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## ***Consultation Document***

### ***Proposed Wastewater Drainage Bylaw***

***(to replace the existing Wastewater Drainage Bylaw  
2016)***

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Draft

***Council would like to hear your views on a proposal to make a new Wastewater Drainage Bylaw to replace the existing Wastewater Drainage Bylaw 2016***



# Attachment B

## Proposal

This Consultation Document includes:

- the reasons for the proposal
- an overview of the purpose of the proposed Bylaw
- the legislative considerations
- how to make a submission
- a draft of the proposed Wastewater Drainage Bylaw
- a submission form.

### Reasons for the proposal

Council has completed the required five year review of Council's Wastewater Drainage Bylaw 2016 (the 2016 Bylaw). Following the review, Council decided that while much of the content and approach of the existing Bylaw is still appropriate, there are some issues that should be addressed.

The 2016 Bylaw contained matters and powers that are already provide for in legislation that Council can act on. These duplications needed to be removed for clarity. It also needed updating to be written in a more 'plain English' style to make it easier to read and understand. Some of its elements are highly operational and are better placed in internal policies and guidelines.

At the time the 2016 Bylaw was made, Council also adopted a Wastewater Drainage Policy (the Policy). This is a non-statutory document, but was provided to support the implementation of the Bylaw. The review found that much of the Policy duplicates the Bylaw provisions or provides for operational matters. It also found that some of the Policy aspects are better placed within the Bylaw itself.

And finally, the format and structure of the 2016 Bylaw does not meet current best practice standards.

While the purpose and context of the 2016 Bylaw remains largely unchanged, the review has resulted in a very different looking document. As such, Council is proposing to revoke the existing 2016 Bylaw and replace it with a new Wastewater Drainage Bylaw (the Bylaw) for transparency and clarity.

### Overview of the proposed Bylaw

The Bylaw addresses two key issues:

- the protection of Council's wastewater infrastructure system and asset
- the protection of public health and safety through a monitoring regime for on-site wastewater systems.

Council requires appropriate powers to protect our wastewater infrastructure and to support public health and safety matters through a monitoring system that supports the efficient and effective operations of onsite wastewater systems in identified areas.

### Damage or interference with wastewater infrastructure

Council's wastewater assets are a key element in providing for public health and safety in the District. Protecting this infrastructure is therefore essential and Council needs effective rules to

# Attachment B

prevent damage or interference with this infrastructure, which also includes what people discharge into the system.

The Bylaw allows Council to take remedial action where necessary and provides a framework of what people can do in the vicinity of the assets.

## Onsite wastewater systems

Onsite wastewater systems are not usually seen as a major cause of pollution, however aging and failing systems can and do contribute significantly to the deterioration in water quality in areas with sensitive environments or high densities of systems. In addition to the environmental effects caused by the discharge of partially treated or untreated sewerage, failing onsite wastewater systems also pose a health risk to people.

To operate effectively, onsite wastewater systems (including the disposal field) must be designed, installed, operated and maintained correctly, and with new systems, operated in accordance with the manufacturer's guidelines. The property owner or occupier plays an important role in managing what goes into their system and ensuring that the system receives regular servicing and maintenance as and when required.

The onsite wastewater system provisions provide the appropriate systems and powers to ensure Council can work with property owners to make sure their onsite systems are functioning properly.

## Legislative considerations

The proposed Bylaw is subject to the provisions of the Local Government Act 2002 (the Act). When making and amending bylaws under this Act, Council is required to make certain determinations before proceeding to make a bylaw and is also required to consult with the community to amend, revoke and replace or make a bylaw.

As Council is proposing to revoke and replace the 2016 Bylaw, it is required to make the relevant considerations under section 155 of the Act, as well as considering the reasonably practicable options available in accordance with section 77 of the Act.

Council considers these matters at the August 2021 Council Meeting as part of the process to approve this Consultation Document. The report containing the relevant matters and the associated minutes of the meeting can be found on Council's website [here](#).

The 2016 Bylaw can be found on Council's website [here](#) for completeness.

# Attachment B

## Tell us what you think

### We want to hear your views

If you would like to make a comment on the proposal to revoke the 2016 Bylaw and make the proposed Wastewater Drainage Bylaw, you can do so by making a written submission, presenting your thoughts in person at a hearing, or both.

Timeline for considering the proposed changes:

Submissions period : tbc

Hearing: tbc

### How to give us your feedback

There are a few ways you can tell us what you think. You can submit your feedback in writing and/or in person by presenting your submission to the Bylaw Hearing Panel which comprises of three Elected Members of Council at a hearing.

### Hearing

A hearing is an option if you want to give your feedback to the Panel in person and answer any questions they may have about your feedback. You do not have to provide a written submission to speak.

To register to speak at the hearing you can either:

- do it online [HERE](#) or
- see the submission form at the back of this document for other options.

The hearing will be held on tbc

We will confirm a more exact time and location for you to attend closer to the date. The hearing is open to the public and anyone is welcome to attend and listen to those who have registered to speak.

Information on a hearing process and what to expect will be sent to you when we confirm your time to attend.

### Written submissions

You can provide us with a written submission. There are a few options for how you can do this:

- do it online [HERE](#)
- email us at: [submissions@kaipara.govt.nz](mailto:submissions@kaipara.govt.nz) and put 'Bylaw' in the subject line
- you can call us on 0800 727 059 and our staff can fill the form out for you over the phone
- fill in the form at the back of this document and scan it to the email above, send it to us by post, or drop it off to any one of our offices.

### What will happen with your feedback?

All feedback received will be summarised and reported back to the Panel to support their deliberations on the proposal. They will receive copies of all written submissions as well.



# **Kaipara District Council**

## **Wastewater Drainage Bylaw**

Draft

Pursuant to sections 145 and 146 of the Local Government Act 2002, Kaipara District Council makes the following bylaw to manage wastewater.

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# Part A

## Preliminary provisions

### 1. Title

1.1 This Bylaw is the Wastewater Drainage Bylaw.

### 2. Commencement

2.1 This Bylaw comes 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:

<i>Authorised Officer</i>	means <ol style="list-style-type: none"> <li>a. a person authorised by Council to perform duties under this Bylaw</li> <li>b. a person appointed by Council as an enforcement officer under section 177 of the Local Government Act 2002.</li> </ol>
<i>Council</i>	means the Kaipara District Council.
<i>District</i>	means the District of the Kaipara District Council.
<i>Drain</i>	means <ol style="list-style-type: none"> <li>a. the public sewer and lateral connections (pipes, passages and channels) that carry away wastewater from the point of discharge and owned, administered, and maintained by Council</li> <li>b. wastewater pipes, passages or channels on private property between the property and the point of discharge and owned and maintained by the owner of the property.</li> </ol>
<i>Nuisance</i>	has the meaning given by the relevant subsections of section 29 of the Health Act 1956, as they are applicable to the purpose of this Bylaw in accordance with clause 4.
<i>Occupier</i>	means a person who inhabits, leases, uses or controls any property or premises, whether as an owner, tenant, licensee or otherwise.

- Onsite wastewater system** 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.
- Owner** 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 section 94 of the Protection of Personal and Property Rights Act 1988, 'owner' includes his or her attorney or agent.
- Permit** means a permit issued by Council or an Authorised Officer in accordance with the relevant clauses of this Bylaw and includes an approval.
- Person** includes an individual, a corporation sole, a body corporate, and an unincorporated body.
- Point of discharge** is the boundary between the public wastewater system and a private drain. For avoidance of doubt, this shall correlate to the property boundary.
- Property** 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.
- Public wastewater system** means a system for the collection, treatment and disposal of wastewater, including all constituent 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.
- Septic tank** 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.
- Service opening** means a manhole, or similar means for gaining access for inspection, cleaning or maintenance, of a drain or onsite wastewater system.
- SQP - Suitably Qualified Person** means any person who holds a permit under clause 16 of this Bylaw and authorised for the specified clauses as follows:
- | SQP Category | Type of SQP           | Clauses               |
|--------------|-----------------------|-----------------------|
| Category 1   | Septic tank cleaners  | 13.1, 13.5 13.7, 13.9 |
| Category 2   | Service technician    | 14.1, 14.7, 14.11     |
| Category 3   | Registered drainlayer | 13.1, 13.7, 13.9      |
| Category 4   | Wastewater Engineers  | 11.1, 11.2, 14.7      |
- Wastewater** 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 boxes throughout this Bylaw.

#### **Relationship between this Bylaw and Acts, Regulations 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.

### **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.

### **8. Excavation**

- 8.1 A person must not, without a permit or building consent, excavate or carry out piling or similar work closer than
- a. two meters from any component of a public wastewater system

- b. five metres from the centre line of any rising main or trunk sewer.

### **Associated enforcement powers**

Council 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.

It is unlawful under the Building Act 2004 and s467 of the LGA74 to connect a private drain to a public drain without a building consent and prior approval and Council can take action in such cases.

Any disconnection of a property from a public drain must be undertaken in accordance with the requirements of the Building Act 2004. Council can issue the owner of the property with a notice to fix or take further action if required.

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
- 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
- a. allow vegetation to grow
  - b. erect or maintain any fence, building or other structure
  - c. 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. Decommissioning or removal of onsite wastewater systems**

- 11.1 Where an onsite wastewater system is to be decommissioned or removed, this must be done by, or under the supervision of an SQP.
- 11.2 The property owner must ensure that a report by an SQP 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.
- 11.3 Where the owner does not comply with 11.2, Council may request the report or undertake an onsite inspection and may charge the owner for this inspection.

**Associated consenting and enforcement powers**

Council has powers under the Health Act 1956 to act where human effluent or malfunctioning on site wastewater systems are creating a nuisance. These include the power to abate nuisance without notice under s34 and the power to enter land or dwellings for that purpose as per ss128 and 133. All expenses incurred in the abatement of a nuisance under s34 can be recovered from the owner or occupier of the premises.

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

**12. Coverage area**

- 12.1 Part D of this Bylaw applies to onsite wastewater systems located within the coverage area as provided in Schedule B.

**13. Emptying, inspection and maintenance - septic tanks**

- 13.1 Every owner of an onsite wastewater system incorporating a septic tank, must, within one month of a request of Council, provide evidence of the last emptying, inspection and any associated recommended maintenance or repair of the septic tank undertaken by an SQP.
- 13.2 On receipt of satisfactory information under clause 13.1, an Authorised Officer will determine an appropriate future emptying and inspection cycle for the system, which will be between three and six years from the date of the previous emptying and inspection activities. This will be determined based on a range of matters, including but not limited to:
- a. the number of permanent residents at the property
  - b. whether the property is a permanent residence or a holiday home
  - c. the records provided under clause 13.1.
- 13.3 Every owner will be advised in writing of and must comply with, the emptying and inspection cycle determined under clause 13.2.
- 13.4 An owner may apply for an exemption from clause 13.1-13.3 where the onsite wastewater system is being operated in accordance with a Resource Consent issued from Northland Regional Council.
- 13.5 Where an owner does not provide evidence in accordance with clause 13.1, Council will request the septic tank to be emptied and inspected by an SQP and evidence of this to be provided within one month of receipt of the request. On receipt of the documentation, clause 13.2 applies thereafter.

- 13.6 Every owner must act in accordance with any recommendations resulting from their system being emptied and inspected in accordance with clause 13.1 or 13.3 within three months of the date of the emptying and inspection.
- 13.7 Any repairs or maintenance required under clause 13.6 must be undertaken by an SQP.
- 13.8 Every owner must within one month of receiving a request from Council, provide records of any works undertaken under clause 13.6 of this Bylaw.
- 13.9 Where an owner does not comply with the requirements of clauses 13.5 or 13.8, Council may employ an SQP to complete the work and will charge the owner of the system for any costs incurred.

#### **14. Inspection and maintenance - mechanical or alternative systems**

- 14.1 Every owner of an onsite wastewater system of a mechanical system or alternative system type, and for which there is no service contract in place with the manufacturer or installer of the system, or a third party approved by either the manufacturer or installer; must ensure the system is inspected and serviced by an SQP at least once every 12 months.
- 14.2 Every owner of an onsite wastewater system of a mechanical system or alternative system type and for which there is a service contract in place with the manufacturer or installer of the system, or a third party approved by either the manufacturer or installer; must ensure the system is serviced in accordance with the conditions of the service contract.
- 14.3 An owner may apply for an exemption from clause 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 owner may apply for an extension for the requirements of clause 15.1 including for, but not limited to the following reasons:
- a. the date of the most recent inspection and maintenance activities
  - b. the number of permanent residents at the property
  - c. whether the property is a permanent residence or a holiday home.
- 14.5 An extension request under clause 14.4 may be approved or declined by Council.
- 14.6 Every owner must act in accordance with any recommendations resulting from an inspection or service in accordance with clauses 14.1 and 14.2 within three months of the date of the inspection or service report.
- 14.7 Any repairs or maintenance required under clause 14.6 must be undertaken by an SQP.
- 14.8 Every owner must within one month of receiving a request from Council, provide records of any works undertaken in accordance with clause 14.6 of this Bylaw.
- 14.9 Where an owner does not comply with the requirements of 14.8, Council may undertake an onsite inspection and may charge the owner for this inspection.
- 14.10 Where an inspection undertaken in accordance with clause 14.9 shows that maintenance, cleaning or repair works are required, Council will advise the owner of the required works and will allow three months for the works to be completed.
- 14.11 Where the owner does not comply with the requirements of 14.10, Council may employ an SQP to complete the work and will charge the owner of the system for costs incurred.

## Part E

# Permits and fees

### 15. Permits

- 15.1 Council may issue permits in accordance with the relevant clauses of this Bylaw.
- 15.2 Council may request specific information for an application for a permit and prescribe any conditions on permits issued.
- 15.3 A permit under this Bylaw may be cancelled by Council at any time.

### 16. Suitably Qualified Persons

- 16.1 A person may apply to Council for a permit to act as a Suitably Qualified Person (SQP) to supply services for the purposes of this Bylaw.
- 16.2 A permit under clause 16.1 will be issued in accordance with the categories and associated authorised clauses as provided in the definition of Suitably Qualified Person - SQP in clause 5 of this Bylaw.

### 17. Fees

- 17.1 Council may by resolution, after consultation in accordance with section 150 (3)(b) of the Local Government Act 2002:
- set fees for receiving and processing an application and issuing a permit
  - set fees for receiving and processing an application for an exemption under 13.4 and 14.3
  - set fees for inspection of properties under clauses 11.3 and 14.9
  - determine situations when permit fees may be remitted, refunded or waived.

## Part F

# Enforcement, offences, and penalties

### 18. Offences

- 18.1 It is an offence to breach this Bylaw.
- 18.2 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

- e. fails to comply with any notice or direction given to that person under this Bylaw
- f. 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.

18.3 Where it is suspected that any person has omitted a breach of this Bylaw, that person shall, on the direction of an Authorised Officer provide their full name and address.

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

19.1 Council may, in accordance with section 163 of the Local Government Act 2002:

- a. remove or alter a work or thing that has been constructed in breach of this bylaw
- b. recover any costs of removal or alteration from the person who committed the breach.

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

20.1 Every person who commits an offence against this Bylaw is liable to a penalty under sections 239 and 242 of the Local Government Act 2002.

## **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.

### **Bylaw breaches**

A breach of the bylaw is an offence under s 239 of the LGA02 and the fine of up to \$20,000 is provided under s 242 of that Act.

In accordance with section 162 of the LGA02 Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

### **Other powers**

A person may also be guilty of an offence punishable under the Resource Management Act 1991, the Health Act 1956, the Land Drainage Act 1908, the Building Act 2004, the Litter Act 1979, or any other applicable Act.

# **Part F**

## **Savings**

## **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.

**Flow:** 6,000 litres per day at no more than 2 l/s

Parameter	Maximum mg/litre*	Parameter	Maximum mg/litre*
(BOD), 5-Day Biochemical Oxygen Demand	300	Molybdenum	0.04
(COD), Chemical Oxygen Demand	800	Nickel	0.05
Total Suspended Solids	300	Oil/grease/fat [including cooking oils and fats]	150
Total Phosphorous	12	pH range	6-9
Total K Nitrogen	50	Phenol	10
Total Dissolved Solids	750	Phenol-cresol	16
Temperature	<38 degrees C	Silver	5
Oil/grease - extractable material	80	Sodium Absorption Ratio	<8
Aluminium	20	Selenium	0.005
Ammonia	50	Sulphates	500
Arsenic	0.018	Vanadium	0.2
Beryllium	0.2	Zinc	0.3
Boron	0.5	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.
Cadmium	0.0015		
Chloride	350		
Chromium	0.25		
Cobalt	0.1		
Copper	0.15		
Cyanide	0.34	Dieldrin substances (Organo Chlorine Pesticides)	0.0001 Trigger for sum of all Organo Chlorine Pesticides
Fluoride	2		
Formaldehyde	50	Dieldrin substances (Organo Chlorine Pesticides)	
Iron	20	PCBs, (polychlorinated Biphenyl)	0.002
Lead	0.1		
Lithium	5		
Manganese	10		
Magnesium	50		
Mercury	0.001		

\*except for flow, pH units, temperature and Sodium Absorption Ratio

## **Schedule B**

### **Coverage Area**

The coverage area within the Kaipara District and as provided for in clause 12.1 of this Bylaw includes:

1. All residentially zoned land, as identified in the Operative Kaipara District Plan, the Proposed Kaipara District (once notified), or any other proposed plan under the Resource Management Act 1991.
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.

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