

# **Kaipara District Council**

## **Proposed Amended Wastewater Drainage**

### **Bylaw 2016**

DRAFT

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# Part A

## Preliminary provisions

### 1. Title

- 1.1 This bylaw is the Wastewater Drainage Bylaw 2016

### 2. Commencement

- 2.1 This Bylaw came into force on 1 November 2016.
- 2.2 This Bylaw was reviewed and amended in 2021, with the amendments coming into force on ## Month 2021.

### 3. Application

- 3.1 This Bylaw applies to the Kaipara District.

### 4. Purpose

- 4.1 The purpose of this Bylaw is to:
- a. maintain, promote and protect public health
  - b. regulate the drainage, collection and disposal of sewage, including regulating onsite wastewater systems
  - c. protect the public wastewater system from damage and misuse.

### 5. Interpretation

- 5.1 In this Bylaw, unless the context otherwise requires:

*Alternative systems* means onsite systems that separate all, or some of, the greywater from toilet wastewater for treatment. This may result in two separate wastewater streams that require disposal.

*Approval or Approved* means approved by Council or an Authorised Officer and includes a permit.

*Authorised Officer* means

- a. a person authorised by Council to perform duties under this Bylaw
- b. a person appointed by Council as an enforcement officer under [section 177](#) of the Local Government Act 2002.

*Building Act 2004* means the Building Act and any subsequent legislation.

*Council* means the Kaipara District Council.

*Coverage Area* Means the areas set out in Schedule B.

*Disconnection* means the physical cutting and sealing off of any of Council's water services, utilities, drains or sewer so that it cannot receive discharges from a property or properties.

*District* means the District of the Kaipara District Council.

<i>Kaipara District Plan</i>	Means the district plan of the Kaipara District Council, where “district plan” has the meaning given to it by section 43AA of the Resource Management Act 1991.
<i>Drain</i>	includes every pipe, passage or channel on or under ground through which wastewater flows continuously or otherwise.
<i>Mechanical systems</i>	means any system designed for the disposal of wastewater which operates in a mechanical way, and is driven by a power source, which is not a conventional septic tank or similar type system.
<i>Nuisance</i>	has the meaning given by <a href="#">section 29</a> of the Health Act 1956.
<i>Occupier</i>	means a person who inhabits, leases, uses or controls any property or premises, whether as an owner, tenant, licensee or otherwise.
<i>Onsite wastewater system</i>	means any privately owned system for the reception and disposal of wastewater, including any septic tank, mechanical system, alternative system cesspit, drainage or soakage pit or bore; and the field tiles, scoria or stone contained therein; and, distribution bore, discharge field or soakage field that is a part of, or is connected to, any such system.
<i>Owner</i>	means, in relation to real property, a registered proprietor, trustee and any person for the time being entitled to receive the rent of the property, land, building, or premises or who would be entitled to the rent if the property were let to a tenant. Where any such person is absent from New Zealand or mentally incapable as defined in <a href="#">section 94</a> of the Protection of Personal and Property Rights Act 1988, ‘owner’ includes his or her attorney or agent.
<i>Person</i>	includes an individual, a corporation sole, a body corporate, and an unincorporated body.
<i>Point of discharge</i>	is the boundary between the public wastewater system and a private drain. For avoidance of doubt, this shall correlate to the property boundary.
<i>Property</i>	means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same property.
<i>Private drain</i>	means that section of drain between the property and the point of discharge to a public wastewater system. This section of drain is owned and maintained by the owner or owners of the property.
<i>Public drain</i>	means the public sewer and lateral connections that carry away wastewater from the point of discharge. The public drain is owned, administered and maintained by Council.
<i>Public wastewater system</i>	means a system for the collection, treatment and disposal of wastewater, including all constituent public drains, pumping stations, storage tanks, wastewater treatment plants, outfalls, and other related components operated or owned by Council and used for the reception, treatment and disposal of wastewater.
<i>Rising main</i>	means a public drain through which wastewater is pumped.
<i>Road</i>	has the meaning given by <a href="#">section 315</a> of the Local Government Act 1974.

<i>Septic tank</i>	means any fixed receptacle installed outside of a building designed for the reception and disintegration of solid matters in wastewater by methods which do not involve mechanical processes, and includes the drainage fields.
<i>Service opening</i>	means a manhole, or similar means for gaining access for inspection, cleaning or maintenance, of a public drain, private drain or onsite wastewater system.
<i>Suitably Qualified Person</i>	means any person who holds a permit under clause 11.1 of this Bylaw.
<i>Trunk sewer</i>	means a public drain, generally greater than 150mm in diameter, which forms a part of the principal reticulation network of Council's wastewater system.
<i>Wastewater</i>	means the discharge from any sanitary fixtures or sanitary appliances.

- 5.2 Words implying the singular include the plural and vice versa.
- 5.3 The Interpretation Act 1999 applies to this Bylaw.
- 5.4 Where the meaning of a word has been determined to have the same meaning as provided for that word or term in a stated piece of Legislation or other regulatory tool, for completeness, in the event of the meaning of a word or term changing in the relevant legislation or regulatory tool, then the meaning of the word or term changes for the purposes of this Bylaw as well.
- 5.5 Any explanatory notes and attachments are for information purposes, and do not form part of this Bylaw, and may be inserted, amended or revoked without formality. Explanatory notes are provided within the blue boxes throughout this Bylaw.

#### **Relationship between this Bylaw and Acts, regulations, bylaws and Council's District Plan**

Compliance with the Bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, the Kaipara District Plan and the Regional Plan for Northland. Where there is any conflict between this Bylaw and any Act or Regulation, the Act or Regulation will take precedence.

In addition to this Bylaw, Council and the Northland Regional Council has a range of powers with respect to wastewater drainage. These include powers under the Building Act 2004, the Local Government Act 1974 (LGA74), the Local Government Act 2002 (LGA02), the Resource Management Act 1991 (RMA), the Health Act 1956 and the Public Works Act 1981.

## **Part B**

### ***Public wastewater systems***

#### **6. Acceptance of discharge**

- 6.1 All wastewater discharged into a public wastewater system must meet the specifications/limits as provided in Schedule A.
- 6.2 Council may, by resolution amend the specifications/limits as provided in Schedule A.
- 6.3 Council may issue permits allowing the discharge of wastewater that does not meet the specifications/limits of Schedule A.

Council also has powers under s459 of the LGA74 to require the installation, cleaning or repair of traps (e.g. grease traps), methods of ventilation, and other fittings to private drains.

#### **7. Protection of public wastewater systems**

- 7.1 No person may damage or interfere with a public wastewater system or cause a nuisance to a public wastewater system, including by
  - a. disposing of any object or substance into a drain that is likely to result in total or partial blockage
  - b. digging through, puncturing, or crushing a public drain
  - c. placing a potentially crushing load over a public drain.
- 7.2 No person may obstruct access to any part of a public wastewater system, including by
  - a. covering a service opening
  - b. constructing any structure over any part of a public wastewater system
 unless the obstruction has been authorised by a resource consent or building consent.

It is unlawful under the Building Act 2004 and the LGA74 to connect a private drain to a public drain without the prior approval of Council under s467 of the LGA74 and a building consent. Where a connection has been made without the appropriate consent, Council can take action under these acts.

Any disconnection of a property from a public drain must be undertaken in accordance with the requirements of the Building Act 2004. Where disconnection works are undertaken in contravention of the Building Act 2004, Council can issue the owner of the property with a notice to fix or take further action under the Building Act 2004.

In addition to enforcement action under this Bylaw, Council can prosecute under s175 of the LGA02 any person who wilfully or negligently destroys, damages, stops, obstructs, or otherwise interferes with a public wastewater system.

## 8. Excavation

- 8.1 A person must not, without a permit or building consent, excavate or carry out piling or similar work closer than
- two meters from any component of a public wastewater system
  - five metres from the centre line of any rising main or trunk sewer.

In addition to enforcement action under this Bylaw, Council can prosecute under s237 of the Public Works Act 1981 anyone who excavates or otherwise interferes with any land in the vicinity of a sewer or who damages a sewer through such excavations.

# **Part C**

## ***Onsite wastewater systems***

## 9. Operation

- 9.1 The person responsible for an onsite wastewater system must ensure that the system does not create a nuisance.

## 10. Access

- 10.1 No person may
- allow vegetation to grow
  - erect or maintain any fence, building or other structure
  - cover any service opening

in a manner that in the opinion of an Authorised Officer may obstruct access to an onsite wastewater system for inspection purposes.

## 11. Suitably Qualified Persons

- 11.1 A person may apply to Council for a permit to act as a Suitably Qualified Person (SQP) for the purposes of this Bylaw.

## 12. Decommissioning or removal of onsite wastewater systems

- 12.1 Where an onsite wastewater system is to be decommissioned or removed, this must be done by, or under the supervision of, a Suitably Qualified Person.
- 12.2 The property owner must ensure that a report by a suitably qualified person providing the details of how the system has been appropriately decommissioned or removed is provided to Council within three months of completion of the decommissioning or removal.
- 12.3 Where the owner does not comply with 12.2, Council may request the report or undertake an onsite inspection. Council may charge a fee for this inspection.

A building consent in terms of the Building Act 2004 is required to install a new onsite wastewater system. Council may require a property to connect to a public wastewater system under s459 of LGA74.

## ***Part D***

### ***Onsite wastewater system monitoring regime***

#### **13. Coverage area**

- 13.1 Part D of this Bylaw applies to all types of onsite wastewater systems within the coverage area as shown in Schedule B.
- 13.2 Council may, by resolution, after consultation in accordance with s82 of the Local Government Act 2002, amend the coverage area as shown in Schedule B.

#### **14. Inspection and maintenance**

- 14.1 The owner of every property on which an onsite wastewater system incorporating a septic tank or similar type system is installed, must ensure the system is inspected and maintained by a Suitably Qualified Person at least once every three years.
- 14.2 The owner of every property on which an onsite wastewater system of a mechanical system or alternative system type is installed, must ensure the system is inspected and maintained by a Suitably Qualified Person at least once every 12 months.
- 14.3 An owner may apply for an exemption from clauses 14.1 or 14.2, where the onsite wastewater system is being operated in accordance with a Resource Consent issued from Northland Regional Council.
- 14.4 An exemption under clause 14.3 may be approved or declined by Council.

In some instances, due to the requirements of this Bylaw, property owners may be required to provide maintenance reports to both Northland Regional Council and Kaipara District Council. Council acknowledges that duplicate monitoring and reporting is onerous and, in many cases, unnecessary. The exemptions under clause 14.4 can be applied where Council agrees that the monitoring reports to Northland Regional Council are sufficient.

#### **15. Supply and keeping of records**

- 15.1 Every onsite wastewater system owner within the coverage area must on request, provide records to Council of the inspection and maintenance activities required under clause 14.1 or 14.2 of this Bylaw.
- 15.2 Where Council makes a request under 15.1, the requested records must be provided within three calendar months from the date of the request.
- 15.3 Where the owner does not comply with the requirements of 15.2, Council may undertake an onsite inspection to assess the system's performance and may charge a fee for this inspection.



## **Part E**

### ***Enforcement powers***

#### **16. Removal of works, structures, or things**

- 16.1 In addition to the power conferred on it by any other enactment, Council may repair any damage, or remove, or cause to be removed, any works, structure or thing, which is in breach of this Bylaw.
- 16.2 Council may recover from the person who committed the breach of this Bylaw the reasonable costs in connection with any action under clause 16.1.

#### **17. Offences**

- 17.1 It is an offence to breach this Bylaw.
- 17.2 Any person commits a breach of this Bylaw who
- does, or causes to be done, or knowingly permits or suffers to be done anything contrary to the provisions of this Bylaw
  - omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the purpose of this Bylaw, ought to be done by that person at the time and in the manner provided for by this Bylaw
  - does something which under this Bylaw they are required not to do
  - knowingly permits or suffers any condition or thing/s to exist contrary to any provision/s in this Bylaw
  - fails to comply with any notice or direction given to that person under this Bylaw
  - obstructs or hinders any Authorised Officer in the performance of any duty to be discharged by that Officer under or in the exercise of any power conferred upon them by this Bylaw.
- 17.3 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an Authorised Officer provide their full name and address.

#### **18. Penalties for breach of the Bylaw**

- 18.1 Every person who commits an offence against this Bylaw is liable to
- the penalty set out in section 242 of the Local Government Act 2002
- Or
- the penalty set out in section 66 of the Health Act 1956.

Pursuant to section 242 of the Local Government Act, the penalty upon conviction for an offence under this Bylaw is a fine of up to \$20,000.

Pursuant to section 66 of the Health Act 1956, the penalty upon conviction for an offence under this Bylaw is a fine not exceeding \$500 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence has continued.

It is at the discretion of a court Judge which penalty is best applied depending on the nature of and duration of the offence.

In accordance with section 162 of the Local Government Act 2002 and section 66 of the Health Act 1956, Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

A person may also be guilty of an offence punishable under the LGA74, RMA, the Health Act 1956, the Building Act 2004 and any other applicable act, depending on the circumstances.

## ***Part G***

### ***Permits, fees, exceptions and savings***

#### **19. Permits**

- 19.1 Council may issue permits under clauses 6.3, 8.1, 11.1 of this Bylaw.
- 19.2 Council may request specific information for an application for a permit and prescribe any conditions on permits issued in accordance with clause 20.1.
- 19.3 Council may by resolution
- a. charge a fee for receiving and processing an application and issuing a permit
  - b. prescribe any charges to be paid for the use of a permit
  - c. determine situations when permit fees may be remitted, refunded or waived.
- 19.4 A permit under this Bylaw may be cancelled by Council at any time.

#### **20. Fees**

- 20.1 Council may charge fees under clauses 12.3, 14.3 and 15.3 of this Bylaw.
- 20.2 Council may charge fees for permits issued under this Bylaw.
- 20.3 Council may charge fees for inspections under this Bylaw.
- 20.4 Council may by resolution
- d. prescribe any fees to be paid under this Bylaw
  - e. determine situations when fees may be remitted, refunded or waived.

## ***Part F***

# ***Offences and Penalties***

### **21. Exceptions**

- 21.1 A person is not in breach of this Bylaw if that person proves that the act or omission followed the directions of an Authorised Officer or was in accordance with an approval of Council.

### **22. Savings**

- 22.1 Any permissions, approvals or other authorisations issued under the Wastewater Drainage Bylaw 2016 continue to be in force in accordance with their terms, unless re-negotiated, renewed, or cancelled by Council.

## Schedule A

### Acceptable Discharge

The following physical and chemical characteristics are the maximum permissible for the acceptance of wastewater into the public sewer from each Point of Discharge. Any increases in any characteristic would be subject to Council approval and would require a specific separate agreement with the property owner and/or occupier.

Parameter	Maximum mg/litre (except for flow, pH units, temperature and Sodium Absorption Ratio)
Flow	6,000 litres per day at no more than 2 l/s
(BOD), 5-Day Biochemical Oxygen Demand	300
(COD), Chemical Oxygen Demand	800
Total Suspended Solids	300
Total Phosphorous	12
Total K Nitrogen	50
Total Dissolved Solids	750
Temperature	<38 degrees C
Oil/grease - extractable material	80
Aluminium	20
Ammonia	50
Arsenic	0.018
Beryllium	0.2
Boron	0.5
Cadmium	0.0015
Chloride	350
Chromium	0.25
Cobalt	0.1
Copper	0.15
Cyanide	0.34
Fluoride	2
Formaldehyde	50
Iron	20
Lead	0.1
Lithium	5
Manganese	10
Magnesium	50
Mercury	0.001
Molybdenum	0.04
Nickel	0.05
Oil/grease/fat [including cooking oils and fats]	150
pH range	6-9
Phenol	10
Phenol-cresol	16
Silver	5
Sodium Absorption Ratio	<8

Parameter	Maximum mg/litre (except for flow, pH units, temperature and Sodium Absorption Ratio)
Selenium	0.005
Sulphates	500
Vanadium	0.2
Zinc	0.3
Any one or combination of Dichloro-Diphenyl-Trichloroethane (DDT), Dichloro-diphenyl-dichloroethane (DDD), and Dichloro-diphenyl-dichloroethylene (DDE).	0.0004 Trigger for sum of all DDT, DDD and DDE.
Dieldrin substances (Organo Chlorine Pesticides)	0.0001 Trigger for sum of all Organo Chlorine Pesticides
PCBs, (polychlorinated Biphenyl)	0.002

## ***Schedule B***

### ***Coverage Area***

The coverage area within the Kaipara District and as provided for in clause 13.1 of this Bylaw includes:

1. all Residentially zoned land, as identified in the Kaipara District Plan
2. all land irrespective of zoning that is:
  - a. within 300m of the mean high water springs along the coast (east/west coasts)
  - b. within 300m of the mean high water springs of the coastal marine area (as defined in the Resource Management Act 1991) of a harbour (Mangawhai and Kaipara Harbours)
  - c. located within 300m of the margins of the Kai Iwi Lakes.