

Submission by



to the

Ministry for the Environment (MfE)

on the

**Proposed Amendments to Waste Legislation
Consultation Document**

May 2025

**PROPOSED AMENDMENTS TO WASTE LEGISLATION
CONSULTATION DOCUMENT
SUBMISSION BY BUSINESSNZ¹**

1.0 EXECUTIVE SUMMARY

- 1.1 BusinessNZ welcomes the opportunity to make a submission on the Proposed Amendments to Waste Legislation Consultation Document (“the Consultation Document”).
- 1.2 BusinessNZ notes that the purpose of the proposals is to seek feedback on ways to make our waste legislation more effective, clear and consistent. The proposed changes are intended to remove inefficiencies and to clarify the roles and responsibilities for central government, local government, and the waste sector.
- 1.3 The legislative proposals cover five main areas:
- Creating a framework for extended producer responsibility
 - Changes to how the waste levy is allocated to territorial authorities, and what they can spend the money on
 - Clarifying roles and responsibilities for central government, local government and the waste sector
 - Improving tools for compliance, monitoring, and enforcement
 - Enabling efficiency and effective controls for littering and other types of mismanaged waste
- 1.4 While BusinessNZ understands the Government’s desire to reduce waste going to landfill and greater use of recycling, it is important to understand two basic issues in respect to waste management before adopting a regulatory response:
- Understanding the nature of waste and clear definition of the problem(s) which may or may not justify government intervention, including what, if any, market failures might be present in respect to waste; and
 - Understanding that there is an optimal amount of waste, given the costs and benefits of waste reduction.
- 1.5 For clarity, this submission is in two sections. The first provides a framework for thinking about waste, including the need to clearly identify where markets failures may be present which could justify government intervention. The second section responds to some of the specific questions outlined in the Consultation Document.

¹ Background information on BusinessNZ is attached as Appendix 1.

- 1.6 Given the diversity of BusinessNZ membership, some members and sectors strongly support the proposals in respect to waste levies and extended producer responsibility. Others have major concerns. Therefore, we have encouraged individual members and sector representatives to make their own submissions raising those issues specific to their areas of interest.
- 1.7 BusinessNZ would be happy to meet with the MfE to discuss our submission in more detail, should officials consider it helpful.

SECTION 1: GENERAL DISCUSSION

- 2.0 BusinessNZ welcomes the opportunity to make a submission on the Proposed Amendments to the Waste Legislation Consultation Document (“the Consultation Document”).
- 2.1 Industry and others have made a huge effort over recent times to look seriously at how their businesses impact on the waste stream and have learned how changing practices can result in significant environmental gains. This has been largely across the board from demolition waste through to oil recycling.
- 2.2 BusinessNZ acknowledges that the management of waste is increasingly being considered in the context of a circular economy rather than the traditional, linear ‘take-make-dispose’ model. This paradigm shift is gaining traction not only in New Zealand, but increasingly world-wide as resource constraints start to impact on behaviour, along with changing consumer demands.
- 2.3 Globally, waste management is being looked at closely following China’s decision to close its borders to the world’s low-quality recyclables. More and more countries are imposing specific packaging standards and requiring content recycling as part of normal trading activity. New Zealand is not immune from these developments.
- 2.4 The above issues quite rightly focus attention on New Zealand businesses and households and whether they are doing enough to reduce waste and the extent to which more recycling is needed.

A Framework for thinking about Waste Policy

- 2.5 Before coming to any decisions as to the merits or otherwise of regulatory intervention in the market for waste, it is crucial that policymakers take a step back and ask some fundamental questions. These include but are not limited to:
- Is there a problem *in New Zealand* with current waste management systems? (i.e., are there significant issues of market failure which need to be addressed?)
 - If there is a problem, is the problem significant?
 - What are the costs and benefits (including unintended costs) of any regulatory proposals?
 - What are potential options for improving outcomes that do not impose significant costs? (e.g., improving information, including greater transparency in pricing signals to market participants)

- 2.6 As a general principle, individuals and companies should bear the full costs of their behaviour (i.e., costs should be internalised), as there will be an overconsumption of resources if costs can be shifted to third parties. Waste minimisation is no different. If rational decisions are to be made about waste minimisation, those involved should ideally bear the costs and receive the benefits associated with specific options/outcomes.
- 2.7 Nevertheless, imposing costs over and above those which individuals and firms should bear will result in a misallocation of resources. Costs will rise and individuals will either pay higher prices for goods and services than they otherwise would, or the choice of goods and services available will be inhibited.
- 2.8 It is important to understand that there is an optimal amount of waste, just as there is an optimal amount of resources that should be spent on crime prevention etc. Waste cannot be eliminated completely, at least not without great cost. Beyond a certain point the marginal cost of waste minimisation becomes progressively higher, while the potential returns are reduced. Economies of scale are often important when dealing with certain waste streams, a point particularly relevant for smaller businesses facing the disproportionate cost of having waste and recycling companies pick up smaller amounts of recyclable or specialised waste.
- 2.9 BusinessNZ understands that the Consultation Document's general intent is to ensure waste is minimised to the greatest extent possible and its potentially adverse effects reduced. Nevertheless, many of the proposals in the Consultation Document are at a high conceptual level and require more detail and consultation before meaningful input can be provided.
- 2.10 In order for there to be justification for government involvement, via regulation, there must be a clear case of market failure, and the problem of market failure must be significant.
- 2.11 Secondly, alternative market-based approaches such as increasing information or improving information flows should be considered first before resorting to regulatory intervention, given that so-called 'market failure' may in fact be regulatory failure.
- 2.12 Given that markets are generally faster at self-correcting than government intervention, the onus of proof must be on government to prove beyond reasonable doubt that the benefits of intervention exceed the costs, including unintended costs associated within regulation (such as the costs of non-compliance).
- 2.13 Moreover, it should be noted that regulators generally have strong incentives to minimise their own risk by imposing higher standards than might arguably be justified. Because regulators do not bear the costs associated with their decisions (costs will ultimately be passed onto consumers), they may well over-regulate rather than adequately consider the cost/quality trade-offs consumers

are willing to make. Given that individuals are unique, they will generally have different risk profiles, with some willing to pay considerable amounts of money to minimise risks while others are prepared to invest little in order to reduce real or perceived risks.

2.14 The following list provides a brief outline of the predominant market failures often quoted in the economic literature. These may have relevance when analysing government involvement in the waste market:

- Externalities
- Public goods
- Information failures

Externalities

2.15 Externalities (or spillovers) lead to a divergence between private and social (public) costs and benefits, where private refers to the costs and benefits to those participating in market transactions, and social refers to the costs and benefits to all members of society.

2.16 Where there are externalities, market resource allocation may not be efficient. Individuals and firms that do not bear the full cost of the negative externalities their activities generate tend to engage excessively in such activities. Conversely, where individuals and firms do not reap the full benefit of their activities which generate positive externalities, they will engage less in those activities than is socially optimal.

2.17 Governments can respond to externalities in several ways. In some cases (mainly involving negative externalities), they can attempt to regulate or impose a levy or tax the activity in question. Alternatively, a government can encourage activities where positive externalities are created, for example, through subsidies, cash payments or other support mechanisms to people participating in particular activities. Often such encouragement is output-based and intended to increase the production or supply of the positive externalities.

Public Goods

2.18 Perhaps the strongest market failure argument relates to public goods. Public goods are effectively those activities from which people cannot be excluded and where the benefits to one person do not reduce the benefits to another.

2.19 Market participants will under-invest in public goods because they cannot appropriate most of the benefits of investment. But, from society's point of view, firm underinvestment will be to everyone's detriment. To overcome this, governments will often step in to produce the goods in question or will contract the private sector to provide the goods for a fee.

- 2.20 Notwithstanding the above, it is often possible for the private sector to provide what are considered to be public goods, e.g., providing for lighthouses by providing for the ability to tax shipping lines and/or charge port berthing fees.

Information Failures

- 2.21 There are times in a market for exchange where one participant knows more about the quality of the product than does the other. This asymmetric information may exist e.g. in relation to health care where doctors with their superior knowledge may be able to mask the quality of the treatment they provide.
- 2.22 Asymmetric information is relevant in many markets for goods and services where, generally, government has seen fit not to intervene. This is because a direct intervention may often be less efficient than, for example, just having the government publicise information.
- 2.23 Given the above considerations, the case for potential waste management market failure justifying government involvement will tend to focus on the externalities issue, i.e. where the person or company disposing of the waste does not bear the full costs of disposal.

The Waste Levy and Extended Producer Responsibility

- 2.24 As might be expected, BusinessNZ's membership has mixed views on the merits or otherwise of a waste levy over and above normal commercial landfill charges while there is both strong support and opposition to extended producer responsibility. While some members are opposed to any form of waste levy, others are receptive to both a levy increase and to its expansion.
- 2.25 Notwithstanding the above, BusinessNZ has three broad concerns in respect to use of the waste levy:
- The need to understand the nature of the risks that any levy extension and/or levy increase are intended to address
 - The importance of having appropriate infrastructure in place to ensure greater recycling and reuse given that without appropriate infrastructure, the extension of the levy to a wider set of waste, as well as any levy increase, will simply act as a tax with no meaningful impact on the amount of waste going to landfill
 - The need to ensure waste levy funds raised are used appropriately.

Understanding the nature of the risks which the levy extension and increase are intended to address

- 2.26 BusinessNZ assumes the rationale for levies on waste above normal commercial landfill charges is to deal with any potential externalities associated with waste disposal, although it is not clear which externalities are not already captured by current waste disposal landfill charges. However, the NZIER report² to the Ministry for the Environment (MfE) noted that:

"Landfilling has been associated with a range of adverse environmental effects, including discharges to air (greenhouse gas emissions and some local air pollutants), discharges into ground/water (leachates of heavy metals), and general nuisance effects such as noise, odours, lighting and attraction of vermin. Apart from greenhouse gases and discharges to water which may spread widely, these effects are highly localised. Siting landfills away from areas of habitation reduces their economic and environmental cost, offset partly by the consequent need to transport waste over longer distances from source to destination.

The international evidence suggests that the economic cost of these environmental effects is also relatively low, at least from modern landfills with management systems to contain the adverse environmental effects. There will be exceptions to this." (p. ii).

- 2.27 BusinessNZ considers officials need to be much clearer as to what the specific environmental, social and economic costs of waste disposal are before justifying for extension of the waste levy, including the use of such funds.
- 2.28 Clearly the total cost of time, energy and money needs to be considered when making decisions about disposing of waste in landfills and the types of products that might be worth recycling. It is important that in seeking to reduce physical waste we do not also waste resources by diverting them from other more valuable uses.
- 2.29 Also of importance is the fact that waste disposal may be driven by a significant range of factors, e.g. the changing nature of the economy (new products/processes etc.), economic growth, and the nature of the industries driving the growth. Given the range of factors involved, including competitive pressures, it is unlikely that growth in the economy will lead to either a uniform waste increase or a decrease.
- 2.30 Therefore, the fact that the amount of waste to be disposed of may either increase or decrease will not, in itself, show whether a waste levy is effective or ineffective.

² New Zealand Institute of Economic Research – Waste Levy Extension Estimates of extending and raising levy. NZIER report to Ministry for the Environment (November 2019)

The importance of having appropriate infrastructure in place to ensure greater recycling and re-use

- 2.31 Any changes leading to the adoption of increased waste levies and/or expansion of coverage must reflect the nature of the products and their respective markets.
- 2.32 BusinessNZ recommends that before making relevant decisions, care is taken to ensure that market processes and the cost of necessary infrastructure are clearly understood.
- 2.33 Given a small and widespread population base, there will likely be instances where it will be economically impractical to require greater reuse or recycling. As noted, there will be an optimal amount of waste, and 100% recovery for products at their end of life will likely be impractical.
- 2.34 Many communities have no recycling facilities and others have recycling facilities that are not yet fully developed or operational.
- 2.35 Increasing levies on waste going to landfill and expanding coverage without the necessary infrastructure to deal effectively with end-of-life or legacy products would be largely self-defeating.
- 2.36 In the past there has been concern about the cost and viability of the infrastructure required to allow for greater resource recovery and recycling.
- 2.37 It may be possible for government in tandem with industry, to set up recycling or reprocessing hubs around the country for materials collection, collation, and if need be, processing so that:
- Larger quantities of materials can be consolidated locally with no need to ship small quantities long distances;
 - Account is taken of the need for economies of scale and economic viability; and
 - Businesses relying on such collected material - the collection of secure and steady volumes of certain materials - can be co-located in the recycling/reprocessing zone or hub.
- 2.38 There must be a degree of certainty about the economics of the infrastructure investment involved, particularly if the private sector is to be prepared to invest.

Appropriate use of waste levy funds raised

- 2.39 BusinessNZ has been concerned since the introduction of the Waste Minimisation Act 2008 that 50 percent of the waste levy is allocated to territorial

authorities for waste minimisation purposes with the remaining 50 percent, minus administration costs, allocated to a contestable fund.

- 2.40 Without appropriate controls on funding allocation, how the funding has been allocated might have had the undesirable effect of simply taxing greater amounts of waste going to landfills, including largely inert material, without addressing any economic, social and environmental effects of waste.
- 2.41 BusinessNZ is pleased the Government has partially recognised the failings of current levy allocation and has prioritised a levy investment plan.
- 2.42 There is a strong argument that those who pay, or are to pay, the lion's share of the waste levy should have some say in how the funds raised are allocated, particularly given a government objective in proposing to raise and expand the waste levy is to reduce the amount of waste going to landfill.
- 2.43 Currently, there is little or no relationship between those who must pay the waste levy and those who receive funding from the levy. Given the Government has implemented significant rises in both levy level and levy coverage, there is an even greater need than in the past for a clearer relationship between levy payers and levy recipient i.e. levy payers are assisted by programmes that help them reduce their waste stream.
- 2.44 The danger is that raising and expanding the waste levy will simply turn it into another tax with little or no influence on waste minimisation. Tying a significant proportion of the waste levy collected to those largely responsible for producing the waste in the first place would make a serious reduction in waste going to landfill more likely - provided, of course, there is an ability to recycle and reuse products in question.
- 2.45 Meanwhile, extended producer responsibility (EPR) needs to be considered in the context of a circular economy rather than the traditional linear 'take-make-dispose' model. This paradigm shift is gaining traction not only in New Zealand, but increasingly world-wide as resource constraints start to impact on behaviour, along with changing consumer demands.
- 2.46 It is acknowledged that there is a waste problem in NZ, particularly in respect to illegal dumping of waste and it is accepted that business plays an integral role in the broader waste management system.
- 2.47 Waste policy in New Zealand and around the world is coming under increased scrutiny. Local councils have been under the pump for not doing more to encourage recycling.
- 2.48 Managing waste and recycling is also high on the environmental concerns from a numerous survey of New Zealanders and just highlights the high expectations from the public for businesses take responsibility for their environmental and social impacts.

- 2.49 Plastics use globally is being looked at closely following China's decision to close its borders to the world's low-quality recyclables. More and more countries are imposing specific packaging standards and requiring content recycling as part of normal trading activity. New Zealand is not immune from these developments.
- 2.50 The above issues are quite rightly focusing attention on New Zealand businesses and households and whether they are doing enough to reduce waste and the extent to which more recycling is needed. However, within this context, the cost also needs keep front of mind.
- 2.51 In the early stages of product development, the capital costs associated with new technologies can be particularly high. "Requiring" producers to bear the full costs associated with end-of-life waste management could well result in significant increased initial costs to consumers and possibly a limitation in the choice of products available to consumers that reflect their unique circumstances (e.g. income, lifestyle choices etc).
- 2.52 There is also the possibility that large brands may refuse to sell product into New Zealand resulting in a significant increase in costs to consumers of manufactured goods (due to reduced competition in the market and increased costs to manufacturers for servicing the NZ market).
- 2.53 The reality today is that most manufactured consumer products available in New Zealand are manufactured in large volumes in overseas markets by large global brands and imported into New Zealand.

SECTION 2: RESPONSES TO SPECIFIC CONSULTATION QUESTIONS

Note: BusinessNZ has not responded to every question

Q1. Do you support the proposal for a modern EPR framework? Yes | No | Unsure

BusinessNZ response:

- 3.0 The membership of BusinessNZ has mixed views on this proposal.
- 3.1 A number of companies are supportive of and successfully operate product stewardship schemes and support the concept of EPR, but it is important to ensure that there is evidence-based design, fair application and clear boundaries.
- 3.2 Most agree that there needs to be a comprehensive cost/benefit analysis undertaken which takes account of all the potential implications e.g. potential cost increases to consumers and businesses and the reality that a significant proportion of products come into NZ from overseas and may result in overseas brands limiting what they supply into NZ.
- 3.3 Moreover, it is appropriate to compare that against existing (and evolving) product stewardship schemes and continuing enhancements that can be made to them.

Q3. 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)? Yes | No | Unsure

BusinessNZ response: No – in principle.

- 3.4 BusinessNZ has long been concerned with the justification for a waste levy over and above normal commercial charges which apply to waste disposed of at landfill. Modern landfills are well lined, with minimal potential for externalities which are not already covered under legislation such as the ETS (in respect to methane).
- 3.5 There should be strong input from those who pay the levy in order to encourage them to think of ways of reducing their overall waste going to landfill. It should not be siphoned off for local government to be used as they see fit.
- 3.6 Notwithstanding the above, ensuring that the levy funds can be allocated in a way that maximises the benefit and outcomes is key. It is not clear that the proposed re-allocation will make a material difference to improve that. Having

a transparent and contestable process (more than currently occurs today) which focuses on infrastructure to enable greater recycling and re-use would be really beneficial.

Q4. Please indicate your support for changes that would permit territorial authorities to use the levy for:

b. Costs associated with managing emergency waste. Yes / No / Unsure

BusinessNZ response: No – in principle.

3.7 In general, and as outlined earlier, it is important that the costs and benefits of waste are sheeted home to those who have caused that waste in order to ensure that the incentives on parties are not unduly distorted.

3.8 There may well be little, if any, relationship between those paying a waste levy for waste going to landfill, and emergency waste.

3.9 In the case of emergencies, the costs should be ideally passed on to those who are responsible for such emergency waste, or alternatively, if it is difficult to determine the parties causing such waste, or if emergency waste is a legacy issue, then funding out of general taxation is a more appropriate method, given that the costs are spread among the entire population which is likely to minimise distortions associated with one-off emergency issues.

c. Activities that provide for the remediation of contaminated sites and vulnerable landfills. Yes / No / Unsure

BusinessNZ response: No – in principle.

3.10 See response to Q4(b).

d. Compliance, monitoring and enforcement of mismanaged waste. Yes / No / Unsure

BusinessNZ response: No – in principle.

3.11 See response to Q4(b).

e. Activities that reduce environmental harm or increase environmental benefits. Yes / No / Unsure

BusinessNZ response: No – in principle.

3.12 See response to Q4(b).

Q6. Do you support removal of the current blanket exclusion from the levy for waste-to-energy facilities? Yes / No / Unsure

BusinessNZ's response: No – in principle.

3.13 As a general principle, individuals and companies should bear the full costs of their behaviour (i.e. costs should be internalised), as there will be an over-

consumption of resources if costs can be shifted on to third parties. Waste minimisation is no different. If rational decisions are to be made about waste minimisation, those involved should ideally bear the costs (and receive the benefits) associated with specific options/outcomes.

- 3.14 Provided emissions associated with waste to energy plants are adequately covered by the ETS (which they currently appear to be), authorities should be agnostic as to how waste is disposed of or recycled. In this respect, the costs (emissions) associated with waste to energy is generally covered under current legislation so there is no justification for further taxes in the form of a waste levy. BusinessNZ continues to support waste to energy plants continuing to be exempt from the waste levy, as indeed should almost all waste going to landfill unless there is sound evidence that current charges are inadequate to deal for externalities of current waste streams. Only normal commercial landfill charges should apply for waste disposal to landfill.

Q7. 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 | No | Unsure

BusinessNZ response: Yes – in principle.

- 3.15 This would appear to make logical sense.

Q8. 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 | No | Unsure

BusinessNZ response: Yes – in principle.

- 3.16 Reviewing the levy every 3 years seems a particularly short time frame, given the cost of undertaking a comprehensive review. While there is nothing magical about a 5-year timeframe, it would appear more appropriate.

Q9. 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 | No | Unsure

BusinessNZ response: Unsure.

- 3.17 BusinessNZ does not have a strong position either way on this issue although it is acknowledged that there will be technical issues associated with whether a levy should apply in certain circumstances (e.g. for landfill cover material or material that is dumped at a landfill for a short period of time before being removed again). Ultimately, the ability to make sound decisions is what should drive consideration of 'exceptional circumstances.'

Q10. 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? Yes / No / Unsure

BusinessNZ response: Unsure.

3.18 While BusinessNZ understands why a waiver would apply in times of emergency, it just highlights the weaknesses of having a generalised waste levy applying to all waste going to landfill.

3.19 With modern lined landfills, the risk of externalities is generally minimal, particularly with much material going to many landfills being largely of an inert nature.

Q11. 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. Yes / No / Unsure

BusinessNZ response: Unsure.

3.20 Generally speaking, costs of remediation should be sheeted home to the owners of such sites, provided that they can be defined and have the financial means to cover such costs.

3.21 There is a potential issue where non-remediation of a contaminated site may have wider impacts on the population as a whole (e.g. in respect to public health). In this case, there may be justification for taxpayer funding such cleans-ups given the potential risks to the wider population.

3.22 Notwithstanding the above, each case would need to be assessed on its merits, including, the long-term risks of non-remediation.

Q12. 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)? Yes / No / Unsure

BusinessNZ response: Yes – in principle.

3.23 Without specific criteria for determining exemptions, there is a risk that Ministerial decision-making could be ad hoc with the potential for inconsistent decision-making over time.

Q13. Do you support applying a timeframe of a maximum of five years before levy exemptions via regulations must be reviewed or allowed to expire? Yes / No / Unsure

BusinessNZ response: Yes – in principle.

- 3.24 Although a 5-year timeframe would appear reasonable, there should be the ability to review at an earlier stage if new significant information comes to hand. On the other hand, sunset clauses can also be useful if risks are likely to be minimal and may decrease over time.

Q14. Do you agree that the Minister should be able to impose conditions on levy exemptions? Yes / No / Unsure

BusinessNZ response: Yes – in principle.

- 3.25 While there will always be trade-offs between ensuring administrative efficiency (i.e. minimal exemptions) and ensuring that interventions are soundly based and fit for purpose, there may be some situations where it could be justified for the Minister to impose conditions on levy exemptions (e.g. for a time-bound period etc) or to deal with a specific issue which needs to be addressed rapidly.

Q15. Do we need to clarify in legislation when the levy should be imposed on waste disposed of at a disposal facility, so that waste reuse on site is operationally necessary and reasonable? Yes / No / Unsure

BusinessNZ response: Yes – in principle.

- 3.26 To avoid uncertainty, it may be necessary to clarify in legislation when the levy should be imposed on waste disposed of at a disposal facility.

Q16. Do you support improvements to stockpiling controls by introducing tools such as:

a. An approval system with limits and conditions. Yes / No / Unsure

BusinessNZ response: Unsure.

- 3.27 This issue may be best considered on a case-by-case basis.

b. Changes to the stockpile calculation process to track the throughput of materials. Yes / No / Unsure

BusinessNZ response: Unsure.

- 3.28 Without clearer understanding of what the issues might be here, BusinessNZ is unable to provide comment.

c. A stockpile volume threshold limit. Yes / No / Unsure

BusinessNZ response: Unsure.

- 3.29 See comments to 16(b).

d. Improved data collection, record-keeping and reporting provisions, to increase transparency and traceability of material entering and leaving a site. Yes / No / Unsure

BusinessNZ response: Unsure.

- 3.30 BusinessNZ understands that the greater amount of information provided to regulators, the more likely this will aid the understanding of issues needing to be addressed, if there are any such issues.
- 3.31 On the other hand, requiring greater data collection, record-keeping and reporting provisions, may well increase the costs associated with landfills, particularly those which are generally small and do not necessarily have the systems in place to provide comprehensive data.
- 3.32 Also, if the logic of regulation of waste disposal facilities is to manage risk (which probably is the logical conclusion), then it is important that requirements are fit for purpose, given the different types of landfills currently in use.

e. Defining/amending the terms 'diverted material', 'accumulation' and 'stockpiling' in the legislation? Yes / No / Unsure

BusinessNZ response: Unsure.

Q17. Do you support the proposed changes to the roles and responsibilities for:

a. The Ministry for the Environment. Yes / No / Unsure

BusinessNZ response: Yes – in principle.

b. The New Zealand Customs Service. Yes / No / Unsure

BusinessNZ response: Unsure.

c. Territorial authorities? Yes / No / Unsure

BusinessNZ response: Unsure.

- 3.33 The role of local government should be to maximise the benefits to their local communities, understanding the costs and trade-offs that individual communities are prepared to make.
- 3.34 What may be considered appropriate for large urban communities may not be economically feasible or acceptable for small rural communities. In this respect, it is important to realise that a one-size-fits-all approach may not necessarily be appropriate in respect to household waste and recycling services.

Q19. Do you support enabling the Waste Advisory Board to provide advice at its discretion? Yes / No / Unsure

BusinessNZ response: Yes – in principle.

- 3.36 BusinessNZ recognises the potential usefulness of the Waste Advisory Board (WAB) in providing independent advice to the Minister and/or Ministry. However, this needs to be tempered by the fact that any advice should be made public to ensure discipline on the WAB's decision-making.

- 3.37 Secondly, if the WAB is to provide sound advice it is important that it has a broad cross-section of skills, including economic analysis and cost/benefit analysis skills.

Q20. Do you agree the regulator should have greater powers to receive data, including the ability to share with other regulators and the Ministry? Yes | No | Unsure

BusinessNZ response: Yes – in principle.

- 3.38 Notwithstanding BusinessNZ’s view that clarification of roles and responsibilities is needed, it is important that providers of information (landfill operators) have confidence in the system and that data will not be divulged publicly that may compromise commercial arrangements with landfill users.

- 3.39 While data sharing between regulators may be necessary, it is important that users have confidence that such data will be used only for its intended purpose.

Q28. 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 Yes | No | Unsure

BusinessNZ response: Yes – in principle.

Q29. Do you agree that a local or public authority should:

- a. Retain the ability to make grants to any organisation for the abatement or prevention of litter. Yes | No | Unsure*

BusinessNZ response: Unsure.

- 3.40 It is difficult to respond to this question without further understanding of the issue.

- 3.41 As mentioned earlier, BusinessNZ does not necessarily support the current framework where 50% of the waste levy goes to territorial authorities and 50% to a contestable waste fund.

- 3.42 Ultimately, local government decision-making will be subject to scrutiny by ratepayers at the ballot box every 3 years, so presumably decisions by councils as to how they utilise ratepayer money should reflect the preferences of their ratepaying constituents.

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. Yes | No | Unsure

BusinessNZ response: Unsure.

- 3.43 See response to Q29(a).

c. Retain the ability to deter, prevent, require timely clean-up and enforce waste escaping/being carried on to public or private land? Yes | No | Unsure

BusinessNZ response: Unsure.

- 3.44 This will largely depend on the type of waste and potential impact on third parties.
- 3.45 BusinessNZ considers that it is important that the actual waste risk is clearly defined or this could lead to the taking of property (or at least regulatory takings in the public interest) without any form of compensation if use of waste products is unduly constrained (e.g. in the case of effluent from cow sheds which is often spread on the owner's private property with little or no impact on others).
- 3.46 The clear objective of resource management law should be to uphold property rights allowing individuals and businesses to develop and utilise their land as they see fit (i.e., permitted activity), provided this does not unduly interfere with others' legitimate business activity or personal rights. Property rights should be upheld, not degraded through inappropriate and uncertain controls by centralised decision-makers.
- 3.47 Only where there is a substantial risk (externalities) to third parties, should there be justified involvement from territorial authorities in respect to waste management.

Q33. 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? Yes | No | Unsure

BusinessNZ response: Unsure.

- 3.48 Without comprehensive understanding of what "lowering the threshold" for evidence might mean, it is not possible to provide a response to this question. As with most cases, it should be necessary to prove beyond reasonable doubt that an offence has occurred before someone can be charged.

Q34. 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? Yes | No | Unsure

BusinessNZ response: Yes – in principle.

- 3.49 While BusinessNZ is not opposed to such a concept, it would be important to ensure that the mismanagement of waste was a significant event and caused significant environmental damage over and above what would normally be considered reasonable.
- 3.50 Each case would need to be treated on its merits and clear definitions of "significant" harm would be required, otherwise the potential could exist for regulators to start prosecuting individuals and companies for relatively minor

issues with the purpose of raising revenue rather than dealing with significant harm.

Q35. 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. Yes | No | Unsure

BusinessNZ response: Yes – in principle.

Appendix One - Background information on BusinessNZ



The BusinessNZ Network is New Zealand’s largest business organisation, representing:

- Business groups EMA, Business Central, Business Canterbury, and Business South
- BusinessNZ policy and advocacy services
- Major Companies Group of New Zealand’s largest businesses
- Gold Group of medium-sized businesses
- Affiliated Industries Group of national industry associations
- ExportNZ representing New Zealand exporting enterprises
- ManufacturingNZ representing New Zealand manufacturing enterprises
- Sustainable Business Council of enterprises leading sustainable business practice
- BusinessNZ Energy Council of enterprises leading sustainable energy production and use
- Buy NZ Made - country of origin licensing organisation for NZ-made products, NZ-grown ingredients, and NZ-coded software services

The BusinessNZ Network is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

The BusinessNZ Network contributes to Government, tripartite working parties and international bodies including the International Labour Organisation (ILO), the International Organisation of Employers (IOE) and Business at OECD (BIAC).

