisaged by the WMA.

Using council's 2012 and 2019 bylaws as an example (and assuming a new 2026 bylaw is made):

- the 2012 bylaw (adopted in October 2012 with a five year review deadline of October 2017) expired because the 2018 waste plan was not adopted until June 2018
- the 2019 bylaw (adopted in August 2019 with a five year review deadline of August 2024) expired because the 2024 waste plan was not adopted until October 2024
- a 2026 bylaw (adopted by August 2026 with a five year review date of August 2031) may also expire because the 2024 waste plan may not be adopted until late 2030 or early 2031 leaving insufficient time to complete a statutory five year bylaw review.

To provide more certainty that any new bylaw would have a 10 year review date as intended by the WMA, the regulation of waste under the LGA must be separated from matters authorised under the WMA.

This is technically possible. An assessment of the current Bylaw indicates that only three clauses[5] could be considered to have been made solely under the LGA, with the remainder of clauses being made under the WMA. While it would be considered impractical to make a separate bylaw under the LGA with such a small number of provisions, these provisions could however potentially be incorporated into another bylaw, such as the Property Maintenance and Nuisance Bylaw.

2.5. Council also uses other legislative provisions to help regulate waste

The legislative framework shown in section 2.1 includes four other statutes that include specific consenting, enforcement and infringement provisions. Council can and does use these provisions to address specific waste and litter related issues (instead of a bylaw) and these are summarised in the Table below.

Other relevant legislative provisions about waste used by council

Legislation	Overview	Type of provision
Litter Act 1979	Provides local authorities with powers to appoint litter officers to issue infringement notices with fines for littering, including illegal dumping.	**Enforcement powers:** • require persons to remove litter • obtain information • wilful breaking of bottles or glass • (ss 7, 10, 15,16).

[5] Clause 13 – Approvals for donation collection bin operators; Clause 17 – A person must minimise potential for a shopping trolley to become waste; Clause 18 – a person must minimise potential for unaddressed mail to become waste

Legislation	Overview	Type of provision
		Penalties: • Council may adopt infringement notice provisions (s13) • court fine on successful prosecution not exceeding $30,000 (ss15,17, 20, 21)
Health Act 1956	Includes provisions and penalties for permitting or causing nuisances. Nuisances are defined in the Act and include: • accumulations that are likely to harbour rats or other vermin • and premises that are in a state where they are offensive or likely to be injurious to health.	**Enforcement powers:** • inspection to ascertain nuisances (s23) **Penalties:** • court fine on successful prosecution not exceeding $500 (s66)
Resource Management Act 1991	Provides guidelines and regulations for the sustainable management of natural and physical resources.	Rules in Auckland Unitary Plan to address waste storage and associated amenity and nuisance issues implemented through resource consent processes. Enforcement options include: • Abatement notices (s322-325B) • Infringement notices (s343A-343D) • Enforcement orders (s314-319 & s321) • Prosecution (s338)
Building Act 2004	Provides building code compliance requirements for the storage and disposal of waste.	Implemented through building consent and/or resource consent processes. Non-compliance with the Building Code and/or Building Act and an associated notice to fix issued can incur an instant fine of $1000 and a fine on successful prosecution of up to $200,000 (s168)

2.6. Central government is reviewing statutes about waste and litter

The Minister for the Environment has indicated that they intend to review the WMA and the Litter Act 1979. Advice from Ministry for the Environment staff suggests the review includes the bylaw-making provisions in these statutes.

The outcome and timeline for any changes and transition process is not set and is dependent upon central government priorities.

There is no indication to date that the review intends to remove the ability of local authorities to make bylaws. However, the review process may be impacted as a result of this work, and staff will provide any updates on this accordingly.

3. The Bylaw and Controls

Key findings

- The Bylaw helps 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 Bylaw framework incorporates three distinct elements - direct provisions, controls and approvals.
  - Direct provisions state in the Bylaw what people can and must do with their waste. These provisions do not rely on other mechanisms within the Bylaw to be implemented or enforced.
  - The Bylaw enables the making of Controls about technical or prescriptive matters.
    - The 2023 Controls focus on kerbside collection related provisions.
    - The Bylaw also saved controls made in 2013 relating to waste collectors that are intended to be transferred to licenses issued to waste collectors.
  - Approvals are a type of permission for an activity that council may wish to allow subject to general or specific conditions or to decline that relates to waste collection services and facilities, events and multi-unit developments.

3.1. The Bylaw seeks to help manage and minimise waste

The Bylaw and Controls seek 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. It does this by:

- managing the deposit, collection, transportation and disposal of disposed of or discarded material
- requiring people to appropriately dispose of or discard material
- requiring waste collectors and operators of waste management facilities, resource recovery facilities and donation collection bins to obtain council approval
- requiring waste management and minimisation plans for trading, events and filming in council-controlled public places and for multi-unit developments
- minimising the potential for shopping trolleys and unaddressed mail to become waste.

The Governing Body made the Bylaw on 22 August 2019 (GB/2019/83) under the Local Government Act 2002 (LGA) and the Waste Minimisation Act 2008 (WMA).[6] The Bylaw commenced on 26 October 2019 and replaced the Solid Waste Bylaw 2012.

Powers and penalties to enforce the Bylaw are summarised in Section 2.2.

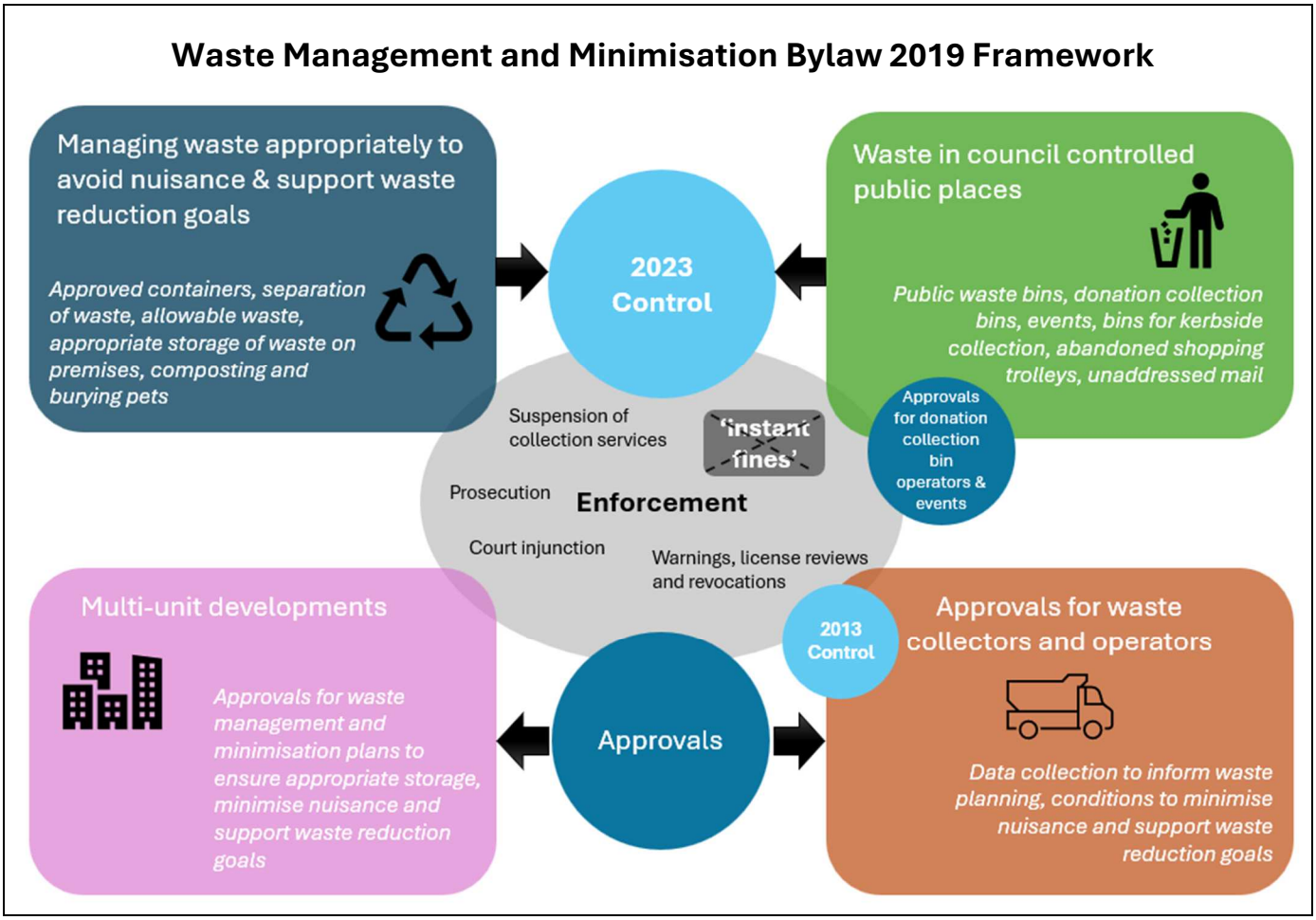
3.2. The Bylaw framework has three distinct elements to regulate waste

The Bylaw framework incorporates three distinct elements as follows and shown in the Figure below.

- Direct provisions state what people can and must do with their waste. These provisions do not rely on other mechanisms within the Bylaw to be implemented or enforced (See section 3.3).
- Bylaw controls are rules that council can make at any time under a bylaw without using the Local Government Act 2002 special consultative procedure (for example, rules about bin weight). Controls are a more responsive way to update rules between bylaw reviews (See section 3.4).
- Approvals are a type of permission for a specific activity that council may wish to allow subject to general or specific conditions or to decline (for example to hold an event) (See section 3.5).

[6] Section 56 of the Waste Minimisation Act 2008 and sections 145 and 146 of the Local Government Act 2002.

Waste Management and Minimisation Bylaw 2019 Framework



3.3. The current direct provisions

The Table below provides a summary of the direct provisions of the Bylaw.

Clause	Provision
6	A person must dispose of or discard material correctly
7(1)(b)	A person may dispose of or discard material in a public place if – the material in the container is from activity on the same premises or with the consent of a person who occupies that premises
7(2)	A person must not – (a) remove, alter or interfere with an approved container or the material it contains unless that person – (i) occupies the same premises the container is stored on; (ii) has the consent of a person who occupies the same premises the container is stored on; (iii) is a waste collector under clause 11; or (b) remove an approved container provided by council or a waste collector from the premises it was provided to without the prior approval of the council or waste collector who provided it.
8	A person may dispose of or discard material by burial or composting in limited circumstances
9	A person must use donation collection bins correctly
10	A person must use public waste bins correctly
14	The owner and person responsible for a premises must provide adequate areas for storage and collection of disposed of or discarded material
17(3)	A person must not remove that shopping trolley from the business premises which provided it
18	A person must minimise potential for unaddressed mail to become waste

3.4. The current Controls focus on the collection of waste

Under the 2012 bylaw, the then Regional Development and Operations Committee adopted two Controls on 19 September 2013 (RDO/2013/164), the 'Separation of Domestic Waste Control' and the 'Containers for Kerbside Collection Control'.

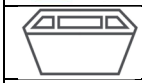
These remained in force (were saved) under clause 31(3) of the Bylaw.

In 2023, the Regulatory and Community Safety Committee on 5 December 2023 (RSCCC/2023/69):

- revoked the 'Separation of Domestic Waste Control' and those parts of the 'Containers for Kerbside Collection Control' that apply to people using a kerbside collection service
- adopted the Auckland Council Waste Management and Minimisation Bylaw (Collections) Control 2023 that focuses predominantly on kerbside collection (See summary in Table below)
- retained those parts of the 'Containers for Kerbside Collection Control' that apply to waste collectors.[7]

The changes came into force on 1 February 2024.

Summary of the Waste Management and Minimisation Bylaw (Collections) Control 2023

	Types of approved containers
	Types of material that may be deposited in an approved container
	Times approved containers may be placed on a public place for collection
	Location of approved containers placed on a public place for collection
	Weight limits of approved containers and materials placed for collection
	Restrictions on capacity of approved containers
	Prohibited waste

3.5. The current approvals focus on four types of activities

The Bylaw currently requires approvals to be obtained for four types of activities:

- waste collection and operation services and facilities
- donation collection bins
- events
- multi-unit developments.

These approvals are guided by an overarching framework provided within the Bylaw (Part 3, clauses 19 to 27). The associated application and approval process, together with any conditions imposed, is established and administered by staff within their delegated authorities (see Section 4 of this report).

[7] Note: The Bylaw sought to allow for a transfer of remaining matters in the 'Containers for Kerbside Collection Control' that apply to waste collectors to a licence to collect waste. Retaining the control is necessary until the transition process is completed.

4. Implementation of the Bylaw and Controls

Key findings

- The Regulatory and Safety Committee can make, amend and revoke the Controls.
- The Waste Solutions department administer the Bylaw and Controls, apart from public litter bins.
- Bylaw provisions are not implemented for multi-unit developments.
- Staff use an educational approach and non-regulatory methods to support Bylaw and Controls compliance.

4.1. Administration is delegated to elected members and staff

The Auckland Council Governing Body has delegated authority to:

- make, amend and revoke the Controls to the Regulatory and Safety Committee (GB/2024/126)
- administer the Bylaw and Controls to staff (through the Chief Executive), this includes the power to grant or decline applications for the different types of approvals under the Bylaw

The research undertaken for this report indicates that the delegations are functioning appropriately.

4.2. Waste Solutions administer, implement and ensure compliance

The majority of the Bylaw is administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division. The Table below summarises the Bylaw and Control implementation in Appendix 1 for each of the four current Bylaw topics.

Summary of Bylaw and Control implementation

Topic	Bylaw and Control Implementation	Examples of implementation
1. Approaches to support waste minimisation and management 	• Administered by Waste Solutions. • Intersects with other regulations. • Enforced using non-regulatory methods, for example education and suspending or cancelling a person's waste collection service, to support Bylaw and Control compliance. • Bylaw enforcement powers (prosecution) not used.	• Council's website is kept up to date with detailed information and guidance on how people must manage their waste and options to achieve this. • Council contractors undertake proactive inspections, with over 2,000 recycling bins inspected each day for unrecyclable items and implement a staged approach where occurrences of non-compliance are discovered.
2. Disposed or discarded materials in council controlled public places 	• Public litter bins administered by Parks and Community Facilities. • Remaining provisions administered by Waste Solutions. • Proactive monitoring activities at all times. • Intersects with other regulations. • Enforced using non-regulatory methods, for example education and site inspections during events, to support Bylaw and Control compliance.	• Council staff respond to misuse of bin complaints as required. • Approvals issued for Waste Management and Minimisation Plans for events and associated onsite monitoring activities.

Topic	Bylaw and Control Implementation	Examples of implementation
	• Bylaw enforcement powers (prosecution) not used.	
3. Approvals for Multi-unit developments 	• Administered by Waste Solutions. • Uses a different statutory process to achieve objectives. The Bylaw provisions are not relied on. • Bylaw enforcement powers (prosecution) not used.	• Waste Solutions provides technical expert input to resource consent applications for MUDs of 10 or more units.
4. Approvals for waste collectors and operators of waste management and resource recovery 	• Administered by Waste Solutions. • Intersects with other regulations. • Enforced using non-regulatory methods, for example education, issuing a written warning, to support Bylaw and Control compliance. • Bylaw enforcement powers (prosecution) not used.	• Staff issue and administer licenses in accordance with the Bylaw provisions. • Staff liaise directly with approval holders regarding any complaints received to encourage voluntary compliance.

5. Is there still a problem and has it changed?

Key findings

- Yes. The problems identified are similar to those outlined in 2019 and continue to relate to public nuisance, health and safety risks and waste minimisation and management issues.
- The problems are a result of the improper storage, disposal and discarding of waste and materials, and the limited data available to inform waste planning activities and actions.
- The nature and extent of the problems relating to waste minimisation and management are detailed in the Waste Plan. For example, the contamination of waste and the resulting impacts are frequent and are proactively managed by council. In 2023 the percentage of recycling bin contamination was 20 per cent, against the target of a maximum of 12 per cent contamination.
- The inclusion of problems related to construction and demolition waste in this review is new. Construction and demolition waste represents more than 30 per cent of the total waste sent to Class 1 landfills, taking up valuable landfill space.

The 2023 Waste Assessment[8] and Waste Plan outline comprehensive data and insights on the current problems, goals, targets, and objectives, all aimed at achieving the council's vision of Zero Waste to Landfill by 2040. These documents have been used to define the current and future problem for this review.

The Tables below compares the 2019 and 2025 Bylaw review problems overall and across five topics. The problems for each topic are further outlined in Appendix 1.[9]

In general, the problems are similar to those outlined in 2019 and continue to relate to public nuisance, health and safety risks and waste minimisation and management issues.

Comparison of overall problem

Overall problem	
2019 Bylaw review	**2025 Bylaw review**
Significant harm resulting from residual waste[10]	Public nuisance, health and safety risks, and waste to landfill from the storage and disposal or discarding of waste and material on premises and in council controlled public places in Auckland.

Comparison of topic specific problems

Topic	Topic problem 2019 Bylaw review	Topic problem 2025 Bylaw review
1. Approaches to support waste minimisation and management	Health and safety, nuisance, obstruction, damage and visual amenity risks and harm from residual waste.	Public nuisance and health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in Auckland. Example: Problems with contamination of recyclable materials are identified in the Waste Plan. In 2023 the percentage of recycling bin contamination was 20% against the target of a maximum of 12% contamination.[11]

[8] The Waste Assessment is developed in accordance with the requirements of the WMA to inform the Waste Plan.

[9] The 2019 review process did not clearly define a single overarching problem and used different topics. To enable a comparison between 2019 and this review, the 2019 reports were assessed to define the problems for this report .

[10] See 2019 Finding Report as attached to the report to the Regulatory Committee 14 February 2019 and 2019 Options Report as attached to the report to the Regulatory Committee 14 March 2019

[11] See Waste Plan – Key priorities, page 28. Delivering direct action: Work to reduce contamination in household food scraps and recycling bins

Topic	Topic problem 2019 Bylaw review	Topic problem 2025 Bylaw review
2. Disposed or discarded materials in council controlled public places 	Risks of illegal dumping, harm from residual waste, and health and safety, nuisance, obstruction, damage, removal costs and visual amenity risks.	Public nuisance, health and safety risks and waste to landfill in council controlled public places from the disposing or discarding of waste and material in council controlled public places. Example: People leaving their approved containers on the kerbside for extended periods of time after being emptied, causing unnecessary footpath obstructions.
3. Approvals for Multi-unit developments 	The risk of harm from residual waste.	Public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in multi-unit developments. Example: Insufficient or inappropriate storage of waste in MUDs can incur problems such as waste containers being permanently located in public places, incurring associated nuisances to the public.
4. Approvals for waste collectors and operators of waste management and resource recovery 	The risk of harm from residual waste.	Public nuisance, health and safety risks, and waste to landfill due to the impact of limited data on effective waste minimisation and management activities and from the improper collection and transportation of waste. Example: The lack of access to and understanding of waste data continues to limit the council's ability to plan appropriately for waste making it more challenging to achieve council's vision of Zero Waste.
5. Construction and demolition waste 	*New topic*	Public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of construction and demolition waste and materials on premises. Example: Construction and demolition waste represents more than 30 per cent of the total waste sent to Class 1 landfills, taking up valuable landfill space.

6. Is council's objectives and outcome the same?

Key findings

- Yes. The objectives and outcome to address the identified problems remain largely the same since the 2019 Bylaw review. However, the objectives could be better aligned to each topic, and the outcome better aligned to the Auckland Plan.
- The overall objective is to minimise public nuisance, health and safety risks, and waste to landfill from the storage and disposal or discarding of waste and material on premises and in council controlled public places in Auckland.
- The outcome sought is that Aucklanders' health and well-being are protected from harmful waste and nuisance and the impact of waste on the natural environment is minimised.

To support the review process, this section details the overall objective and outcome, as well as the objective for each topic to address the identified problems in Section 5.

The Tables below show how the objectives and outcome from 2019 could be better articulated and aligned to the topic assessments provided in Appendix 1 and the Auckland Plan and Māori Plan in Appendix 2.[12]

Overall, the desired objectives and outcome to address the problems remain largely the same.

Comparison of overall objectives to address the identified problem

2019 Bylaw review Objective to address problem	2025 Bylaw review Objective to address problem
To minimise harm from residual waste.	To minimise public nuisance, health and safety risks, and waste to landfill from the storage and disposal or discarding of waste and material on premises and in council controlled public places in Auckland.

Comparison of topic objectives to address the identified problem

Topic	Topic objective to address identified problem 2019 Bylaw review	Topic objective to address identified problem 2025 Bylaw review
1. Approaches to support waste minimisation and management 	To reduce harm from residual waste. Achieving this outcome would also address health and safety risks and issues of nuisance, obstruction, damage and visual amenity.[13]	To minimise public nuisance, health and safety risks and waste to landfill from improper storing, disposing and discarding of waste in Auckland.
2. Disposed or discarded materials in council controlled public places 	To prohibit illegal dumping of waste and reduce harm from residual waste. Achieving this outcome would also address health and safety risks and issues of nuisance, obstruction, damage, removal costs and visual amenity.[14]	To minimise public nuisance, health and safety risks and waste to landfill from improper disposing and discarding of waste and materials in council controlled public places.

[12] Note: The 2019 review process did not clearly define a single overarching objective and used different topics. To enable a comparison between 2019 and this review, the 2019 reports were assessed to define the objectives for this report.

[13] See Topics 1,5,11 of the Solid Waste Bylaw 2012 Review: 2019 Options Report to the Regulatory Committee 14 March 2019.

[14] See Topics 3,7,9,10,11 of the Solid Waste Bylaw 2012 Review: 2019 Options Report to the Regulatory Committee March 2019.

Topic	Topic objective to address identified problem 2019 Bylaw review	Topic objective to address identified problem 2025 Bylaw review
3. Approvals for Multi-unit developments 	To reduce harm from residual waste.[15]	To minimise public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in multi-unit developments.
4. Approvals for waste collectors and operators of waste management and resource recovery 	To reduce harm from residual waste. [16]	To minimise the risk of waste to landfill from challenges to effective waste planning activities and actions due to limited data, to minimise and manage waste and to minimise public nuisance, health and safety risks in council controlled public places from improper collection and transportation of waste.
5. Construction and demolition waste 	*New topic*	To minimise public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of construction and demolition waste and materials on premises.

Comparison of outcome sought to address the identified problem

2019 Bylaw Review Outcome sought to address problem	2025 Bylaw Review Outcome sought to address problem
To reduce harm from residual waste as stated in the Waste Plan. [17]	Aucklanders' are healthy and our natural environment is valued and cared for (example by Aucklanders reducing waste to landfill).[18]

[15] See Topic 6 of the Solid Waste Bylaw 2012 Review: 2019 Options Report to the Regulatory Committee 14 March 2019.
[16] See Topic 2 of the Solid Waste Bylaw 2012 Review: 2019 Options Report to the Regulatory Committee 14 March 2019.
[17] See page 4, Solid Waste Bylaw 2012 Review: 2019 Options Report to the Regulatory Committee 14 March 2019.
[18] Derived from Auckland Plan outcomes for Belonging and Participation and Environment and Waste Plan vision.

7. Have the Bylaw and Controls helped to achieve the objectives and outcome?

Key findings

- Yes. The Bylaw and Controls have helped to achieve desired objectives and outcomes.
- The Bylaw and Controls are used to manage the disposal, discarding, collection and transportation of waste to support waste minimisation and manage risks relating to public health, safety and nuisance.
- However, there are challenges to effectiveness:
  - gaps and inconsistencies in the Bylaw and Controls means council's ability to manage onsite waste problems are limited
  - some provisions of the Bylaw are not being relied on or duplicate existing legislative provisions
  - the definitions for waste collectors, waste management and resource recovery facilities could be improved to provide certainty
  - the framework for approvals under the Bylaw is ambiguous and lacks clarity
  - the Bylaw does not address the new problem of construction and demolition waste

The Table below summarises the analysis in Appendix 1 and illustrates how the Bylaw and Controls have helped achieve the objectives and outcome in section 6 of this report.

Topic	Bylaw and Controls effectiveness	Challenges to effectiveness
1. Approaches to support waste minimisation and management 	✓ Yes. The Bylaw: • sets standardised behavioural expectations for people in managing their waste appropriately to support waste reduction goals, public health and safety and to avoid public nuisance • provides the necessary framework of rules that council relies on to undertake a wide range of proactive and educational activities • is recognised by 55% of respondents to the stakeholder survey as an effective tool that supports or encourages people to 'do the right thing'[19].	• The 2023 Controls exclude onsite waste collection which results in gaps in council's ability to ensure waste is appropriately separated to support waste minimisation. • The Bylaw does not address onsite waste storage issues in relation to vermin or odour. • The provisions for how waste must be stored onsite only relate to waste that is intended for kerbside collection and have not been implemented. The wording of Clause 8 could be improved to provide more certainty.
2. Disposed or discarded materials in council controlled public places 	✓ Yes. The Bylaw • sets standardised behavioural expectations for people in managing their waste in public places to support public health and safety and to avoid public nuisance • provides the necessary framework of rules that council relies on to undertake a wide range of educational activities. • allows council to effectively and efficiently manage public health and	• There is no record of the accords referenced in the Bylaw being approved again since they either automatically expired or were reviewed, and they are not relied on for enforcement purposes. • The provision that allows council to be reimbursed for costs incurred in retrieving shopping trolleys duplicates a legislative provision.

[19] Unsolicited general comment made by five of nine respondents.

Topic	Bylaw and Controls effectiveness	Challenges to effectiveness
	safety issues and nuisances in public places as well as supporting waste minimisation goals through the approval provisions for donation collection bins and WMMPs for events.	• The provisions requiring records on shopping trolleys to be kept and how people must use donation bins are not used.
3. Approvals for Multi-unit developments 	✓ Yes, with limitations. • The regulatory approach of the Bylaw to require a waste plan for MUDs has been used to inform the way resource consents are processed.	• The Bylaw itself has not been used for existing or planned MUDs.
4. Approvals for waste collectors and operators of waste management and resource recovery 	✓ Yes. The Bylaw: • provides the necessary regulatory tool to require approval holders to provide data to support waste research, analysis, reporting and planning functions that support council's vision of zero waste to landfill by 2040. • sets standardised behavioural expectations for waste collectors to undertake their business activities in a manner that supports waste reduction goals, public health and safety and to avoid public nuisance • Provides council with a range of options, for example informing approval holders of complaints received requesting action to address non-compliance without requiring formal enforcement (prosecution) action.	• The definitions for waste collectors, waste management facilities and resource recovery facilities lack clarity, potentially do not capture all data requirements, or capture operators whose data is not necessary. • The details provided in the approval framework in clauses 21, 22 and 24 relating to information requirements, matters to be considered and possible conditions of approval are vague and lack clarity.
Construction and demolition waste 	✗ No. The Bylaw: • does not include any provisions that specifically regulate construction and demolition waste.	• Council is currently reliant on voluntary actions of the C&D industry to support waste reduction goals and staff consider this insufficient to achieve council's vision of Zero Waste.

8. Is a bylaw still the best way to address the problem (no better alternatives)?

Key findings

- Yes. In general, there are no feasible alternatives to a bylaw to address the problems, aside from the Litter Act 1979 for illegal dumping.
- Alternatives are less effective than a bylaw as they lack clear powers to address all matters currently addressed by the Bylaw (and Controls) or in practice - limited to effects rather than direct regulation of behaviour or for some issues may not be a justified response to the level of harm.
- However, more research is required to confirm whether a bylaw to require site waste management plans is the most appropriate way to help address problems associated with construction and demolition waste. This includes whether a bylaw would be helpful, reasonable, proportionate and able to be successfully implemented. This research is unable to be completed as part of this review. A separate work programme is being developed to complete this research and council can initiate an amendment to the new bylaw in response at any time if it wishes.

The assessment of feasible alternatives to address the identified problems is limited to an assessment of other regulatory options as informed by the Waste Plan and its associated Action Plan. This is because:

- the process to develop the Waste Plan included similar considerations about alternatives, such as where education, advocacy for policy change by central government or working pro-actively with specific industry sectors may be better
- the actions in section 14 of the Waste Plan identifies five actions that relate to the Bylaw[20].

The Table illustrates that in general, there are no feasible regulatory alternatives to a waste specific bylaw.

However, more research is required to confirm whether a bylaw to require site waste management plans is the most appropriate way to help address problems associated with construction and demolition waste.

- This includes for example, consideration of resourcing implications, impacts on industry and effectiveness of existing voluntary certification programmes.
- Waste Solutions staff are developing a separate work programme to support this further research.
- Due to the review timeframes, this further research is not able to be included in any options report.
- If at a later date the research identifies a bylaw would be helpful, reasonable and proportionate and able to be successfully implemented, council can if it wishes initiate an amendment to the bylaw.

Alternative regulation	Powers and penalties	Effectiveness compared to a bylaw
Public Safety and Nuisance Bylaw 2013 (cl 6 and 13(1)(b))	• Prohibits use of a public place (including use of an object or item, or erecting, placing or leaving an object, material or structure) in a way that obstructs, disturbs, interferes with, alarms, distresses, intimidates, or causes a nuisance, damage, or safety risk. • Same bylaw enforcement powers and penalties apply as the waste **Bylaw**.	× Less effective. • Effectively a transfer of rules to a more general Local Government Act 2002 bylaw. • Contrary to the current practice of topic-specific bylaws. • Only applies to matters not addressed in other topic-specific bylaws (cl 3(2)).

[20] Section 14. Te mahere mahi/Action Plan: 3.7 Support mandatory site waste plans (pg. 78); 8.6 Services of Multi-Unit Developments (pg. 85); A8 Waste and resource recovery industry: waste minimisation-strengthening data collation (pg. 96); A9 Events requiring an Event Permit (pg. 96); B2 Update the Waste Management and Minimisation Bylaw (pg. 97).

Alternative regulation	Powers and penalties	Effectiveness compared to a bylaw
Property Maintenance and Nuisance Bylaw 2015	• Prohibits the owner and occupier of private property from storing any material in a manner that may harbour pests or cause a nuisance.	× Less effective. • Effectively a transfer of rules to a more general Local Government Act 2002 bylaw. • Contrary to the current practice of topic-specific bylaws. × Limitations on how the provision could be applied due to the definition of nuisance being based on the Health Act 1956 and the related case law definitions of what can be deemed 'offensive'. ✓ May be a more appropriate bylaw for provisions that do not directly relate to waste, such as unaddressed mail being delivered into letterboxes in disregard of signs on the letterbox.
Local Government Act 2002 (s175, 232)	• Addresses wilful, malicious, or negligent damage, obstruction, or interference with council property. • Cost recovery for damage by wilful or negligent behaviour. • Maximum three years imprisonment or $20,000 court fine.	× Less effective. • Limited mostly to effects, rather than direct regulation of behaviour which sets clearer expectations (e.g. damage or obstruction rather than the behaviour that resulted in the damage or obstruction).
Summary Offences Act 1980 (s11, 12, 13)	• Addresses wilful (intentional or reckless) damage to any property. • Addresses placement or making of any obstruction, in a public place. • Addresses the use or leaving of any 'thing' in a public place that is likely to cause injury. • Maximum three-month imprisonment or $2,000 court fine.	
Litter Act 1979 (s7(2), 14, 15, 20)	• Addresses litter in a public place. • Minimum $100 to maximum $400 infringement fine. • Maximum $5,000 (individual) or $20,000 (body corporate) court fine. • For dangerous litter, maximum $7,500 court fine or 1 month imprisonment (individual), or $30,000 court fine (body corporate). • Cost recovery for litter removal.	✓ More effective than bylaw and Controls for illegal dumping. • Provides infringement fines ('instant' fines, subject to evidence).

9. Do the Bylaw and Controls comply with legislation?

Key findings

- Yes. In general, the Bylaw and Controls
  - are authorised under the Local Government Act 2002 and Waste Minimisation Act 2008,
  - do not conflict with any other New Zealand legislation (are not repugnant) and are reasonable
  - does not give rise to any implications under and is not inconsistent with the Bill of Rights Act.

9.1. The Bylaw and Controls are authorised by statute

The Table below illustrates how the Bylaw and Controls are authorised under the Local Government Act 2002 and Waste Minimisation Act 2008.

Topic	Authorising legislation to make a bylaw	
All	LGA2002, s145 and 146(1)(a)(ii),(iv)	• To protect, promote and maintain public health and safety. • To protect the public from nuisance. • To regulate waste and solid waste.
	WMA, s56	• To prohibit or regulate the deposit of waste.
1. Approaches to support waste minimisation and management 	WMA, s56(1)(c) Refer also to 'All'	• To regulate the manner of disposal of dead animals, including their short-term storage pending disposal. • Refer also to 'All'
2. Disposed or discarded materials in council controlled public places 	WMA, s56((1)(b) &(f) Refer also to 'All'	• To prohibit the removal of waste intended for recycling from receptables unless authorised by the territorial authority to remove the waste. • To regulate the collection and transportation of waste. • Refer also to 'All'
3. Approvals for Multi-unit developments 	Refer 'All'	• Refer 'All'
4. Approvals for waste collectors and operators of waste management and resource recovery 	WMA, s56(1)(b) Refer also to 'All'	• To regulate the collection and transportation of waste. • Refer also to 'All'
5. Construction and demolition waste 	WMA, s56(1)(a) Refer also to 'All'	• To regulate the deposit of waste. • Refer also to 'All'

9.2. The Bylaw and Controls do not conflict with other New Zealand legislation

The Table below illustrates how the Bylaw and Controls do not conflict with any other New Zealand legislation (are not repugnant) and are reasonable.

Legislative requirement	Description
Are not repugnant	✓ Council has a legislative mandate to make a bylaw about waste management and a regulatory mandate to make controls pursuant to the Bylaw. ✓ The Bylaw and Controls are not inconsistent with their empowering legislation (Local Government Act 2002 and Waste Management Act 2008), nor with any other legislation that addresses waste related issues such as the Litter Act 1979.
Are reasonable	✓ The Bylaw and Controls are largely a regulatory response to the Waste Plan which is required by legislation, and which is approved after public consultation. ✓ In general, the Bylaw and Controls are reasonable limitations on people's rights and freedoms to how they dispose or discard of waste to minimise public nuisance, health and safety risks, and to support the minimisation and management of waste. ✗ However: o more research is required to confirm whether a bylaw is the most appropriate way to further regulate construction and demolition waste (See Section 8 of this report) o the Bylaw and Controls could be improved to reduce the risk of unreasonableness (See Section 10 of this report).

9.3. The Bylaw and Controls have justified implications for rights and freedoms

The Table below illustrates how the Bylaw does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990.[21]

Implication	Examples of limitation	Justification to avoid implications or inconsistency
Freedom of expression (s14)	• Rules could limit expression in relation to the restrictions on the identified types of unaddressed mail.	• Rules help to achieve Bylaw and Controls objectives and outcomes. • Rules are limited to the extent necessary to achieve Bylaw and Controls objectives and outcomes (e.g. addressing waste related issues of public nuisance). • Rules are a proportionate and reasonable measure to achieve, and are proportionate to the significance of Bylaw and Controls objectives and outcomes (e.g. any limitations to freedom of movement may relate to a specific area and limited time-period).
Freedom of movement (s18)	• Rules may temporarily restrict access to sections of the footpath (i.e. when approved containers are placed on the kerbside)	

[21] Under the Local Government Act 2002, section 155(2)(b), a bylaw must not be inconsistent with the New Zealand Bill of Rights Act 1990. Any limitations to rights and freedoms under the Act must be "demonstrably justifiable in a free and democratic society".

10.Are the Bylaw and Controls 'fit for purpose'?

Key findings

- In general, the Bylaw and Controls are 'fit for purpose'.
- However, the Bylaw and Controls could be improved to:
  - address onsite waste storage and collection issues
  - remove provisions that are not being used, or duplicate existing legislative provisions
  - ensure definitions capture the required matters
  - remove ambiguities in the approval framework
- As stated in section 8, more research is required to confirm whether a bylaw is the most appropriate way to address problems related to construction and demolition waste.

The Tables below summarise suggested improvements to the Bylaw and Controls in Appendix 1 for consideration in any options report.

Topic	Suggested Bylaw and Control improvements considerations
1. Approaches to support waste minimisation and management 	• New provisions to require people to secure stored waste so that it cannot be spread by wind or rain and to avoid problems with flies and vermin. • Improvements to the 2023 Control to include waste that is collected onsite to support waste minimisation and management. • Improve Clause 8 about composting options to provide better clarity and certainty. • Review the 2023 Controls for form issues to improve clarity
2. Disposed or discarded materials in council controlled public places 	• Remove the accord-related provisions from the clauses on shopping trolleys and unaddressed mail as these are not used. • Remove 2 subclauses of the shopping trolley related provision. One duplicates an existing legislative provision, and the other is not used. • Consider whether certain elements of the shopping trolley related and unaddressed mail provisions may be better addressed under various statutes and/or the Public Safety and Nuisance Bylaw • Remove the provisions about improper use of letterboxes as these can be addressed under the Litter Act 1979. • Remove the provisions on how people must use donation collection bins, as the problems can be addressed through other mechanisms. • Remove the requirement for donation collection bin approvals on private property within 10 metres of council-controlled public places as this is not relied on.
3. Approvals for Multi-unit developments 	• Remove the provisions as the problem is being appropriately addressed through the Auckland Unitary Plan.
4. Approvals for waste collectors and operators of waste management and resource recovery 	• Review and update the definitions for waste collectors and waste management and resource recovery facilities to clarify which types of business require approvals. • Improvements to the framework for approvals in the Bylaw for clarity and reasonableness.
5. Construction and demolition waste 	• Further research is required to confirm whether a bylaw is the most appropriate way to further regulate construction and demolition waste. No improvement considerations for this Topic are able to be identified at this time for any options report.

11. Next steps

The recommended next steps are for the Regulatory and Safety Committee to:

- endorse the findings in this report
- determine that a bylaw about waste management and minimisation is the best way to address public nuisance, health and safety risks, and minimise waste to landfill from the storage and disposal or discarding of waste and material on premises and in council controlled public places in Auckland
- request a report on statutory options in response to the findings, including to address the suggested improvements identified in this report (See Section 10 and Appendix 1), which is to consider:
    - new provisions to require people to secure stored waste so that it cannot be spread by wind or rain and to avoid problems with flies and vermin
    - improvements to the 2023 Control to include waste that is collected onsite
    - improvements to Clause 8 about composting options to provide better clarity and certainty
    - reviewing the 2023 Controls for form issues to improve clarity
    - removing the accord related provisions from the shopping trolleys and unaddressed mail clauses as these are not used
    - removing 2 subclauses of the shopping trolley related provision - one duplicates an existing legislative provision (reimbursement of costs) and the other is not relied on (requirement to maintain and provide records)
    - considering whether certain elements of the shopping trolley related and unaddressed mail provisions may be better addressed under various statutes and/or the Public Safety and Nuisance Bylaw
    - removing the provisions about improper use of letterboxes, as these can be addressed under the Litter Act 1979
    - removing the provisions on how people must use donation collection bins, as the problems can be addressed through other mechanisms
    - remove the requirement for donation collection bin approvals on private property within 10 metres of council-controlled public places as this is not relied on
    - removing the provisions on multi-unit developments as the problem is being appropriately addressed through the Auckland Unitary Plan
    - updates to the definitions for waste collectors and waste management and resource recovery facilities to clarify which types of business require approvals (for example clarifying what is meant by a resource recovery facility).
    - improvements to the framework for approvals in the Bylaw for clarity and reasonableness (for example, the range of conditions that can be applied to a granted approval)
- note that further research is required to confirm whether a bylaw is the most appropriate way to further regulate construction and demolition waste, separate to this review.

Appendix 1 – Topic Assessments

Topic 1: Approaches to support waste minimisation and management

1.1 Explanation of Topic

This topic is about how people can dispose or discard of their waste and how it must be stored on premises.

This topic helps implement Action B2 on page 97 of the **Waste Plan.**

1.2 Current Bylaw & Controls

The Auckland Council (**AC**) Te Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para | Waste Management and Minimisation Bylaw 2019 (**Bylaw**) contains five provisions on how people can dispose of or discard materials, as well as providing for **AC** to make controls on the management of material to be disposed or discarded.

The **AC** Waste Management and Minimisation (Collections) Control 2023 (**2023 Control**) prescribes types of approved containers and the types and amounts of disposed or discarded material that may be deposited in an approved container and identifies types of prohibited waste both for private as well as council collection.

The Containers for Kerbside Collection Control 2013 (**2013 Control**) was amended in December 2023 to revoke the rules in the 2013 Control that apply to people using a kerbside collection service as these were incorporated into the 2023 Control.

Notes:

- See Topic 2 (Disposed or discarded materials in council controlled public places) for the AC approach on how and when approved containers can be placed in public places.
- The rules in the 2013 Control that apply to waste collectors continue to apply and these are discussed in Topic 4.

Summary of Bylaw about supporting waste minimisation and management

How people can dispose or discard of their waste (cl.6)

- waste can be collected from the premises by a waste collector
- waste can be placed in a public place for collection by a waste collector
- waste can be taken to a facility that accepts that kind of waste
- allows for onsite composting and burial of pets in certain circumstances.

Where the waste can be generated and who can deal with it (cl.7)

- the waste has to be generated on the premises or accepted by the owner/occupier of the premises
- states who can remove, alter or interfere with materials in approved containers
- states who can remove approved containers from premises.

Pets and composting (cl.8)

- allows for the burial of pets or nuisance pests and composting on the premises in certain circumstances.

Adequate storage (cl.14)

- Requires adequate areas on premises for the storage and collection of waste.

Controls (cl.19 of Bylaw)

- **Council** can make controls to prescribe:
  - types of waste (including prohibited waste)
  - how waste must be stored on premises
  - types of approved containers and how they can be used and maintained
  - what materials and how much can be placed in an approved container.

2023 Control

- covers matters relating to waste that is collected on the kerbside and includes private and council operated collections
- includes provisions about (a), (c) and (d) above
- does not include provisions about (b) above.

Topic 1: Approaches to support waste minimisation and management

Both the **LGA** and the **WMA** provide powers and penalties to enforce the **Bylaw** and **Control** (see Section 2 of this report for details). The available penalty under both statutes is a fine on conviction not exceeding $20,000.

1.3 Bylaw and Controls Implementation

The **Bylaw** and **Controls** are administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division (see Section 4 of this report for details).

Council's website provides information on how people can manage their waste

Information to assist in understanding how to comply with the **Bylaw** and **2023 Control** is provided on a range of webpages by Waste Solutions:

- what people can put in their general waste bin: what you can put in your rubbish
- what people can put in their recycling bin: what you can put in your recycling
- acceptable ways to dispose or discard of materials: how to get rid of unwanted items
- waste minimisation approaches: ways to reduce your waste
- what is hazardous waste and how to dispose of it: hazardous waste
- how to get a bin repaired, replaced or request a new one: bin information
- what can be dropped off at community recycling centres: community recycling centres
- links to **council's** Waste Nothing Website about council's journey to zero waste

Waste Solutions undertakes a range of educational activities through social media

- **Council's** YouTube channel includes educational videos on recycling contamination and promoting Council's community recycling centres
- The Auckland Council Facebook page includes regular posts on waste management related issues to inform and educate viewers
- The Binny App is a waste reduction chatbot provided by **council**. Binny's mission is to help the people of Auckland correctly sort their unwanted items into the correct waste and recycling bins.

Council uses education combined with practical solutions to encourage compliance

- Contractors proactively complete daily inspections of over 2000 approved containers for incorrectly disposed materials and use a staged approach to support compliance:

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

- Waste collectors also monitor approved containers for contamination and may take the following actions:
  - reject the contents of any approved container
  - remove the contents of the container subject to payment of the costs of removal
  - withdraw or suspend the collection service
- Compliance with waste management and storage issues is enforced by the Customer and Operations Unit of Waste Solutions.
- Complaints data is limited as complaints are recorded as 'bin misuse', which covers a range of topics and is not specific to waste management and storage issues. In general, 1940 bin misuse complaints were recorded between 2021 and 2024.

Topic 1: Approaches to support waste minimisation and management

- Customer and Operations respond to complaints from the public. Due to the above data limitations and internal data collection mechanisms, information on work volumes for responding to waste management and storage issues is limited.
- Depending on the frequency and scale of the issue in relation to complaints received, council may do a letter drop in the neighbourhood to remind residents of the rules.
- **Bylaw** enforcement powers (prosecution) have not been used for matters in this topic.

1.4 Is there still a problem and is the problem the same

✓ Yes. The problems identified in the 2019 review remain present, however the problem definition could be improved to be more topic specific.

Problem	
2019 review	**2025 review**
Health and safety, nuisance, obstruction, damage and visual amenity risks and harm from residual waste.	Public nuisance and health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in Auckland.

Examples of problems include:

- truck fires from lithium-ion batteries
- approved container contamination issues
- people depositing their waste in other people's approved containers
- onsite waste storage problems, including odour and vermin issues, as well as wind and rain blown waste dispersing onto other sites.

Problems range in frequency and impact

- Problems with contamination of recyclable materials are high frequency and high impact as identified in the **Waste Plan**. In 2023 the percentage of recycling bin contamination was 20% against the target of a maximum of 12% contamination.[22] The scale of this problem is highlighted by the daily proactive approved container inspections undertaken by Waste Solutions and the range of educational activities deployed via the website and social media.
- A high-level analysis indicates that a significant portion of bin misuse complaints received are about people putting waste into other people's approved containers causing both contamination as well as nuisance issues. These problems appear to be of medium frequency but can have a high impact on the individual affected where it is a repeat occurrence. These issues are challenging to enforce as substantial evidence is required to consider a prosecution. Often the complainant does not know who deposited the waste. Further witness evidence alone, without photographic support, is considered insufficient to take enforcement actions.
- An emerging problem identified by Waste Solutions staff is waste not being sufficiently secured or stored onsite, particularly polystyrene waste on construction sites. This can cause problems if the waste is dispersed from the site through wind or rain. Specific data on the impact and frequencies of these problems is not available.
- Ngāti Whātua Orakei suggests various minor changes to improve the form of the **Bylaw,** including that it does not inadvertently limit tikanga.

[22] See **Waste Plan** – Key priorities, page 28. Delivering direct action: *Work to reduce contamination in household food scraps and recycling bins*

Topic 1: Approaches to support waste minimisation and management

1.5 Are council's desired objectives or outcomes the same?

✓ Yes. The current objectives and outcomes remain largely the same to those identified for the 2019 review, however both could be improved to be more topic specific and better reflect alignment with the Auckland and Māori Plan outcomes in Appendix 2.

	2019 review	2025 review
Objective	To reduce harm from residual waste. Achieving this outcome would also address health and safety risks and issues of nuisance, obstruction, damage and visual amenity.[23]	To minimise public nuisance, health and safety risks and waste to landfill from improper storing, disposing and discarding of waste in Auckland.
Outcome	To reduce harm from residual waste as stated in the Waste Plan.	Aucklanders' are healthy and happy and Auckland's natural environment is valued and cared for.

1.6 Have the Bylaw and Controls helped achieve the desired objectives and outcomes?

✓ Yes. The **Bylaw** has helped address the problem and achieve the objective and outcome. The **Bylaw**:

- sets standardised behavioural expectations for people in managing their waste appropriately to support waste reduction goals, support public health and safety and avoid nuisances.
- provides the necessary framework of rules that council relies on to undertake a wide range of proactive and educational activities.
- is recognised by 55% of respondents to the stakeholder survey as an effective tool that supports or encourages people to 'do the right thing'[24].

✗ However, there are challenges to effectiveness.

- While Clause 19 of the **Bylaw** provides for a control to be made to prescribe the way disposed of or discarded material must be stored on premises, this currently excludes waste that is not intended for kerbside collection. Note: The **2023 Control** does not include a provision about onsite storage of waste for kerbside collection.
- This limits **council's** ability to control appropriate onsite waste storage. This also means that in the instances where a **council** collection occurs on private premises (for example a multi-unit development) there is no ability to require waste to be separated as it is for kerbside collections.
- The **Bylaw** also does not address onsite waste storage issues in relation to odour or vermin concerns. Waste Solutions often refer complaints to the Bylaw Compliance team to consider a response under the Property Maintenance and Nuisance Bylaw. However, the ability to act under that bylaw is restricted to the definition of 'nuisance' contained within the Bylaw.
- Staff consider the wording of clause 8 could be improved to provide more clarity on people's options for composting and this was also supported by the feedback received from Ngāti Whātua Ōrakei.
- Staff consider the form of the **2023 Control** could be improved to provide better clarity and certainty.
- Stakeholder comments include that the Bylaw allows too much flexibility to achieve waste reduction goals and that the key problem is lack of enforcement.

See 'fit for purpose' for possible improvements.

[23] See topics 1,5,11 of the Solid Waste Bylaw 2012 Review: 2019 Options Report as attached to the report to the Regulatory Committee 14 March 2019

[24] Unsolicited general comment made by five of nine respondents.

Topic 1: Approaches to support waste minimisation and management
1.7 Is a bylaw still the best way to address the problem (no better alternatives)?
✓ Yes. There are no feasible alternatives. • The **WMA** and **LGA** both provide bylaw mechanisms that **council** can utilise to manage waste in a manner that supports the waste minimisation requirements of the WMA for territorial authorities as well as meeting the purpose of the LGA. • Powers and penalties under other regulation remain available but are not considered appropriate (e.g. are less clear) (See Section 8 of this report for details). Note: The Litter Act 1979 remains an appropriate tool to address illegal dumping related issues.
1.8 Are the Bylaw and Controls 'fit for purpose' (no change required)?
✓ Yes, In general the **Bylaw** and **2023 Control** are 'fit for purpose'. • Waste Solutions considers the **Bylaw** provides the necessary framework to support the actions and activities of the Department, including a range of actions to support voluntary compliance. • The rules for managing waste support the goals and targets of the **Waste Plan** towards **council's** vision of Zero Waste by 2040. ✗ However, the **Bylaw** and **2023 Control** could be improved. • New provisions could be included in the **Bylaw** to require people to secure any waste stored on premises to be secured appropriately to prevent it's spread. This would require additional consequential amendments to clause 6, 7 and19 to remove the related provisions that allow for a control to regulate the onsite storage of waste intended for kerbside collection. • New provisions could be included in the **Bylaw** to require people to store waste on premises in a way that protects it from ingress or egress of flies, vermin and animals. These provisions would incur the same changes as described in the previous point. • The **2023 Control** could be amended to cover waste that is collected onsite. This would require changes to a range of clauses to remove the reference 'from public places' and associated additional wording changes. • Clause 8 could be amended to provide more certainty and clarity. • The **2023 Controls** could be reviewed for form issues to improve clarity.
1.9 Do the Bylaw and Controls comply with legislation?
✓ Yes. A bylaw and controls about how people can dispose or discard of their waste and how it must be stored on premises, are provided for in the WMA (s56) and LGA2002 (s145, 146(1)(a)(ii)(iv)), do not directly or indirectly conflict with any other New Zealand statutes and are not inconsistent with the New Zealand Bill of Rights Act 1990 (See Section 9 of this report for details). ✗ However, the **Bylaw** and **2023 Control** could be improved (see 'fit for purpose').
1.10 Section 155 Local Government Act recommendations
✓ A bylaw in general, is the most appropriate way to address public nuisance, health and safety risks and waste minimisation and management from improper storing, disposing and discarding of waste. ✓ The **Bylaw** in general, does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. ✗ However, the **Bylaw** and **Control** could be improved by including additional provisions to ensure onsite waste storage and management problems are able to be more effectively and efficiently addressed and form improvements to support clarity.

Topic 2: Disposed or discarded materials in council controlled public places

1.1 Explanation of Topic

This topic is about the management of waste in council controlled public places.

The inclusion of this topic reflects Action B2 on page 97 of the **Waste Plan**

1.2 Current Bylaw

The Auckland Council (**AC**) Te Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para | Waste Management and Minimisation Bylaw 2019 (**Bylaw**):

- contains six direct provisions about the disposal and discarding of waste and materials in council controlled public places
- requires approvals for donation collection bins and for event waste management and minimisation plans (WMMP) on council-controlled public places
- enables the Waste Management and Minimisation (Collections) Control 2023 (**2023 Control**) to prescribe what times approved containers can be placed and how they have to be placed to avoid nuisance and public health and safety concerns
- enables the Containers for Kerbside Collection Control 2013 (**2013 Control**) which was amended in December 2023 to retain rules that apply to waste collectors (See Topic 4).

Summary of Bylaw about management of waste in council controlled public places

How waste can be discarded or disposed of in public places (cl.6):

- Waste or materials can be disposed of or discarded:
  - to a waste collector from a public place (cl.6(1)(a))
  - in a donation collection bin (cl.6(1)(e))
  - in a public waste bin (cl.6(1)(f)).

Waste may be disposed to a waste collector in a public place (cl.7):

- if the waste is placed in accordance with a control made under clause 19 (cl.7. (1)(a)).

Donation collection bins (cl.9):

- material must be as specified on the bin (cl.9. (1),(2)(c))
- cannot be disposed if the bin is overflowing (cl.9(2)(a))
- must be deposited in a way that it cannot escape (cl.9(2)(b)).

Public waste bins (cl.10):

- waste must not be from private premises and/or include prohibited waste (cl.10(2)(a)(b)(f))
- material must be as specified on the bin (cl.10(2)(e)).
- cannot be disposed if the bin is overflowing (cl. 10(2)(c))
- must be deposited in a way that it cannot escape (cl.10(2)(d)).

Shopping trolleys (cl.17):

- contains provisions relating to the responsibilities of shopping trolley owners to minimise the potential for shopping trolleys to become waste (cl.17(2))
- contains exclusions for the above provisions for shopping trolley owners if they are party to an accord or operate less than 10 trolleys (cl.17(1)

Controls (cl.19 of Bylaw)

- **Council** can make controls to prescribe:
  - the way an approved container must be placed on or retrieved from a public place, including times.

2023 Control

- Covers matters relating to Kerbside collections of approved containers
- Includes provisions about (f) above:
  - times approved containers may be place on a public place for collection
  - locations approved containers may be placed on a public place for collection
  - how large bins with a capacity of 660 litres or more must be secured or approved if to be collected from a public place.

Approvals for donation collection bin operators:

- donation collection bin operators must obtain an approval to operate on or within 10 metres of a council-controlled public place
- operators must ensure compliance with the approval and any conditions of the approval.

Approvals for events (including trading and filming):

- where a person must obtain an approval for trading, filming and events on council-controlled public places under any other bylaw they must also obtain an approval for a WMMP
- approval holders must ensure compliance with the approval and any conditions of the approval.

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o customers must not remove a shopping trolley from the premises to which it belongs (cl.17(3)). o provides for Council to charge shopping trolley owners for costs incurred in retrieving and disposing of abandoned shopping trolleys o requires shopping trolley owners to report trolleys retrieved to Council annually **Unaddressed mail to become waste (cl.18):** o contains provisions relating to the responsibilities of businesses that place unaddressed mail in letterboxes or on vehicles to ensure unaddressed mail is delivered only to letterboxes that do not exclude the relevant category of unaddressed mail (cl.18(1)(3)) o contains exclusions for the above provisions for businesses if they are party to an accord (cl.18(2)) o prohibits unaddressed mail from being placed on parked cars (cl.18(4)(a)) o prohibits unaddressed mail from being placed in a way that incurs the potential for the mail to become waste cl.18(4)(b)-(f)).	

Both the **LGA** and the **WMA** provide powers and penalties to enforce the **Bylaw** and **Control** (see Section 2 of this report for details). The available penalty under both statutes is a fine on conviction not exceeding $20,000.

1.3 Bylaw Implementation

The majority of the Bylaw and Control provisions are administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division (see Section 4 of this report for details). Public litter bins and any associated problems are administered by Parks and Community Facilities.

Council's website provides information on kerbside collections

Information to assist in understanding how to comply with the **Bylaw** and **Controls** is provided on a range of webpages by Waste Solutions, including:

- collection days: find your rubbish, recycling and food scraps collection day
- information on public holidays and waste collections: public holiday collections
- how to report a missed collection: reporting missing collections
- council's wastenothing.co.nz site that contains more information on collection services and responsibilities in a downloadable document: your guide to Auckland's waste.

Council's website provides information on approvals for donation collection bins and events

- Information on how to apply for an approval for an event: manage waste at your event.
- Information on approvals for donation collection bin operators: application details.

Council uses an educational approach to encourage compliance

- Compliance with waste management and storage issues is enforced by the Customer and Operations Unit of Waste Solutions.
- Complaints data is limited as complaints are recorded as 'bin misuse', which covers a range of topics and is not specific to waste management and storage issues. In general, 1940 bin misuse complaints were recorded between 2021 and 2024.

Topic 2: Disposed or discarded materials in council controlled public places
• Customer and Operations respond to complaints from the public. Due to the above data limitations and internal data collection mechanisms, information on work volumes for responding to problems with waste in public places is limited. Depending on the frequency and scale of the issue in relation to complaints received, council may do a letter drop in the neighbourhood to remind residents of the rules. • Public rubbish bins are managed by contractors to Parks and Community Facilities. • The 'Code of Practice for the Management of Shopping Trolleys' approved by council on 17 June 2014 automatically expired on 1 November 2020. For complaints about abandoned shopping trolleys, staff liaise directly with the identified owner of any shopping trolley with the goal of achieving a voluntary satisfactory outcome. Retail NZ has no record of the accord having been updated or any significant interest from its members to review the accord to re-introduce it into the Bylaw. Council has not relied on the provisions of the Bylaw to on-charge costs incurred by council to retrieve abandoned trolleys (usually in waterways) to the shopping trolley owner. • Council does not request or collate annual data on how many shopping trolleys have been retrieved by the owner. The 'National Code of Practice for the Distribution of Unaddressed Mail' was last reviewed and updated in June 2022. There is no record of this being approved in accordance with the associated requirement in the Bylaw (cl.18(2)). There is only one major unaddressed mail distributor in New Zealand (Reach Media). Stakeholder engagement with the New Zealand Marketing Association and Reach Media has confirmed that the reliance on the accord in the Bylaw is unnecessary as staff liaise directly with all distributors regarding any complaints received. For problems with unaddressed mail incurring waste/litter (where mailboxes are already full, or problems with bulk dumping of flyers) council can rely on the provisions of the Litter Act. • The provisions of the Bylaw for the use of donation collection bins are not relied on as items left in the vicinity of bins can be addressed under the Litter Act and bin operators manage any incorrect materials placed inside bins themselves. • Waste Solutions staff receive, process and administer applications for approvals for donation collection bin operators and events. There are three current approvals for donation collection bins in council-controlled public places in Auckland, all managed by the same operator. Approvals for certain sites have been withdrawn over time as problems have occurred. Complaints about donation collection bin issues are generally referred to the operator to resolve in the first instance. There are no approvals in place for donation collection bins that are on private property within 10 metres of a council-controlled public place. • For events, staff undertake regular onsite monitoring activities to ensure compliance with any conditions of the approval and take appropriate action to remedy matters during, rather than after the event, where possible. The approvals process allows council to design out waste where possible through requiring the use of reusable items at events. • Bylaw enforcement powers (prosecution) have not been used for matters in this topic.

Topic 2: Disposed or discarded materials in council controlled public places

1.4 Is there still a problem and is the problem the same

✓ Yes. The problems identified in the 2019 review remain present, however the problem definition could be improved to be more topic specific.

Problem	
2019 review	2025 review
Risks of illegal dumping, harm from residual waste, and health and safety, nuisance, obstruction, damage, removal costs and visual amenity risks.	Public nuisance, health and safety risks and waste to landfill in council controlled public places from the disposing or discarding of waste and material in Auckland.

Examples of problems that can cause obstruction, nuisance and safety concerns include:

- people not retrieving their approved containers in a timely fashion
- people storing their containers in public places at all times
- people placing their approved containers in a way that impedes footpath users.

Other problems include incorrect materials being deposited in public rubbish bins (e.g. plastic bottles being placed in general waste bins which impacts on waste to landfill) and general waste being deposited in donation collection bins causing contamination of recyclable items.

Problems range from medium frequency and impact to low frequency and impact

- Feedback from Waste Solutions staff which is supported by a high-level review of the 'misuse of bin' complaints, indicate that the timely retrieval of approved containers from the footpath receives the highest number of complaints from the community.

  Complaints often appear to refer to longer term retrieval issues, with timelines ranging from 5 days to months. In some cases, the approved container is reported to be being located permanently on the footpath or berm.

  Complaints raise concerns about nuisance and public health and safety.
- Feedback from enforcement staff indicates that in some cases, approved containers are stored permanently on a public place due to the occupier not wishing to store the containers on their property.
- Data on complaints about public rubbish bins are not available. Waste Solutions staff estimate approximately 10 complaints a year are received relating to public rubbish bins.
- Complaint numbers relating to unaddressed mail are so low that these are no longer logged in the system. Waste Solutions staff estimate approximately 2 complaints a year and consider this is due to a change in advertising practices.

  Complaints generally do not focus on waste related unaddressed mail issues but are rather from complainants who are displeased that a type of unaddressed mail has been delivered to their letterbox. These types of complaints can take a significant amount of resource to investigate.
- Complaints about abandoned shopping trolleys have risen from 396 in 2022 to 876 in 2024. There is no data available on how many shopping trolleys have been retrieved by the relevant retailer as a result of a complaint received by council.
- Problems with incorrect materials being donated or overflowing donation collection bins at these sites are reported as infrequent by Waste Solutions staff. Most issues relate to materials being dumped outside charity shops on private property.
- Staff report that the reliance on the requirement for approvals for donation collection bins on private property within 10 metres of a council-control public place is not necessary, as any problems are incurred within the immediate vicinity of the bin and no approvals are in place for bins in these types of locations.

Topic 2: Disposed or discarded materials in council controlled public places

1.5 Are council's desired objectives or outcomes the same?

✓ Yes. The current objectives and outcomes remain largely the same to those identified for the 2019 review, however both could be improved to be more topic specific and better reflect the identified alignments with the Auckland and Māori Plan Outcomes as outlined in Appendix 2.

	2019 review	2025 review
Objective	To prohibit illegal dumping of waste and reduce harm from residual waste. Achieving this outcome would also address health and safety risks and issues of nuisance, obstruction, damage, removal costs and visual amenity.[25]	To minimise public nuisance, health and safety risks and waste to landfill from improper disposing and discarding of waste and materials in council controlled public places.
Outcome	To reduce harm from residual waste as stated in the Waste Plan.	Aucklanders' are healthy and happy and Auckland's natural environment is valued and cared for.

1.6 Have the Bylaw and Controls helped achieve the desired objectives and outcomes?

✓ Yes. The **Bylaw** has helped address the problem and achieve the objective and outcome. The **Bylaw**:

- sets standardised behavioural expectations for people in managing their waste in public places to support public health and safety and avoid nuisances
- provides the necessary framework of rules that council relies on to undertake a wide range of educational activities
- allows **council** to effectively and efficiently manage public health and safety issues and nuisances in public places as well as supporting waste minimisation goals through the approval provisions for donation collection bins and WMMPs for events
  Approvals for WMMPs for events have risen from 187 in 2020 to 515 in 2025. Staff report a high level of compliance with the conditions of an issued approval, and this is further enhanced through the onsite monitoring undertaken
- allows **council** to actively manage or withdraw approvals for problematic donation collection bin sites. This ensures **council** can manage public health and safety issues and nuisances in relation to donation collection bins.

✗ However, there are challenges to effectiveness:

- there is no record of the accords for shopping trolleys or unaddressed mail referenced in the Bylaw being approved again since they either automatically expired or were reviewed and are not relied on to address complaints
- clause 17(2)(d) allows **council** to be reimbursed for costs incurred in retrieving shopping trolleys from public places (for example out of a stream). This is already provided for in the LGA (s187)[26]. This clause has not been used and unnecessarily duplicates the LGA provision
- the requirement of clause 17(2)(e) to maintain and provide records to **council** has not been utilised
- numbers of complaints relating to abandoned shopping trolleys have doubled between 2022 and 2024
- the removal of a shopping trolley may in certain circumstances also be an offence under the Litter Act, or the Crimes Act potentially duplicating clause 17(3)
- provisions about abandoning or leaving an object in a public place are provided for in council's Public Safety and Nuisance Bylaw, potentially duplicating other elements of clause 17

[25] See topics 3,7,9,10,11 of the Solid Waste Bylaw 2012 Review: 2019 Options Report as attached to the report to the Regulatory Committee 14 March 2019

[26] Section 187 – Recovery of cost of works by local authority.

Topic 2: Disposed or discarded materials in council controlled public places
• the provisions of clause 18(3) are not clearly waste related and therefore may be better placed in council's Public Safety and Nuisance Bylaw. • the issues addressed by clause 18(4)(b) - (f) about improper use of letterboxes can be addressed under the Litter Act 1979. • the provisions under clause 9 relating to persons who use donation collection bins are not relied on, as any problems are addressed by the operator or under the Litter Act 1979. • The requirement for approvals for donation collection bins on private property but within 10 metres of a council-controlled public place is not relied on. • One stakeholder requested that the control provision for placement of approved containers should include supporting information to explain why compliance with the rule is important for public health and safety purposes. However, it is considered this information would be better placed in the wide range of educational information provided on council's website and other educational materials. See 'fit for purpose' for possible improvements.
1.7 Is a bylaw still the best way to address the problem (no better alternatives)?
✓ Yes, in general a bylaw is the best way to address the overall problem. However, for specific issues other existing alternatives are being used, or can be used if required. • The WMA and LGA both provide bylaw mechanisms that Council can utilise to manage waste in a manner that meets and/or supports the waste minimisation requirements of the WMA for territorial authorities as well as meeting the purpose of the LGA. • Powers and penalties under other regulation remain available but are not considered appropriate (e.g. are less clear) (See Section 8 of this report for details). ✗ There are other legislative provisions that can address some matters better. • The Litter Act 1979 is an appropriate tool to address illegal dumping related issues. This includes dealing with waste deposited in the vicinity of donation collection bins. • The LGA includes a specific provision that allows council to recover costs in certain circumstances.
1.8 Are the Bylaw and Controls 'fit for purpose' (no change required)?
✓ Yes, In general the Bylaw and 2023 Control are 'fit for purpose'. • Waste Solutions considers the Bylaw provides the necessary framework to support the actions and activities of the Department, including a range of actions to support voluntary compliance. • The rules for managing waste in public places provides the necessary tools to address nuisance and public health and safety concerns as well as supporting waste minimisation and management. ✗ However, the Bylaw and 2023 Control could be improved. • The problems addressed by Clause 9 are being adequately addressed through other mechanisms, this provision could be removed. Clause 13 could be amended to remove the requirement for approvals within 10 metres of a council-controlled public place. • The accord provisions relating to shopping trolleys and unaddressed mail could be removed (cl.17(1)(a) & cl.18(2)) as these are no longer valid and are not relied on for compliance and enforcement purposes. • Clause 17(2)(d) duplicates s187 of the LGA and therefore could be removed. • Clause 17(2)(e) has not been relied on and could be removed.

Topic 2: Disposed or discarded materials in council controlled public places
• Clauses 17(2)(c) and 17(3) could be removed if the problem is able to be addressed through the Public Safety and Nuisance Bylaw • Clause 18(3) could be included in the Public Safety and Nuisance Bylaw • The matters addressed in Clause 18(4)(b)-(f) could be removed as these can be addressed through the provisions of the Litter Act.
1.9 Do the Bylaw and Controls comply with legislation?
✓ Yes. A bylaw and controls about the minimisation and management of waste in council controlled public places, are provided for in the WMA (s56) and LGA2002 (s145, 146(1)(a)(ii)(iv)), do not directly or indirectly conflict with any other New Zealand statutes and are not inconsistent with the New Zealand Bill of Rights Act 1990 (See Section 9 of this report for details). ✗ However, the **Bylaw** and **2023 Control** could be improved (see 'fit for purpose').
1.10 Section 155 Local Government Act recommendation
✓ A bylaw in general, is the most appropriate way to address public nuisance, health and safety risks and waste minimisation and management from improper disposing and discarding of waste and materials. ✓ The Bylaw in general, does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. ✗ However, the **Bylaw** and **Control** could be improved by removing unnecessary provisions to make it more succinct, easier to read and provide a more streamlined enforcement approach.

Topic 3: Approvals for Multi-unit developments (MUDs)

1.1 Explanation of Topic

This topic relates to management and minimisation of waste in and from multi-unit developments.

The inclusion of this topic reflects Action 8.6 on page 83 of the **Waste Plan**.

1.2 Current Bylaw

The Auckland Council Te Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para | Waste Management and Minimisation Bylaw 2019 (**Bylaw**) requires certain multi-unit developments (MUDs) to have a council approved waste management and minimisation plan (clause 16).

There are no control provisions in the **Bylaw** that apply to MUDs.

The requirement for a waste plan applies to:

- existing MUDs with 10 or more dwellings that are unable to dispose of their waste in a public place under clause 7 and are notified by council to apply for a waste plan approval
- all planned MUDs with 10 or more dwellings.

The person responsible for the MUD must ensure compliance with the approved plan and any conditions of the approval.

The framework for the approval system is provided in Part 3, subpart 2 of the **Bylaw** (clauses 20-27). This includes what information is required, the matters council will consider when assessing an application (for example physical limitations for existing MUDs and need to minimise noise, odour, filth, vermin, theft and vandalism), ability to impose conditions, a maximum duration of five years and ability for council to review conditions in certain circumstances.

1.3 Bylaw Implementation

The **Bylaw** is administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division (see Section 4 of this report for details).

The **Bylaw** has not been used and no approvals for MUDs have been issued.

The **Bylaw** was intended to cover a regulatory gap when amendments to the Auckland Unitary Plan (AUP) in Plan Change 16 to the Residential Terraced Housing and Apartment Buildings (RTHB) zone (H6) were still in progress and not yet operative beyond the appeal.

Plan Change 16 became operative in January 2020. Instead of using the **Bylaw**, Waste Solutions staff provide expert input to consent planners who process resource consent applications for MUDs. This includes an assessment of appropriate waste matters in accordance with the relevant provisions of the AUP.

1.4 Is there still a problem and is the problem the same

✓ Yes. The problems identified in the 2019 review remain present, however the problem definition could be improved to be more topic specific.

Problem	
2019 review	2025 review
The risk of harm from residual waste.	Public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in multi-unit developments.

Examples of problems include:

- difficult access for residents to onsite waste facilities creating nuisance and potential health and safety risks
- reduced incentives to minimise waste through a lack of space for recycling bins and food scrap bins resulting in the generation of unnecessary waste to landfill

Topic 3: Approvals for Multi-unit developments (MUDs)

- lack of cleaning facilities and ventilation in waste storage areas resulting in vermin and odour problems
- waste containers being permanently located in public places, incurring associated nuisances

1.5 Are council's desired objectives or outcomes the same?

✓ Yes. The current objectives and outcomes remain largely the same to those identified for the 2019 review, however both could be improved to be more topic specific and better reflect the identified alignments with the Auckland and Māori Plan Outcomes as outlined in Appendix 2.

	2019 review	2025 review
Objective	To reduce harm from residual waste.	To minimise public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of waste and material in multi-unit developments.
Outcome	To reduce harm from residual waste as stated in the Waste Plan.	Aucklanders are healthy and happy and Auckland's natural environment is valued and cared for.

1.6 Have the Bylaw and Controls helped achieve the desired objectives and outcomes?

✓ Yes, in the sense that the regulatory approach of the **Bylaw** to require a waste plan for MUDs has been used to inform the way resource consents are processed. As part of the consent process, a waste plan is requested that is then assessed by Waste Solutions to determine whether the application adequately addressed waste management issues.

✗ However, the **Bylaw** itself has not been used for existing or planned MUDs.

1.7 Is a bylaw still the best way to address the problem (no better alternatives)?

✗ No. The **Bylaw** is not being used for both existing and planned MUDs. For planned MUDs the Bylaw also duplicates the AUP provisions which are instead being used.

- For existing MUDs

  Waste Solutions have not used the **Bylaw**, have not developed a process to use the **Bylaw**, and confirmed that the scale of the problem does not warrant specific regulation.

  Further, the ability for the **Bylaw** to 'retrofit' a solution is significantly constrained. The Bylaw acknowledges this in clause 22(2)(f) where any physical limitations in an existing MUD is a specific matter considered.

  A better alternative could be to rely on improvements to **Bylaw** clause 14 that requires <u>all</u> premises in general to provide adequate areas for storage (see Topic Assessment 1). This clause can be applied to existing MUDs in the rare instance regulation is required.

- For planned MUDs

  The **Bylaw** is not used. The problem is currently being adequately addressed through the resource consenting process in accordance with the rules contained in the AUP.

  This is a better alternative to the approval process under the **Bylaw** as it includes an assessment of the relevant waste issues in a single application and approval process within a statutory framework that has a prescribed process, as well as enforcement powers and penalties that are more extensive than a **Bylaw**. This is a more efficient and effective way to address the problem.

Note, the AUP is currently subject to two plan changes. Plan Change 78 and Plan Change 79 contain proposed amended chapters for the zones under which the relevant current resource consent applications are processed. These proposed chapters contain more detailed provisions relating to waste matters in MUDs than the current AUP provisions.

Topic 3: Approvals for Multi-unit developments (MUDs)
These plan changes are currently subject to appeal processes. Due to the matters raised in the appeals however, it is not anticipated that the proposed waste management provisions will change before the plan changes become operative. Ngāti Whātua Ōrakei have provided feedback on council's waste space calculator for MUDs and have made some improvement suggestions and this has been provided to the Waste Planning team.
1.8 Are the Bylaw and Controls 'fit for purpose' (no change required)?
✗ No. The **Bylaw** is not being used for both existing and planned MUDs. For planned MUDs the Bylaw also duplicates the AUP provisions which are instead being used.
1.9 Do the Bylaw and Controls comply with legislation?
✓ **Yes**. A bylaw and controls about the management and minimisation of waste in and from multi-unit developments, are provided for in the WMA (s56) and LGA2002 (s145, 146(1)(a)(ii)(iv)), do not directly or indirectly conflict with any other New Zealand statutes and are not inconsistent with the New Zealand Bill of Rights Act 1990 (See Section 9 of this report for details). ✗ However, council should not require more than one approval to address the same problem, which in this case is a **Bylaw** and resource consent approval. This approach could result in inconsistent decisions, impose a potentially unreasonable burden on the applicant or subject **council** to a challenge for having a bylaw it does not use.
1.10 Section 155(1) Local Government Act recommendation
✗ A bylaw is not the most appropriate way to address public nuisance, health and safety risks and waste minimisation and management from the storage and disposal or discarding of waste and material in multi-unit developments. The **Bylaw** has not been used since its adoption in 2019 for existing or planned MUDs. For planned MUDs, Waste Solutions relies instead on the AUP and resource consents process that is used to administer the AUP. For existing MUDs, the **Bylaw** has not been used, and Waste Solutions confirm that the scale of the problem does not warrant specific regulation.

Topic 4: Approvals for waste collectors and operators of waste management and resource recovery facilities

1.1 Explanation of Topic

Approvals for waste collectors and operators of waste management and resource recovery facilities allows **council** to control the collection of waste from public places and to request data to inform waste planning functions.

The review of this topic reflects Action A8 on page 96 of the **Waste Plan**.

1.2 Current Bylaw

Subpart 2 of the Auckland Council **(AC)** Te Ture ā-Rohe Whakahaere me te Whakaiti Tuku Para | Waste Management and Minimisation Bylaw 2019 (**Bylaw**) contains two provisions requiring approvals for waste collectors and operators of waste management and resource recovery facilities.

These approvals are guided by an overarching framework provided within the **Bylaw** (Part 3).

The Containers for Kerbside Collection Control 2013 (**2013 Control**) contains rules that apply to waste collectors operating a kerbside collection service.

Notes:

- See Topic 2 (Disposed or discarded materials in council controlled public places) for information about approvals for donation collection bin operators and event on council-controlled public places.

Summary of Bylaw about approvals for waste collectors and operators

Approvals for waste collectors (cl.11):

- provides a definition of a waste collector which excludes collectors or transporters of less than 20 tonnes of waste in a year.
- requires waste collectors who collect waste or material in Auckland to obtain an approval
- requires waste transporters who transport waste or materials into, within or out of Auckland to obtain an approval
- approval holders must ensure compliance with the approval and any conditions of the approval.

Approvals for waste management and resource recovery facilities (cl.12):

- provides a definition of a waste management facility and a resource recovery facility
- requires operators of the defined facility to obtain an approval
- approval holders must ensure compliance with the approval and any conditions of the approval.

2013 Controls

- The provisions of the 2013 Controls that currently continue to apply to waste collectors are (cl.10):
  - responsibilities of waste collectors for commercial and domestic waste collection, covering collection days and times, dealing with spillage, requiring containers to be collected outside the stated collection day, including on request from **council** and if required council may collect a container due to public health and safety concerns and recover the cost of collection from the collector.
- Attachments A1, A2 and A3 provide standards for:
  - approved containers and waste bags for domestic waste for collection from public places (A1, A2)
  - containers for non-domestic waste for collection from public places (A3).

Part 3, Subpart 2 – Approvals:

- an application for an approval must be in the form and manner required by council and may include specified information requirements (cl.21)
- **council** will consider applications against relevant matters (cl.22)
- **council** may grant or decline an application (cl.23)
- **council** may impose conditions (cl.24)
- approvals cannot be issued for more than 5 years (cl.25)
- **council** may review approval conditions in certain circumstances (cl.26)
- transfers of approvals are not allowed (cl.27)

Enforcement (cl.28):

- Council may act for a failure to comply with an issued approval, conditions of approval or who has provided inaccurate information (cl.28(1))
- possible actions include written advice or warnings, review of the approval or the conditions of approval, suspension or cancellation of the approval, forfeiture of any bond or security and reliance on the statutory powers of the **Bylaw.**

Topic 4: Approvals for waste collectors and operators of waste management and resource recovery facilities
Both the **LGA** and the **WMA** provide powers and penalties to enforce the **Bylaw** and **Control** (see Section 2 of this report for details). The available penalty under both statutes is a fine on conviction not exceeding $20,000.
1.3 Bylaw Implementation
The **Bylaw** and **Controls** are administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division (see Section 4 of this report for details). Council's website provides information on how people can apply for approvals • Information on approvals for: waste collectors • Information on approvals for: waste management and resource recovery facilities Staff receive applications for both types of approvals above and process them in accordance with the relevant provisions of the **Bylaw**. Issued approvals include conditions of consent that require waste data to be provided (provided for in cl.24(2)(e) of the **Bylaw)** The conditions of consent also include provision relating to confidentiality and that council will take all reasonable steps to keep commercially sensitive information confidential, including the aggregation of information for recording purposes. The method of waste data collection is through a reporting tool provided on council's website: reporting your waste volumes. Approval holders are required to upload their data on a monthly basis through the reporting tool and may be asked for additional data on waste loads or gate records of waste tonnage on request. Results for the monthly requirement to upload waste data are however mixed, and staff spend considerable time following up with approval holders to provide the required data. Staff are analysing whether these monthly requirements are still necessary and are exploring options to amend the approval conditions to better meet their needs for data. Approvals are issued for a period of no more than five years, in accordance with the **Bylaw** (cl.25). The number of issued approvals as of December 2024 is: • collectors: 93 (compared to 112 in 2018) • waste management and resource recovery facilities: 50 (compared to 35 in 2018) Staff are also analysing which types of collectors and facilities are being captured through the approval process requirement to ensure that the range of data collected is fit for purpose. See 'is the **Bylaw** 'fit for purpose' for more details. Approvals issued to waste collectors also include conditions of consent relating to the matters provided for in clause 24(2)(j)-(k) of the **Bylaw.** These provisions are to support public health and safety and to minimise the risk of nuisance. • Waste collector approvals currently include a condition of consent that references the **2013 Controls.** The control review undertaken in 2023 identified that the waste collector responsibilities contained in the **2013 Control** should be transferred to the licences issued as part of the Bylaw's approval process, because the **Bylaw** no longer provide for controls to apply over waste collector responsibilities. This meant that the provisions of the **2013 Control** that apply to waste collectors needed to be retained until the above transition process is completed. This includes rules related to kerbside collection times, provision of bins/bags that are fit for purpose and provision of information to customers. This transition has yet to be completed and therefore the **2013 Control** provisions are referenced in all waste collector approvals processed. A project to review the approvals system and process,

Topic 4: Approvals for waste collectors and operators of waste management and resource recovery facilities

which will assist in determining whether and how the **2013 Control** provisions should be integrated into approval terms and conditions has commenced. This work will inform whether the **2013 Control** can be revoked as part of this review process.

Approvals are enforced using an educational approach

Staff liaise directly with approval holders regarding any complaints received and in relation to this monitor compliance with consent conditions. Staff rely on pro-active facilitation, education and relationship building approaches to support voluntary compliance of licensees.

Council may take one or more steps against an approval holder:

- issue a written warning
- review licence by amending, suspending or withdrawing it
- recourse or review any performance bond
- enforce any committed offence under the Litter Act 1979
- enforce any breach of the Bylaw under the Local Government Act 2002 and the Waste Minimisation Act 2008.

Bylaw enforcement powers (prosecution) have not been used for these approvals.

1.4 Is there still a problem and is the problem the same

✓ Yes. The problems identified in the 2019 review remain present, however the problem definition could be improved to be more topic specific.

Problem	
2019 review	2025 review
The risk of harm from residual waste.	Challenges to effective waste planning activities and actions due to limited data, waste minimisation and management and public nuisance, health and safety risks in council controlled public places from improper collection and transportation of waste.

Examples of problems include:

- limited access to relevant data to be able to understand and analyse waste related issues and achievements and plan accordingly to meet the vision of the **Waste Plan** 'Towards Zero Waste'
- waste collectors operating kerbside collections in a manner that causes public health and safety risks and risk of public nuisance.

Waste data

Problems with limited access to data are outlined both in the **Waste Plan**[27] and the Waste Assessment[28]. Data helps to identify the types and quantities of waste being generated which in turn allows for targeted interventions to reduce waste to landfill, such as developing initiatives to address problematic waste streams such as batteries. Data provides a baseline for measuring the impact of waste minimisation activities.

Public health and safety and nuisance issues

- Data on complaints relating to waste collectors are recorded as 'bin misuse', which covers a range of topics and is not specific to waste management and storage issues. In general, 1940 'bin misuse' complaints were recorded between 2021 and 2024.
- Feedback and anecdotal evidence from staff are that **council** receives a moderate number of complaints about waste collectors failing to comply with their conditions of approval, including delayed or missing collections, which means people don't have anywhere to put their waste until the

[27] See section 12.11 Data Limitations, page 71.

[28] See page 11: *Auckland Council's limited ownership of waste infrastructure creates limitations on the level of data availability.*

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next collection, spillage issues causing nuisances to the public or collections occurring outside the collection times, incurring potential missed collections or nuisance to residents in the vicinity.

1.5 Are council's desired objectives or outcomes the same?

✓ Yes. The current objectives and outcomes remain largely the same to those identified for the 2019 review, however both could be improved to be more topic specific and better reflect the identified alignments with the Auckland and Māori Plan Outcomes as outlined in Appendix 2.

	2019 review	2025 review
Objective	To reduce harm from residual waste.	To minimise the risk of waste to landfill from challenges to effective waste planning activities and actions due to limited data, to minimise and manage waste and to minimise public nuisance, health and safety risks in council controlled public places from improper collection and transportation of waste.
Outcome	To reduce harm from residual waste as stated in the Waste Plan.	Aucklanders are healthy and happy and Auckland's natural environment is valued and cared for.

1.6 Have the Bylaw and Controls helped achieve the desired objectives and outcomes?

✓ Yes. The Bylaw has helped address the problem and achieve the objective and outcome. The Bylaw:

- provides the necessary regulatory tool to require approval holders to provide data to support waste research, analysis, reporting and planning functions that support council's vision of zero waste to landfill by 2040.
- sets standardised behavioural expectations for waste collectors to undertake their business activities in a manner that supports waste reduction goals, support public health and safety and avoid nuisances.
- Provides council with a range of options to address non-compliance without requiring formal enforcement (prosecution) approaches.
- Ngāti Whātua Ōrakei expressed their support for the current approval process.

✗ However, there are challenges to effectiveness.

- Definitions for waste collectors, waste management facilities and resource recovery facilities lack clarity, may not capture all data requirements, or capture operators whose data is not necessary.
- The details in the approval framework (clauses 21, 22 and 24) about information requirements, matters to be considered and possible conditions of approval are vague and lack clarity.
- While the Waste Assessment outlines that the approval system under the Bylaw has enabled more accurate data to be captured, there is an ongoing challenge to ensure the required data is provided in accordance with the provisions of the approval.
- Ngāti Whātua Ōrakei recommend that council should also investigate the ability to require approvals for ongoing waste management plans of significant commercial operations.
- Ngāti Whātua Ōrakei have queried the inclusion of cleanfill operations in the bylaw and have suggested a range of definitions for wate operators and facilities, noting these issues are being addressed as part of the definition review of waste collectors, waste management facilities and resource recovery facilities above.

See 'fit for purpose' for possible improvements.

1.7 Is a bylaw still the best way to address the problem (no better alternatives)?

✓ Yes. There are no feasible alternatives.

- The WMA provides bylaw mechanisms that Council can utilise to regulate the deposit, collection and transportation of waste, including the provision of approvals, and through these to request waste data to inform waste planning activities.

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• Powers and penalties under other regulation remain available but are not considered appropriate (e.g. are less clear) (See Section 8 of this report for details).
1.8 Are the Bylaw and Controls 'fit for purpose' (no change required)?
✓ Yes, In general the **Bylaw** is 'fit for purpose'. • Waste Solutions considers the **Bylaw** provides the necessary framework to support the actions and activities of the Department, including the goals of the **Waste Plan** and **council's** vision of Zero Waste by 2040 by requiring data to be provided by approval holders. • The approvals for waste collectors provide a regulatory mechanism to support public health and safety and minimise nuisances. ✗ However, the **Bylaw** could be improved. • Staff have indicated that the definitions for waste collectors (cl.11) and waste management facilities and resource recovery facilities (cl.12) could be refined to more clearly articulate what types of businesses **council** requires waste data from to support waste planning functions. • A pro-forma submission from seven businesses and industry organisations who deal with metal scraps requested amendments to the definitions to exclude the requirement for licenses for operators dealing with the type of materials they manage. • Feedback from two stakeholders stated they consider the requirements are too onerous for their type of business. • The tables in clauses 21(2), 22(2) and 24(2) could be updated to more clearly indicate which elements apply to the specific types of approvals to provide greater transparency and clarity to approval holders. The wording of some of these elements can also be improved to remove ambiguities and provide better direction to staff in assessing and approving applications. • The relevant provisions of the **2013 Control** could be incorporated into the current approval process subject to the outcome of the approval review project.
1.9 Do the Bylaw and Controls comply with legislation?
✓ Yes. A bylaw and controls about approvals for waste collectors and operators of waste management and resource recovery facilities allowing **council** to control the collection of waste from public places and to request data to inform waste planning functions, are provided for in the WMA (s56) and LGA2002 (s145, 146(1)(a)(ii)(iv), s151(3)), do not directly or indirectly conflict with any other New Zealand statutes and are not inconsistent with the New Zealand Bill of Rights Act 1990 (See Section 9 of this report for details). ✗ However, the **Bylaw** and **2023 Control** could be improved (see 'fit for purpose').
1.10 Section 155 Local Government Act recommendation
✓ A bylaw is the most appropriate way to address challenges to effective waste planning activities and actions due to limited data, waste minimisation and management and to minimise public nuisance, health and safety risks in council controlled public places from improper collection and transportation of waste. ✓ The **Bylaw** does not give rise to any implications under and is not inconsistent with the New Zealand Bill of Rights Act 1990. ✗ However, the **Bylaw** could be improved by providing more accurate definitions and more clearly articulated information, assessment and condition requirements for approvals.

Topic 5: Construction and demolition waste

5.1 Explanation of Topic

Construction and demolition (C&D) waste covers a variety of materials including concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic, glass, rubble, soil and spoil associated with the construction and demolition industry.

This topic helps implement Action 3.7 on page 78 of the **Waste Plan** (See 5.7 of this Table).

5.2 Current Bylaw and Controls

The current **Bylaw** and **Controls** do not contain any C&D waste specific provisions.

Some of the general provisions would however apply. This includes the general provisions of clause 6 which stipulate how a person must dispose of or discard waste, as well as clause 14 which requires the owner/person responsible for a premises to adequately provide for storage of waste prior to it being disposed of.

Some of the potential changes outlined in Topic 1 would also address concerns raised in relation to C&D sites in terms of waste escaping from site.

5.3 Bylaw Implementation

- The **Bylaw** and **Controls** are administered by Auckland Council's Waste Solutions Department which is part of council's Resilience and Infrastructure Division (see Section 4 of this report for details).
- There is no complaint data collected for C&D specific waste issues, however it is possible complaints have been received and addressed using the provisions in Topic 1.

5.4 Is there a problem?

✓ Yes. The topic specific problem has been defined below.

	2019 review	2025 review
Problem	*NA – new topic*	Public nuisance, health and safety risks and waste to landfill from the storage and disposal or discarding of construction and demolition waste and materials on premises.

The **Waste Plan** and Waste Assessment[29] provides considerable information on the scale and volume of waste related problems resulting from C&D waste:

- C&D waste is created the moment a project is initiated, including the decision whether to refurbish an existing building or structure, or to start anew.
- C&D waste represents more than 30% of all waste sent to Class 1 landfills.
- This is a conservative estimate as it doesn't include substantial quantities of virgin materials such as soils, clay, aggregate or rock that are disposed of at clean fill (class 5) sites. It also doesn't include other C&D waste disposed of at managed fill sites (class 2-4), or waste created in the manufacture of building materials.
- It is estimated that more than half of the commercial waste going to landfill comes from C&D, including rubble/concrete and timber.
- Every year, approximately two million tonnes of soils from the Auckland region are excavated and disposed of to landfill. Most landfilled soils are from land development, with slips and other natural events being a much smaller source.

Key causes of the volume of C&D waste and the associated problems are due to:

- a lack of planning at the design phase to optimise the use of construction materials to reduce waste being generated in the first place. In terms of materials arriving on site, estimates indicate that about 15% of them end up as waste[30]

[29] For example, see section 8.2.1, page 137.

[30] Mandatory Site Waste Management Plans; Aladwan, A, Golding, K and Seadon, J, 2022.

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- limited application of sustainable design principles, including not sourcing materials with high recycled content and not choosing suppliers with sustainable practices
- less efficient construction methods that do not encourage onsite waste minimisation and responsible use of materials.

The impacts of this situation include:

- increased GHGs, for example the manufacture and transport of concrete and cement add significantly to the carbon footprint of projects and processing a tonne of C&D waste in a landfill site produces 90 kg of greenhouse gases[31]
- valuable landfill space is taken up by C&D waste due to its high volume. Creating new landfills is a complex, expensive and time-consuming process, often taking years
- natural resources that could be reused or recycled are lost to landfills. Construction uses large amounts of valuable natural resources like wood, metals and aggregates
- accelerated depletion of natural resources occurs as a result of lacking waste management approaches
- additional project costs, such as over purchasing of materials and incurring unnecessary waste handling and disposal charges.
- Another problem raised by Waste Solutions staff relates to inadequate storage provisions for waste on C&D sites before it is removed and the resulting impacts this can have. A particular issue has been identified with polystyrene waste. Due to its lightweight nature, it can easily be blown around and off-site by wind.
- When polystyrene waste blows away, it can end up in waterways, landfills, and natural ecosystems, where it can break down into smaller pieces (microplastics) that can be ingested by wildlife, causing harm or death. Additionally, it can cause significant nuisance issues for neighbouring properties.
- While this problem can occur on any property, due to the high usage rates on construction sites and the associated activities (cutting polystyrene sheets to size), it is also a specific construction waste issue.
- This problem is addressed in Topic 1 of this Appendix which identified that the **Bylaw** could be improved by requiring appropriate onsite waste storage to ensure material cannot be dispersed through wind or rain until it is disposed of.
- Ngāti Whātua Orakei also provided specific feedback on C&D waste and concurred with this topic assessment (see below) that there is no indication that central government is going to proceed with the previously proposed changes. They highlighted action 3.7 of the Waste Plan and suggest **council** consider regulating this matter.

5.5 What are council's desired objectives or outcomes for this topic?

The outcomes and objectives identified for this topic are identified in the Table below.

	2019 review	2025 review
Objective	*NA – new topic*	To minimise public nuisance, health and safety risks and residual waste from the storage and disposal or discarding of construction and demolition waste and materials.
Outcome	*NA – new topic*	Aucklanders are healthy and happy and Auckland's natural environment is valued and cared for.

[31] Ding *et al.*, 2016

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5.6 Have the Bylaw and Controls helped achieve the desired objectives and outcomes?
✗ No. The current **Bylaw** and **Controls** do not contain any C&D waste specific provisions.
5.7 Is a bylaw the best way to address the problem (no better alternatives)?

The Waste Plan focuses on working with business, supporting legislative change and bylaws

The **Waste Plan** includes 12 key priorities (page 27). Priority 3 is to:

- "Work with businesses and within the council to design out and reduce C&D waste including options for mandatory site waste management plans."

Section 14 of the **Waste Plan** 'Te mahere mahi /Action Plan' includes the following action:

- "Support legislative changes to require site waste management measures and consider options to reduce C&D waste through the waste bylaw depending on central government action." (Action 3.7)

Voluntary industry efforts to reduce C&D waste appears insufficient

Waste Solutions has implemented a range of C&D waste related projects, including partnering with tertiary institutions and working with the C&D industry to better understand C&D waste generation data. **Council** is also continuing to develop and showcase best practice in Zero Waste deconstruction and building within its own building projects. The **Waste Plan** identifies eight specific actions on C&D waste in Te mahere mahi / Action plan.

Waste Solutions already delivers a significant number of projects designed to educate and support voluntary compliance with best practice approaches to 'designing out' waste and reducing waste to landfill for C&D waste, including waste levy mechanisms, which are outlined in the **Waste Plan**.

Waste Solutions staff report that a proportion of the C&D industry already implements a range of practices to reduce residual waste generation for their projects on a voluntary basis. Staff collaborate with a range of industry organisations and business to further support and encourage this voluntary compliance.

With no regulatory mechanisms available to support the reduction of C&D waste, **council** is reliant on these voluntary actions, supported by the work of **council** outlined above, to support waste reduction goals.

However, Waste Solution staff consider this level of voluntary compliance is insufficient to engender the changes required to achieve **council's** vision of Zero Waste.

Central Government response focuses on use of levy funds and working with industry

- Under the previous Government, changes were proposed to the Building Act 2004 to reflect the then government's climate change response commitments. This included a mandatory requirement for waste minimisation plans (WMPs) for C&D projects.
- No updated information on the current status of this programme of works can be found on the Ministry for Business Innovation and Employment's website, it is assumed this project has been either cancelled or put on hold.

In March 2025 the Government adopted a 'waste and resource efficiency strategy' to replace Te Rautaki Para | New Zealand waste strategy. The Government's waste and resource efficiency work programme 2024 to 2026 was released at the same time. This work programme has six focus areas. C&D waste is provided for in three of these focus areas.

The *Focus area: Increasing reuse and recycling of materials* includes a specific C&D waste workstream with two initiatives to enable construction waste to be reduced in a cost-effective way. These initiatives focus on prioritising levy funds to be invested in C&D waste separation and working with industry to identify options to help manage surplus soil.

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The above summary of recent central Government activities indicates that there appears to be no intention to implement the previously indicated WMPs for C&D projects. This topic assessment is therefore based on the current applicable legislative framework.

Action 3.7 of the **Waste Plan** outlined above was developed in anticipation of the previously proposed Building Act 2004 amendments coming into force and was **council's** preferred solution to the identified problem. The inclusion of the **Bylaw** as a potential regulatory mechanism was only included should the changes as proposed not proceed.

The Auckland Unitary Plan does not currently regulate C&D for waste generation

Chapter H8. Business – City Centre Zone of the Auckland Unitary Plan includes provisions about demolition waste. However, the objectives, policies and rules on demolition waste relate to special character buildings and the safety and efficiency of the road network and do not address waste generation related issues.

While the Resource Management Act 1991 (RMA) addresses a range of matters regarding potential negative environmental impacts, it is considered these are generally addressed at the source of the impact, for example through resource consents for Class 1 landfills.

Desktop research undertaken to support this topic assessment indicates that there is no management of C&D waste through the Auckland Unitary Plan, other than incidental matters relating to the duty to avoid, remedy or mitigate adverse effects.

There are no other regulatory tools available to address the problem.

Section 8 of this report outlines other potential regulatory tools to address waste related problems. As with the other Topic Assessments of this report, these alternative tools do not provide appropriate mechanisms to address the C&D waste related issues outlined in this Assessment.

A bylaw could support waste minimisation goals, but there are limitations

✓ A bylaw is a potential regulatory tool that could support the goals of the **Waste Plan** to address the identified problems caused by C&D waste.

- The **WMA** provides a bylaw mechanism that **council** can utilise to manage C&D generated waste.
- Approvals for SWMPs are the most used mechanisms in other New Zealand bylaws to regulate C&D waste.
- With the withdrawal of central government's planned approach to manage C&D waste on a national scale, there are no other regulatory mechanisms that can be relied on to regulate how waste is planned for, generated, managed, sorted, recycled and disposed of on C&D sites.
- A bylaw approach could provide a clear signal to the industry that changes are required to reduce C&D waste.

✗ However, a bylaw would require implementation resource and has limited enforcement options.

- An approval process for SWMPs would require significant resources of the Waste Planning team to implement.
- Due to the available enforcement mechanisms, an enforcement approach would likely focus on education and encouraging compliance.
- An educational approach that encourages compliance may not achieve the desired outcome as this would potentially not target those in the industry that are not already implementing voluntary approaches to reducing C&D waste.

See 'fit for purpose' for more details on implementation and administration implications.

Topic 5: Construction and demolition waste

5.8 What would a 'fit for purpose' Bylaw be?

The most used bylaw approach is to require a site waste management plan

The **Waste Plan** identified requiring site waste management plans (SWMP) to be considered as regulatory tool in a bylaw to support a reduction in C&D waste.

Research undertaken for this report found nine councils in New Zealand incorporate C&D waste related provisions[32]. This is not the total number of councils that have C&D related provisions, however the analysis focused on reviewing bylaws that have been reviewed since 2019 to provide a current best practice comparison. It was deemed that these bylaws provided a sufficient cross-section across the country for research and analysis purposes.

The Table below provides an overview of the details of each council's approach.

Provision overview	councils	Comments
SWMP based provision	9	No alternative bylaw based regulatory approaches discovered.
Provision covers construction and demolition	6	3 councils do not include demolition waste in the bylaw provisions.
Criteria for application requirement	8	Value is $2 mil+(1) Value is $500K + (1) Value is $500K+ and non-residential (1) Value to be set (4) Criteria to be set (1)
C&D provisions to be provided through a potential control	4	Controls made: 1
Provision links to building consent application	8	One bylaw does not stipulate a 'trigger' for application but also states that council 'may' require a SWMP. It is unclear how this is implemented.

Of the nine bylaws analysed, four clearly stipulate that a SWMP is required as a result of a building consent application. Three of these have a minimum dollar value stipulated, the third requires a SWMP for all building applications.

This analysis shows that of the nine bylaws, however only four have 'active' C&D related clauses. Three councils have yet to make controls for C&D waste under their bylaws, with two bylaws including provisions that appear inactive as they state that the criteria for an application for an approval has yet to be set.

Overall, this research indicates that the current most used regulatory approach for a bylaw to address C&D waste is through requiring approvals for SWMP for projects of a certain type, usually defined by value.

This is supported by the feedback received as part of the stakeholder engagement to inform this Findings Report. Of 38 responses on C&D waste issues, 33 supported a regulatory mechanism and of these, 28 considered a SWMP is a good way to do this.

Research undertaken to inform council's 2023 Waste Assessment[33] concludes that requiring SWMPs through a bylaw mechanism is feasible and desirable.

[32] Western Bay of Plenty District Council, Wellington City Council, Ashburton District Council, Christchurch City Council, Hamilton City Council, Kapiti Coast District Council, Matamata-Piako District Council, New Plymouth District Council, Tauranga City Council & South Waikato District Council.

[33] Mandatory Site Waste Management Plans; Aladwan, A, Golding, K and Seadon, J, 2022.

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Successful implementation of a bylaw approval process for SWMPs requires resources for development, implementation and ongoing administration and monitoring and compliance functions

Implementing a SWMP approval process for C&D waste would require considerable resources of the Waste Solutions Department. This would include the development of the application and approval process and associated administrative functions.

It would also likely include involvement from the building consents and resource consents departments, as well as resourcing an associated monitoring and enforcement approach.

If implementation resource was unavailable, implementation may focus on education and encouraging compliance which would undermine the validity and effectiveness of a bylaw.

In undertaking the research and analysis for this topic, Waste Solutions staff have advised that considerable further work is needed to clarify and confirm whether a bylaw approval process for SWMPs is both the preferred mechanism to manage C&D waste through a bylaw provision, as well as whether any bylaw option investigated would be the most appropriate way to address the identified problems with C&D waste.

The research necessary includes consideration of resourcing implications, impacts on industry and existing voluntary certification programmes for effectiveness.

Staff are in the process of developing a work programme for C&D waste that will include support for necessary research on bylaw mechanisms, and identification of the necessary tools, activities and functions that would be required to support successful implementation of a bylaw provision. This would include the necessary monitoring and enforcement activities and approaches to ensure compliance. Education, guidance and support for industry has also been identified as a significant element of a regulatory approach to achieving the desired outcomes.

This work needs to be completed prior to proposing the introduction of C&D waste related bylaw provisions. Due to the review timeframes, this is not achievable as part of the current review process underway. However, depending on the delivery of that work, Waste Solutions may recommend an amendment to the bylaw in the future.

5.9 Would a bylaw on C&D provisions comply with legislation?

✓ Yes. In general, a bylaw about the deposit and collection of waste on and from construction and demolition sites, is provided for in the WMA (s56) and LGA2002 (s145, 146(1)(a)(ii)(iv)), may not directly or indirectly conflict with any other New Zealand statutes and may not inconsistent with the New Zealand Bill of Rights Act 1990 (See Section 9 of this report for details).

5.10 Section 155 Local Government Act recommendation

There is insufficient information to make a section 155 Local Government Act 2002 determination that a bylaw is the most appropriate way to address public nuisance, health and safety risks and residual waste from the storage and disposal or discarding of construction and demolition waste and materials.
It is recommended that this C&D waste topic matter is removed from this current review process and that subject to the outcome of the work to be completed by Waste Solutions an amendment to the new Bylaw may be proposed in the future.

Taking this approach will ensure that any preferred bylaw option to address C&D waste would be able to be successfully implemented to effectively address the identified problem.

Appendix 2: Auckland and Māori Plan Outcomes

The Table below show how the Bylaw and Controls: align with the outcomes of the Auckland Plan 2050 and Māori Plan by providing a regulatory mechanism to support the vision, goals and objectives of the *Te Mahere Hukihuki mō te Whakahaeretanga me te Whakaitinga o te Para 2024 - Auckland Waste Minimisation and Management Plan 2024*.

Alignment with Auckland Waste Plan (Auckland Plan 2050)

Vision	Tāmaki Makaurau / Auckland aspires to be Zero Waste by 2040 by: • working towards a circular economy • using resources for their best and highest value for as long as possible • taking care of people and the environment.
Goal	1. Maximise circularity of resources and products in accordance with the waste hierarchy.
Objective	1. Organisations and individuals take responsibility for designing out and avoiding waste in the first place and keeping products and materials in use as long as possible. This encompasses: • a focus on designing out waste, including through planning and regulatory tools, or supporting development of new business and service models or product design, such as site waste management plans, central government product bans, or mandatory product stewardship schemes.
Alignment	The Bylaw and Controls require site waste managements for certain multi-unit developments and events in public places.
Objective	2. Organic waste is prevented or diverted from landfill and recovered for reuse. • Food and green waste are reduced or beneficially used, e.g. through feeding others, composting, worm farms, anaerobic digestion, and restoring land.
Alignment	The Bylaw and Controls require people to separate their waste for public collection services, including separating organic waste and providing for composting activities.
Objective	4. We have robust data and information to target our efforts to minimise waste while protecting the environment, and safeguarding health and wellbeing.
Alignment	The Bylaw requires specified waste operators to obtain licences and to provide data on the types and volumes of materials they process.
Goal	2. Minimise harm by addressing the impacts of waste on the environment and communities including reducing harmful waste, litter and illegal dumping.
Objective	5. Our total waste volumes are reduced sufficiently so that the need for final disposal is minimised.
Alignment	The Bylaw and Controls require people to separate their waste for public collection services, supporting a reduction in residual waste.
Objective	6. Harmful waste is avoided, and residual waste is managed and treated to prevent harm to health and wellbeing and to the environment.
Alignment	The Bylaw and Controls include provisions for prohibited materials, ensuring this waste is appropriately collected and treated.

Alignment with the Māori Plan for Tāmaki Makaurau

Māori value	Manaakitanga (to protect and look after)
Key direction	Improve quality of life
Outcome	Satisfaction with our environments and standard of living
Focus area	The mauri of te taiao in Tāmaki Makaurau is enhanced or restored for all people
Focus area	Māori enjoy a high quality of life
Key direction	Ensure sustainable futures
Māori value	**Kaitiakitanga (guardianship)**
Outcome	Intergenerational reciprocity
Focus area	Māori cultural well-being is future-proofed
Alignment	The Bylaw and Controls provide rules that seek to ensure waste in public places are managed appropriately and that the disposal of materials is done in a safe way to improve quality of life. The Bylaw and Controls contribute to sustainable futures by supporting Te Mahere Hukihuki mō te Whakahaeretanga me te Whakaitinga o te Para 2024 - Auckland Waste Minimisation and Management Plan 2024 and the Māori outcomes included in the Plan.