Waste Management and Minimisation Bylaw Determination Report
Central Otago District Council and Queenstown Lakes District Council
May 2020
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1 Executive Summary

This report summarises the process by which the Queenstown Lakes and Central Otago District Councils have together identified six discrete and important waste management problems occurring within their respective districts. These problems affect the Councils’ ability to meet their statutory, financial, environmental or social responsibilities.

This report considers a range of options which could address each of the problems and concludes that each is best addressed through a combination of actions, including the introduction of new bylaws. The table below presents a summary of the problem, the desired outcome, options and the recommended approach to address the problem.

Table 1 Summary of problems and recommended options

<table>
<thead>
<tr>
<th>Specific problem</th>
<th>Outcome sought</th>
<th>Mechanisms considered</th>
<th>Recommended option</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Contamination of the different waste streams through the placement of material in the incorrect container or at drop-off points</td>
<td>Separation of waste streams to maintain high rates of diversion and quality products Cost effective and efficient services</td>
<td>Education and signage Bylaw Monitoring Economic incentives</td>
<td>Combination of education and signage, monitoring and introduction of a bylaw</td>
</tr>
<tr>
<td>2 Public litter bins being used for the disposal of commercial and/or household waste</td>
<td>Separation of waste streams to maintain high rates of diversion and quality products Clean, tidy public places Cost effective and efficient services</td>
<td>Education and signage Bylaw</td>
<td>Combination of education and signage and introduction of a bylaw</td>
</tr>
<tr>
<td>3 Commercial waste being left on the street (growth in centres is impacting on the scale of the problem, which may be exacerbated by inadequate on-site storage for waste)</td>
<td>Clean, tidy public places Cost effective and efficient services Reduction in obstructions on footpaths and in other public places</td>
<td>Education and signage Voluntary code of practice Bylaw</td>
<td>Combination of education and signage and introduction of a bylaw</td>
</tr>
<tr>
<td>4 Ability for collection trucks/vehicles to access properties including those on private roads and in multi-unit developments</td>
<td>Separation of waste streams to maintain high rates of diversion and quality products Cost effective and efficient services Enabled safe access for collection vehicles</td>
<td>Education and signage Regulation through the District Plan Bylaw</td>
<td>Combination of education and signage, regulation through the District Plan and introduction of a bylaw</td>
</tr>
<tr>
<td>5 Placement and timeframe for putting out containers prior to collection, and the timeframe for returning containers back into the property after collection</td>
<td>Clean, tidy public places Enhanced visual amenity Reduction in obstructions on footpaths and in other public places Cost effective and efficient services</td>
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<tr>
<td>6 Waste minimisation and management at events</td>
<td>Waste minimisation&lt;br&gt;Separation of waste streams to maintain high rates of diversion and quality products&lt;br&gt;Clean, tidy public places&lt;br&gt;Cost effective and efficient services</td>
<td>Education and signage&lt;br&gt;Compliance through requirement for waste minimisation plans and fees as part of event and reserves permit.&lt;br&gt;For Council funded events, fund appropriate waste management activities through the event fund.</td>
<td>Combination of education and signage, regulation through the event permit and introduction of a bylaw.</td>
</tr>
</tbody>
</table>

Draft bylaws are attached as Appendix A for consideration.
2 Introduction

2.1 Background

Waste management is a complex and critical service provided by the councils. Community expectations of the service are high, but a successful delivery of the service requires the councils, collection contractors, businesses, residents and the general public (whether residents or visitors) to all play their part.

A small number of discrete but important waste management problems have emerged for the councils:

- contamination of the different waste streams through the placement of material in the incorrect container or drop-off points
- public litter bins being used for the disposal of commercial and/or household waste
- commercial waste being left on the street
- ability for collection trucks/vehicles to access properties including those on private roads and in multi-unit developments
- placement and timeframe for putting out bins prior to collection, and the timeframe for returning bins back onto the property after collection
- waste minimisation and management at events.

These issues were identified through the development of the respective Waste Management and Minimisation Plans (WMMPs) and then more recently further considered:

- through workshop sessions with representatives from both councils
- reviewing the experiences in delivering waste services, including customer and contractor enquiries and complaints
- seeking industry feedback; and
- further workshops with QLDC staff from regulatory and policy areas.

This report documents the process by which the councils have considered mechanisms to address the outcomes sought and recommended options, including the appropriateness of a bylaw for addressing the issues or perceived problems.

2.2 Legislative framework

A number of Acts of Parliament provide the legal framework for waste management and minimisation in New Zealand, with the primary legislation driving waste management and minimisation planning being the Waste Minimisation Act (WMA) 2008, the Local Government Act (LGA) 2002, and the Resource Management Act (RMA) 1991. Other pieces of legislation contribute to the regulatory environment including the Litter Act 1979 (which prohibits littering), the Health Act 1956 (a significant piece of legislation which gives, amongst other things, the power to territorial authorities to manage waste that may cause a hazard to human health), the Climate Change Response Act 2002 (which introduces the Emissions Trading Scheme including obligations for owners of landfills), and the recently passed Climate Change Response (Zero Carbon) Amendment Act 2019.

Taken together, these Acts provide the legislative imperative and tools to support progress toward the high-level direction outlined in the New Zealand Waste Strategy (NWS).
2.2.1 The Waste Minimisation Act (WMA) 2008

The enactment of the WMA in 2008 represented a change in the Government’s approach to managing and minimising waste. The WMA recognises the need to focus efforts higher on the waste hierarchy in terms of reducing and recovering waste earlier in its life cycle, shifting focus away from treatment and disposal. The purpose of the Act (s3) is to “encourage waste minimisation and a decrease in waste disposal in order to protect the environment from harm; and to provide environmental, social, economic and cultural benefits”. The WMA introduced a range of useful tools. These include a framework for developing accredited product stewardship schemes and the creation of a national waste disposal levy, half of which is distributed back to councils on a population basis.

While the WMA provides many benefits to local councils it also establishes a range of responsibilities. Part 4 is fully dedicated to the responsibilities of councils which “must promote effective and efficient waste management and minimisation within their districts” (s42).

Section 56 of the WMA gives councils the power to make bylaws for the following purposes:

- prohibiting or regulating the deposit of waste
- regulating the collection and transportation of waste
- regulating the manner of disposal of dead animals, including their short-term storage pending disposal
- prescribing charges to be paid for use of waste management and minimisation facilities provided, owned, or operated by the territorial authority
- prohibiting, restricting, or controlling access to waste management and minimisation facilities provided, owned, or operated by the territorial authority
- prohibiting the removal of waste intended for recycling from receptacles provided by the territorial authority by anyone other than
  - the occupier of the property from which the waste in the receptacle has come, or
  - a person authorised by the territorial authority to remove the waste.

It also allows for the promulgation of bylaws which regulate the licensing of persons who carry out the collection and transportation of waste.

Breaches of the bylaw must be pursued by summary conviction (this describes offences that are dealt with in the District Court before a judge alone). A person found in breach of the bylaw is liable to a fine not exceeding $20,000.

Bylaws can be used to:

- provide regulatory support
- provide a framework to drive councils’ waste strategy development and waste management strategy initiatives
- ensure efficient and effective waste management in accordance with legislative requirements and with councils’ waste minimisation and management plans

Other important provisions of the WMA, less directly relevant to the problem’s council is seeking to address, are detailed in Appendix C.
2.3 Other relevant pieces of legislation enabling the promulgation of bylaws

Litter Bylaws (made under the Litter Act 1979) allow local authorities to issue infringement notices for littering. The maximum fee for a breach is $400.00. However, local authorities can only take action if the offender is caught in the act or if they can be identified by the litter left behind. Breaches of the Litter Act can also be pursued summarily and, if the court convicts, a penalty may be imposed on the offender and the offender may be ordered to pay a sum that compensates the local authority for the cost of removing the litter.

Bylaws made under the Local Government Act 2002 (LGA02) may be made

- to protect the public from nuisance
- to protect, promote and maintain public health and safety; and minimise the potential for offensive behaviour in public
- to control the use of liquor in a public place.

However, any breaches of bylaws made under the LGA02 can only be proceeded against summarily, unless specified as infringement offences in separate regulations (this has not occurred for waste or litter offences). A person who is convicted of breaching a bylaw is liable to a fine which is in a range defined by the Act (of up to $200,000). Fines are generally not more than $20,000, which is consistent with fines for breaches of bylaws made under the WMA.

The Health Act 1956 enables local authorities to make bylaws for the protection of public health. Every person who contravenes or fails to comply with any bylaw made under the Health Act commits an offence and is liable to 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. The local authority may, after the conviction of any person for a continuing offence against any bylaw, apply to any court for an injunction to restrain the action.

2.4 New Zealand Waste Strategy 2010 (NZWS)

Waste management and minimisation in New Zealand is underpinned by the Government’s core policy, The New Zealand Waste Strategy – reducing harm and improving efficiency (NZWS). The NZWS provides high level direction to guide the use of tools available to manage and minimise waste in New Zealand. To convey the high-level direction, the Strategy has two goals:

- reducing the harmful effects of waste
- improving the efficiency of resource use.

The WMA s44 requires that councils “have regard to” the NZWS, or other such policy that is subsequently developed, when preparing a WMMP. The Strategy’s flexible approach will ensure that waste management and minimisation activities are appropriate to local situations and desired community outcomes.

2.5 The Council’s waste management and minimisation plans

Section 56 of the WMA requires that bylaws “must not be inconsistent with the territorial authority’s waste management and minimisation plan.”

Each of the councils has a current waste management and minimisation plan which outline the councils’ respective visions for moving towards zero waste. The plans also put forward action plans/methods by which this vision will be achieved. As rules prescribing the operation of individuals and entities, bylaws play an important part in achieving each councils’ waste vision and supporting many of the actions.
The key issues and actions outlined in the respective waste management and minimisation plans are set out in a table in Appendix B and summarised below.

**Figure 1  Key issues from the WMMPs**

<table>
<thead>
<tr>
<th>Queenstown Lakes District Council</th>
<th>Central Otago District Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Waste reduction - reducing waste at source</td>
<td>- Provide opportunities to minimise waste through reduction, reuse, recycling and recovery</td>
</tr>
<tr>
<td>- Resource recovery - diverting waste from landfill</td>
<td>- Educate producers and consumers about options and responsibilities</td>
</tr>
<tr>
<td>- Waste disposal - collecting, transporting and disposing of waste</td>
<td>- Avoid or mitigate any adverse effects on public health or the environment</td>
</tr>
<tr>
<td></td>
<td>- Provide cost effective and safe waste management</td>
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<tr>
<td></td>
<td>- Engage with the community on Council’s progress</td>
</tr>
</tbody>
</table>

We note that the introduction of waste management and minimisation bylaws were part of the analysis and the community engagement on development of the councils’ WMMPs. Ultimately, investigation of (QLDC) or the option of a bylaw (CODC) was identified multiple times in the action plans of the respective WMMPs to address issues identified in those plans.

The LGA02 requires that the council must determine whether a bylaw is the most appropriate way of addressing the perceived problem before commencing the process for making a bylaw. This report therefore goes back to first principles to consider each problem and the different options for addressing that problem.
3 The Key Waste Problems

3.1 Definition of the problems

During the development of the WMMPs the councils identified six key problems in relation to effective and efficient waste management in their districts. The problems identified affect each district, albeit in different ways. While they all relate to waste and resource recovery, the six problems listed are diverse and involve different policy considerations.

The six problems are:

• contamination of the different waste streams through the placement of material in the incorrect container or at drop-off points
• public litter bins being used for the disposal of commercial and/or household waste
• commercial waste being left on the street
• ability for collection trucks/vehicles to access properties including those on private roads and in multi-unit developments
• placement and timeframe for putting out containers prior to collection, and the timeframe for returning containers back into the property after collection
• waste minimisation and management at events.

There has been some engagement with key industry stakeholders on five of the six key problems and the discussion in this report includes their feedback. Discussion around the inclusion of event management and the associated options, the sixth issue identified, occurred following industry engagement. We note that as part of the bylaw process a period of community consultation will be required.

3.2 Mechanisms available for achieving waste management and minimisation objectives

There are a range of mechanisms available for achieving the waste minimisation and management outcomes that the councils seek.

In his book, A Practical Guide for Policy Analysis: The Eightfold Path to More Effective Problem Solving Eugene Bardach identifies eleven “Things Governments Can Do.” These are: taxes (or rates in the case of local government), regulation, subsidies and grants, services, budgets, information, modification of structure or private rights, modification of framework of economic activity, education and consultation, financing and contracting, and bureaucratic and political reforms. Essentially this is the list of the available mechanisms that council can choose from to solve any of its problems. Obviously not all mechanisms are applicable in the waste context. Whatever, mechanism(s) is adopted it needs to be effective as a means of facilitating the outcomes in the New Zealand Waste Strategy and the respective Queenstown District Council or Central Otago District Waste Management and Minimisation Plan.

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The options most frequently considered in relation to the type of waste problems identified by the councils are

- regulation (by means of a bylaw or through the district plans)
- services and associated fees and charges
- education (including all aspects such as signage, programmes, relevant information and materials circulated, provided and/or delivered)
- encouragement of voluntary industry agreements e.g. codes of practice.

This report discusses the merits of each option and provides a recommendation as to the preferred option(s).

No additional action by the councils (a ‘do nothing’ option) was considered. Generally, a ‘do nothing’ course of action is relying on the existing programmes, actions and initiatives, which is effectively already embedded within the range of options. In all instances however, this approach has not delivered the required outcomes sought and has not proved effective in addressing the identified problems.

3.3 Analysis of the problems

This section of the report outlines the problems identified by the councils, the outcomes sought by the councils, the mechanisms identified by the councils to achieve the outcome sought and determines which of the options or combination of the options is the preferred approach.

3.3.1 Contamination of the different waste streams through the placement of material in the incorrect container or at drop-off points

Problem

Contamination of divertible materials is a genuine issue that the resource recovery sector must manage. The majority of residents now have access to a recyclable material collection and an organics collection. Residents also have access to recycling drop off locations where waste streams can be separated. The expectation is that waste separation will occur as a matter of course by users of the service. Further, that recyclables and organics, once separated, will be taken to an appropriate treatment facility rather than ending up in a landfill.

The purpose of separating the waste streams at the point of collection or drop off location is to protect the quality of the product. For the whole system to be successful everyone at each step in the process needs to support this intent. The councils have well developed contracts which control contamination. However, the mixing of waste streams by users of the services causes contamination of the material e.g. general waste with recyclables, hazardous waste with general waste, and poor quality or non-recyclable products with recyclable products. This leads to an increase in the amount of refuse and recyclables being landfilled when the councils’ focus is on increasing diversion from landfill.

At its most basic, the Waste Minimisation Act requires territorial authorities to promote effective and efficient waste management and minimisation within its district. If divertible materials, which can be practically and economically removed from landfill, end up in the landfill, arguably the councils are failing to meet this obligation and action to address this should be taken.
Options considered by the Councils

This report considers four options to address the problem of contamination of the different waste streams:

<table>
<thead>
<tr>
<th>Options</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Education and signage</td>
<td>Educational programmes, downloadable material promoted through council websites and/or materials circulated to recipients of the service Clear signage in, on and around containers</td>
</tr>
<tr>
<td>2 Introduce, through a bylaw, requirements to separate waste streams</td>
<td>Recipients of the services would be required to separate waste streams as set out in the bylaw: failure to do so may lead to a fine, additional charges being placed on the owner of the accommodation (in the event the breaches relate to some form of holiday accommodation e.g. Airbnb) and, in extreme circumstances, the potential cessation of the service (following warnings)</td>
</tr>
<tr>
<td>3 Monitoring</td>
<td>Container audits and checks by council/contractors of the contents of the containers</td>
</tr>
<tr>
<td>4 Economic incentives</td>
<td>Provide economic incentives to encourage correct waste and diversion decisions (e.g. user charges for services)</td>
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</tbody>
</table>

Discussion of the options

Education strategies and programmes are the cornerstone of ensuring that people use the kerbside collection and drop off locations correctly.

Most people want to use the service correctly but may be unaware of what the correct requirements are. Issues such as putting polystyrene in the recycling or creating an obstruction with their container may simply be due to a lack of knowledge around the correct methodology. Campaigns encouraging the correct separation of refuse and recyclables may not change the public’s behaviour immediately but will play an important role in educating the community over the longer term.

To be effective in tourist destinations, such as Queenstown and Cromwell, an education campaign may include:

- the production of material in various languages that can either be downloaded from the council website, emailed to all tourist venues and operators, or printed and distributed to accommodation providers.
- working with the tourism sector to encourage the development of a voluntary industry standard where appropriate waste management and minimisation messaging is included in all relevant information material produced by the sector
- badging of public bins and rubbish and recycling containers with information in multiple languages.

Education is a highly successful tool. However, it does not provide a satisfactory solution for the small percentage of the population who knowingly breach the collection rules.²

Given the makeup of the communities of the councils it may be useful to run a targeted education campaign aimed at landlords and tenants so that occupiers as well as owners are aware of the rules, and targeting long term residents, seasonal workers and visitors using residential accommodation.

Making it clear to people which materials should be placed in which container is and will continue to be a focus for the councils and their contractors. Education and signage will be the critical first response in improving the quality of the recyclable products.

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Monitoring the contents of containers and drop off locations should also form part of the councils’ response. Having contractors and/or staff available to monitor the contents of bins, combined with education strategies, can be a highly effective approach in getting people to correctly separate their waste. Where contamination is found then further education will ensue with recipients of the services getting further information about the problem, the importance of separating waste streams and the potential consequences if they continue to mix waste streams.

Education and monitoring will not resolve problems where people wilfully mix their waste or, despite education campaigns, continue to repeatedly mix waste streams. To be able to provide an efficient and cost-effective service the councils need the ability to take action should recipients of the services continue to place the wrong waste in the wrong containers and/or contamination is excessive. A bylaw could be introduced to make sure material separation is a mandatory obligation. Instituting such a bylaw would allow the councils to prosecute residents if they were not complying with the terms of a kerbside collection or use of drop off locations, especially after multiple warning notices.

Typically, issuing warnings to residents for incorrect use of the waste collection service is very effective and generally residents remedy the problem and do not reoffend. However, there are a small number of residents who will continue to break the rules even after multiple warnings. In these instances, imposing fines under the bylaw is considered an appropriate response.

The most extreme action to address the problem, if repeated fining of a recidivist offender has not been effective, may be to refuse to provide the individual or organisation with the service. However, Council in moving to invoke this power would need to carefully balance the decision, on a case by case basis, with consideration of the wider community wellbeing of ensuring litter is removed in a timely manner.

Council’s view is that there are enough commercial waste services or waste management and resource recovery facilities within their districts that an affected resident will be able to make alternative arrangements if their kerbside collection service is withdrawn. However, it is considered less likely that a recidivist offender will be compliant or considerate in the way they then choose to dispose of their waste. In the absence of a kerbside recycling or refuse collection service a resident may actively choose to inappropriately dispose of their waste in a way that has a more significant detriment effect on the community and the environment.

With some visitor accommodation, such as Airbnbs, it is inevitable that repeated bin mistakes may occur. While dissemination of information or material in multiple languages to accommodation owners is a good first response, it may be appropriate to introduce an additional waste management fee to the rating model for these types of accommodation. To support improved waste management and minimisation, it is suggested that any introduction of a differential rate should be coupled with the opportunity for the rate to be waived in instances where the accommodation owner achieves consistent compliance with waste streaming in their kerb collection waste containers. However, councils will need to consider whether the level of waste contamination occurring from a subset of accommodation providers is sufficient to justify the administration and enforcement costs of the proposed process.

Enforcement of bylaws can be time consuming and expensive for the councils. Prosecutions and, on very rare occasions, the cessation of the service would only be considered in the most serious cases. However, these measures provide the ultimate deterrent which in turn reinforces and supports the educational programmes.
There will be increased costs for the industry and consumers from increased diversion obligations. At a certain point, the cost of achieving ever more complete material separation will be disproportionate to the benefits achieved. It is therefore important that any bylaw makes it clear that it is acceptable for a reasonable amount of residual divertible materials to remain in loads destined for landfill. Any bylaw would have to provide exemptions for genuine instances of contamination but not allow this to be unreasonably used as an excuse to send diverted materials to landfill.

**Recommendation**

It is recommended that the councils rely predominantly on monitoring and education campaigns and programmes but introduce a bylaw that allows the councils to prosecute a user of the service or, in extreme circumstances, to stop a service to a specific location for breaching the bylaw, but with an allowance for low levels of contamination. Councils may want to consider the introduction of a differential rate for some types of accommodation providers, such as Airbnb. However, councils will need to evaluate whether the degree of waste contamination occurring from this source is sufficient to justify the increased administrative and enforcement costs.

### 3.4 Public litter bins being used for the disposal of commercial and/or household waste

**Problem**

Unfortunately, the use of public litter bins for purposes for which they are not intended is common. The most frequent issues being reported are the use of the bins for the deposit of commercial or household waste and litter being placed in, on or near full bins with the disposer possibly assuming that the placement of the waste near a bin will ensure its removal.

If public litter bins are used for the disposal of commercial or household waste, they become full. Members of the public cannot then use them to dispose of litter. They can become overfull and waste can spill out onto streets, parks and public spaces affecting area amenity.

Public litter bins are funded and provided by the Councils for the purpose of litter reduction and to ensure that public areas remain clean, tidy and safe. The cost of removal and disposal of this additional waste is met by the ratepayer rather than the disposer.

Household waste should be disposed of through the domestic waste collection services provided by the councils. Commercial businesses should make their own arrangements to dispose of the waste created by their businesses. Placing these wastes into public litter bins removes the ability for any of that material to be diverted from landfill.

The Litter Act largely addresses issues relating to litter but does not as effectively deal with the other issues, such as the placement of commercial and residential waste in litter bins.

Additionally, the Waste Minimisation Act requires territorial authorities to promote effective and efficient waste management and minimisation within its district. If divertible materials, which can be practically and economically removed from landfill, end up in the landfill, arguably the councils are failing to meet their obligations and action to address this should be taken.

The increase in the number of public recycling bins means that contamination of the recycling bins is also increasingly an issue.
Options considered by the Councils

<table>
<thead>
<tr>
<th>Options</th>
<th>Description</th>
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<tbody>
<tr>
<td>1 Education and signage</td>
<td>Educational programmes, materials circulated to nearby businesses and households. Clear signage in, on and around public litter bins.</td>
</tr>
<tr>
<td>2 Introduce, through a bylaw, a prohibition on disposal of household or commercial waste in public litter bins</td>
<td>A bylaw preventing the placing of household or commercial waste in public litter bins would be developed with penalties imposed for a breach.</td>
</tr>
</tbody>
</table>

Discussion of the options

Education strategies and programmes are likely to have a limited impact in directly solving the correct use of public litter bins due to the nature of the bins e.g. in public places, and the high number of visitors who are users of the services. However, they will play an important role in educating the households and businesses over the longer term.

The Litter Act prohibits people from leaving litter in public places or private places without the consent of the owner. Litter is defined as including 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. However, the Litter Act also places an obligation on territorial authorities to provide suitable litter receptacles (at clause 9(1)):

Every person, public authority, and department of State shall at all times provide and maintain in every public place under his or its control or management where litter is likely to be deposited, such number of litter receptacles of suitable construction and design for the temporary deposit of litter as may reasonably be necessary to keep the place free from litter

This clause does place an onus on the councils to provide litter bins of a suitable size and to empty them frequently enough so as to keep the place free from litter. If people are depositing litter around a litter bin because the litter bin is full, arguably it may be the councils’ responsibility to increase the level of service provided.

Prior to taking corrective action, it is suggested that councils may need to investigate the source of the litter, for example, it may be from nearby small businesses. If the councils were to provide bigger litter bins this may also encourage people to deposit larger items or commercial waste that is not generally thought of as litter. Litter deposited around bins may also be due to small businesses.

The Litter Act provides a very broad definition of litter that does not provide a distinction between domestic and commercial litter. It also does not limit litter to small items. This has positive and negative consequences for the councils. On one hand the broad definition allows the councils to include items such as cars as litter, which means that Litter Act infringement fees can be applied to the dumping of cars. On the other hand, it does mean that technically larger items may be treated as litter for the purpose of disposal in a litter bin. Generally, the solution to this is to have small openings in the tops of litter bins so that only food waste, packaging, cigarette butts, dog waste and gum can be practically disposed of in a litter bin.

The Litter Act already has harsher penalties for people depositing litter of a nature that is likely to endanger any person or to cause physical injury or disease or infection to any person. At a lower level, while bylaws made under the Litter Act allow for infringement notices (fines), they do require the person to be caught in the act or be able to be identified by the waste. Alternatively, enforcement of the Health Act could be used where the litter in question has the potential to cause a danger to human health.
A bylaw stating the public’s responsibilities with regards to usage of litter bins would be useful. Enforcement officers would be able to inform transgressors that their actions were a breach of the bylaw in addition to any Litter Act breaches that may have been committed.

The same drawbacks around enforcement would be present, as have been earlier discussed. Enforcement can be expensive, and monies recovered are unlikely to offset the cost of the enforcement activity. However, having the bylaw and potential implications for a person breaching the bylaw provides a meaningful backstop that supports education and monitoring as the primary means of managing inappropriate and incorrect use of public litter bins. The bylaw provides an additional tool with which to address the current problem and the likely increase in the scale of the problem with population growth and increasing visitor numbers.

Recommendation

It is recommended that the councils rely predominantly on monitoring and education campaigns and programmes but introduce a bylaw that prohibits placing commercial or household waste in or near a public litter bin. Offenders could be prosecuted in extreme cases or for recidivist offenders, with enforcement through infringement fines under the Litter Act 1979 as the preferred approach for less serious and isolated offences.

3.5 Commercial waste being left on the street

Problem

Having bulky commercial waste on the streets can create an unpleasant and, in some cases, unhealthy obstacle for residents, visitors and other users of the central business districts (CBDs). It is unsightly and reduces the amenity value and usability of the CBDs. There is also a perception issue about poor waste management created for visitors, tourists and locals who see unsightly rubbish in the CBDs.

There is also a problem with waste being placed out too far ahead of collection times and being placed or stored in inappropriate locations. There is therefore a need to control the timing of and location where such waste can be placed and stored.

Currently, the councils are left having to retrieve uncollected waste and this is at a cost to the ratepayer where the costs should be being borne by the businesses themselves.

The projected growth in the population and commercial centres of the respective councils will exacerbate the problem.

Options considered by the Councils

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<thead>
<tr>
<th>Options</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Education</td>
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<tr>
<td></td>
<td>Voluntary industry code of practice</td>
</tr>
<tr>
<td>2</td>
<td>Introduce, a bylaw, which sets controls over when and where commercial waste can be placed or stored for subsequent collection</td>
</tr>
</tbody>
</table>
Discussion of the options

Again, education strategies and programmes will be the cornerstone of ensuring that businesses and their staff use commercial collection services correctly. Most people will want to use the service correctly but may be unaware of what the correct requirements are and the impacts of improper use.

One option to address these issues is the development of a voluntary industry code of practice for the collection of commercial waste which sets out expectations for the timing and location of waste collection within CBDs. There are many documented benefits from adopting a voluntary approach ahead of a regulatory approach. Primarily, the advantage of a voluntary approach is that voluntary industry agreements are led by the industry themselves. This allows industry flexibility around how they meet a target or standard. Industry may be able to be more responsive than the councils and can change its approach to respond to emerging problems or solutions. Industry initiatives are generally cheaper for the industry to implement. The cost of regulation (both industry and council led) ultimately gets passed on to the consumer, industry led approaches can therefore be a more cost-effective solution for industry, consumers and government.

Voluntary industry agreements are not a complete panacea. Facilitating their development can be a lengthy exercise and the whole process can be undone if the industry participants cannot reach agreement on certain clauses. Consideration needs to be given to what sanctions could possibly be applied to operators who continued to work without being signatories to the voluntary agreement (the so-called free rider problem). In most instances of industry-led regulation, it is pressure from customers that forces industry players to join a voluntary agreement. For example, customers may feel safer hiring a pest exterminator who is a member of the Pest Management Association of New Zealand (PMANZ) as PMANZ requires all its registered technicians to hold the National Certificate in Urban Pest Management or equivalent.

Unfortunately, this kind of market pressure is unlikely to work in the waste context as it is the customers rather than the waste collectors who are creating the nuisance and it is not realistic to expect the service providers to regulate their customers’ behaviour.

A bylaw establishing when and where waste can be placed out for collection within the CBDs is therefore required to ensure that it is those creating the nuisance that are held to account. In developing a bylaw the councils will need to be cognisant of other restrictions within the CBDs, such as noise restrictions which may impact collection times, the amount of vehicles including delivery trucks competing for the same space, and existing bylaws which regulate access to the CBDs.

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3 For example, see:

4 http://www.pmanz.co.nz/default.aspx
The same drawbacks around enforcement would be present as have been earlier discussed. Enforcement officers would be able to inform transgressors that their actions were a breach of the bylaw in addition to any Litter Act breaches that may have been committed. Enforcement can be expensive, and monies recovered are unlikely to offset the cost of the enforcement activity. However, having the bylaw and the potential implications for a breach of the bylaw provides a meaningful backstop which supports education and monitoring as the primary means of managing waste collection within the CBD.

**Recommendation**

It is recommended that the councils rely predominantly on monitoring and education campaigns and programmes, but introduce a bylaw that sets out in the instances when commercial waste is set out for collection within the public space in the CBD and how it should be collected.

### 3.6 Ability for collection trucks/vehicles to access properties

**Problem**

Developers of multi-unit developments (MUDs) may not adequately consider waste management requirements when designing buildings. The Building Code requires that space and facilities be provided for the storage of solid waste prior to collection from multi-unit dwellings that lack independent access or private open space at ground level. However, this does not currently extend to space for recycling (this is currently under consideration). Efficient and effective waste management in multi-unit developments is compromised due to:

- insufficient space provision for waste and recycling receptacles
- difficult access or no access for collection vehicles (if all dwellings are required to have their own container, on collection day the placement of containers on the pavement can obstruct pedestrians)
- systems that the occupiers of the buildings find difficult to use and which do not promote waste diversion and separation of recyclables.

Health and safety risks may be created for the occupiers and the waste collectors.

**Options considered by the Councils**

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<thead>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Education</td>
</tr>
<tr>
<td>2</td>
<td>Introduce MUD waste management regulation as part of the District Plan</td>
</tr>
<tr>
<td>3</td>
<td>Introduce MUD waste management regulation through a bylaw</td>
</tr>
</tbody>
</table>

**Discussion on options**

An education campaign targeting developers may meet with some success. There are developers who want to ensure that they are responsible for a quality development and would be keen to include best practice waste management solutions in their MUD. However, there are also developers who do not want to compromise profit by providing features that will be in the best long-term interests of residents or owners. Education strategies will therefore form part of the solution but are unlikely to address the issues in all instances, nor address issues with any existing buildings.
Requiring adequate consideration of waste management issues through the respective councils’ district plans and the codes and policies that support those is arguably the most logical place for this form of regulation to sit. There are existing processes to ensure that resource management consent conditions are complied with and processes to pursue those who breach their consent conditions. The failure to adequately provide for waste storage in and disposal from MUDs generates adverse environmental effects and can be properly seen as a “resource management” issue.

Assessment of waste management provisions as part of the RMA process would allow planners to review the plans for a development at the same time other considerations (e.g. parking, permeable surfaces etc) were being assessed. However, the development of the District Plans is complex with their own timelines and priorities, and again, it will not address any existing buildings. For this reason, this option may need to be supplemented with other initiatives.

The introduction of a bylaw would provide for improvement in waste management for both existing and new multi-unit developments.

A bylaw may provide for multi-unit developments (for Central Otago District Council it is proposed this is for apartment blocks with four or more units and retirement villages) to opt out of the council-provided waste collection service by choosing an approved alternative provider. Where the council service is retained, options provided are a normal container service or an alternative container collection service. The collection contractor must develop an operations plan for multi-dwelling properties that involve an alternative container collection service.

It is noted that Central Otago currently has a limited number of MUDs in the district. However, it is anticipated that with the Cromwell masterplan and the potential intensification of development around the town centre more such developments may be likely. The proposed bylaw and the associated changes to the district plan are therefore intended to be pre-emptive to avoid the waste management issues with MUDs that have occurred in other districts.

Any bylaws should be performance based that is, focused on the outcome that a MUD development needs to achieve as it would not be practicable to specify specific provisions given the range and diversity of MUDs that would be covered. This may be achieved by requiring managers of multi-unit developments to provide for waste management and minimisation plans that meet the requirements of the Councils.

**Recommendation**

It is recommended that the councils rely on a combination of education campaigns and programmes, the District Plan and a bylaw that allows for an opt out of a council-provided waste collection service. With the opt out provision a MUD may choose an approved alternative collection provider or to submit a waste management and minimisation plan as part of the consenting process.
3.7 Placement and timeframe for putting out containers prior to collection, and the timeframe for returning containers back into the property after collection

Problem

The failure to retrieve an empty container from the kerb within a reasonable timeframe can create a series of problems. Uncollected containers are more likely to become damaged, can create traffic hazards or impediments to the use of the footpath. They can be visually unappealing, particularly in locations of outstanding natural beauty that is a drawcard for tourists and locals. Wheelie bins or containers can stay in the public place for a long time because they are put out too early or retrieved too late, increasing the possibility that they will be tampered with, creating litter or detracting from the visual amenity of the area.

Failing to place a container out for collection on time leads to services being missed. Similarly, the placement of containers outside of the prescribed location, or where they may be difficult for the waste collection trucks to access can be a problem for the service, particularly in narrow cul-de-sacs. For example, if containers are placed behind parked cars.

The flow on affects from this are unhappy recipients of the service, additional costs for the councils from servicing missed collections or from delays due to access problems, or excessive waste being stored onsite by residents creating smell and nuisance to others.

Options considered by the Councils

<table>
<thead>
<tr>
<th>Options</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Education</td>
</tr>
<tr>
<td></td>
<td>Educational programmes, materials circulated to households about the time by which containers must be placed out to ensure collection and the time by which they must be brought in and why there is a need for times to be set.</td>
</tr>
<tr>
<td>2</td>
<td>Introduce, through a bylaw, rules that set out time periods for setting out and returning collection bins</td>
</tr>
</tbody>
</table>

Discussion on options

Education strategies and programmes will be the cornerstone of ensuring that people use the kerbside collection correctly. Most people want to use the service correctly but may be unaware of what the correct requirements are or appreciate the impact of leaving their containers out long past the collection time or day. Education is a highly successful tool; however, it does not provide a satisfactory solution for the small percentage of the population who knowingly breach the collection rules.\(^5\)

It might be particularly useful to run a targeted education campaign aimed at landlords and tenants, including holiday rentals and Airbnb, so that occupiers as well as owners are also aware of the rules.

Ultimately, in order to provide an effective and cost-effective service the councils need the ability to act should recipients of the services continue to breach the requirements of the service. Instituting a bylaw would allow the councils to prosecute residents if they were not complying with the requirement of when containers can be placed on the street and when they must be returned from the street, especially after multiple warning notices. A bylaw could apply to council collections but could also extend to monitoring unsatisfactory behaviour of residents using private waste collection services. Prosecuting a resident has the advantage that this measure can be undertaken while the resident is still provided with a waste collection service, hence not exacerbating waste collection issues. Prosecutions are very expensive for the councils though and would only be considered in the most serious cases.

The most extreme action to address the problem of people who do not fulfil their kerbside collection obligations is to refuse to provide them with the service. However, Council in moving to invoke this power would need to carefully balance the decision, on a case by case basis, with consideration of the wider community wellbeing of ensuring litter and containers are placed and removed in a timely manner.

Council’s view is that there are enough commercial waste services or waste management and resource recovery facilities within their districts that an affected resident will be able to make alternative arrangements if their kerbside collection service is withdrawn. However, it is considered less likely that a recidivist offender will be compliant or considerate in the way they then choose to dispose of their waste. In the absence of a kerbside recycling or refuse collection service a resident may actively choose to inappropriately dispose of their waste in a way that has a more significant detriment effect on the community and the environment.

**Recommendation**

It is recommended that councils rely predominantly on monitoring and education campaigns and programmes but introduce a bylaw that allows the councils to prosecute for a breach of the bylaw. This may include stopping the collection service to a specific location following a prescribed number of warnings.

### 3.8 Waste management at events

There are a range of issues associated with waste minimisation and management at events (both on public and private land) that until recently has been managed by the resource consent process. Examples include the following:

- events in public places and on private land often result in the consumption of food and beverages, creating waste
- event organisers have not provided enough containers for refuse collection and diversion of waste
- litter bins located in public places or provided for public events on private land may not be adequate to contain the waste generated by the number of people attending
- waste is commonly placed in overflowing litter bins or discarded. In the case of events on private land, waste may end up in adjacent or surrounding public places
- waste may also be deposited in surrounding streets as people arrive or leave the event
- waste deposited in, or which ends up in, public places ultimately becomes the liability of the Councils for removal and disposal
- street cleaning before or after significant events is funded by rates.
As these are no longer being managed by the resource consenting process there is a need to develop alternative mechanisms to manage these problems. Due to the size and nature of the events any potential rules or policy will need to have flexibility to address significantly different circumstances. Therefore, it is difficult to put forward any one size fits all solutions.

It is noted that Central Otago District Council currently hosts relatively few major events annually and generally provides street cleaning prior to the event, where applicable, as sponsorship in kind. However, with increasing population growth projected for the district, particularly in Cromwell, it is envisaged the number of events may increase in future years. Council’s proposed response is therefore intended to mitigate any future problems arising from increased event pressure.

**Options considered by the Councils**

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<tbody>
<tr>
<td>1</td>
<td>Education</td>
</tr>
<tr>
<td>2</td>
<td>Require, through a bylaw, development and adherence to a waste management and minimisation plan</td>
</tr>
<tr>
<td>3</td>
<td>Require, through an event permit or licence to trade, development and adherence to a waste management and minimisation plan</td>
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</tbody>
</table>

**Discussion on options**

Guidance documents are available to event managers which can assist them to provide a sustainably run event, with special emphasis on appropriate waste minimisation and management. It is proposed that the councils have officers available to talk to event managers and provide advice and resources. However, education alone will not be satisfactory to resolve all the event waste problems.

To ensure appropriate consideration is given to the management and minimisation of waste, the requirement to prepare an event waste management and minimisation plan could be introduced. This allows the tailoring of waste measures that are appropriate to the scale and nature of the event. A waste management and minimisation plan would cover issues such as the waste profile of the event (how much and what types of waste will be created); what waste collection facilities will be available; what kind of waste minimisation promotion will occur (to vendors/performers and to patrons); and what is proposed in terms of event clean up.

A waste management and minimisation plan need not be developed afresh for a recurring event. Instead, the plan could cover events over a defined period, unless something changes and no longer applies. Once the event waste management and minimisation plan has been prepared, the councils will need to assess it against a set list of criteria to determine whether it is satisfactory. Council will need to conduct audits of events to ensure that the planned waste activities are being delivered. The cost of these additional activities by councils could be covered through the introduction of a fee as part of the events and reserves permit.
The requirement to complete a waste management and minimisation plan could be implemented through the councils’ current public places bylaw or as part of the proposed new waste management and minimisation bylaw. Queenstown Lakes District Council’s public places bylaw already requires events occurring on public places to seek an event permit, and compliance with a waste management and minimisation plan is incorporated into this process. However, this does not address events that take place on private land. Central Otago District Council’s public places bylaw requires a licence for trading in public places that could include conditions relating to litter, cleanliness, safety and hygiene but it is limited in its application as it only covers trading situations.

A waste management and minimisation bylaw would be able to require a waste management and minimisation plan for all events regardless of whether they occur on private or public property, where the event requires permits. It is assumed the bylaw is not intended to cover smaller private events on private property, such as weddings or garden parties.

A bylaw could also require an event organiser to place a bond in order to comply with bylaw conditions. In this instance a bond could be justified, as the council would then have sufficient funds available if the event failed to comply with its waste management and minimisation plan and the council was required to fund a clean-up. The disadvantages of introducing a bond are that it may create a significant barrier to community-based events, and the administration may be a significant exercise.

While the number of events occurring annually in Central Otago district remain relatively low, council prefers to adopt a simpler approach. That is, issue a consent for the use of a public place, which may include the requirement to pay a bond to ensure appropriate waste management and minimisation is undertaken.

To future proof Central Otago should the number of events in the district markedly increase, it is proposed that the draft bylaw will include provisions that council can invoke requiring event organisers to submit an event waste management and minimisation plan for approval. This is the approach being adopted by Queenstown Lakes District Council.

**Recommendation**

It is recommended that councils introduce a bylaw that requires event organisers to submit to council for approval a waste management and minimisation plan for all events, regardless of whether the event is on public or private property. However, smaller events, as defined by council, will be exempt from this requirement. It is suggested that the smaller events are those private events that do not meet the threshold where other council permits are required for the activity.

It is recommended that councils also require a fee to be paid as part of the events permit to cover councils administrative and auditing costs in ensuring compliance with the event waste management and minimisation plan.
4 Conclusions

In summary, this report determines that a waste management and minimisation bylaw pursuant to the Waste Minimisation Act 2008, the Local Government Act 2002, the Health Act 1956 and the Litter Act 1979 should be introduced to:

- regulate kerbside collection, including specifying kerbside collection recipient obligations, requiring the separation of domestic waste into separate streams: residual waste and recyclables
- specify the correct usage of public litter and recycling bins and prohibit their incorrect usage
- regulate commercial waste collection within defined areas including specifying times and locations where commercial waste can be left for collection or stored awaiting collection
- require multi-unit developments to complete a development waste management and minimisation plan for council approval, or allow multi-unit developments to opt out of council services in certain circumstances
- introduce kerbside collection services terms as part of the waste bylaw, which would provide for users to be prosecuted or have services ceased in extreme situations of misuse of the services
- regulate waste management and minimisation at events by requiring all events to complete for council approval a waste management and minimisation plan for the event

Draft bylaws are attached to this report as Appendix A
5 Next Steps

The Local Government Act 2002 prescribes the process for making a bylaw. The first step in this process is to determine whether making a bylaw is the most appropriate way of addressing the perceived problem.

This report has considered each of the waste related problems identified by the councils, discussed the possible mechanisms to address these problems (both regulatory and non-regulatory) and determined the most appropriate option.

The introduction of a bylaw is the recommended option (or part of the recommended option) for each of the six problems.

The next step is to consider whether the proposed draft bylaw gives rise to any implications under the New Zealand Bill of Rights.

The councils must then prepare a statement of proposal which will include the draft bylaw as proposed. The statement of proposal must also identify the bylaw or bylaws to be revoked, include a reason for the proposal and the councils’ consideration of the appropriateness of a bylaw to address the perceived problems.

The statement of proposal and a summary document should be put on a council agenda and adopted for public consultation. At least one month must be allowed for public consultation. Following receipt of public submissions, the councils must hear and consider the submissions and make any amendments as they see fit. The final bylaw is then adopted by resolution of the councils and publicly notified.
Appendix A  Draft Bylaws
Draft Waste Management and Minimisation Bylaw 2020

Central Otago District Council

Date of making: May 2020

Commencement: ¥ 2020

This bylaw is adopted pursuant to section 56 of the Waste Minimisation Act 2008, sections 145 and 146 of the Local Government Act 2002 and section 12 of the Litter Act 1979
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<td>Collections from a public place</td>
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Part 1 – Preliminary

1 Title and Commencement

1.1 This bylaw is the “Central Otago District Council Waste Management and Minimisation Bylaw 2020”.

1.2 This bylaw comes into force on “y” 2020.

2 Area within which Bylaw applies

2.1 This bylaw applies to the area of the Central Otago District.

3 Purpose

3.1 The purpose of this bylaw is to support:

(a) the promotion and delivery of effective and efficient waste management and minimisation in Central Otago District, as required under the Waste Minimisation Act 2008

(b) the implementation of Council’s Waste Management and Minimisation Plan

(c) the purpose of the Waste Minimisation Act and the goals in the New Zealand Waste Strategy

(d) the minimisation of the visual impact of waste and the management of litter and nuisance in council-controlled public places

4 Interpretation

4.1 In this bylaw, unless the context otherwise requires:


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.

Commercial means concerned with or engaged in commerce, with the intent of making a profit.

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 Central Otago District Council.
Council-controlled public place means:

(a) a place that is under the control of Council or a council-controlled organisation that, at any material time, is open to or is being used by the public, whether free or on payment of a charge; and

(b) to avoid doubt – includes any park, reserve, recreational ground, sports field, public garden, public square, cemetery, foreshore, wharf, boat ramp, pontoon, road, footpath, accessway, grass verge, berm, and any part of a council-controlled public place.

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

Disposal is as defined in the Act.

Diverted material is as defined in the Act.

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

Drop-off point means an area provided by Council for the purpose of depositing approved waste and approved diverted material for collection by the Council’s kerbside collection service.

Enforcement officer means a person appointed to be an enforcement officer by the Central Otago District Council.

Event is defined as any organised temporary activity of significant scale that is likely to create litter, including an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration. The event may be on public or private land and is of sufficient size to trigger the requirement for a number of council permits or consents for the activity.

Green waste means compostable plant material, excluding flax and cabbage trees.

Hazardous waste means waste that:

(a) contains hazardous substances at sufficient concentrations to exceed the minimum degree 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 2433: 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.
It does not include domestic waste, commercial-domestic waste, inorganic material, construction and demolition waste or commercial waste.

**Inorganic material**

**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.

**Multi-unit development** means an apartment block with four or more units and retirement villages. It includes a unit title development and any development with controlled or restricted access. It may also include mixed-use premises with businesses or other activities.

**Nuisance** means a nuisance in terms of the Health Act 1956.

**Occupier** means the inhabitant occupier of a property or premises.

**Offence** means an offence under section 239 of the Local Government Act 2002.

**Organic matter** means food waste and/or green waste that is organic in origin and capable of decay, as determined by Council.

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

**Person** has the meaning given in the Interpretation Act 1999.

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

**Private property** is a legal designation for the ownership of property by individuals or non-governmental legal entities.

**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 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 into 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.

**Public litter bin** means a container for disposed of or discarded material in a public place, which includes containers for different types of material (for example, mixed recyclable material, glass or refuse).

**Recovery** is as defined in the Act.

**Recyclable material** means waste specified by the Council as suitable for recycling.

**Recycling** is as defined in the Act.

**Refuse** means waste that is not organic matter, recyclable material, prohibited waste, construction and demolition waste or inorganic material.

**Resource recovery facility** means any premises:

(a) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities for the purpose of recovering components or elements for recycling or reuse.

(b) to avoid doubt, includes a commercial composting operation, recovery operation, materials recovery facility transfer station and recycling depot.

**Visual amenity** means the pleasant or attractive look of a place, area or view.

**Waste:**

(a) means anything disposed of or discarded; and

(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and

(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.

**Waste collector** means any 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 green waste to a landfill).

**Waste management and minimisation plan** is as defined in the Act.

4.2 Any word used in this bylaw that is defined in the Acts has the same meaning as in the Act, unless the context otherwise requires.
4.3 notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without any formality.

4.4 The Interpretation Act 1999 applies to this bylaw.

Part 2 – Collection of Waste

5 General responsibilities

5.1 The occupier and manager of a premises must ensure that the domestic and commercial waste from the premises is separated into waste types as determined by Council in its Waste Management and Minimisation Plan.

5.2 The occupier and the manager of any premises, in the reasonable opinion of Council, must provide:
   (a) adequate areas on the same premises for the storage of disposed of or discarded material from the activity on the premises
   (b) for the collection of disposed of or discarded material if collection occurs on the premises.

5.3 The occupier and the manager of any premises must ensure that:
   (a) all waste material is placed in the approved containers for kerbside collection or delivered to a waste management facility or resource recovery facility
   (b) the approved container is kept in a safe location, hygienic, in good repair, and without any modifications or alterations to its appearance
   (c) reasonable steps are taken to prevent the waste escaping from any container
   (d) any waste container is regularly emptied when it is full
   (e) the contents of any approved container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals.

5.4 The occupier and the manager of any premises is responsible for any waste generated on the premises until it has been collected.

5.5 No person may:
   (a) deposit in a container material that is not approved for that type of waste
   (b) put waste in an approved container provided to any other person, without that other person’s consent
   (c) remove waste from, or interfere with any waste deposited in an approved container, except the Council, a waste collector, or the person who deposited the waste
(d) remove a container provided by the council from the premises to which it has been allocated, except with the prior written approval of Council.

6 Waste and waste container placement in public places

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

(a) if required, waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied

(b) unless the container is placed at a Council drop-off point, the container is placed for collection in an upright position off the carriageway, in front of the premises from which the waste originated and as close to the kerbside as possible

(c) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises

(d) reasonable steps are taken to ensure that access to the container by the waste collector is unimpeded and not obstructed by parked vehicles or other barriers

(e) the container is placed for collection of waste and retrieved in accordance with the timeframes specified in Schedule 1 of this bylaw.

7 Collections from a public place

7.1 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

(d) any other type of waste determined by the Council as able to be placed on a public place for collection.

7.2 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.

7.3 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.

8 Visual amenity, nuisance and litter

8.1 The occupier and manager must ensure that the placement of waste matter minimises the adverse effect on neighbouring occupiers and maintains an overall clean and tidy presentation.
8.2 The occupier and manager must ensure that the placement of waste matter minimises any negative impact on the visual amenity of the surrounding area.

8.3 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 or store an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health
   (c) make any modifications or alterations to the appearance of an approved container.

9 Public bins in council-controlled public places

9.1 A person may dispose of or discard material in public litter and recycling bins if that material is generated in a public place and is of a type that the bin is intended to collect.

9.2 No person may:
   (a) deposit any domestic waste or waste arising from the person’s business activities in or near any litter bin provided by Council in any public place
   (b) remove any waste from any litter or recycling bin provided by Council in any public place, where this results in any waste being deposited outside the bin, unless authorised by Council to do so
   (c) deposit, or attempt to deposit any litter in any litter and recycling bin provided by Council in any public place if the bin is full or the litter is likely to escape.

10 Multi-unit developments

10.1 The owner and manager of a multi-unit development must make provisions for the management of all waste generated within the property.

10.2 Subject to clause 10.6, the owner and manager of a proposed or existing multi-unit development must have a council approved development waste management and minimisation plan.

10.3 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 waste collector to enable separate collection and transportation of refuse, recyclable material, hazardous waste 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 the refuse and recyclable material and organic waste that will be generated
(e) the steps that will be taken to further the objective of waste minimisation.

10.4 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.

10.5 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 Council.

10.6 The Council may, on application, grant a written exemption from compliance with all or any of the requirements of clause 10 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 Council that refuse, recyclable material and organic waste are separately and regularly collected.

11 Waste management for events

11.1 The organiser of an event must secure an event permit from Council, which may include the payment of a waste management and minimisation fee and the payment of a bond to ensure appropriate waste management and minimisation is undertaken.

11.2 The organiser of an event must get prior written confirmation from Council as to whether an event waste management and minimisation plan is required for the event.

11.3 Where an event waste management and minimisation plan is required the Council may require the plan to set out:
   (a) an estimate of the types and mounts of waste to be generated by the event
   (b) how waste generated by the event is to be minimised
   (c) the steps 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
   (e) the person responsible for the collection and disposal of waste and the methods to be used
   (f) the requirement to provide a waste analysis following the conclusion of the event
(g) any other matters relating to event waste management and minimisation that may be specified by the Council.

11.4 The organiser of an event must comply with the approved event waste management and minimisation plan.

11.5 On completion of the event, the organiser must provide Council with a report on the implementation of the event waste management and minimisation plan, including a waste analysis that sets out the predicted and actual types and amounts of waste generated by the event, and which waste management facility was used to recover, recycle, treat or dispose of this waste.

Part 3 – General Provisions

12 Enforcement

12.1 The Council may use its powers under the Health Act 1956, the Litter Act 1979, the Local Government Act 2002, and the Waste Minimisation Act 2008 to enforce this bylaw.

13 Offences and Penalties

13.1 Every person who contravenes this bylaw commits an offence.

13.2 Every person who commits an offence against this bylaw is liable to the penalties imposed under the legislation defined in Section 11.1.

13.3 The Council may use its powers to stop a waste collection service to a specific location or person after a maximum of three written warnings.

13.4 Council may take action to enforce this bylaw against a person who has obtained an approval.

13.5 Council may take one or more of the actions in subclause (2) if a person to whom an approval has been granted:

   (a) fails to comply with the approval
   (b) fails to comply with any condition of that approval; or
   (c) provided inaccurate information in that person’s application which materially influenced the decision made on the application.

13.6 Council may take any one or more of the following actions against a person to whom this clause applies:

   (a) written advice or a written warning
   (a) a review, suspension or cancellation of the approval
   (b) a review of the conditions of the approval
   (c) forfeiture of any bond or security; or
   (d) the use of statutory powers in clause 29.
14 Exceptions

14.1 A person is not in breach of this bylaw if that person proves that the act or omission was not of the person’s own making.

14.2 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.

14.3 A person is not in breach of this bylaw if there is an instance of domestic waste contamination, despite the individual’s best endeavours, and it is not a reoccurring event.

14.4 A person is not in breach of the bylaw when holding small events on private property that do not trigger a requirement for permits or consents for the activity.

14.5 A product stewardship scheme accredited under the Act may be exempted from the requirements of this bylaw.
Schedule 1

Council to define here the specific timeframes in which approved containers may be present in public places. For example, timeframes may differ or be more restrictive for CBD and major roadways where the visual impact for visitors/tourists is greater than that on minor residential streets.

Need to note that these can all be altered by publicly notified resolutions.
Additional information to Waste Management and Minimisation Bylaw 2020

This document contains matters for information purposes only and does not form part of any bylaw. It may include matters made pursuant to a bylaw and other matters to assist in the ease of understanding, use and maintenance. The information contained in this document may be updated at any time.

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1 History of Bylaw

The Waste Management and Minimisation Bylaw 2020 is a new bylaw. It is one of the tools Council is using to give effect to its Waste Management and Minimisation Plan. The bylaw is intended to underpin Council's key approaches - education and signage, and monitoring, in encouraging and embedding good waste management and minimisation habits within its community.

Key outcomes the bylaw will contribute to are:

(a) Separation of waste streams to maintain high rates of diversion and quality products

(b) Cost effective and efficient services

(c) Clean, tidy public places.

The Waste Management and Minimisation Bylaw 2020 is intended to address discrete but important waste management problems that have emerged within the District, as identified in the Waste Management and Minimisation Bylaw determination report. It is not intended to cover all possible waste management eventualities. Instead, it focusses on responding to these key problem areas.

The bylaw is not intended to be applied in a punitive manner. Rather, it is seen as a backup tool where there are recidivist breaches of the bylaw by individuals.
2 Related documents

<table>
<thead>
<tr>
<th>Document title</th>
<th>Description</th>
<th>Location</th>
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<tbody>
<tr>
<td>Central Otago District Council Waste Management and Minimisation Plan 2018</td>
<td>A guiding document that identifies Council’s vision, goals, objectives, targets and methods for promoting effective and efficient waste minimisation and management.</td>
<td><a href="http://www.cdc.govt.nz">www.cdc.govt.nz</a></td>
</tr>
<tr>
<td>Health Act 1956</td>
<td>Gives territorial authorities the power to manage waste that may cause a hazard to human health.</td>
<td><a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a></td>
</tr>
<tr>
<td>Climate Change Response Act 2002</td>
<td>Introduces the Emissions Trading Scheme, including obligations for owners of landfills.</td>
<td><a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a></td>
</tr>
<tr>
<td>Local Government Act 2002</td>
<td>Provides certain functions, duties, powers and penalties to make and enforce the bylaw</td>
<td><a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a></td>
</tr>
<tr>
<td>Bylaws Act 1910</td>
<td>Provides for certain matters related to the validity of bylaws</td>
<td><a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a></td>
</tr>
<tr>
<td>Interpretation Act 1999</td>
<td>Provides for certain matters related to the interpretation of bylaws</td>
<td><a href="http://www.legislation.govt.nz">www.legislation.govt.nz</a></td>
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</table>

3 Enforcement powers

<table>
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<tr>
<th>Legislative provision</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>Sections 66 Waste Minimisation Act 2008</td>
<td>Allows Council to prosecute for breaches of a Waste Management &amp; Minimisation bylaw, imposing fines of up to $20,000.</td>
</tr>
<tr>
<td>Litter Act 1979</td>
<td>Allows Council to issue infringement notices for littering offences, and issue infringement fees of up to $400.</td>
</tr>
<tr>
<td>Part 8 of the Local Government Act 2002</td>
<td>162 Injunctions restraining commission of offences and breaches of bylaws 171 General power of entry 172 Power of entry for enforcement purposes 173 Power of entry in cases of emergency 175 Power to recover for damage by wilful or negligent behaviour 176 Costs of remedying damage arising from breach of bylaw 178 Enforcement officers may require certain information 183 Removal of fire hazards</td>
</tr>
</tbody>
</table>

4 Delegations

Any of the various powers and functions of the Council as detailed and set out in this Bylaw, may be delegated by it, to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any such other Officer of Council.
## Appendix B  Key issues and actions from the WMMPs

<table>
<thead>
<tr>
<th>Queenstown Lakes District Council</th>
<th>Central Otago District Council</th>
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<tr>
<td><strong>Waste reduction – reducing waste at source</strong></td>
<td><strong>Provide opportunities to minimise waste through reduction, reuse, recycling and recovery</strong></td>
</tr>
<tr>
<td>Work with community groups, residents, business and visitors to encourage and promote waste minimisation and optimal resource use</td>
<td>Develop a waste management and minimisation bylaw to support best practice waste management and minimisation</td>
</tr>
<tr>
<td>Support development, implementation and promotion of local, regional and national initiatives that drive waste minimisation</td>
<td>Work closely with Ngāi Tahu and the wider Māori community on waste and resource stewardship issues in Central Otago. Adopt strategies which incorporate Māori approaches to waste and resource stewardship; recognising the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.</td>
</tr>
<tr>
<td>Provide waste minimisation programmes and workshops for residents, visitors, business and schools e.g. Enviroschools, Environmental Education for Resource Sustainability, Dr Compost, Waste Free Parenting, Love Food Hate Waste</td>
<td>Integrate recovery, recycling and waste disposal infrastructure at key locations to encourage greater diversion from landfill</td>
</tr>
<tr>
<td>Provide information on the available waste minimisation and management services to business, visitors and residents</td>
<td>Expand the kerbside recycling routes and network of recycling drop-off centres when required to meet the growing needs of our communities (consider areas not included in Council’s kerbside collection area). Develop a policy for when and how to service areas beyond those currently serviced by Council’s collection route.</td>
</tr>
<tr>
<td>Provide targeted communication and engagement campaigns that raise awareness and provide information on waste minimisation for visitors, residents and businesses</td>
<td>Identify recycling options for specific material streams</td>
</tr>
<tr>
<td>Support local, regional and national level initiatives that drive waste reduction e.g. Plastic Free July, Love Food Hate Waste</td>
<td>Change the frequency of recycling collections to better meet customer demand by providing fortnightly collection for mixed recycling (yellow bin – increased from four weekly) and eight weekly collection of glass bottles and jars (blue bin – decreased from four weekly). Fortnightly collection of household rubbish (red bin) retained.</td>
</tr>
<tr>
<td>Queenstown Lakes District Council</td>
<td>Central Otago District Council</td>
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<tr>
<td>Enforce waste minimisation regulatory provisions at events</td>
<td>Undertake a stocktake of the approaches used for public place waste management and develop objectives and service that recognise different needs of different facilities</td>
</tr>
<tr>
<td><strong>Resource recovery – diverting waste from landfill</strong></td>
<td><strong>Educate producers and consumers about options and responsibilities</strong></td>
</tr>
<tr>
<td>Provide resource recovery (and waste disposal) facilities that optimise separation of divertible material in Wanaka and Wakatipu</td>
<td>Provide support and facilitate learning opportunities to increase wise resource use, increase environmental sustainability and minimise waste (includes school programs and resource stewardship such as Enviroschools, Sustainable Living Programme)</td>
</tr>
<tr>
<td>Provide promotional support for commercial waste minimisation programmes e.g. agricultural chemical containers and bale wrap recovery</td>
<td>Encourage greater participation in the existing kerbside recycling collection through a targeted education campaign</td>
</tr>
<tr>
<td>Provide recycling collection services for urban households</td>
<td>Support any change to recycling collection cycles (Council to consult on providing a fortnightly, mixed recyclables and 8 weekly glass bottles and jar collection service) through a targeted education campaign</td>
</tr>
<tr>
<td>Implement a change to the glass recycling that improves quality, quantity and yield and is consistent across the district</td>
<td>Avoid or mitigate any adverse effects on public health or the environment</td>
</tr>
<tr>
<td>Provide organic waste drop off facilities and mulching of material for beneficial use</td>
<td>Manage Council cleanfill sites to ensure disposal of cleanfill material only and ensure operation in line with best practice. Could be considered as part of the development of a Waste Management and Minimisation Bylaw.</td>
</tr>
<tr>
<td>Introduce organic waste kerbside collection service for urban households</td>
<td>Investigate alternatives to landfill disposal for the management of biosolids</td>
</tr>
<tr>
<td>Provide an organic waste processing facility</td>
<td>Provide cost effective and safe waste services</td>
</tr>
<tr>
<td>Install public place recycling bins co-located with litter bins where practicable and cost effective</td>
<td>Provide facilities at Council transfer stations for domestic quantities of hazardous waste</td>
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<tr>
<td></td>
<td>Review the number of commercial properties using the Council service, and the commercial waste targeted rate, to determine whether a commercial opt out option should be made available</td>
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<td></td>
<td>Provide a cost-effective equitable service for customers using price as a tool to support changes to behaviour to maximise recycling and minimise waste to landfill</td>
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<tr>
<td>Queenstown Lakes District Council</td>
<td>Central Otago District Council</td>
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<tr>
<td><strong>Engage with the community on Council’s progress</strong></td>
<td>Provide ongoing communication to members of the public with regards to Council’s progress on delivering the objectives and action plan outlined in the Waste Management and Minimisation Plan 2018.</td>
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</table>

### Waste disposal – collecting, transporting and disposing of waste

- Provide waste disposal facilities in Wanaka and Wakatipu
- Provide promotional support for community led litter clean up events
- Respond to illegal dumping complaints
- Provide household hazardous waste disposal services
- Comply with obligations under the Emissions Trading Scheme including reporting of methane emissions from the Victoria Flats landfill.
- Provide rubbish collection services for urban households
- Review methodology of kerbside rubbish collection including receptacles, frequency and funding mechanisms
- Review methodology and provision of CBD rubbish collection services including receptacles, frequency and funding mechanisms
- Provide public place litter bins. Review bin type and servicing frequency
- Review the need for a Waste Management and Minimisation Bylaw
- Provide waste disposal services at the Victoria Flats landfill
Appendix C  Waste Minimisation Act 2008 – further important provisions

Other important provisions of the WMA for Council include the following:

Product stewardship describes the process through which those involved in the lifecycle of a product or service (designers, manufacturers, retailers, consumers) all take responsibility for the health, safety and environmental impacts produced by the good or service. This involves thinking about impacts from the development and manufacture of a product through to its use and final disposal. Ideally product stewardship schemes will be designed to promote reduction of waste at the source, as well as make recycling, treatment and disposal safer and more efficient. An example of a product stewardship scheme is an extended producer responsibility (EPR) scheme where a manufacturer or retailer agrees to take back the product at the end of its life and dispose of it responsibly.

Another key provision of the WMA is the imposition of an initial $10 plus GST levy on each tonne of waste to landfill to be paid by landfill operators. The levy will be used to fund waste minimisation projects as it will be partly distributed to councils (50%) with the rest provided to a contestable Waste Minimisation Fund.

The waste levy is currently being reviewed. The Ministry for the Environment (MfE) is looking to expand the categories of landfill that the levy applies to and increase the levy. MfE is considering a range of options to expand and increase, up to $60/tonne.

At just $10 per tonne, the waste levy does not provide a large enough incentive to result in major waste minimisation behavioural change. Internationally, levies have tended to increase steadily over time once introduced. If this occurs, the levy will become an increasingly more effective tool for minimising waste to landfill. However, as the levy increases (and when combined with the likely cost impact of the Emissions Trading Scheme (ETS) on waste to landfill) there will be an increasing economic incentive for waste generators to ensure waste generation is avoided and for councils to divert waste to beneficial use. There will also be increased incentives to illegally dump waste.

Landfills are also charged for greenhouse gas emissions under the New Zealand Emissions Trading Scheme. ETS charges vary from landfill to landfill, depending on the composition of waste disposed and whether the landfill has an effective gas capture system. EFT charges have increased in recent years with a phasing out of the two-for-one deal for surrendering emissions units and an increase in the trading price for emission units. The Ministry for the Environment is consulting on proposals to auction ETS units which is likely to result in an increase over time.