

1 June 2025

Ministry for the Environment  
8 Willis St  
Wellington

### **Proposed changes to the Waste Management and Minimisation Act and Litter Act Review**

Thank you for the the opportunity to provide comment on the proposed changes to the Waste Management and Minimisation Act and Litter Act. The review of these Acts is a timely opportunity to further clarify and strengthen how the two Acts can work together to support achieving local and national objectives and targets for waste minimisation.

Overall, Council is generally supportive of:

- The changes proposed to the Waste Minimisation Act to further enable its impact and effectiveness including: extending the producer responsibility framework; changes to the allocation, distribution and use of the levy; and introducing a new compliance regime.
- Changes proposed to the Litter Act, which will achieve a more integrated, and modernised approach to dealing with the dumping of waste, which is currently a challenging and costly process for councils to manage.

Council's detailed response to the consultation questions and online survey is attached. Please note that this includes areas where Council is opposed to some of the changes set out; or where support may be provided, subject to understanding detail around how the proposed changes will be implemented. The absence of detail around additional costs or restrictions on service delivery options that may be imposed on Councils is an important consideration which was not set out.

Council officers are available to meet to discuss feedback directly or as part of the Wellington Regional Waste Group (contact Kris Pervan ([kris.pervan@kapiticoast.govt.nz](mailto:kris.pervan@kapiticoast.govt.nz)), if you have specific queries).

Ngā mihi



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## Proposed changes to the Waste Management and Minimisation Act and Litter Act Review – Survey questions

	Proposal for amending legislation	Question	Support, Yes /No/Unsure	Comment
1	<b>Product stewardship:</b> Relace current provisions with an extended producer responsibility (EPR) framework.	<b>Do you support the proposal for a modern EPR framework?</b>	Yes	The proposed changes will further strengthen the current framework. Our only feedback would be to ensure changes support an increase in the take-up and application of the framework more quickly to maximise its benefits.
2	Discontinue central government role in accrediting voluntary product stewardships schemes.	<b>Do you support discontinuing the government accreditation of voluntary product stewardship schemes?</b>	No	<p>Council believes Government accreditation of voluntary product stewardship schemes offers some form of quality guarantee. Voluntary schemes without any 'approval' could be less effective while claiming to be tackling the problem, allowing for potential greenwashing of consumer products. For example. - the soft plastics scheme is currently accredited but only collects 12%+/- of all soft plastics = 88% still goes to landfill.</p> <p>Currently there is no compulsion for industries to have a scheme, unless declared a priority product/waste stream. Increasing the number of priority product and categories under the Act, requiring further industry sectors to implement schemes to increase product stewardship.</p>
3	<b>Waste minimisation:</b> <i>Distribution of levy funds</i> Adjust method for allocating waste disposal levy funds to a base flat rate (20%) and a population-based calculation (80%)	<b>Do you support changing the distribution of levy funds to territorial authorities from a population-based calculation to a combination of a base flat rate (20 per cent) and a population-based calculation (80 per cent)?</b>	Yes	While our understanding is that Kāpiti will have a minor increase in levy funding under this proposed approach, they will benefit the regional work program for smaller partners like the 3 councils of the Wairarapa.
4	<i>Scope of use of levy funds</i> Widen the range for what the levy may be used for	<b>Please indicate your support for changes that would permit territorial authorities to use the levy for:</b> a) activities that promote or achieve waste minimisation, in accordance with and as set out	a) Yes	<p>Comments related to c):</p> <p>Providing for the remediation of contaminated sites or landfills is currently a core responsibility of councils funded through a council's Long-term Plan. While council supports the potential for flexibility for using the levy to address these activities, introducing a level of</p>

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		<p>in the territorial authorities' WMMPs</p> <p>b) cost associated with managing emergency waste</p> <p>c) activities that provide for the remediation of contaminated sites and vulnerable landfills</p> <p>d) compliance, monitoring and enforcement of mismanaged waste</p> <p>e) activities to reduce environmental harm or increase environmental benefit</p>	<p>b) Yes</p> <p>c) Yes</p> <p>d) Yes</p> <p>e) No</p>	<p>consideration or proof that no alternative funding is available would help ensure that the levy is not diverted to address these issues to the detriment of community waste management and minimisation initiatives. This should also include consideration of central government funding options available, where resourcing has been increased over recent years.</p> <p>Comments relating to d):</p> <p>This gives more weight to framing enforcement as a priority. Council is supportive of there being more and better tools. Additional resourcing around appropriate disposal of fly tipped material where cost recovery is not possible would reduce the overall burden on ratepayers, but it would also be useful to offset the effort involved in investigation and determining the culpable party.</p> <p>Comments relating to e):</p> <p>We don't support the proposed use of the levy in its current form. The current definition and its potential application is very broad and vague and could easily use up large amounts of waste levy funding, limiting what's available for actual waste minimisation activities.</p> <p>The Central government portion of the levy has already been adjusted to include and address activities in this area. Alternative funding sources are also available for environmental projects, whereas waste minimisation activities rely on this ringfenced funding. Taking the use of the levy away from direct waste minimisation purpose disconnects it from the 'waste creator pays' link the current process provides.</p>

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5		Please share any suggestions for criteria that could form a decision-making framework for possible spending of the waste levy on environmental benefits and/or reduction of environmental harm.		-
6	Remove blanket exclusion for waste-to-energy facilities	Do you support removal of the current blanket exclusion from the levy for waste-to-energy facilities?	Yes	To the extent that it levels the playing field in whole-of-life cost/benefit terms between recovery and burning waste. It could make it easier to show recovery benefit compared with Waste to Energy (WTE). The proposals also discuss setting different rates for different types of WTE. This would be fair as an activity like Ecogas' food waste disposal should pay a lower rate than a cement works for instance.
7	Ministerial review of effectiveness of levy	Do you agree that the Minister's considerations for a review of the effectiveness of the waste levy should mirror the scope of the purpose of the WMA and the parameters for levy spend (once these are decided)?	Yes	-
8	Review timeframe	Do you support changing the timeframe for review of the effectiveness of the waste levy from every three years to at least every five years?	Yes	The proposal would give councils more continuity and confidence in funding being secure across the five-year period between effectiveness reviews.
9	Use of waivers	Do you support replacing the current levy-waiver requirement of 'exceptional circumstances', instead enabling the Secretary to waive the requirement for an operator to pay any amount of levy in specified circumstances	Yes	-

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10		<b>Do you support limiting the waiver requirement to emergency event situations for which a state of national or local emergency has been declared under the Civil Defence Emergency Management Act 2002 and biosecurity responses have been undertaken under Part 7 of the Biosecurity Act 1993</b>	Yes	<p>This approach would allow more agility when responding to disasters/exceptional circumstances. Cyclone Gabrielle waste had the levy waived.</p> <p>Providing for this in legislation would speed up the process and confirm its use in any given emergency more quickly.</p> <p>This exemption should be accompanied by support for forward planning and consideration of response to future potential disasters that might be appropriate to local areas.</p>
11		<b>Do you agree the waiver requirement for waste from the remediation of a contaminated site should specify any eligibility criteria that an application must meet? If so, please share any suggestions for eligibility criteria.</b>	Unsure	Council agrees that the Biosecurity act and Civil Defence Emergency, are good criteria for exemptions. Less defined are contaminated sites/old landfills – they should be classified as vulnerable and high risk to satisfy threshold requirements.
12	Conditions and exemptions	<b>Do you support requiring a Minister to consider specific criteria before recommending levy exemption regulations are made (instead of the current requirement that the Minister is satisfied 'exceptional circumstances' exist)?</b>	Yes	-
13		<b>Do you support applying a timeframe of a maximum of five years levy exemptions via regulations must be reviewed or allowed to expire?</b>	Yes	-
14		<b>Do you agree that the Minister should be able to impose conditions on levy exemptions?</b>	Yes	Council supports increased clarity and agility to act in exceptional circumstances.

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15	Reuse of material at disposal facilities	<b>Do we need to clarify in legislation when the levy should be imposed on waste disposed at a disposal facility, so that waste reuse on site is operationally necessary and reasonable?</b> <b>Please share any further thoughts or ideas on this proposal</b>	Yes	While onsite reuse of materials is common in the industry, care needs to be taken about allowing for downcycling and overuse, in trying to get rid of material. There needs to be clear reasoning and justification for reuse on site.
16	Stockpiling controls	<b>Do you support improvements to stockpiling controls by introducing tools such as:</b> a) an approval system with limits and conditions. b) changes to the stockpile calculation process to track the throughput of materials. c) a stockpile volume threshold limit. d) improved data collection, record-keeping and reporting provisions, to increase transparency and traceability of material entering and leaving a site. e) defining/amending the terms 'diverted material', 'accumulation' and 'stockpiling' in the legislation?  <b>Please share any further thoughts or ideas on these proposals.</b>	a) Yes  b) Yes  c) Yes d) Yes   e) Yes	Comments related to e):  Definition amendments will depend on the interpretation, eg. diversion: currently wood waste is 'diverted' in Auckland, but it's still burnt, so not diversion in the true sense, and crushing glass to recycle to use on site for roads should count as diverted. Greater clarity in definitions would be useful.  Further thoughts: <ul style="list-style-type: none"> <li>Volume Thresholds are site specific- setting a time frame is more important than setting volume limits. Depending on the material stream, volumes will be limited by Health and Safety requirements, available space, and processing capacity.</li> <li>A 6-month limit on clean fill may not be a reasonable timeframe in which it needs to be used.</li> </ul>
17	Clarifying roles and responsibilities	<b>Do you support the proposed changes to the roles and responsibilities for:</b> a) the Ministry for the Environment	a) Yes	Comments related to c):  Provided activities required of councils are appropriately resourced/funded. Council is pleased to see the

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		b) the New Zealand Customs Service. c) territorial authorities?	b) Yes d) Yes	proposals confirm that 'kerbside' services "could be delivered directly or by other private providers."
18		<b>Do you support a change in the Secretary for the Environment's ability to retain levy payments to a territorial authority, from mandatory to discretionary?</b>	Yes	Provides flexibility and the consideration of circumstances in decisions to withhold levy payments where an WMMP has not been adopted – including circumstances where a major emergency might cause a significant interruption to a council's workplan over an extended period of time.
19		<b>Do you support enabling the Waste Advisory Board to provide advice at its discretion? Please share any further thoughts or ideas on these proposals</b>	Yes	Further guidance and clarity as to what the Advisory Board discretion would be applied to would help support the focus and application of this proposed addition.
20	Modernising the compliance and data regime	<b>Do you agree the regulator should have greater powers to receive data, including the ability to share with other regulators and the Ministry?</b>	Yes	Provided this supports shared objectives and is not shifting an unspecified cost and compliance burden to territorial authorities without an accompanying funding stream.
21		<b>Do you support the proposed tiered approach to the compliance tools and sanctions?</b>	Yes	Reflects consistently with other commensurate frameworks used by councils and existing policies developed to address issues in this space.
22	Litter Act – Scope of legislation	<b>Do you support integrating littering and other types of mismanaged waste into the same regulatory framework for waste management and minimisation?</b>	Yes	Helps provide an integrated and commensurate approach for managing related activities across the two Acts, creating efficiencies, effectiveness in managing activities and supporting our community outcomes.
23		<b>Do you support enabling regulations for the collection of data on littering and dumping?</b>	Yes	However any costs to implement changes should be identified and considered in the design and implementation of requirements. For example, responding to dumping events will require both works and compliance staff to both record and collect details and cleanup.
24		<b>Do you support expanding the purpose of the WMA to include littering and other mismanaged</b>	Yes	See above, Q23.

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		waste in the new waste legislation? Please share any further thoughts or ideas on these proposals.		
25	Litter Act – Roles and responsibilities	<b>Regarding public authorities, do you support:</b> a) limiting the definition of ‘public authority’ as proposed. b) enabling public authorities (amended as proposed) to warrant Litter Control Officers or appoint Litter Wardens, to manage and enforce littering and other mismanaged waste offences?	a) Yes  b) Yes	-
26		<b>Do you support removing the assignment of a statutory role for the promotion of litter control to any specific agency or organisation?</b>	Unsure	-
27		<b>Do you support public authorities having a discretion whether they provide waste receptacles in public places but an obligation to empty those receptacles if they provide them?</b>	Yes	Provides for flexibility and effectiveness in the provision and maintenance of supporting infrastructure.
28		<b>Do you support removing the requirement for the Medical Officer of Health to be satisfied that litter receptacles are emptied promptly, efficiently and at regular and prescribed intervals</b>	No	Council believes it is useful to have an independent agency able to step in with additional powers in exceptional circumstance if required/warranted.
29		<b>Do you agree that a local or public authority should:</b>		Comments related to c):



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		a) retain the ability to make grants to any organisation for the abatement or prevention of litter. b) be able to spend such sums of money as it thinks fit on any scheme or campaign for the abatement or prevention of litter. c) retain the ability to make bylaws to help reduce littering and dumping, if they are not inconsistent with the provisions of the new legislation. d) retain the ability to deter, prevent, require timely clean-up and enforce waste escaping/being carried on to public or private land?	a) Yes  b) Yes  c) Yes  d) Yes	<p>The extent of need for a bylaw is contingent on whether new legislation includes stronger enforcement and penalty powers and was specific enough that a bylaw would not be necessary.</p> <p>It is not clear from the consultation material, but we assume infringement fees will be set under regulations supporting the new regime – and not through supporting bylaws.</p>
30		<b>Do you support enabling all types of Litter Control Officers to apply different tiers of compliance tools, where they are authorised to act?</b>	Yes	This reflects consistently with the use and application of existing mechanisms council has available for compliance.
31		<b>Do you agree that, in enforcing offences, Litter Control Officers should be able to:</b> a) use vehicle registration and ownership details. b) use appropriate evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences?  <b>Please share any further thoughts or ideas on these proposals</b>	a) Yes  b) Yes	We currently have infringement regimes that currently utilise these mechanisms – providing consistency in their application.

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32	Litter Act – Compliance, monitoring and enforcement framework	<b>Do you support the proposed amendments to the compliance monitoring and enforcement framework for littering and other mismanaged waste offences</b>	Yes	We support the proposed amendments because it gives greater robustness to compliance and enforcement activity and provides for more certainty with a collective deterrence effect.
33		<b>Do you support lowering the threshold for evidence of a mismanaged waste offence, to allow for effective compliance monitoring and enforcement by Litter Control Officers?</b>	Yes	Increasing ability to address issues and alleviate cost implications from individuals falling on ratepayers.
34		<b>Do you agree that public authorities should be able to be compensated by the offender if the mismanaged waste offence has caused significant environmental harm? Please share any further thoughts or ideas on these proposals.</b>	Yes	Councils should be able to recover any costs required to remove and remediate any mismanaged waste and associated impacts on the environment, so they do not fall onto ratepayers expense.
35	Litter Act - Cost recovery for removal of waste and correction of damage	<b>Do you agree that public authorities, regulators, or occupiers of private land where a littering offence is committed, should be able to recover reasonable costs associated with the removal of the litter/waste and/or the environmental harm caused from the offender? If not, please explain why and provide any suggested alternatives for covering these costs. Please share any further thoughts or ideas on these proposals.</b>	Yes	Infringement levels should be sufficient to cover enforcement activity costs and recovery costs and be easily updated and kept current with increasing costs over time. An example of a similar arrangement of this function is provided under the Sale and Supply of Alcohol Act – providing for a fee schedule and flexibility to add adapt or update via making of a local Bylaw.

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36	Feedback requested from Litter Control Officers	<p><b>If you are a Litter Control Officer who has used the existing section 9(2)(4) of the Litter Act (to require an occupier of land or premises to take all reasonable steps to prevent litter being carried or escaping onto the public place), please answer the following.</b></p> <p>a) Are the current provisions efficient or effective for addressing this type of mismanaged waste issue in your area?</p> <p>b) If not, please provide more information about the limitations of the provisions.</p>	See comment	The current provisions of the Act are generally limited in their workability when it comes to private land issues. In particular, where private litter is escaping a premises there are often challenges in determining the liability of offending and the ability to recover subsequent cleanup costs.
37		<p><b>Please provide your feedback on the draft infringement levels for the proposed mismanaged waste compliance framework. Please share any further thoughts or ideas on this proposal.</b></p>	See comment	Agree with tiers as long as any associated infringement fees are reflective of comparative regimes such as under the RMA. Infringement levels should be sufficient to cover enforcement activity costs and recovery costs and be easily updated and kept current with increasing costs over time.
		<p><b>If you have any further comments or thoughts on the proposed amendments that have not been captured in the previous questions, please share them here</b></p>	N/A	