

Submission

By



to the

**Ministry for the Environment**

on

**Waste Minimisation in New Zealand**  
**A Discussion Document from the Ministry for the Environment**

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## **WASTE MINIMISATION IN NEW ZEALAND SUBMISSION BY BUSINESS NEW ZEALAND<sup>1</sup>**

### **1.0 INTRODUCTION**

- 1.1 Business New Zealand welcomes the opportunity to comment on the Waste Minimisation in New Zealand Discussion Document (“the Discussion Document”).
- 1.2 Business NZ notes that the Discussion Document seeks feedback on the following five areas with specific questions on each.
- Revising targets for the NZ Waste Strategy;
  - Identifying products that are priorities for ‘product stewardship’, where responsibility for managing and minimising waste begins when a product is produced, and lasts through to its ultimate end;
  - Setting criteria for funding projects that promote or achieve waste minimisation (the Waste Minimisation Fund);
  - Monitoring waste and waste minimisation; and
  - Improving the operation of the waste levy.
- 1.3 Business NZ will respond to the issues raised in the Discussion Document, notwithstanding its continued fundamental opposition to much of what is contained in the Waste Minimisation Act 2008.<sup>2</sup> Our role here is to be constructive towards ensuring that the implementation of the Waste Minimisation Act results in the best possible outcomes for business and the wider public, and achieves the objectives of the Act in the most cost-effective and efficient manner.
- 1.4 Some businesses will no doubt have their own perspectives on some of the questions raised in the Discussion Document (including issues surrounding targets under the New Zealand Waste Strategy). In this respect, the submission by Business NZ will focus particularly on some of the more high level issues which need to be considered. For ease of reference this submission is in two sections: Section one covers the need for greater transparency in waste management charging regimes. Section two deals with some of the specific questions under each of the five areas covered.

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<sup>1</sup> Background information on Business New Zealand is attached as Appendix 1.

<sup>2</sup> The rationale for Business New Zealand’s opposition to a number of Sections in the Waste Minimisation Act 2008 is contained in its extensive written and oral submissions to the Local Government and Environment Select Committee on the Waste Minimisation (Solids) Bill and the Supplementary Order Paper (SOP) on the same Bill.

## 2.0 **SECTION 1: GENERAL DISCUSSION**

- 2.1 Before any regulatory approach is considered desirable in respect to waste reduction initiatives, it is first important to fully understand the nature of the problem, who is affected, the costs of taking action, and who bears those costs. Regulatory intervention, because of its cost, should generally be considered as a last resort, only to be taken when all other cost effective approaches have been exhausted.<sup>3</sup>
- 2.2 In order to justify government intervention, there must be a clear case of market failure and the problem of market failure must be significant.
- 2.3 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 with regulation (such as non-compliance).

### **Transparency of waste pricing signals**

- 2.4 Before responding specifically to the questions outlined in the Discussion Document, Business NZ would like to outline some concerns in respect to waste management in New Zealand, particularly concerning the absence of sound pricing information which would encourage individuals and households in particular, to make rational choices between recycling and disposal.
- 2.5 Business NZ considers much more effort needs to be made in sending households economically transparent pricing signals for rubbish collection and disposal. Many councils still fund this out of general rates so there is little apparent connection between the amount of rubbish disposed of and the costs faced by households. This point was made very strongly in the Australian Productivity Commission report on *Waste Management*:

*“Getting prices for waste disposal right will help reduce waste generation and achieve an appropriate balance between disposal and recycling. Basic forms of ‘pay as you throw’ pricing for municipal waste, such as charging for larger bins or more frequent services, should be more widely adopted.” (Productivity Commission 2006)*

- 2.6 The report also recommended that information on the actual costs for these services should be better communicated to households and recommended abolishing landfill waste levies (taxes) as these are not based on legitimate costs.

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<sup>3</sup> The terms ‘regulation’ and ‘regulations’ used in this submission refer both to statutory interventions and interventions via the regulation-making process.

- 2.7 It is of fundamental importance that it is clearly understood that there is an “optimal” amount of waste, just like there is an optimal amount of resources that should be spent on crime prevention etc. Waste cannot be completely eliminated, not at least without great cost.
- 2.8 The Australian Productivity Commission Report was again instructive in this regard by challenging “...*the notion of waste being inherently bad and recycling being inherently good. Policies that minimise waste are not costless and more recycling is not always a better thing.*”
- 2.9 As a general principle, individuals and companies should bear the full costs associated with their behaviour (i.e. costs should be internalised) or individuals will over-consume resources if they can shift costs on to third parties. Waste minimisation is no different in this respect. In order for individuals to make rational decisions in respect to waste minimisation, they should ideally bear the costs (and benefits) associated with specific options/outcomes. On the other hand, if individuals and companies are forced to pay greater amounts than any costs those individuals and businesses impose, the outcome will be either more expensive items, which will ultimately be reflected in prices to consumers, and/or reduced choices for consumers to buy products which meet their unique preferences.
- 2.10 Business NZ considers that all local authorities which own or operate landfills should be required to demonstrate that their fees (including gate fees) reflect the full cost (including any externalities) associated with waste disposal. Charging the full costs associated with disposal should eliminate any rationale for a waste levy.
- 2.11 It is noted that the Waste Minimisation Act 2008 requires that 50% of the waste levy be distributed to councils (on a per capita basis) for funding waste minimisation initiatives, while 50% will go into a contestable fund for waste minimisation initiatives. Councils, communities, businesses and other organisations will be able to apply for funding so that they can improve waste minimisation in their area.
- 2.12 While Business NZ continues to oppose waste levies on the grounds of inadequate economic justification, we consider that if the waste levy is to be retained then the whole waste levy (excluding any collection associated costs) should go into a contestable fund. Providing councils with levy funds per capita is likely to result in significant administration costs while the biggest benefits may well occur in one or two concentrated areas.

### 3.0 **SECTION 2: QUESTIONS IN THE DISCUSSION DOCUMENT**

#### **Questions for Part 1: Revising the targets for the New Zealand Waste Strategy**

**Target 1: By 2015, reduce the quantity of waste (tonnes) disposed to landfill per person per year by 20 per cent relative to an established 2010 baseline.**

**What is your view on target 1? Is the timeframe for achieving target 1 realistic?**

- 3.1 While Business NZ generally supports the concept of having aspirational goals for waste minimisation over time, there is little if any indication in the Discussion Document as to why the proposed 20 per cent reduction is an appropriate target. Why not 5 percent or 50 percent?
- 3.2 Disposal of waste may be driven by a significant range of factors e.g. the changing nature of the economy (new products/processes etc) or the extent of economic growth in the economy and in those industries driving the growth. In this respect it is unlikely that growth in the economy will lead to uniform increases or decreases in waste as these will be driven by a range of factors, including, but not limited to, competitive pressures.
- 3.3 As emphasised earlier in this submission, there is an optimal amount of waste and this is best addressed through ensuring that individuals, households and businesses pay the full costs associated with waste disposal.
- 3.4 Currently pricing surrounding waste disposal is fraught with difficulty and significant cross-subsidisation, with households generally paying for waste disposal out of general rates with little incentives to ensure households face the true (user-pays) cost of disposal.

**Target 2: By 2010, have a system in place for the ongoing monitoring of the composition of waste to landfill.**

**What is your view on target 2? Is the timeframe for achieving target 2 realistic?**

- 3.5 Business NZ acknowledges that there is generally a lack of good quality data on the composition of waste going to landfill. Arguably better information is required in order to better understand the “waste management” issue, and what, if any, government involvement in this area is required.
- 3.6 The question largely unanswered is the potential cost of collection given that some landfill operators are small with limited resources. Any onerous requirements could involve significant investment in capital equipment which arguably could not be justified by current volumes going to some landfills. On

the other hand, improving the quality of data is necessary in order to make sound and rational decisions in respect to waste management. This necessarily requires a balance between obtaining data in a timely manner and not imposing unnecessary costs on landfill operators which ultimately will be passed on to households and businesses.

- 3.7 Business NZ would recommend that MfE discuss implementation timeframes with landfill operators to get a better understanding of the potential weaknesses with current data collection and the benefits and costs associated with more sophisticated waste management monitoring.
- 3.8 Finally, it must be remembered that landfill operators will ultimately have the power to pass on costs associated with any new regimes to householders (given that there are strictly limited options for legal waste disposal). It will therefore be important that any regimes put in place reflect this fact and that “gold-plating” of data requirements is not introduced which will simply raise the overall costs of waste disposal.

**Target 3: By 2010, have a system in place for the ongoing monitoring of the composition of organic waste, the amount disposed of at landfills and diverted from the waste stream.**

**What is your view in target 3? Is the timeframe for achieving target 3 realistic?**

- 3.9 While Business NZ appreciates the rationale for greater understanding of the composition of waste going to landfill (target 2), the rationale for specific content of organic waste seems to be a little unnecessary given that there would appear to be no issue surrounding hazardous waste or other externalities which could arise.
- 3.10 The merits of obtaining such data (and costs and benefits) would need to be more clearly identified before Business NZ could see justification for the collection of what is relatively detailed data on organic waste which is unlikely to have adverse environmental costs.

**Target 4: By 2012, have a system in place for the ongoing monitoring of the generation and composition of construction and demolition waste, the amount diverted from the waste stream and the amount disposed of.**

**What is your view on target 4? Is the timeframe for achieving target 4 realistic?**

- 3.11 See response to Target 3. The same principles apply given that this does not involve hazardous waste.

**Target 5: By 2012, the Ministry for the Environment will have established a tracking system for all hazardous waste.**

**What is your view on target 5? Is the timeframe for achieving target 5 realistic?**

- 3.12 While Business NZ accepts the importance of sound use and disposal of hazardous substances/waste, it is important that any tracking system reflects the unique nature of New Zealand's businesses with 97 percent of businesses employing fewer than 20 staff.
- 3.13 In terms of timeframes, in order to achieve such outcomes it is necessary to have the appropriate staff in place and advisory services to achieve same.

**Target 6: By 2011, the Ministry for the Environment will have investigated the need for, and propose if warranted, regulatory standards for storage, transport, recycling, recovery, treatment and disposal of hazardous waste.**

**What is your view on target 6? Is the timeframe of achieving target 6 realistic?**

- 3.14 See response to Target 6. In addition, in order to be effective, any standards must be understood by users and be practical given the unique business circumstances of New Zealand firms, and in particular, those involved in the production of hazardous waste.

**Target 13: by 2012, the Ministry for the environment will have implemented a waste monitoring and reporting programme to generate consistent data on national waste streams including waste to cleanfills and other disposal sites (e.g. industrial landfills).**

**What is your view on target 13? Is the timeframe for achieving target 13 realistic?**

- 3.15 Many of the issues surrounding targets 1 and 2 equally apply to target 13. While conceptually the idea of a reporting regime which results in consistent data on national waste streams seems on the surface to be reasonable, it will be important to understand what the costs associated with same will be and who will be expected to bear those costs.
- 3.16 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 fall on households and businesses), they may well over-regulate or "gold-plate" rather than be aware of, or adequately consider, the cost/quality trade-offs required.

**Target 14: By 2010, the Ministry for the environment will work with local authorities to develop a national reporting template that councils will use to report to the Ministry on progress against their waste management and minimisation plans and other waste-related activities.**

**What is your view on target 14? Is the timeframe for achieving target 14 realistic?**

- 3.17 See the response to target 13. Given that there may be strong incentives for both the Ministry for the Environment and local Councils to obtain significant information from landfill operators (and possibly others) in respect to waste activities, the costs which will ultimately flow back to households and businesses could be significant.
- 3.18 Given that businesses and householders will have little if any alternative to pay such costs, there may be incentives on regulators to over prescribe what information is required, simply to minimise their own risk.
- 3.19 In this respect, it will be important that the Ministry for the Environment undertakes a thorough cost/benefit analysis on what type of information is required, and the reasons why such information is required rather than simply assuming that particular information would be “nice to have”. The danger, without any discipline on information provision, will be an increase in waste disposal costs.

**Questions for Part 2: Identifying products that are priorities for product stewardship**

- 3.20 Business NZ notes that this section requests feedback on identifying products that may be priorities for product stewardship i.e. the highest priority for a mandatory product stewardship scheme.
- 3.21 In short, Business NZ considers that it is difficult to clearly identify any particular product that should be subject to a mandatory product stewardship scheme. Business NZ does not make this comment lightly; it is based on determining the rationale for such government involvement in this area.
- 3.22 The Australian Productivity Commission Report *“Waste Management”* (2006) outlined concerns in regard to some State and Territory waste management policies, including concerns over *“introducing mandatory product stewardship or extended producer responsibility schemes, where disposal problems have not been adequately demonstrated”*.



- 3.23 In addition to a requirement that regulations and ‘declarations’ made in the *Gazette* should first be subject to an Regulatory Impact Statement (RIS) and Business Compliance Cost Statement (BCCS), alongside a rigorous cost/benefit analysis, Business NZ considers that only in clear cases where voluntary private initiatives have proved unworkable and ineffective should the Minister potentially use his or her powers to declare products “priority products” and therefore subject to mandatory product stewardship schemes.
- 3.24 The clear message here is that the case for mandatory product stewardship schemes should not be made lightly, based on emotive factors rather than sound science.
- 3.25 Public opinion provides absolutely no rationale for providing “declarations” unless such opinion is based on sound scientific data. For example, some waste streams that have recently captured public attention make only a small part of landfill volumes, e.g. disposable nappies and plastic bags.
- 3.26 Quite apart from issues surrounding the volumes involved, unless the public are aware of rigorous scientific data providing them with independent information on the potential impacts of products going to landfills, they will not be in a position to make informed decisions on whether or not there is justification for any products to be declared priority products and subject to a product stewardship scheme.
- 3.27 “Priority products” should only be applied when (a) there is a clear case of market failure and (b) where voluntary arrangements have been pursued and clearly failed.
- 3.28 It is very difficult to try and justify what, if any, market failures are present in the waste market, particularly in respect to any justification for identifying products which should be “priority products” and therefore subject to mandatory product stewardship. Even the three proposed products outlined in the Discussion Document as products which MfE intends to investigate for mandatory product stewardship (agricultural chemicals, used oil, and refrigerant gases), do not appear to meet the normal types of market failure which might justify an intervention. While certainly, the inappropriate disposal of products such as used oil or agricultural chemicals can have significant environmental effects, this of itself does not justify imposing a blanket obligation on product manufacturers to effectively try and control a products use and ultimately disposal.
- 3.29 While Business NZ, without reservation, endorses the need to dispose of hazardous substances in an appropriate manner, the crucial issue for debate is who should be responsible for the appropriate disposal at end of life?

- 3.30 Given that the normal sale of goods creates a bundle of rights and responsibilities on transfer to the new owner, the requirement for appropriate disposal of hazardous materials at end of life rests with the final consumer. This is not to say that many manufacturers for various reasons should not apply voluntary “take back” of products at end of life either for “free” (assuming this is built into the original cost of product) or for a small cost. There are a range of reasons that some manufacturers do this, including enhancing and promoting their “brand-name” in the market. While this is often a cost-effective option for both manufacturers and consumers, this does not justify the government imposing its own mandatory product stewardship scheme on particular products.
- 3.31 Business NZ strongly supports the advantages of retaining the status quo in terms of product stewardship. Current product stewardship schemes are voluntary, industry-led, and allow for flexibility for both producers and consumers to meet market expectations in a flexible and cost-effective manner without the need for Government involvement.

### **Questions for Part 3: Identifying funding criteria for the Waste Minimisation Fund**

- 3.32 One of the difficulties associated with the Waste Minimisation Fund (the “waste levy”) is that the rationale for the levy has never been justified. Thus what particular uses the levy income should be put to are also difficult to determine in any economic sense.
- 3.33 Business NZ is totally opposed to the adoption of a landfill levy, as outlined in its earlier submissions on the Waste Minimisation (Solids) Bill – now Waste Minimisation Act 2008. Our arguments are not repeated here, suffice to restate that the economic justification for such a levy is not clear with this conclusion being supported by Australian Productivity Commission Report on *Waste Management (2006)* which stated that landfill levies (taxes) should be abolished as these are not based on legitimate costs.
- 3.34 If, for example, the levy had been set specifically to cover say methane emissions from landfill, then presumably the levy would be used to pay for any carbon credits required to fund such emissions. The absence of any clear and significant externalities associated with landfills (which have not been captured through normal landfill charges) means that a fair degree of subjectivity will be required in terms of what types of activities the projects are targeted at.
- 3.35 It is noted that 50% of the levy income will go to local authorities while 50% will go into a contestable fund. It would appear that the figure of 50% for local authorities is simply plucked out of the air, with the danger being that those that pay such levies (those who dispose of waste), may not necessarily be the beneficiaries of the funding. There is no connection at all between the “payers” and the recipients of any benefits.

- 3.36 Given the above discussion, it would be prudent that those who pay the levy (i.e. those disposing of waste at landfill) should be the primary beneficiaries of any use of the waste levies since they are the ones paying in the first place. While general waste reduction initiatives might well be considered logical, it is not reasonable that those paying the levy should not be the major beneficiaries of any of “their” levies spent on waste reduction initiatives.
- 3.37 Notwithstanding the above, the criteria outlined by the Ministry for the Environment for determining projects that may be funded by the Waste Minimisation Fund appears to be reasonably comprehensive. In terms of additional criteria outlined in question 3 e.g. scale etc, Business NZ would generally support projects ranked according to their net benefit so the size of a project should not really be an issue; the net economic benefit should be paramount. Again Business NZ would emphasise that such projects should be targeted as much as practicable, to those paying the levy, rather than being siphoned off for projects unrelated to current waste disposal activities.
- 3.38 While Business NZ continues to oppose waste levies on the grounds of inadequate economic justification, we consider that if waste levies are to be retained then the whole waste levy (excluding any collection associated costs) should go into a contestable fund.

#### **Questions for Part 4: Monitoring waste in New Zealand**

- 3.39 There are a number of questions in this Part which are aimed at gathering feedback on what data waste facility operators should be required to supply and the potential costs involved. Obviously in order to comply with the Waste Minimisation Act 2008 it will be necessary to collect data on tonnage of waste disposed of at landfills in order for the levy to be calculated. Beyond this high level data, it is debatable whether any other data should be collected at all (at least on any mandatory basis).
- 3.40 Business NZ does not have specific expertise to provide comments on these detailed questions but would suggest that MfE works very closely with landfill operators to get a better understanding of the costs and benefits associated with specific data collection.
- 3.41 Notwithstanding the above, Business NZ considers the fundamental question that needs to be asked is why the Government is involved in this sector at all (in terms of requiring landfill operators to furnish data) beyond what could be justified in respect to health and safety or control over hazardous substances.

- 3.42 Landfill operators, if faced with commercial incentives, will make rational decisions in respect to collection and sorting of different waste streams and will charge households and businesses accordingly, based on their own business model. This would not appear to require an overarching role for government in terms of requiring or regulating what particular waste is being disposed of, and in what areas.
- 3.43 If such requirements are seen to be in the “public good”, then arguably they should be funded out of general taxation and not paid for explicitly by landfill operators or out of the landfill levy.

#### **Questions for Part 5: improving the operation of the waste levy**

- 3.44 Essentially the proposal which MfE would like feedback on is the potential for exempting “cover material” used for environmental management purposes from the waste levy.
- 3.45 Whilst Business NZ does not support a waste levy of any sort, if a levy is to be applied as required under the Waste Minimisation Act 2008, then it should arguably apply to all material going to landfill. Creating exemptions for specific material is likely to be problematic for a number of reasons, some of which are outlined below.
- There is no evidence outlined in the Discussion Document that there is a widespread problem with landfill operators being able to source suitable cover material. The only statement in the Discussion Document mentioning such issues is the statement that ‘...*imposing a levy of \$10 per tonne on this [cover] material may compromise their ability to manage the landfill...*’ More evidence is required as to the nature of the problem, or whether such an issue is only a concern for one or two landfill operators, before making any decision to exempt cover material from the levy.
  - It is Business NZ’s understanding that landfill operators who have difficulty sourcing cover material will be able to exempt such material from the levy provided of course that the amount of levy that would have been obtained from the cover material is paid for by other users of the disposal facility. For example, if the landfill operator had to “import” 10% of all waste disposed of at a facility for cover material, then the other 90 percent of waste disposed of would be subject to a levy of \$11 per tonne rather than \$10 a tonne to make up the short-fall. Our understanding is that landfill operators will be able to price discriminate between various compositions of waste disposed of provided of course that the amount raised is \$10 per tonne of waste aggregated across the entire waste stream. In effect this means that if a landfill operator reuses certain green waste for organic compost and has a profitable business on site, then there is no reason why they cannot even pay for suppliers to “dump” such waste.

- Defining what would be approved “cover material” could well be an issue if it is decided to exempt cover material from a waste levy. The Discussion Document outlines the point that some “...landfills accept waste suitable as cover material (such as certain types of construction and demolition waste, and sawdust) at a reduced charge. It could be assumed that certain cover material may be appropriate in some locations but not others, depending perhaps on climatic factors (e.g. wind). Would all “cover material” (however defined) be exempt from the levy across the country or would it be site specific?
- Some landfill operators may wish to have less cover material than they currently have and may well find that a \$10 per tonne of cover material could reduce the amount they have to dispose of on site. In other words it might be beneficial in encouraging “recycling” cover material e.g. from developers to new building sites as fill. In this respect, some landfill operators might well find such a levy beneficial rather than a hindrance to the successful management of a landfill.
- If it is assumed that all cover material should be exempt, then why should not other “good” or “bad” “waste (however defined) material be exempt or alternatively charged at a higher rate? While it is Business NZ’s understanding that there is nothing stopping landfill operators price discriminating based on the composition of waste, providing for exemptions from a waste levy would be administratively difficult. Would businesses and households that have disposed of recycled products (maybe recycled a number of times) be inclined to demand that their waste be exempt from a levy simply because the product has been recycled several times? Putting aside issues surrounding proof of recycling etc, nevertheless there are numerous problems associated with providing exemptions from regulations, irrespective of how initially attractive such exemptions may sound. Any exemptions will automatically result in special pleadings from vested interest groups that their particular “waste” be exempt from the levy as well. Short of revoking the waste levy completely (from all waste), it should apply across the board to all waste irrespective of whether this be residual waste from recycled material, cover material, or so-called “good” or “bad” waste.
- Finally, the Discussion Document makes the statement that “*The status quo of leaving the material subject to a \$10 per tonne levy would create an incentive to leave unsanitary material uncovered and for there to be other risks in landfill operation. This could compromise the safe option (sic) of the landfills*” Surely, landfill operators are required to abide by any requirements under the Resource Management Act (and possibly other Acts of Parliament) in terms of consent requirements for the operation of landfills. To assume that by leaving the material subject to a \$10 per tonne levy would create such adverse outcomes, and potentially lead to a flouting of the law does seem extreme. Landfill operators are required to comply with consent requirements irrespective of whether cover material is charged for or not. In fact, charging for cover material may well encourage landfill operators to use their resources (cover material) more efficiently.

## **APPENDIX 1**

### **BACKGROUND INFORMATION ON BUSINESS NEW ZEALAND**

Business New Zealand is New Zealand's largest business advocacy organisation.

Through its four founding member organisations – EMA Northern, EMA Central, Canterbury Employers' Chamber of Commerce and the Otago-Southland Employers' Association – and 70 affiliated trade and industry associations, Business NZ represents 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.

In addition to advocacy on behalf of enterprise, Business NZ contributes to Governmental and tripartite working parties and international bodies including the International Labour Organisation, the International Organisation of Employers and the Business and Industry Advisory Council to the Organisation for Economic Cooperation and Development.