



Kaipara District Council

Wastewater Drainage Bylaw

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

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Part A

Preliminary provisions

1. Title

1.1 This Bylaw is the Wastewater Drainage Bylaw.

2. Commencement

2.1 This Bylaw comes into force on 20 December 2021.

3. Application

3.1 This Bylaw applies to the Kaipara District.

4. Purpose

4.1 The purpose of this Bylaw is to:

- a. maintain, promote and protect public health
- b. regulate the drainage, collection and disposal of sewage, including regulating onsite wastewater systems
- c. protect the public wastewater system from damage and misuse.

5. Interpretation

5.1 In this Bylaw, unless the context otherwise requires:

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

<i>wastewater system</i>	disposal of wastewater, including any septic tank, mechanical system, alternative system, cesspit, drainage or soakage pit or bore; and the field tiles, scoria or stone contained therein; and, distribution bore, discharge field or soakage field that is a part of, or is connected to, any such system.												
<i>Network utility operator</i>	has the meaning given by section 166 of the Resource Management Act 1991.												
<i>Owner</i>	means, in relation to real property, a registered proprietor, trustee and any person for the time being entitled to receive the rent of the property, land, building, or premises or who would be entitled to the rent if the property were let to a tenant. Where any such person is absent from New Zealand or mentally incapable as defined in section 94 of the Protection of Personal and Property Rights Act 1988, 'owner' includes his or her attorney or agent.												
<i>Permit</i>	means a permit issued by Council or an Authorised Officer in accordance with the relevant clauses of this Bylaw and includes an approval.												
<i>Person</i>	includes an individual, a corporation sole, a body corporate, and an unincorporated body.												
<i>Point of discharge</i>	is the boundary between the public wastewater system and a private drain. For avoidance of doubt, this shall correlate to the property boundary.												
<i>Property</i>	means any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together shall be deemed to be the same property.												
<i>Public wastewater system</i>	means a system for the collection, treatment and disposal of wastewater, including all constituent drains, pumping stations, storage tanks, wastewater treatment plants, outfalls, and other related components operated or owned by Council and used for the reception, treatment and disposal of wastewater.												
<i>Septic tank</i>	means any fixed receptacle installed outside of a building designed for the reception and primary treatment of effluent.												
<i>Service opening</i>	means a manhole, or similar means for gaining access for inspection, cleaning or maintenance, of a drain or onsite wastewater system.												
<i>SQP - Suitably Qualified Person</i>	means any person who holds a permit under clause 16 of this Bylaw and authorised for the specified clauses as follows:												
	<table border="1"> <thead> <tr> <th>SQP Category</th> <th>Type of SQP</th> <th>Clauses</th> </tr> </thead> <tbody> <tr> <td>Category 1</td> <td>Septic tank cleaners</td> <td>14</td> </tr> <tr> <td>Category 2</td> <td>Service technician</td> <td>15.2, 15.7, 15.11</td> </tr> <tr> <td>Category 3</td> <td>Registered drainlayer</td> <td>11, 14.7, 14.9, 5.7, 15.11</td> </tr> </tbody> </table>	SQP Category	Type of SQP	Clauses	Category 1	Septic tank cleaners	14	Category 2	Service technician	15.2, 15.7, 15.11	Category 3	Registered drainlayer	11, 14.7, 14.9, 5.7, 15.11
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<i>Wastewater</i>	means the discharge from any sanitary fixtures or sanitary appliances.												

5.2 Words implying the singular include the plural and vice versa.

5.3 The Interpretation Act 1999 applies to this Bylaw.

- 5.4 Where the meaning of a word has been determined to have the same meaning as provided for that word or term in a stated piece of legislation or other regulatory tool, for completeness, in the event of the meaning of a word or term changing in the relevant legislation or regulatory tool, then the meaning of the word or term changes for the purposes of this Bylaw as well.
- 5.5 Any explanatory notes are for information purposes, and do not form part of this Bylaw, and may be inserted, amended, or revoked without formality. Explanatory notes are provided within the green boxes throughout this Bylaw.

Relationship between this Bylaw and Acts, Regulations and Council's District Plan

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

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

Onsite wastewater disposal systems

The design and installation of on-site wastewater disposal systems are regulated under the Building Act 2004, the RMA, and the Plumbers Gasfitters and Drainlayers Act 2006.

Part B

Public wastewater systems

6. Acceptance of discharge

- 6.1 All wastewater discharged into a public wastewater system must meet the specifications/limits as provided in Schedule A.

7. Protection of public wastewater systems

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

8. Excavation

- 8.1 A person must not, without a permit or building consent, excavate or carry out piling or similar work closer than
- two metres from any component of a public wastewater system
 - five metres from the centre line of any rising main or trunk sewer.
- 8.2 Clause 8.1 does not apply to network utility operators, who have agreements with the Council in place, or are required or permitted under legislation to work in the vicinity of the public wastewater system.

Associated enforcement powers

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

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

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

In addition to enforcement action under this Bylaw, Council can prosecute:

- under s175 of the LGA02 any person who wilfully or negligently destroys, damages, stops, obstructs, or otherwise interferes with a public wastewater system
- under s237 of the Public Works Act 1981 anyone who excavates or otherwise interferes with any land in the vicinity of a sewer or who damages a sewer through such excavations.

Network Utility Operators

Network Utility operators are empowered under various acts to maintain and develop their services and infrastructure, including the LGA74, the LGA02, the Electricity Act 1992 and the Utilities Access Act 2010.

Part C

Onsite wastewater systems

9. Operation

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

10. Inspection and maintenance

- 10.1 No person may either on, or in the immediate vicinity of an onsite wastewater system:
- a. allow vegetation to grow
 - b. erect or maintain any building or structure
 - c. cover any service opening
- in a manner that in the opinion of an Authorised Officer may significantly obstruct or prevent inspection and maintenance activities.

Access

Any site visits undertaken by Council for inspection purposes must be undertaken in accordance with the requirements of the LGA02, which means that in most cases, Council must notify the owner in advance of any inspection activity.

The purpose of Clause 10 is to ensure that onsite wastewater systems are managed and maintained by owners in a way that means inspection and maintenance activities can proceed by prior arrangement, but without significant works having to occur to allow for these activities.

11. Decommissioning or removal of onsite wastewater systems

- 11.1 Where an onsite wastewater system is to be decommissioned or removed, this must be done by, or under the supervision of an SQP.
- 11.2 The property owner must ensure that a report by an SQP providing the details of how the system has been appropriately decommissioned or removed is provided to Council within three months of completion of the decommissioning or removal.
- 11.3 Where the owner does not comply with 11.2, Council may request the report or undertake an onsite inspection and may charge the owner for this inspection.

Associated consenting and enforcement powers

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

A building consent in terms of the Building Act 2004 is required to install a new onsite wastewater system.

Council may require a property to connect to a public wastewater system under s459 of the LGA74.

Part D

Onsite wastewater system monitoring regime

12. Coverage area

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

Coverage area

The coverage area is defined in Schedule B and only covers certain parts of the Kaipara District. This means that for all properties with an onsite wastewater system outside of the coverage area, Part D of this Bylaw does not apply.

13. Interpretation

13.1 In Part D of this Bylaw

- a. A septic tank system is an onsite wastewater system that provides only primary effluent treatment before this effluent is dispersed to a bed in the ground.
- b. An alternative system is an onsite wastewater system that, either through mechanical or other means, provides both a primary and a secondary treatment before the effluent is dispersed to a bed in the ground.

13.2 For the avoidance of doubt, clause 14 of this Bylaw does not apply to alternative systems; and clause 15 of this Bylaw does not apply to septic tank systems.

Types of systems

As technology progresses, new types of wastewater systems are becoming available that may not clearly align to the meanings provided in clause 13.1. In any such cases, an Authorised Officer will seek guidance and recommendations from the system manufacturer or supplier on appropriate inspection and maintenance procedures, to determine which definition should be applied to the system.

14. Emptying, inspection and maintenance – septic tank systems

- 14.1 Every owner of a septic tank system, must, within one month of a request of Council, provide evidence of the installation date, or last emptying, inspection and any associated recommended maintenance or repair of the septic tank undertaken by an SQP.
- 14.2 On receipt of satisfactory information under clause 14.1, an Authorised Officer will determine an appropriate future emptying and inspection cycle for the system, which will be between three and six years from the date of the previous emptying and inspection activities. This will be determined based on a range of matters, including but not limited to:
 - a. the number of permanent residents at the property
 - b. whether the property is a permanent residence or a holiday home
 - c. the records provided under clause 14.1.

- 14.3 Every owner will be advised in writing of and must comply with, the emptying and inspection cycle determined under clause 14.2.
- 14.4 An owner may apply for an exemption from clause 14.1-14.3 where the onsite wastewater system is being operated in accordance with a Resource Consent issued from Northland Regional Council.
- 14.5 Where an owner does not provide evidence in accordance with clause 14.1, Council will request the septic tank to be emptied and inspected by an SQP and evidence of this to be provided within one month of receipt of the request. On receipt of the documentation, clause 13.2 applies thereafter.
- 14.6 Every owner must act in accordance with any recommendations resulting from their system being emptied and inspected in accordance with clause 14.1 or 14.3 within three months of the date of the emptying and inspection.
- 14.7 Any repairs or maintenance required under clause 14.6 must be undertaken by an SQP.
- 14.8 Every owner must within one month of receiving a request from Council, provide records of any works undertaken under clause 14.6 of this Bylaw.
- 14.9 Where an owner does not comply with the requirements of clauses 14.5 or 14.8, Council may employ an SQP to complete the work and will charge the owner of the system for any costs incurred.

15. Inspection and maintenance – alternative systems

- 15.1 For owners of alternative systems who have a service contract with either the manufacturer or installer of the system, or a third party approved by either the manufacturer or installer; the owner must ensure the system is serviced in accordance with the conditions of that service contract.
- 15.2 Where Clause 15.1 does not apply, because there is no service contract in place with the manufacturer or installer of the system, or a third party approved by either the manufacturer or installer; the owner of the alternative system must ensure the system is inspected and serviced by an SQP at least once every 12 months.

Service contracts

In most cases where an alternative system has been installed as part of a building consent under the Building Act 2004, a condition of that consent will be that the system is maintained in accordance with the manufacturer or installer instructions, and this usually includes a service contract.

Clause 15.2 therefore generally only applies in those situations where the alternative system is of an older style and/or where no ongoing service arrangements are in place.

- 15.3 An owner may apply for an exemption from clause 15.1 or 15.2 where the onsite wastewater system is being operated in accordance with a Resource Consent issued from Northland Regional Council.
- 15.4 An owner may apply for an extension for the requirements of clause 15.2 including for, but not limited to the following reasons:
- a. the date of the most recent inspection and maintenance activities
 - b. the number of permanent residents at the property
 - c. whether the property is a permanent residence or a holiday home.

- 15.5 An extension request under clause 15.4 may be approved or declined by Council.
- 15.6 Every owner must act in accordance with any recommendations resulting from an inspection or service in accordance with clauses 15.1 and 15.2 within three months of the date of the inspection or service report.
- 15.7 Any repairs or maintenance required under clause 15.6 must be undertaken by an SQP.
- 15.8 Every owner must within one month of receiving a request from Council, provide records of any works undertaken in accordance with clause 15.6 of this Bylaw.
- 15.9 Where an owner does not comply with the requirements of 15.8, Council may undertake an onsite inspection and may charge the owner for this inspection.
- 15.10 Where an inspection undertaken in accordance with clause 15.9 shows that maintenance, cleaning or repair works are required, Council will advise the owner of the required works and will allow three months for the works to be completed.
- 15.11 Where the owner does not comply with the requirements of 15.10, Council may employ an SQP to complete the work and will charge the owner of the system for costs incurred.

Part E

Permits and fees

16. Permits

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

17. Suitably Qualified Persons

- 17.1 A person may apply to Council for a permit to act as a Suitably Qualified Person (SQP) to supply services for the purposes of this Bylaw.
- 17.2 A permit under clause 17.1 will be issued in accordance with the categories and associated authorised clauses as provided in the definition of Suitably Qualified Person - SQP in clause 5 of this Bylaw.

18. Fees

- 18.1 Council may by resolution, after consultation in accordance with section 150 (3)(b) of the Local Government Act 2002:
- set fees for receiving and processing an application and issuing a permit
 - set fees for receiving and processing an application for an exemption under this Bylaw
 - set fees for inspection of properties under clauses 11.3, 14.5 and 15.9
 - determine situations when permit fees may be remitted, refunded or waived.

Part F

Enforcement, offences, and penalties

19. Offences

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

20. Removal of works, structures, or things

- 20.1 Council may, in accordance with section 163 of the Local Government Act 2002:
- a. remove or alter a work or thing that has been constructed in breach of this bylaw
 - b. recover any costs of removal or alteration from the person who committed the breach.

21. Penalties for breach of the Bylaw

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

22. Exceptions

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

Bylaw breaches

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

Other powers

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

Part F

Savings

23. Savings

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

Schedule A

Acceptable Discharge

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

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

Parameter	Maximum mg/litre*	Parameter	Maximum mg/litre*
(BOD), 5-Day Biochemical Oxygen Demand	300	Molybdenum	0.04
(COD), Chemical Oxygen Demand	800	Nickel	0.05
Total Suspended Solids	300	Oil/grease/fat [including cooking oils and fats]	150
Total Phosphorous	12	pH range	6-9
Total K Nitrogen	50	Phenol	10
Total Dissolved Solids	750	Phenol-cresol	16
Temperature	<38 degrees C	Silver	5
Oil/grease - extractable material	80	Sodium Absorption Ratio	<8
Aluminium	20	Selenium	0.005
Ammonia	50	Sulphates	500
Arsenic	0.018	Vanadium	0.2
Beryllium	0.2	Zinc	0.3
Boron	0.5	Any one or combination of Dichloro-Diphenyl-Trichloroethane (DDT), Dichloro-diphenyl-dichloroethane (DDD), and Dichloro-diphenyl-dichloroethylene (DDE).	0.0004 Trigger for sum of all DDT, DDD and DDE.
Cadmium	0.0015		
Chloride	350		
Chromium	0.25		
Cobalt	0.1		
Copper	0.15		
Cyanide	0.34	Dieldrin substances (Organo Chlorine Pesticides) Dieldrin substances (Organo Chlorine Pesticides)	0.0001 Trigger for sum of all Organo Chlorine Pesticides
Fluoride	2		
Formaldehyde	50		
Iron	20	PCBs, (polychlorinated Biphenyl)	0.002
Lead	0.1		
Lithium	5		
Manganese	10		
Magnesium	50		
Mercury	0.001		

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

Schedule B

Coverage Area

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

1. All residentially zoned land, as identified in the Operative Kaipara District Plan, the Proposed Kaipara District Plan (once notified), or any other proposed plan under the Resource Management Act 1991.
2. All land irrespective of zoning that is:
 - a. within 300m of the mean high water springs along the coast (east/west coasts)
 - b. within 300m of the mean high water springs of the coastal marine area (as defined in the Resource Management Act 1991) of a harbour (Mangawhai and Kaipara Harbours)
 - c. located within 300m of the margins of the Kai Iwi Lakes.

Related information – Bylaw history		
Date	Description	Notes/links
24 June 2009	Wastewater Drainage Policy and Bylaw adopted.	Previous Kaipara District Council policies and bylaws for wastewater drainage existed but are not listed here. This is the first bylaw made under the Local Government Act 2002 (LGA). The Policy is a non-statutory elective policy.
26 September 2016	Wastewater Drainage Policy and Bylaw adopted.	The statutory review timeframes for the review of the 2009 Bylaw were not met and therefore the 2016 Bylaw was deemed to be a new bylaw in accordance with the requirements of the LGA.
25 August 2021	Statutory review of Wastewater Bylaw completed. Proposal to make a new bylaw.	The statutory review was completed. Council determined to make a new bylaw given the scale of non-substantive text changes.
15 December 2021	Making of Wastewater Drainage Bylaw, revoking of Wastewater Drainage Policy.	
20 December 2021	Bylaw comes into force.	
20 January 2022	Public Notice of making the Wastewater Drainage Bylaw.	
<p>Next Bylaw review</p> <p>This Bylaw must be reviewed by 25 August 2031. If not reviewed by this date, the Bylaw will expire on 25 August 2033.</p>		