



# *Draft Waste Minimisation and Management Bylaw 2018*

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*COMMENCEMENT: 1 JULY 2018*

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# **DRAFT WASTE MINIMISATION AND MANAGEMENT BYLAW 2018**

*Date made: 30 June 2018*

*Commencement: 1 July 2018*

## **PART 1: INTRODUCTION**

The Whakatāne District Council makes this bylaw pursuant to sections 145 and 146 of the Local Government Act 2002, the Waste Minimisation Act 2008, the Health Act 1956 and the Litter Act 1979.

The LGA notes that solid waste is a core function of Council.

## **2 TITLE AND COMMENCEMENT**

This bylaw shall be known as the Whakatāne District Council Waste Minimisation and Management Bylaw 2018.

This bylaw comes into force on XX July 2018.

## **3 REVOCATION**

Part 5 of the Whakatāne District Council 2008 is revoked at the time this bylaw comes into force.

## **4 PURPOSE**

The purpose of this bylaw is to support:

- (a) The promotion and delivery of effective and efficient waste management and minimisation in Whakatane as required under the Waste Minimisation Act 2008;
- (b) The implementation of the council's waste management and minimisation plans;
- (c) The purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy;
- (d) The regulation of the collection, transport, and processing of waste;
- (e) The protection of the health and safety of waste collectors, waste operators and the public;  
and
- (f) The management of litter and nuisance in public places.

## **5 COMPLIANCE WITH BYLAW**

- (1) No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this bylaw.

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

## **6 INTERPRETATION**

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

ACT means the Waste Minimisation Act 2008.

APPROVED means authorised in writing by the Council

APPROVED CONTAINER means any container (including bags) that has been approved by the Council for the collection of any type of waste, with approval based on the following criteria: the prevention of nuisance, the protection of the health and safety of waste collectors and the public, and the achievement of effective waste management and minimisation.

BYLAW means this Waste Management and Minimisation Bylaw.

CLASS 1-4 LANDFILLS means as defined in the Technical Guidelines for Disposal to Land<sup>1</sup>.

CLEANFILL MATERIAL means waste that

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

CLEANFILL SITE means the land used for the disposal of clean fill materials.

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

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<sup>1</sup> These can be accessed at <http://www.wasteminz.org.nz/pubs/technical-guidelines-for-disposal-to-land-april-2016/>

CONSTRUCTION AND DEMOLITION WASTE means waste generated from any building construction or demolition works; and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass.

COUNCIL means the Whakatāne District Council or any person delegated or authorised to act on its behalf.

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

COUNCIL OFFICER means any officer of the Whakatane District Council authorised by the Council to take action in relation to this Bylaw or to undertake the duties of a Council Officer under this bylaw and any person appointed especially or generally by the Council to enforce the provisions of this Bylaw.

COVER MATERIAL means material specified by the council under clause 10.6(d) as suitable for use as cover material at a class 1-4 landfill site.

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

DISPOSAL means as defined in the Act.

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

EVENT means any organised temporary activity attended by 1,000 or more people that is likely to create litter and includes an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration.

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

GREEN WASTE means compostable plant material excluding flax and cabbage trees.

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

HAZARDOUS WASTE means waste that:

- (a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2000 under the Hazardous Substances and New Organism Act 1996; or
- (b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and NZ Standard 5433: 1999 – Transport of Dangerous Goods on Land; or
- (c) meets the definition for radioactive material included in the Radiation Protection Act 1965 and Regulations 1982.

Hazardous waste does not include domestic waste, commercial-domestic waste, inorganic material, construction and demolition waste or commercial waste.

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

INORGANIC MATERIAL means waste consisting of household equipment, furniture, appliances and material of a similar type that due to its nature or size cannot be collected as domestic waste in an approved container, and that is specified by the council as suitable for:

- (a) collection from a public place by the council;
- (b) collection from any premises by the council; or
- (c) delivery to a resource recovery facility.

LICENCE means a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.

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

LITTER RECEPTACLE means a receptacle provided for the collection of litter.

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

MULTI-UNIT DEVELOPMENT means a development consisting of 10 or more residential or residential and commercial units on any premises. It includes a unit title development and any development with controlled or restricted access.

NUISANCE means a nuisance as defined in the Health Act 1956.

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

ORGANIC MATTER means food waste and/or green waste that is specified by the Council under clause 6(a) as organic matter.

OWNER means in relation to any property or premises, the person entitled to receive the rack rent of the property or premises, or who would be so entitled if the property or premises were let to a tenant at a rack rent, and where such a person is absent from New Zealand, includes their attorney or agent.

PERSON means an individual, a corporation sole, a body corporation, and an incorporated body.

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

PROHIBITED WASTE means waste containing:

- (a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;

- (b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;
- (c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;
- (d) any radioactive wastes, but excluding domestic smoke detectors;
- (e) any used oil and lead-acid batteries;
- (f) any hazardous waste;
- (g) medical waste;
- (h) any material prohibited by the Council under clause 10.6.

PUBLIC PLACE means:

- (a) any place that is:
  - (i) under the control of the Council and/or
  - (ii) open to or being used by the public, whether or not there is a charge for admission;  
and
- (b) includes:
  - (i) a road, whether or not the road is under the control of the Council and including the berm and footpath, and
  - (ii) any part of the public place.

RECOVERY has the same meaning as defined in the Act.

RECYCLABLE MATERIAL means waste specified by the council under clause 10.6 as suitable for recycling.

RECYCLING means as defined in the Act.

REFUSE means waste which:

- (a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material;
- (b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by the council under clause 10.6 of this bylaw.

RURAL has the same meaning as in the Whakatāne District Plan.

TREATMENT means as defined in the Act.

URBAN AREA has the same meaning as in the Whakatāne District Plan.

WASTE means as defined in the Act.



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

WASTE MANAGEMENT FACILITY means a facility which primarily provides waste management and disposal services or waste remediation and materials recovery services, in relation to solid waste.

WASTE MANAGEMENT FACILITY OPERATOR means a person who owns and manages a waste management facility.

WASTE MANAGEMENT AND MINIMISATION PLAN means as defined in the Act.

WASTE OPERATOR means a person who is a waste collector or operates a waste management facility.

WASTE MANAGEMENT REMEDIATION AND MATERIALS RECOVERY SERVICES means the remediation and clean-up of contaminated buildings and mine sites, mine reclamation activities, removal of hazardous material and abatement of asbestos, lead paint and other toxic material. This also includes recovery, sorting, and/or storage services in relation to waste.

WASTE TREATMENT AND DISPOSAL SERVICES means the treatment or disposal of waste (including hazardous waste), including the operation of landfills, combustors, incinerators, compost dumps and other treatment facilities (except sewage treatment facilities), and waste transfer stations.

WHAKATĀNE DISTRICT means the area defined in the Whakatane District Plan.

## **7 CONTROLS**

Any control specific by the Council to support the implementation of this bylaw:

- (a) Must, after consultation pursuant to the Local Government Act 2002, be made by a resolution that is publicly notified; and
- (b) may:
  - i. prohibit, restrict, or control any matter or thing generally, for any specific category or case, or in a particular case;
  - ii. apply to all waste or to any specified category of waste;
  - iii. apply to Whakatane District or to a specified part of the Whakatane District and/or
  - iv. apply at all times or at any specified time or period of time

## **PART 2: COLLECTION, TRANSPORTATION, PROCESSING, AND DISPOSAL OF WASTE**

### **8 GENERAL RESPONSIBILITIES**

- (1) The occupier and the manager of a premise must ensure that the domestic waste from the premises is separated into waste types as determined by the Council, and deposited for collection in the correct approved container. No person may deposit in a container material that is not approved for that type of container.
- (2) The occupier and the manager of any premises must ensure that:
  - (a) reasonable steps are taken to prevent the waste escaping from any waste container;
  - (b) waste from the premises has no more than a minimal adverse effect on neighbouring occupiers;
  - (c) any waste container is regularly emptied when it is full; and
  - (d) the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals.
- (3) The occupier and the manager of any premises who is in control of an approved container must ensure that:
  - (a) the container is kept in a safe location at the assigned property, hygienic, in good repair, and without any modifications or alterations to its appearance;
  - (b) waste is always deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
  - (c) unless the container is placed at a council collection point, the container is placed for collection in an upright position off the carriageway, in front of the premises where the container is assigned by Council and from which the waste originated; and as close to the kerbside as possible;
  - (d) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises; and
  - (e) the container is placed for the collection of waste and retrieved in accordance with any applicable control specified by the council.
- (4) No person may:
  - (a) put waste into an approved container provided to any other person, without that other person's consent;
  - (b) remove waste from, or interfere with any waste deposited in, an approved container, except the council, a licensed waste collector or the person who deposited the waste;

- (c) remove a container provided by the council from the premises to which it has been allocated, except with the prior written approval of the council.
- (5) The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

## **9 LICENSING WASTE COLLECTION AND WASTE MANAGEMENT FACILITY OPERATORS**

Whakatane District Council may introduce a waste operator licensing system. The scope and details of this licensing system will be publicly notified and confirmed following a consultation process that is carried out in accordance with the special consultative procedure of the Local Government Act (2002).

## **10 GENERAL CONTROLS ON THE COLLECTION, TRANSPORTATION AND DISPOSAL OF WASTE**

### **Collections from a Public Place**

- (1) Waste may not be placed on a public place for collection unless it is:
  - (a) domestic waste;
  - (b) green waste;
  - (c) inorganic material deposited for collection by or on behalf of the council, or
  - (d) any other type of waste determined by the Council as able to be placed on a public place for collection.
- (2) Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by the Council under this bylaw or collected under contract to Council.
- (3) Any waste operator who collects or transports waste from a public place must:
  - (a) make available to the occupier or manager of a premises one or more approved containers to enable separate collection of each of the waste types required to be separately collected from the premises;
  - (b) not collect for disposal any domestic waste which has not been separated into refuse, recyclable material and organic matter. However this does not apply where the amount of recyclable material and/or organic matter mixed with the refuse, or the amount of the recyclable material mixed with the organic matter or vice versa, does not exceed the maximum allowable limits specified by the council under clause 10 (6)(b).
  - (c) not dispose to a class 1 – 4 landfill any separated waste type that is capable of being reused or recycled.

- (4) The council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
- (a) the area to which the control applies;
  - (b) the type, size, colour, and construction of approved containers that may be used for the storage and collection of waste;
  - (c) the types of waste that may be collected in various types of approved container;
  - (d) the categories of wastes that may be deposited at or collected from a public place;
  - (e) the conditions applicable to any collection service from a public place - including the placement and retrieval of approved containers for collection, collection days and times, and restrictions on the number and weight of approved containers. The conditions for the use of Council Collections from Public Places are outlined in Schedule 1;
  - (f) requirements to ensure the correct separation of categories of wastes into approved containers;
  - (g) the locations, access times and conditions of use of council waste collection points;
  - (h) any other operational matter required for the safe and efficient operation of a collection service from a public place.
- (5) Any person providing or using a waste collection service in or from a public place must comply with all controls made by the council relating to that collection.

### **General Controls**

- (6) The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste from any property:
- (a) Types of domestic waste that may be treated for all purposes (including deposit, collection, transportation, and disposal) as recyclable, organic, or refuse;
  - (b) maximum allowable limits of a specified waste type that may be collected or transported from a public place in an approved container for refuse and that subsequently may be disposed of;
  - (c) maximum allowable limits of a waste type that may be placed in an container approved for another waste type;
  - (d) types of waste that may be handled at any class 1 – 4 landfill and material that may be used as cover material at any such site;
  - (e) materials that may be used as natural or other hardfill material at a clean fill site;
  - (f) types of waste that are prohibited.

### **Council Collection Points**

- (7) No person may deposit waste at a council collection point other than in accordance with any applicable control.
- (8) The council may specify:
  - (a) any place, or receptacle in a public place as a council collection point for the collection of domestic waste; and
  - (b) controls relating to the deposit of waste at the council collection point including the use of specified containers.

### **Multi- Unit Developments**

- (9) The owner and manager of a multi-unit development must make provision for the management of all waste generated within the property.
- (10) Subject to clause 10 (6), the owner and manager of a multi-unit development must obtain approval from the council for a development waste management and minimisation plan.
- (11) A development waste management and minimisation plan must include but is not limited to:
  - (a) Identification of an adequate area on the premises for the storage of containers that is readily accessible to the occupiers of units and to a licensed waste operator to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
  - (b) The methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
  - (c) Identification of the means and route of access and egress to the waste storage area;
  - (d) An estimate of the volumes of refuse, recyclable material and organic matter that will be generated;
  - (e) The steps which will be taken to further the objective of waste minimisation.
- (12) Any person who owns, occupies or manages a multi-unit development must comply with the approved development waste management and minimisation plan for that development.
- (13) The council may, on application, grant a written exemption from compliance with all or any the requirements of this clause if:
  - (a) in the opinion of the council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or
  - (b) the manager or owner demonstrates to the satisfaction of the council that refuse, recyclable material and organic waste are separately and regularly collected.
- (14) The council may specify controls for the following matters in relation to the collection or transportation of waste from multi-unit developments:

- (a) the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a multi-unit development;
  - (b) the times, locations and conditions applicable to any collection service from a multi-unit development, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
  - (c) the requirements to ensure the correct separation of refuse, organic matter and recyclable materials into containers;
  - (d) any other operational matter required for the safe and efficient operation of a collection service from a multi-unit development.
- (15) Any person who manages a multi-unit development or owns or occupies a unit in a multi-unit development must comply with any controls for the deposit, collection, transportation and management of waste in the multi-unit development made by the council.

### **Events**

- (16) Any organiser of an event expected to host a minimum of 1,000 people must obtain prior approval from the council to an event waste management and minimisation plan for the event.
- (17) The Council will require an event waste management and minimisation plan to set out:
- (a) an estimate of the types and amounts of waste to be generated by the event;
  - (b) how waste generated by the event will be minimised;
  - (c) the steps planned to maximise the collection and use of recyclables and reusable material;
  - (d) the equipment to be provided for the storage, collection and transportation of waste and diverted material; and
  - (e) any other matters relating to event waste management and minimisation that may be specified by the Council.
- (18) The organiser of an event must comply with the approved event waste management and minimisation plan.
- (19) On completion of the event, the organiser must provide the council with a report on the implementation of the event waste management and minimisation plan, including a waste summary which shows the predicted and actual types and amounts of waste generated by the event, and how the waste was recovered, recycled, treated or disposed.

### **Inorganic Material**

- (20) The Council may specify controls for the following matters in relation to the collection of inorganic material from a public place:

- (a) the weight, size and nature of inorganic materials that may be deposited for collection by the council;
  - (b) the categories of inorganic waste that may be deposited for collection by the council;
  - (c) the locations and conditions applicable to the collection by the council of inorganic material from a public place;
  - (d) the methods by which the inorganic material may be collected;
  - (e) any other operational matters required for the safe and efficient collection by the council of inorganic material from a public place.
- (21) Any person who deposits inorganic material for collection on, or collects or transport inorganic material from, a public place must comply with the controls made by the council.

### **Nuisance and Litter**

- (22) No person may:
- (a) Allow any accumulation of waste or diverted material on any premises they own, occupy or manage to become offensive, a nuisance or likely to be injurious to health;
  - (b) Use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health.
- (23) Except as provided for under this bylaw, no person may:
- (a) burn or allow to be burnt on any property they own, occupy or manage any waste except organic matter in rural areas;
  - (b) bury or allow to be buried on any property they own, occupy or manage any waste except:
    - (i) organic waste, including dead farm animals in rural areas;
    - (ii) dead companion animals and nuisance pests; or
    - (iii) for the purposes of home composting.
  - (c) Dispose of any waste on any premises except at:
    - (i) A class 1-4 landfill; or
    - (ii) Any premises they own, occupy or manage, for the purposes of home composting.
- (24) No person may:
- (a) deposit any waste arising from that person's household or that person's business activities in any litter receptacle provided by the council in any public place;

- (b) remove any waste from any litter receptacle provided by the council in any public place, where this results in any waste being deposited outside the receptacle, unless authorised by the council to do so;
  - (c) deposit or attempt to deposit any litter in any receptacle provided by the council in any public place if:
    - (i) the receptacle is full; or
    - (ii) the litter is likely to escape.
  - (d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle provided by the council in any public place; or
  - (e) damage any litter receptacle provided by the council in any public place.
- (25) The owner, occupier or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all steps to the satisfaction of the council to prevent it becoming litter and to clean it up in the event that it does become litter.



## **PART 3: OTHER MATTERS**

### **11 GENERAL OFFENCES AND PENALTIES**

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008, the Local Government Act 2002 and/or the Health Act 1956.
- (2) A person who commits a breach of this bylaw that is also an offence under the Litter Act 1979 is liable to a penalty under that Act.

### **12 OTHER ENFORCEMENT POWERS**

#### **Inorganic Material**

- (1) Where a person does not comply with a control made by the Council under clauses 10 (20) and (21), the Council (or a licensed waste operator where applicable) may:
  - (a) Reject (i.e. no collect) the inorganic material, if the inorganic material or placement is non-compliant;
  - (b) Remove the inorganic material, where the inorganic material or placement is non-compliant, subject to payment of the costs of removal, administrative costs and an additional penalty specified by the council;
  - (c) Enforce any offence that may have been committed under the Litter Act 1979; and/or
  - (d) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

### **13 EXCEPTIONS AND SAVING PROVISIONS**

- (1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised Council officer.
- (2) A product stewardship scheme accredited under the Act may be exempted from the requirements of this bylaw.

# **SCHEDULE 1: CONTROLS FOR THE WHAKATĀNE DISTRICT COUNCIL WASTE MANAGEMENT AND MINIMISATION BYLAW 2018**

## **CONDITIONS FOR COUNCIL COLLECTIONS FROM PUBLIC PLACES**

Whakatane District Council provides collections of recyclables and residual waste (rubbish) from customers (both residential and commercial) in most parts of the District. These customers pay a targeted rate for the service. Urban customers also receive a green waste collection. These customers pay a higher targeted rate.

Under clause 10(4)(e) of the Proposed Bylaw, Council is also proposing the following conditions for use of the Council kerbside collections:

- (1) Collection containers for rubbish, recyclables, and green waste must be out by 7.30am on the customer's collection day and placed at the edge of the road nearest to the customer's property with wheeled bin handles facing away from the road and bins at least 30cm apart;
- (2) Collection days are notified on the Council's website and directly to customers;
- (3) Recycling containers are one 240 litre wheeled bin with a yellow lid, and one 45L or 60L glass crate;
- (4) The recyclables wheeled bin can only contain paper, cardboard, plastics types one through seven (both rigid and soft), and empty aluminium and steel cans;
- (5) The recyclables crate can only contain glass bottles and jars and all contents must be fully contained in the crate i.e. below the top edge of the crates sides;
- (6) Ownership of these approved recyclables transfers to Council or its agents once placed at the kerb or roadside in the specified manner and at the specified time;
- (7) Non-conforming material of any quantity will not be collected and will remain the property of the occupier, and the responsibility of the occupier for correct disposal;
- (8) Customers will be notified about non-conforming material through Council's website, and by direct communication using stickers and leaflets. Repeated instances of non-conforming material placed in any collection container may result in these containers being removed;
- (9) Wheeled bins must be less than 80kg in weight for collection to occur;
- (10) In all instances, the occupier and/or manager is responsible for council-issued containers as per clauses 8(1) to (4) (inclusive) of this Bylaw. Council reserves the right to charge to replace any containers that are lost, stolen, or damaged;
- (11) Commercial waste and diverted materials can be collected from public places where this is part of the Council-contracted collection, or where Council has given specific permission to the collection operator.