



PROACTIVE RELEASE COVERSHEET

Title of paper	Proactive release of waste and litter legislation amendments: Approval to consult cabinet paper and associated documents	Date to be published	By 26 May 2025
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List of documents that have been proactively released

<i>Date</i>	<i>Title</i>	<i>Author</i>
15 April 2025	Cabinet Paper: Waste and Litter Legislation Amendments: Approval to Consult (CAB 521)	Ministry for the Environment
15 April 2025	Appendix 1: Waste legislation amendments consultation document	Ministry for the Environment
15 April 2025	Appendix 2: Interim Regulatory Impact Statement	Ministry for the Environment
15 April 2025	Report of the Cabinet Economic Policy Committee Minute (CAB-25-MIN-0125)	Cabinet Office
15 April 2025	ECO committee minute (ECO-25-MIN-0049)	Cabinet Office

Information redacted **YES**

Any information redacted in this document is redacted in accordance with the Ministry for the Environment's policy on proactive release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under the Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Summary of reasons for redaction

CAB 521 - Waste and Litter Legislation Amendments: Approval to Consult Cabinet Paper includes redactions under section 9(2)(f)(iv) to maintain the confidentiality of advice tendered by Ministers and section 9(2)(h) to maintain legal professional privilege.

Appendix 2 of CAB 521 includes one redaction in paragraph 37 under section 9(2)(ba)(i) to protect information which is subject to an obligation of confidence.

CAB-25-MIN-0125 includes redactions under section 9(2)(f)(iv) to maintain the confidentiality of advice tendered by Ministers.

Policy and Privacy

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Office of the Minister for the Environment

ECO - Cabinet Economic Policy Committee

Approval to Consult: Waste and litter legislation amendments

Proposal

- 1 This paper seeks agreement to release a public consultation document (appendix 1) in April 2025 to obtain feedback on policy proposals to amend the Waste Minimisation Act 2008 and Litter Act 1979.

Relation to government priorities

- 2 The proposals in this paper support the coalition agreements between the National Party and our coalition partners: improving the quality of Government regulation.
- 3 It will contribute to the Government's target of reduced net greenhouse gas emissions and to wider environmental benefits

Executive Summary

- 4 Consulting on waste legislation amendments this year is a key action from my waste and resource efficiency action plan approved by Cabinet in November 2024. The Waste Minimisation Act 2008 (WMA) and the Litter Act 1979 (Litter Act) are both out-of-date, cumbersome to use and require improving. The proposals are about making the current system work more effectively.
- 5 I seek Cabinet approval to release the appended consultation document (appendix 1). Key proposals in the consultation document are:
 - 5.1 a change to the levy allocation formula to better support rural or remote territorial authorities with smaller permanent populations;
 - 5.2 expanding territorial authorities' use of the waste disposal levy (levy) to include outcomes beyond waste minimisation, minimising the risk of the potential crowding out of private investment in waste infrastructure;
 - 5.3 a new extended producer responsibility (EPR) framework to replace the current product stewardship provisions, to better internalise the costs associated with a product's impact on the environment; and
 - 5.4 a proportionate compliance monitoring and enforcement (CME) framework that will also address issues related to littering and other types of mismanaged waste and levy avoidance activities.
- 6 I propose that the Ministry for the Environment (the Ministry) publicly consult on the appended consultation document for six weeks and plan to return to Cabinet in September 2025 following consultation to seek approval on policy decisions for Bill

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drafting. The Ministry has already carried out targeted engagement in December 2024, which informed the proposals in the discussion document.

Background

- 7 On 13 November 2024, the Cabinet Economic Policy Committee agreed to a revised waste and resource efficiency strategy and action plan [ECO-24-MIN-0254]. My action plan for 2024 to 2026 included consulting on legislation amendment proposals in 2025.
- 8 The WMA provides for the setting, monitoring, distributing and investing of the waste disposal levy (levy). It also provides a framework for regulatory tools concerned with the management of waste materials, including product stewardship.
- 9 The Litter Act provides for a range of public authorities to appoint Litter Control Officers (LCOs) and tools to help deter and clean up littering and enforce littering offences.
- 10 The WMA and Litter Act require amending and improvement. Our current waste management system has the potential to cause environmental harm, greenhouse gas emissions, and lost economic opportunities.¹ The current legislation is outdated and has limited tools to address these environmental issues.
- 11 Both Acts lack clarity on roles and responsibilities, particularly for central and local government. The Litter Act is over 40 years old, while the WMA falls short of the powers that are needed to deter levy avoidance, achieve efficient producer responsibility and ensure effective, proportionate regulation.

Summary of proposals

- 12 I seek Cabinet agreement to consult on the following proposals to address the issues in both Acts.

Adjustments to how levy funds are allocated amongst councils

- 13 The WMA establishes a levy and outlines what activities can be made subject to a levy, how it shall be allocated between central and local government, and what it can be spent on, along with provisions for its administration.
- 14 I intend to retain the allocation of levy funds according to the current settings of 50 per cent allocated to Territorial Authorities (TAs) and 50 per cent allocated to central government. This is appropriate given the central government waste investment priorities, wider use of levy funds and financial challenges facing local government.
- 15 The current methodology for allocating levy funds to individual TAs (100 per cent population-based methodology) generates significant variation between TAs in the funds available to support waste minimisation initiatives. TAs with a large population receive a significantly greater proportion of levy funding than smaller centres, which can often only deliver on the minimum of waste management services, therefore creating variable service provision across the country. This is particularly problematic for areas that have a small population (and rating) base but experience significant

¹ Research by the [Ministry of Business, Innovation and Employment](#) shows that increasing resource efficiency can provide new business and job opportunities and can help maintain New Zealand's economic competitiveness as global markets demand stronger environmental credentials across value chains. It would also provide emission savings over time and have impacts for productivity, jobs and supply chain resilience for the New Zealand buildings, agriculture/food, and manufacturing sectors.

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seasonal population 'peaks', which generate much larger volumes of rubbish and recycling to manage.

- 16 Councils with a smaller population over a large area or in a remote location can also struggle with access to recycling and disposal facilities and higher transport costs. A low-density population can increase the costs of providing kerbside collections. Over the longer term the current methodology will exacerbate the waste service level gap between larger centres and smaller rural townships.
- 17 To address this, I propose to consult on amending the methodology for distributing levy funds to individual TAs: a base rate of 20 per cent of the total portion plus a population-based calculation of 80 per cent of the total portion.

Options for councils to spend their share of the levy on a wider range of waste and environmental priorities

- 18 I wish to balance the objectives of helping to relieve financial pressure on local government with also ensuring that levy funds are used to support priority outcomes. Therefore, I propose to consult on widening the scope of the use of the levy funds by TAs to cover:
 - 18.1 activities that promote or achieve waste minimisation, in accordance with each TA's Waste Management and Minimisation Plan (WMMP);
 - 18.2 waste-related costs associated with managing emergency waste;
 - 18.3 activities that provide for the remediation of contaminated sites and vulnerable landfills;
 - 18.4 the compliance, monitoring and enforcement of mismanaged waste; and
 - 18.5 activities that reduce environmental harm or increase environmental benefits.
- 19 The proposal to provide TAs with the ability to spend the levy on activities that align with the purpose of reducing environmental harm and increasing environmental benefits (18.5) is not limited to activities that are specifically waste related. This proposal will help minimise the risk of potential crowding out of private investment, which was identified by an independent report commissioned to assist me to report back on the effectiveness and efficiency of levy investment [CAB-24-MIN-0138 refers].
- 20 To retain the accountability of decision-making for spending the levy, I will seek feedback on introducing a decision-making framework in the legislation for the levy spend on environmental benefits and/or reduction of environmental harm for both central government and TAs. Increasing environmental benefits and reducing environmental harm are very broad terms. Therefore, adding criteria to inform the decisions on spending the levy will add certainty, quality and consistency to the decision-making process, as well as reducing legal risk. This could be done through a Gazette process similar to current contestable levy funding.

Other amendments to improve the levy collection, administration and spend

- 21 The consultation document includes additional proposals to improve levy collection, administration and investment (pages 22-24 of the consultation document).

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- 22 Based on analysis by the Ministry, many of the existing levy provisions in Part 3 of the WMA could be retained with only minor changes to reflect the new purpose of the legislation or to improve the efficiency and effectiveness of the levy regime. However, I do not intend to consult on these amendments because they are minor and technical.

Provide an extended producer responsibility (EPR) framework

- 23 I propose to consult on amending and replacing the existing provisions in the WMA for developing and accrediting regulated product stewardship schemes with an extended producer responsibility (EPR) framework.
- 24 An EPR framework will help to move the responsibility and costs of end-of-life product management from ratepayers, communities and the environment to the parties that are responsible for the creation or placement of the products and materials in the supply chain (such as producers, retailers and consumers). This incentivises producers to design products that have a lower impact on the environment.
- 25 I want to improve the WMA provisions because they do not set out how priority product schemes must be effectively designed, established or funded, or clarify the roles and responsibilities for those involved in a scheme. Inadequate financial controls create financial and reputational risks. The fee-setting provisions create unnecessary costs for business and regulatory inflexibility.² Between an initial priority product declaration and implementation there are three separate consultation requirements.³

Improving compliance, monitoring and enforcement (CME) provisions for waste and litter to ensure more proportionate and practical intervention tools

- 26 I propose to consult on options to better address littering and other mismanaged waste and improve the CME framework.
- 27 Current compliance mechanisms are limited, which increases the risk of levy avoidance and potentially reduces levy revenue intake. I propose to provide a more proportionate approach through a graduated range of potential compliance responses in the WMA, rather than just prosecution, and to enable information sharing between regulators.
- 28 My proposed amendments will provide greater powers to detect non-compliance, include a mix of criminal and civil approaches, and provide the ability to use appropriate penalties. This would ensure all current and future regulated communities have clear obligations and improve understanding of what enforcement action may be taken and bring the WMA into line with the compliance frameworks in other legislation.

- 29 9(2)(f)(iv)

- 30 9(2)(f)(iv)

² Under the current provisions the fee must be set by Government in regulation (meaning it is not easily adjusted as market situations change; the scheme lacks flexibility to determine its own charges).

³ Consultation steps: (1) consultation on the proposed priority product declarations; (2) consultation to design an appropriate scheme; and (3) consulting on the regulations to establish the scheme.

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9(2)(f)(iv)

- 31 The consultation will seek views on funding some CME functions through partial cost recovery (e.g, clean-up of litter, investigations, or prosecution costs).

Littering and other mismanaged waste

- 32 Littering and dumping of waste ('mismanaged waste') leads to environmental and health harm and costs the Crown and communities millions of dollars to clean up. Existing provisions in the Litter Act and WMA are ineffective in controlling this behaviour. There is a limited range of offences and the threshold for evidence of an offence is too high. The proposals I intend to consult on address known issues and respond to sector feedback. This includes repealing the Litter Act and incorporating its provisions into the WMA as litter and other mismanaged waste are a part of the waste management and minimisation system.
- 33 Refer to pages 34 to 39 of the consultation document for the detailed mismanaged waste proposals.

Clarifying the roles and responsibilities of the statutory and regulated bodies for waste management and minimisation

- 34 I intend to consult on proposals to improve and clarify the roles and responsibilities of different parties in the waste system. I will consult on a proposal to leave the core role of the Ministry largely unchanged except for new responsibilities related to the proposed EPR framework.
- 35 To support this, improvements to the role of the New Zealand Customs Service (Customs) are also proposed to provide information on imports and exports of products to assist with the development of product-related regulations, and to help the Ministry administer and enforce them.
- 36 The current legislative framework does not expressly oblige TAs to provide specific waste minimisation services, only waste management.⁴ To ensure TAs continue this important role, I am interested in seeking views on clarifying the role of territorial authorities, to ensure the sufficient delivery of waste minimisation services⁵ in their district, whether contracted directly or delivered by private providers.⁶
- 37 Finally, I will consult on minor changes to the role of the Waste Advisory Board so it can provide advice to the Ministry and the Minister for the Environment on its own initiative if it is consistent with a strategic plan (agreed by the Minister for the Environment) and focus their mandate on strategic/overarching waste issues.

⁴ Based on analysis of: The Waste Minimisation Act 2008, the Health Act 1956 and the Local Government Acts 1974 and 2002.

⁵ Note this does not mean all TAs must provide a kerbside collection service nor prevent TAs from offering collective service arrangements.

⁶ Cabinet agreed that waste management and minimisation facilities (infrastructure) and waste management are core services, but waste minimisation services are not. [Cabinet paper *Policy decisions for Local Government System Improvement* refers]

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Next steps

- 38 I propose that the Ministry publicly consult on the appended consultation document for six weeks, starting in April 2025. This timeframe is necessary to ensure we enact the amendments this parliamentary term. It is follow-up consultation following initial engagement in 2021 and there is generally strong support from the waste sector for progressing the legislative changes.
- 39 I recommend Cabinet delegate to me the decision on the final launch date for publication.
- 40 The activities in the public consultation phase may include webinars, direct stakeholders' communications, website content and a media release. The public would be able to provide written response by completing an online submission form or by sending feedback via email.
- 41 I plan to return to Cabinet in September 2025 following consultation to seek approval on policy decisions for Bill drafting.

Cost-of-living Implications

- 42 There are no cost-of-living implications associated with approving this consultation. Any implications related to these amendments will be further described when I seek policy decisions post-consultation.

Financial Implications

- 43 There are no financial implications associated with approving this consultation. Any implications related to these amendments will be further described when I seek policy decisions post-consultation.

Legislative Implications

- 44 9(2)(h)

Impact Analysis

Regulatory Impact Statement

- 45 An interim Regulatory Impact Statement (RIS) has been prepared and is attached to the Cabinet paper as appendix 2.
- 46 Given this is an interim RIS to assist with seeking approval to consult, and the government priorities are constraining the scope/options, the panel is comfortable with a partial meeting ranking.
- 47 In accordance with paragraph 2.5 of Cabinet circular *CO(24)7: Impact Analysis Requirements* a recommendation has been included in this paper to provide a quality assurance statement and confirm that the Interim RIS has been independently quality assured against set criteria.

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Climate Implications of Policy Assessment

- 48 There are no direct emissions impacts at the consultation stage of the waste legislation amendments.

Population Implications

- 49 There are no population implications associated with approving this consultation. Any implications will be further described when I seek policy decisions post-consultation.

Human Rights

- 50 There are no direct human rights implications associated with approving this consultation. Any implications will be further described when I seek policy decisions post-consultation.

Use of external Resources

- 51 No external resources were contracted for the development of this paper. No external resources are proposed for assisting with the consultation process.

Consultation

- 52 Agencies consulted in the development of this paper were: the Department of Conservation, the Department of Corrections, the Department of Internal Affairs, the Environmental Protection Authority, Inland Revenue Department, Kāinga Ora, Land Information New Zealand, Ministry of Business, Innovation and Employment, the Ministry for Culture and Heritage, Ministry of Foreign Affairs and Trade, the Ministry of Health, the Ministry of Housing and Urban Development, the Ministry of Justice, the Ministry for Primary Industries, the Ministry for Regulation, the Ministry for Women, the National Emergency Management Agency, New Zealand Customs Service, New Zealand Defence Force, the New Zealand Transport Agency, Statistics NZ, Te Arawhiti, Te Puni Kōkiri (TPK), and Te Waihanga.
- 53 The following agencies were informed: Department of Prime Minister and Cabinet, Energy Efficiency and Conservation Authority, Ministry of Education, Ministry of Pacific Peoples, Ministry of Social Development, Ministry of Transport, and the Treasury.
- 54 TPK, although supportive of the proposed approach and areas of change, expressed concerns about the absence of consideration of Māori rights and interests. TPK recommends the Cabinet paper and Consultation Document outline adequate consideration to Te Tiriti and its relevance to waste. TPK considers targeted engagement with groups representing Māori perspectives should be included in the consultation phase to help ensure the policy is well-informed and reflects Māori realities such as managing and minimising waste in remote areas with no formal collection systems.
- 55 Following feedback from Customs, I am not progressing proposals to provide Customs with powers to seize, inspect, detain and dispose of consignments at the border. My decision to not progress proposed product and material improvements means this is no longer required, and the Customs and Excise Act 2018 already provides Customs with these powers. Customs proposes that where it collects WMA charges on a regulated product, that charge would also recover Customs' costs arising from that product being a regulated product (in line with cost recovery principles). Therefore, the proposal to use levy funds is not required. I will progress consulting on the proposed

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information-sharing amendments to section 24 of the WMA. Customs considers another option is to use its information sharing provisions.

- 56 I have worked with agencies and my colleagues to incorporate feedback as required and this paper and the consultation document reflects updated proposals.
- 57 In December 2024 the Ministry tested the proposals with a targeted group of stakeholders from the Waste and Recycling Industry Forum, WasteMINZ and the Waste Advisory Board. They were largely supportive of the proposals.
- 58 Engagement with Litter Control Officers and TA regulators has provided feedback on the specific technical aspects of the Litter Act and the WMA bylaw provisions.

Communications

- 59 The attached consultation document will form the core part of the planned public consultation as outlined above.

Proactive Release

- 60 I propose to proactively release this paper on the Ministry for the Environment website in the first week of consultation, subject to appropriate redactions under the Official Information Act 1982.

Recommendations

The Minister for the Environment recommends that the Committee:

- 1 **note** that on 13 November Cabinet agreed to an action to consult on detailed waste legislation proposals in 2025 [ECO-24-MIN-0254];
- 2 **approve** the release of the attached consultation document to the public;
- 3 **authorise** the Minister to approve minor and technical amendments, in line with the policy decisions agreed by Cabinet, to the consultation document prior to its public release;
- 4 **note** that this paper partially meets Cabinet's impact analysis requirements for regulatory proposals
- 5 **note** that the public consultation period is intended to be for a period of six weeks commencing before the end of April and concluding at the beginning of June 2025;

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- 6 **note** that, following the consultation, the Minister for the Environment will seek final policy decisions from Cabinet to enable drafting instructions to be issued to the Parliamentary Counsel Office by the end of September 2025;

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment

I N C O N F I D E N C E



Discussion document

Have your say on proposed amendments to waste legislation

Tukuna ō whakaaro mō ngā
menamena marohi ki te ture para



Ministry for the
Environment
Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
New Zealand Government

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Message from the Minister for the Environment



The Waste Minimisation Act 2008 and Litter Act 1979 make up the key legislation that regulates waste and litter in New Zealand.

The Government seeks your 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.

We propose adjusting the allocation of waste levy funds, to recognise the fixed costs faced by smaller councils. We also propose providing councils with the option to spend their share of the levy on a wider range of waste and environmental priorities.

We want to create a compliance framework that enables central and local government to regulate in a flexible and proportionate way, and at the same time, we are carefully considering any additional regulatory burden. One proposal is a framework for extended producer responsibility – to ensure producers remain accountable for their products even after consumers have used them.

Finally, to increase efficiency and improve cost recovery for littering and dumping, we propose consolidating the Litter Act 1979 and the Waste Minimisation Act 2008.

New Zealand needs fit-for-purpose, modern waste legislation with more options and flexibility to reduce and manage waste effectively and efficiently. I encourage you to have your say and look forward to receiving your input.

A handwritten signature in blue ink, appearing to read 'P. Simmonds'.

Hon Penny Simmonds

Minister for the Environment

What is being consulted on

The Government is consulting on proposals to amend the Waste Minimisation Act 2008 (WMA) and Litter Act 1979 (the Litter Act) to create fit-for-purpose, modern waste legislation that gives us more options and flexibility to reduce and manage waste effectively and efficiently. The Ministry for the Environment (the Ministry) has prepared this consultation document to seek feedback on the following proposals for amending waste legislation:

- creating a framework for extended producer responsibility
- improving the levy system through changes to waste levy allocation, distribution and use
- clarifying roles and responsibilities in the waste legislation
- creating a modern, effective compliance regime
- enabling efficient and effective controls for littering and other types of mismanaged waste.

This consultation document excludes some minor or technical policy proposals that are within scope of the waste legislation amendments, such as:

- any proposed changes to the current bylaw provisions (sections 56 to 59 of the WMA)
- minor and technical amendments to improve waste levy administration, collection and enforcement provisions.

How to have your say

We welcome your feedback on this consultation document. The questions throughout the document are a guide only, and a full list of questions can be found on page 9. You can choose which questions to answer, and we welcome all other comments. To aid understanding, please explain the reasons for your views and give supporting evidence if needed. You may share your views via the Ministry's website: <insert link>.

Closing date for submissions

Send in your submission by 5pm, xxxx 2025. The consultation documents, and further details on how to make a submission, are available at <add weblink>. If you have questions or want more information about the proposed amendments or the submission process, please email wastereform@mfe.govt.nz.

Further information

Further background supporting documents include:

- <insert link to interim RIS, previous Cabinet papers, the new Waste Strategy etc>.

What happens next?

Once we have received your submissions, we will analyse them, to inform policy and government decisions. If Cabinet agrees, an amendment Bill will be introduced to Parliament.

Publishing and releasing submissions

Further information about publishing and releasing submissions is available on our consultation webpage: [Have your say](#). Unless you clearly specify otherwise in your submission, we will consider that you have consented to publication of your name and submission.

Upon request, the Ministry may release contents of submissions to the public under the Official Information Act 1982. Please advise if you have any objection to the release of any information in your submission, specifying which information you think should be withheld and why it should be withheld. We will consider all such objections when responding to Official Information Act requests for copies of, and information on, submissions to this consultation.

The Privacy Act 2020 governs the collection, use and disclosure of information about individuals by agencies (including the Ministry) and the access to that information. Any personal information you supply in a submission will only be used by the Ministry in relation to the matters covered by this document.

Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions we may publish.

Overview of proposals and consultation questions

Relevant provisions in WMA		Proposals	Consultation questions
Part 1	Product stewardship	Amend and replace with a modern extended producer responsibility framework	<p>We're interested in your views on an extended producer responsibility framework</p> <ol style="list-style-type: none"> 1. Do you support the proposal for a modern extended producer responsibility framework? Yes No Unsure 2. Do you support discontinuing the government accreditation of voluntary product stewardship schemes? Yes No Unsure <p>Please share any further thoughts or ideas on this proposal</p>
Part 2	Waste disposal levy	<p>Adjust the method for allocating waste levy funds to territorial authorities to reduce the extremity of funding between very large and very small councils</p> <p>Spending of levy money by territorial authorities – change in scope</p> <p>Provide for a decision-making framework for the waste levy spend on environmental benefits and/or reduction of environmental harm for both central government and territorial authorities</p> <p>Ensure a level playing field in terms of levy payment for all types of final waste disposal</p> <p>Improve reporting on the effectiveness of the waste levy</p> <p>Clarify the provisions for stockpiling and reuse of waste on a disposal site</p>	<p>We are interested in your views on changes to the waste disposal levy</p> <p><i>Distribution of levy funds</i></p> <ol style="list-style-type: none"> 3. 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 <p>Please share any further thoughts or ideas on this proposal</p> <p><i>Scope of use of levy funds</i></p> <ol style="list-style-type: none"> 4. Please indicate your support for changes that would permit territorial authorities to use the levy for: <ul style="list-style-type: none"> a) activities that promote or achieve waste minimisation, in accordance with and as set out in the territorial authorities' Waste Management and Minimisation Plan Yes No Unsure b) costs associated with managing emergency waste Yes No Unsure

Relevant provisions in WMA	Proposals	Consultation questions
	<p>Improve the transparency, clarity and simplify the existing levy waiver provisions</p> <p>Improve the design of and simplify the decision-making process for the existing levy exemption regulation provisions</p>	<p>c) activities that provide for the remediation of contaminated sites and vulnerable landfills Yes No Unsure</p> <p>d) compliance, monitoring and enforcement of mismanaged waste Yes No Unsure</p> <p>e) activities that reduce environmental harm or increase environmental benefits? Yes No Unsure</p> <p>Please share any further thoughts or ideas on this proposal</p> <p>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.</p> <p><i>Further levy effectiveness considerations</i></p> <p>6. Do you support removal of the current blanket exclusion from the levy for waste-to-energy facilities? Yes No Unsure</p> <p>7. 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</p> <p>8. 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</p> <p>Please share any further thoughts or ideas on these proposals</p> <p><i>Use of waivers</i></p> <p>9. 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</p> <p>10. 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</p>

Relevant provisions in WMA	Proposals	Consultation questions
		<p>Emergency Management Act 2002 and biosecurity responses have been undertaken under Part 7 of the Biosecurity Act 1993? Yes No Unsure</p> <p>11. 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</p> <p>Please share any further thoughts or ideas on these proposals</p> <p><i>Conditions and exemptions</i></p> <p>12. 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</p> <p>13. 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</p> <p>14. Do you agree that the Minister should be able to impose conditions on levy exemptions? Yes No Unsure</p> <p>Please share any further thoughts or ideas on these proposals</p> <p><i>Reuse of material at disposal facilities</i></p> <p>15. 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</p> <p>Please share any further thoughts or ideas on this proposal.</p>

Relevant provisions in WMA	Proposals	Consultation questions
		<p>Stockpiling controls</p> <p>16. Do you support improvements to existing stockpiling controls by introducing tools such as:</p> <ul style="list-style-type: none"> a) an approval system with limits and conditions Yes No Unsure b) changes to the stockpile calculation process to track the throughput of materials Yes No Unsure c) a stockpile volume threshold limit Yes No Unsure d) improved data collection, record-keeping and reporting provisions, to increase transparency and traceability of material entering and leaving a site Yes No Unsure e) defining/amending the terms ‘diverted material’, ‘accumulation’ and ‘stockpiling’ in the legislation? Yes No Unsure <p>Please share any further thoughts or ideas on these proposals</p>
Part 3	<p>Clarifying the roles and responsibilities in the waste legislation</p> <p>The core role of the Ministry is largely unchanged except for new responsibilities related to the proposed extended producer responsibility (EPR) framework.</p> <p>Improvements to the role of the New Zealand Customs Service (Customs) to support existing regulated product stewardship and EPR framework.</p> <p>Clarify the minimum obligations for waste minimisation and improve the existing regulatory tools for territorial authorities to ensure these are delivered.</p> <p>Allow the Waste Advisory Board to provide advice to the Minister or Ministry on its own initiative, consistent with an agreed strategic</p>	<p>We’re interested in your views on clarifying the role of central government and territorial authorities in the waste legislation.</p> <p>17. Do you support the proposed changes to the roles and responsibilities for:</p> <ul style="list-style-type: none"> a) the Ministry for the Environment Yes No Unsure b) the New Zealand Customs Service Yes No Unsure c) territorial authorities? Yes No Unsure <p>18. 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? Yes No Unsure</p> <p>19. Do you support enabling the Waste Advisory Board to provide advice at its discretion? Yes No Unsure</p> <p>Please share any further thoughts or ideas on these proposals</p>

Relevant provisions in WMA	Proposals	Consultation questions
	plan and focus their mandate on strategic/overarching waste issues.	
Part 4	<p>Modernising the compliance and data regime</p> <p>Introduce a fit-for-purpose compliance regime for the waste regulatory system to bring it into line with good practice already in use in other legislation. This will define the regulators and other organisations' legislative obligations for monitoring and compliance activities.</p> <p>The amended compliance monitoring and enforcement framework will cover, and improve on, the littering and other mismanaged waste compliance, currently provided for under the Litter Act.</p> <p>Regulators would be able to share information for the purposes of compliance monitoring and enforcement.</p>	<p>We are interested in your views on modernising the existing compliance regime</p> <p>20. 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</p> <p>21. Do you support the proposed tiered approach to the compliance tools and sanctions? Yes No Unsure</p> <p>Please share any further thoughts or ideas on these proposals</p>
Part 5	<p>The effective enforcement and cost recovery of littering and other types of mismanaged waste</p> <p>Improve the existing regulatory framework to enable public authorities to better deter and address littering and other types of mismanaged waste.</p> <p>Integrate littering and other mismanaged waste into the broader waste management and minimisation regulatory system so the whole waste system is managed under one cohesive legislation.</p>	<p>We are interested in your views on changes to the Litter Act</p> <p><i>Scope of the legislation</i></p> <p>22. Do you support integrating littering and other types of mismanaged waste into the same regulatory framework for waste management and minimisation? Yes No Unsure</p> <p>23. Do you support enabling regulations for the collection of data on littering and dumping? Yes No Unsure</p> <p>24. Do you support expanding the purpose of the WMA to include littering and other mismanaged waste in the new waste legislation? Yes No Unsure</p> <p>Please share any further thoughts or ideas on these proposals</p>

Relevant provisions in WMA	Proposals	Consultation questions
		<p><i>Roles and responsibilities</i></p> <p>25. Regarding public authorities, do you support:</p> <ul style="list-style-type: none"> a) limiting the definition of ‘public authority’ as proposed Yes No Unsure b) enabling public authorities (amended as proposed) to warrant Litter Control Officers (LCOs) or appoint Litter Wardens, to manage and enforce littering and other mismanaged waste offences? Yes No Unsure <p>26. Do you support removing the assignment of a statutory role for the promotion of litter control to any specific agency or organisation? Yes No Unsure</p> <p>27. 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? Yes No Unsure</p> <p>28. 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</p> <p>29. Do you agree that a local or public authority should:</p> <ul style="list-style-type: none"> a) retain the ability to make grants to any organisation for the abatement or prevention of litter Yes No Unsure 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 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 Yes No Unsure d) 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

Relevant provisions in WMA	Proposals	Consultation questions
		<p>30. Do you support enabling all types of LCOs to apply different tiers of compliance tools, where they are authorised to act? Yes No Unsure</p> <p>31. Do you agree that, in enforcing offences, LCOs should be able to:</p> <ul style="list-style-type: none"> a) use vehicle registration and ownership details Yes No Unsure b) use appropriate evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences? Yes No Unsure <p>Please share any further thoughts or ideas on these proposals</p> <p><i>CME framework</i></p> <p>32. Do you support the proposed amendments to the CME framework for littering and other mismanaged waste offences? Yes No Unsure</p> <p>33. Do you support lowering the threshold for evidence of a mismanaged waste offence, to allow for effective CME by LCOs? Yes No Unsure</p> <p>34. 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</p> <p>Please share any further thoughts or ideas on these proposals</p> <p>Cost recovery for removal of waste and correction of damage</p> <p>35. 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</p> <p>Please share any further thoughts or ideas on this proposal</p>

Relevant provisions in WMA	Proposals	Consultation questions
		<p><i>Feedback requested from Litter Control Officers</i></p> <p>36. If you are an LCO 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.</p> <p>a) Are the current provisions efficient or effective for addressing this type of mismanaged waste issue in your area? Yes No Unsure</p> <p>b) If not, please provide more information about the limitations of the provisions.</p> <p>37. Please provide your feedback on the draft infringement levels for the proposed mismanaged waste compliance framework.</p> <p>Please share any further thoughts or ideas on this proposal</p>
		<p>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.</p>

Creating a framework for extended producer responsibility

We recommend reading this section in conjunction with the sections on [Clarifying the roles and responsibilities in the waste legislation](#) and [Creating a modern, effective compliance regime](#).

Proposal

Amend the product stewardship provisions in the WMA to replace them with an extended producer responsibility (EPR) framework.

Discontinue the role of central government in accrediting voluntary product stewardship schemes – organisations can still develop voluntary schemes if they wish to.

Current situation

The WMA provides for voluntary and regulatory product stewardship and requires the Minister to accredit schemes if certain criteria are met. These criteria do not relate to the delivery of significant environmental benefits, making the administrative costs of accrediting and monitoring voluntary schemes difficult to justify. The WMA contains voluntary and regulatory product stewardship tools (including some deposit and return provisions), but these have practical limitations for implementing product stewardship.

The proposal in detail

We propose amending the current product stewardship provisions to replace them with a more effective range of tools to introduce EPR schemes for a range of products.

What is extended producer responsibility?

EPR describes a suite of policy instruments that shift financial and/or operational responsibility for material recovery and waste management upstream. This means the responsibility is on producers, importers and retailers, instead of falling by default on councils, communities, future generations and nature. Following a 'polluter pays' principle, an EPR framework extends responsibility for products – instead of just placing them on the market, producers need to manage and reduce any negative environmental effects.

Current examples of EPR are product stewardship schemes and deposit return schemes (such as a container return scheme). Although the terms 'EPR' and 'product stewardship' are sometimes used interchangeably, EPR emphasises additional responsibilities for producers.

Current section 23 (regulations in relation to products, materials and waste) will be carried over with minor and technical amendments to ensure legislative cohesion with the proposed EPR framework.

The proposed EPR framework would include provisions for taking the following actions.

- Determine the product/s of interest, including products to be excluded (declaring priority products would change from a statutory to a non-statutory process).
- Identify and place obligations on parties subject to requirements (such as ‘first responsible suppliers’).
- Identify other roles and responsibilities (eg, for the Minister or Secretary for the Environment (Secretary), the regulator, or the producer responsibility organisation (PRO) which manages the scheme).
- Enable key financial controls (such as scheme charges or refundable deposits) to be set and adjusted by the PRO or in regulation.
- Set parameters for how an EPR scheme is established and operates (such as target recycling return rates, input methodologies¹ to help determine scheme charges, and scheme design standards) and for any consequences for lack of performance. This could include scheme-specific requirements such as labelling or other matters allowed for in Part 2 of the WMA.
- Establish an appropriate compliance monitoring and enforcement framework.
- Ensure appropriate transparency to assess performance of an EPR scheme and hold parties accountable (which may include reporting and data sharing), while also managing commercial sensitivities of information shared through the scheme.

Further details are outlined in appendix 1.

Any future EPR schemes would be established in regulations and would require a full assessment of costs and benefits and consultation with affected parties.

We seek your views on whether the Secretary should be able to set input methodologies. This will enable the Secretary, if necessary, to prescribe how certain component costs for scheme charges should be set, which will minimise the risk of inappropriate fees and spending.

We also seek your views on removing provisions for government accreditation of voluntary product stewardship schemes as the limited participation and coverage and the administrative costs of accrediting and monitoring voluntary schemes are not justified. Voluntary schemes could continue but would not be accredited under the legislation.

¹ Input methodologies are a tool that the Secretary for the Environment may use to help determine charges for EPR schemes. Input methodologies can be used to ensure an EPR organisation is managing fees and costs appropriately.

Consultation questions

We're interested in your views on an extended producer responsibility (EPR) framework.

1. Do you support the proposal for a modern EPR framework? **Yes | No | Unsure**
2. Do you support discontinuing the government accreditation of voluntary product stewardship schemes? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Improving the waste levy system through changes to levy allocation, distribution and use

Proposal

Adjust the method for allocating funds from the waste disposal levy (the levy) to territorial authorities, to reduce the extremity of funding between very large and very small councils. The current population-based allocation approach would change to a combination of a base flat rate (20 per cent) and a population-based calculation (80 per cent).

Widen the use of the levy for local government to support a broader range of waste and environmental outcomes.

Provide central government and territorial authorities with a decision-making framework for spending levy funds on environmental benefits and/or reduction of environmental harm.

Remove the blanket levy exclusion for waste-to-energy technology and facilities, to ensure a level playing field for all types of final waste disposal.

Amend the Minister's required considerations and timeframe when reviewing the effectiveness of the levy.

Improve the efficiency and effectiveness of the existing levy provisions for:

- levy waivers
- levy exemptions
- reuse of material at disposal facilities
- stockpiling.

Current situation

The levy is charged on waste disposed of at prescribed facilities, and the fees collected are ring-fenced for spending on specific waste and environmental matters. Currently, 50 per cent of the levy is allocated to central government. The remaining 50 per cent is allocated to territorial authorities based on population – meaning Auckland and Christchurch get a significant amount of the levy funding, while authorities with smaller populations receive much less.

In 2024, targeted amendments were made to the levy provisions in the WMA, to enable the central government to spend its portion of the levy on a wider range of waste and environmental activities. The amendments also increased levy rates incrementally, from July 2024 to July 2027, which will generate more levy revenue over time.

The Secretary currently has no decision-making framework or criteria in the WMA for funding activities that reduce environmental harm or increase environmental benefits.

Under the current legislation, the Minister must review the effectiveness of the levy at least every three years. The review assesses how effective the levy has been in:

- reducing waste disposed of
- increasing reuse, recycling and recovery of waste.

Some current levy administration provisions are complex and inefficient, including those related to levy waivers, levy exemptions, reuse of material at disposal facilities, and stockpiling. The relevant current provisions are outlined alongside the detailed proposals below, under [Other levy-related improvements](#).

The proposal in detail

Levy allocation and use

We propose changing how the levy funds are distributed to territorial authorities. Instead of the current population-based approach, the new method would use a combination of a base flat rate (20 per cent) and a population-based calculation (80 per cent).

Our aim is an appropriate balance – a fairer distribution among territorial authorities that still provides for the scale and scope of waste-related matters that larger population centres face. Table 1 below provides an outline of how this would have affected some territorial authorities for the 2023/24 financial year. Although the larger councils will receive less levy funding, current projections suggest the levy will increase over time because of increases in levy rates. This means the larger territorial authorities will receive more levy funding than at present, even with a 20 per cent flat rate.

Table 1: Example of the impact of a 20% flat rate incorporated levy for some territorial authorities (2023/24 financial year)

Territorial authority	2023 population	Actual levy received in 2023/24 financial year (based on population only)	Calculated levy in 2023/24 financial year (if 20% flat rate incorporated)
Auckland Council	1,656,486	\$26,642,184	\$21,377,950
Buller District Council	10,446	\$162,577	\$371,118
Chatham Islands Council	612	\$11,239	\$245,616
Christchurch City Council	391,383	\$6,255,019	\$5,232,652
Kawerau District Council	7,539	\$121,132	\$334,019
Queenstown Lakes District Council	47,808	\$663,682	\$847,933
Southland District Council	31,833	\$523,176	\$644,060
Wellington City Council	202,689	\$3,436,594	\$2,824,531

Our proposals include widening the use of the levy for local government, to support a broader range of environmental outcomes which match the new spending parameters for central

government. In addition to activities that promote or achieve waste minimisation, in accordance with and as set out in a territorial authority's waste management and minimisation plan (WMMP), options for wider uses for the levy funding include:

- costs associated with managing emergency waste
- activities that provide for the remediation of contaminated sites and vulnerable landfills
- CME of mismanaged waste
- activities that reduce environmental harm or increase environmental benefits.

In relation to spending levy revenue on activities that reduce environmental harm or increase environmental benefits, a decision-making framework for central government and territorial authorities could help increase clarity about what activities could be funded and how funding decisions should be made.

We also propose removing the levy exclusion for waste-to-energy processes. The current exclusion of waste-to-energy from the levy creates a market distortion, because landfill disposal is subject to an additional cost that does not apply to waste-to-energy technologies. Both methods are considered forms of waste disposal in the waste hierarchy, although recovery of energy from waste comes before final disposal. All waste-to-energy facilities *could* be made subject to a levy (if regulations are put in place that define a type of waste-to-energy facility as a disposal facility and sets a levy rate for them). Existing levy-setting regulations could be used in future to determine the levy payable by different types of waste-to-energy facilities.

Levy review

We propose that the matters the Minister should consider when reviewing the effectiveness of the levy should mirror the scope of the WMA (as outlined in the purpose) and the parameters for levy spend.

We propose changing the timeframe of the levy review from the current three-yearly requirement to at least every five years. This is to ensure the review includes assessment of all aspects of the revised legislation for effectiveness in achieving the desired outcomes.

Other levy-related improvements

Waste disposal levy waivers

Waivers and exemptions for levy payments under the WMA are only available in 'exceptional circumstances', or if considered reasonable in relation to waste from the remediation of a contaminated site.

We propose enabling the Secretary to waive the requirement for an operator to pay any amount of levy in specified circumstances (that is, an emergency event, biosecurity response, or remediation of a contaminated site). The proposed change would:

- simplify the processing of waiver applications
- improve the transparency of when a levy waiver may occur
- provide clarity for stakeholders and the decision maker.

The Secretary would need to be satisfied the specified circumstances justify the waiver. This would replace the current requirement that there are 'exceptional circumstances'.

We propose limiting the waiver requirement to situations in which:

- there is or has been an emergency (for example, a state of emergency or transition period has been declared under the Civil Defence Emergency Management Act 2002)
- biosecurity responses have been undertaken under Part 7 of the Biosecurity Act 1993.

In addition, we seek feedback on whether the waiver requirements for waste from the remediation of a contaminated site requires clarifying too with specific eligibility criteria. We seek suggestions on what the criteria could be.

Waste disposal levy exemptions

Currently, the WMA requires the Minister to be satisfied that 'exceptional circumstances' exist before recommending that regulations be made that exempt any disposal facility or class of disposal facility from the levy; or exempt a specific type, volume or weight of any waste from the levy.

The term 'exceptional circumstances' is not defined in the WMA – rather, it is interpreted at the discretion of the decision maker. The power to make levy exemption regulations currently applies when circumstances cannot be foreseen – for example, in response to an emergency event.

We consider levy exemptions are more suitable for addressing national issues with a widespread application that are not exceptional circumstances, such as an exemption that applies to a class of disposal facility or a type of waste stream. We propose that the Minister must consider specific criteria before making such a recommendation and seek suggestions on what the criteria could be.

At present, there is no time limit applied to levy exemptions through regulations. We propose that these should apply for a maximum of five years, after which they must be reviewed or allowed to expire. We also propose that the Minister should be permitted to impose conditions on the exemption and required to follow the same procedures before considering other waste regulations (such as obtaining and considering the advice of the Waste Advisory Board).

Reuse of material at disposal facilities

Some disposal facility operators reuse materials disposed of on site for disposal facility management activities, such as:

- using soil as cover material
- using concrete in the construction of disposal facility infrastructure (like roads).

Where this activity meets the definition of reuse or recycling, these materials may not be subject to levy payments.

This common practice has the benefit of promoting the reuse and recycling of existing materials over the extraction and use of virgin natural materials. The disadvantage, however, is facilities may have an incentive to stockpile materials for reuse in excessive quantities, which can worsen waste and environmental outcomes and reduce levy revenue.

We propose to clarify when the levy should be imposed on waste disposed of at disposal facility, to ensure waste reuse on site is operationally necessary and reasonable (eg, to comply with a consent condition).

Stockpiling

Under the current legislation, stockpiling can occur, but waste stockpiled for more than six months is subject to the levy. The tools we propose to improve the existing stockpiling controls, include:

- amending the current stockpiling extension approval system to include limits, conditions, and offence provisions
- changing the stockpile calculation process to track the throughput of materials
- introducing a stockpile volume threshold limit
- improving the data collection, record-keeping and reporting provisions to increase transparency and traceability of material entering and leaving a site
- defining or amending the terms ‘diverted material’ (defined in the current Part 3 of the WMA), ‘accumulation’ and ‘stockpiling’ in the legislation.

Consultation questions

We are interested in your views on changes to the waste disposal levy.

Distribution of levy funds

3. 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**

Please share any further thoughts or ideas on this proposal.

Scope of use of levy funds

4. Please indicate your support for changes that would permit territorial authorities to use the levy for:
- a) activities that promote or achieve waste minimisation, in accordance with and as set out in the territorial authorities’ Waste Management and Minimisation Plan **Yes | No | Unsure**
 - b) costs associated with managing emergency waste **Yes | No | Unsure**
 - c) activities that provide for the remediation of contaminated sites and vulnerable landfills **Yes | No | Unsure**
 - d) compliance, monitoring and enforcement of mismanaged waste **Yes | No | Unsure**
 - e) activities that reduce environmental harm or increase environmental benefits? **Yes | No | Unsure**

Please share any further thoughts or ideas on this proposal.

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.

Further levy effectiveness considerations

6. Do you support removal of the current blanket exclusion from the levy for waste-to-energy facilities? **Yes | No | Unsure**
7. 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**
8. 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**

Please share any further thoughts or ideas on these proposals.

Use of waivers

9. 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**
10. 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**
11. 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**

Please share any further thoughts or ideas on these proposals.

Conditions and exemptions

12. 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**
13. 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**
14. Do you agree that the Minister should be able to impose conditions on levy exemptions? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Reuse of material at disposal facilities

15. 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**

Please share any further thoughts or ideas on this proposal.

Stockpiling controls

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

- a) an approval system with limits and conditions **Yes | No | Unsure**
- b) changes to the stockpile calculation process to track the throughput of materials **Yes | No | Unsure**
- c) a stockpile volume threshold limit **Yes | No | Unsure**
- d) improved data collection, record-keeping and reporting provisions, to increase transparency and traceability of material entering and leaving a site **Yes | No | Unsure**
- e) defining/amending the terms 'diverted material', 'accumulation' and 'stockpiling' in the legislation? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Clarifying the roles and responsibilities in the waste legislation

Proposal

Retain the current core role of the Ministry but add new responsibilities related to the proposed EPR framework.

Improve the role of the New Zealand Customs Service (NZ Customs) to support existing regulated product stewardship² and an EPR framework.

For territorial authorities, clarify the minimum obligations for waste minimisation and improve the regulatory tools to ensure these are delivered.

Enable the Waste Advisory Board to provide advice to the Minister or Ministry on its own initiative – consistent with an agreed strategic plan – and focus the Board's mandate on strategic/overarching waste issues.

Current situation

The WMA establishes roles and responsibilities for central and local government.³ The Litter Act establishes roles for a variety of public organisations to appoint Litter Control Officers (LCOs) (see the section on [Enabling efficient and effective controls for littering and other types of mismanaged waste](#)).

Under the WMA, territorial authorities must adopt a WMMP, which must have regard to the New Zealand waste strategy. Minor amendments to a WMMP can be made based on the territorial authority's significance and engagement policy, which allows for minor 'out-of-cycle' refinements to a plan. Any substantial proposed changes would require local consultation.

Currently, under the WMA:

- the Minister may set performance standards for the implementation of one or more WMMPs
- the Minister may require a territorial authority to amend its WMMP

² Existing regulated product stewardship schemes would transition to the new EPR framework.

³ This includes waste levy settings (eg, allocation and distribution settings, controls on the use of levy funds, and consideration of the appropriate legislative responsibilities informed by this funding), the overall strategic framework (ie, how strategic direction via the waste strategy or other mechanism is given effect through localised waste planning and activities), and data collection and reporting requirements.

- the Secretary must retain levy payments to a territorial authority if it has not adopted a WMMP, or if it has not reviewed the WMMP within the specified time or at the Minister's direction.

The proposal in detail

We propose amending some roles and responsibilities in relation to the purpose and functions of the WMA. These amendments largely mirror the existing WMA provisions, with some refinement. Where we propose variations to existing provisions, these are described below.

Central government

The Ministry (and, where applicable, specifically the Secretary) would have responsibility for:

- setting strategic direction
- policy development
- system stewardship
- investment of the waste disposal levy
- provision and dissemination of information and services to promote environmental policies⁴
- national data collation and reporting
- various EPR powers (such as establishing a PRO and setting the regulatory parameters for a scheme) (see appendix 1 for more details on the Ministry's and the Secretary's proposed roles in relation to EPR)
- levy collection and administration
- compliance, monitoring and enforcement.

These proposed responsibilities largely mirror what is currently in the WMA, with the addition of EPR powers, which are proposed improvements on the current product stewardship roles and responsibilities.

New Zealand Customs Service

We propose that NZ Customs should:

- share data with the Ministry (including in relation to products/materials in scope of regulated product stewardship and EPR schemes)
- collect EPR-related charges where appropriate.

We propose to require Customs import and export information is shared with the Ministry to support development and implementation of product stewardship or EPR schemes.

The WMA amendments proposed as a part of the Customs (Levies and Other Matters) Amendment Bill expands Customs' role to include the ability to be a specified person

⁴ Functions of the Ministry section 31 of the Environment Act 1986

responsible for collecting product stewardship charges. It is proposed that these changes will continue under the proposed EPR framework.

Local government

We propose clarifying the legislation to better specify the minimum obligations of territorial authorities. Minimum obligations undertaken by territorial authorities could include a requirement to ensure the delivery of household waste and recycling services in their district,⁵ which could be delivered directly or by other private providers.

We also propose amending section 48 of the WMA to enable the Minister to direct territorial authorities to do a particular activity through the WMMPs (rather than the current ability to only amend, add or omit a WMMP provision). We propose providing the Secretary with a discretionary (rather than mandatory) power to retain levy payments to territorial authorities if a WMMP has not been adopted.

Producer responsibility organisation

The PRO would run an EPR scheme. The responsibilities of the PRO (outlined in [appendix 1](#)) are broadly in line with those set out in product stewardship guidelines and practically undertaken in existing product stewardship schemes. We propose to provide clarity for all parties by setting the obligations in legislation and regulations. The PRO would be more directly responsible for scheme performance, and there would be more opportunities for the Minister to intervene if the scheme was not being managed appropriately and effectively.

Waste Advisory Board

We propose enabling the Waste Advisory Board to provide advice to the Minister or Ministry at its discretion, rather than only on the request of the Minister. The advice would need to be consistent with an agreed strategic plan. We also propose to enable the Board to provide advice on strategic and overarching issues, and on opportunities that reflect the purpose of the WMA.

⁵ For example, through kerbside services or other collection methods.

Consultation questions

We're interested in your views on clarifying the role of central government and territorial authorities in the waste legislation.

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

- a) the Ministry for the Environment **Yes | No | Unsure**
- b) the New Zealand Customs Service **Yes | No | Unsure**
- c) territorial authorities? **Yes | No | Unsure**

18. 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? **Yes | No | Unsure**

19. Do you support enabling the Waste Advisory Board to provide advice at its discretion? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Creating a modern, effective compliance regime

Proposal

Introduce a fit-for-purpose compliance regime for the waste regulatory system to bring it into line with good practice already in use in other legislation. This will define the regulators and other organisations' legislative obligations for monitoring and compliance activities.

Implement an amended CME framework to improve on the littering and other mismanaged waste compliance currently provided for under the Litter Act.

Enable regulators to share information for CME purposes.

Current situation

The regulatory environment for waste is varied and involves a cross-section of New Zealand society, including controlling the actions of landfill operators, manufacturers, retailers and the public. Currently, the WMA provides limited CME powers. Prosecution is the main means to address non-compliance, with maximum fines of:

- \$100,000 for all main offences at a central government level
- \$20,000 for a breach of bylaws.

The WMA does not provide for offences related to non-payment of the levy, although it does allow for with recovery of unpaid levies as debt through court action. For other offences, prosecution through the Courts is the only enforcement option, which is limiting because:

- prosecution can be a disproportionate regulatory response to non-compliance
- if non-compliance falls below the prosecution threshold, no consequences can arise from breach of the WMA.

Data

Recent amendments to regulations⁶ made under the WMA have resulted in more data coming to the Ministry through reporting from operators on the content of waste disposed and from territorial authorities on the management of waste in their districts. However, there are limitations to how this information can be shared between regulators.

⁶ The Waste Minimisation (Information Requirements) Regulations 2021 and the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009.

The proposal in detail

A fit-for-purpose compliance regime for the regulatory system

A modern compliance framework contains a range of interventions at different levels, to ensure the regulator has the right tool for the right level of offending. Table 2 outlines our proposal: a four-tiered graduated response model that recognises different levels of offending and aims for broad consistency across the framework.

Table 2: Key tiers for proposed general compliance framework

Tier	Explanation of tier
Tier 3	Most severe and intentional offending with significant risk of harm (eg, deliberate levy avoidance, fraud, large-scale or high-harm illegal dumping)
Tier 2	Mid-range offending where most severe penalties may not be appropriate
Tier 1	Low-level disciplinary interventions such as formal warnings for small infringements, designed for minor offending (eg, illegal plastic bag use, small-scale littering)
Cautionary tools	Warnings and directive notices to place members of regulated community ‘on notice’

The amended CME framework will define offences, establish infringement offences and maximum fees, pecuniary penalties and prosecution. It will also set maximum individual penalties and include defences, rights of appeal, review processes and complaint mechanisms, to ensure adherence to natural justice. The specifics of these matters will be developed at a later stage, so are not part of this consultation.

It is proposed the infringement fees will be paid to the enforcement body that issued the infringement.

Data, annual reporting and information sharing

We propose to clarify data-sharing provisions, to enable data to be shared between regulators for CME and EPR purposes.

Consultation questions

We are interested in your views on modernising the existing compliance regime.

20. 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**
21. Do you support the proposed tiered approach to the compliance tools and sanctions? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Enabling efficient and effective controls for littering and other types of mismanaged waste

We recommend reading this section in conjunction with the sections on [Clarifying the roles and responsibilities in the waste legislation](#) and [Creating a modern, effective compliance regime](#).

Proposal

Improve the existing regulatory framework to enable public authorities to better deter and address littering and other types of mismanaged waste.

Integrate littering and other mismanaged waste into the broader waste management and minimisation regulatory system, so the whole waste system is managed under one cohesive piece of legislation (including changes to the purpose of the legislation).

Current situation

Under the Litter Act, Litter Control Officers (LCOs) and Litter Wardens are currently appointed by public authorities, or else they are deemed to have been appointed by virtue of their office. Currently, LCOs can:

- require the user or owner of a stationary motor vehicle or trailer to give their name and place of residence, if they have reasonable cause to believe litter has been deposited from any motor vehicle or trailer
- request the name and place of residence of the person/people in the vehicle who the LCO has reason to believe deposited the litter.

Litter control functions include CME, provision of information and education, and data collection. These functions are currently undertaken by a range of entities, including territorial authorities, the New Zealand Transport Agency, the Ministry, and non-government organisations such as Keep New Zealand Beautiful (KNZB), Sustainable Coastlines, Be a Tidy Kiwi and Enviroschools. The Litter Act specifically names KNZB as the body primarily responsible for the promotion of litter control.

The Litter Act also currently requires territorial authorities to provide litter receptables in public places under their management where litter is likely to be deposited.

The proposal in detail

What is mismanaged waste?

Mismanaged waste is waste that has 'leaked' or has the potential to leak (intentionally or not) from the formal waste management system into the environment (ie, the air, water or soil).

Expand scope to all types of mismanaged waste

We propose to amend the purpose of the WMA to ensure the legislation can be applied to a range of mismanaged waste scenarios.

Mismanaged waste can vary by volume, type and harm and could include:

- litter (smaller amounts and typically pieces of discarded packaging waste)
- dumped waste (larger volumes, most commonly construction and demolition (C&D) waste deliberately discarded out of sight and often avoiding a levy)
- 'escaped' waste or waste that has the potential to escape (typically C&D or packaging waste carried by wind or water from one site to another due to inappropriate management and storage).

We propose amending the penalty provisions to account for types of litter and waste that are particularly harmful to humans and the environment, such as:

- hazardous waste
- syringes
- broken glass
- invasive weeds/non-native species in dumped green waste.

Address data gaps for mismanaged waste

We propose to amend the purpose of the WMA so it includes reference to decreased littering and dumping. We also propose to extend the current provisions of the WMA for making regulations for collecting data and information, so that these could apply to littering and dumping. If regulations were introduced, the data collected could be tonnages/volume of mismanaged waste cleaned up, the type of waste littered or dumped and the location (ie public space or private property) of the litter/dumped waste.

Clarify roles and responsibilities for mismanaged waste

We propose limiting the definition of 'public authority' in the legislation to:

- territorial authorities
- the New Zealand Transport Agency
- bodies appointed under the Reserves Act 1977 to administer reserves

- any public authority determined through an Act or Order in Council for the purposes of the Litter Act.

Our proposal would involve carrying over all other LCOs appointed by virtue of their office (except traffic officers, because that office no longer exists). These 'other LCOs' would retain the same level of powers and duties as in their governing legislation, to ensure they do not gain additional, unnecessary waste CME powers.

We also propose carrying over the ability for every public authority (amended as proposed) to appoint Litter Wardens, as this is still useful for litter education and behaviour change. We recommend enabling public authorities to appoint the LCOs alone or jointly with another public authority, to ensure:

- clarity of roles and responsibilities
- cost savings where appropriate
- better CME and information sharing, to effectively deter and respond to littering and dumping of waste.

We propose removing the Litter Act provision naming KNZB as the body primarily responsible for the promotion of litter control. This responsibility is unusual for a non-statutory organisation.

Ensure mismanaged waste has effective deterrents and enforcement

We propose to amend the legislation to ensure effective enforcement of offences for mismanaged waste. The legislation should act as a deterrent to littering and levy avoidance, so the proposed amendments provide for:

- the ability for a LCO to enforce littering penalties at a lower evidence threshold due to the current difficulty in identifying the offender and offending
- prevention of litter that spills over or is blown over from private land on to public or private land and enforcement of associated offences
- the ability to require a person to clean up littered/dumped waste from public land, and to set a timeframe for fulfilling that requirement
- sufficient cost-recovery provisions for CME and clean-up
- potential compensation, if the littering/dumped waste causes environmental harm
- a suite of tools for CME, rather than prosecution only, including information sharing among regulators (see the section on [Creating a modern, effective compliance regime](#)).

Enforcing littering and dumping from vehicles

We propose extending the powers of LCOs so that, in enforcing offences, an LCO can:

- use vehicle registration and ownership details
- use appropriate and reasonable evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences.

The proposed changes will mean LCOs can more effectively enforce littering and the dumping of waste from vehicles.

Responsibilities for public litter receptacles

We propose amending the provisions for public litter receptacles to be discretionary (rather than mandatory), so that territorial authorities have flexibility around use and placement of bins. The changes will not specify the type of litter receptacles territorial authorities should provide, but we do propose broadening the terms used, to allow for any type of waste receptacle (eg, recycling, glass only, composting).

We propose to retain the provisions in the Litter Act that:

- enable public authorities to require the occupier of land or premises to provide and maintain litter receptacles, where it can be shown that litter is attributable to that land or premises
- if the occupier fails to comply with a public authority's request to provide a suitable litter receptacle, the authority may install one and recover the cost of doing so from the occupier.

We propose removing the term 'excessive' from section 9(3) of the Litter Act, to demonstrate zero tolerance for littering or dumping waste.

We propose to keep the legislative obligation for every public authority to make appropriate provision for emptying litter receptacles in public places. However, we propose to remove the requirement for the Medical Officer of Health to be satisfied that litter receptacles are emptied promptly, efficiently and at regular and prescribed intervals. Medical Officers will still be able to use powers in the Health Act 1956 relating to sanitary works.

Some of the current Litter Act powers for public authorities are proposed to be retained without amendment, such as ability to make grants for litter prevention and to make bylaws for littering and dumping abatement. We seek your feedback on these.

CME for escaped waste

Windblown waste – particularly from construction sites – creates a littering problem. We are keen to know about the barriers you may face using the current Litter Act provisions to manage 'escaped waste' to determine how best to address this in the waste amendments.

A fit-for-purpose infringement regime for mismanaged waste

We need an improved compliance framework for regulators responsible for dealing with mismanaged waste. Table 3 outlines suggested infringement levels for our proposed framework for mismanaged waste compliance. We are particularly interested in feedback from current LCOs warranted under the Litter Act on the appropriateness of the levels in this proposal. Later in the process, we will develop a final version of this proposed framework.

Table 3: Draft infringement levels for proposed mismanaged waste compliance framework

Mismanaged waste graduated response	Explanation of infringement level
<p>Prosecution</p> <p>Most severe offending with significant risk of harm</p>	<ul style="list-style-type: none"> • Large-scale offending, either cumulatively across many sites by the same person or located at one site • Likely to involve large-scale hazardous waste causing long-lasting/permanent environmental damage and harmful to human health • Environmental remediation is expensive/difficult • Repeat offences by the same person • Likely to involve the use of a vehicle to dump the waste
<p>Level 3 infringement</p> <p>High-level offending, or dumping of small- to mid-scale hazardous waste</p> <p>Up to maximum of infringement fee</p>	<ul style="list-style-type: none"> • Large-scale or high-harm illegal dumping • Large quantities (volume more than one typical rubbish bag) • Small- to mid-scale hazardous waste causing harm to the environment or human health • Clean-up is expensive/difficult • Likely to involve the use of a vehicle to dump the waste
<p>Level 2 infringement</p> <p>Mid-range offending where most severe penalties may not be appropriate</p> <p>Infringement fee</p>	<ul style="list-style-type: none"> • One-off dumping of waste, first offence • No evidence of levy avoidance behaviour • Does not involve hazardous waste • May include repeat offences • May include the use of a vehicle to dump the waste
<p>Level 1 infringement</p> <p>Low-level disciplinary interventions such as formal warnings, small infringements, that are designed for minor offending</p> <p>Infringement fee</p>	<ul style="list-style-type: none"> • Escalation where cautionary tools have not been an effective deterrent for the following: <ul style="list-style-type: none"> • Throwing/discarding small-scale litter (eg, cigarette butts, vapes, takeaway wrappers, beverage containers): <ul style="list-style-type: none"> – out of vehicles – into/onto a public place – into/onto private property without the owner's permission • First offences for escaped waste* that escapes from the site of disposal to public land, or to private property without the owner's permission • Environmental harm is temporary and easily remedied/cleaned up • Harm to human health is minimal
<p>Cautionary tools</p> <p>Warnings and educational approaches</p>	<ul style="list-style-type: none"> • Throwing/discarding small-scale litter (eg, cigarette ends, vapes, takeaway wrappers, beverage containers): <ul style="list-style-type: none"> – out of vehicles – into/onto a public place – into/onto private property without the owner's permission • First offences for escaped waste* that escapes from the site of disposal to public land, or to private property without the owner's permission • Environmental harm is temporary and easily remedied/cleaned up • Harm to human health is minimal

*Waste that has not been stored appropriately (in a suitable leak-proof container with lid or other form of covering to prevent lightweight waste escaping in the wind or excessive waterflow).

Consultation questions

We are interested in your views on changes to the Litter Act.

Scope of the legislation

22. Do you support integrating littering and other types of mismanaged waste into the same regulatory framework for waste management and minimisation? **Yes | No | Unsure**
23. Do you support enabling regulations for the collection of data on littering and dumping? **Yes | No | Unsure**
24. Do you support expanding the purpose of the WMA to include littering and other mismanaged waste in the new waste legislation? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

Roles and responsibilities

25. Regarding public authorities, do you support:
- a) limiting the definition of 'public authority' as proposed **Yes | No | Unsure**
 - b) enabling public authorities (amended as proposed) to warrant Litter Control Officers (LCOs) or appoint Litter Wardens, to manage and enforce littering and other mismanaged waste offences? **Yes | No | Unsure**
26. Do you support removing the assignment of a statutory role for the promotion of litter control to any specific agency or organisation? **Yes | No | Unsure**
27. 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? **Yes | No | Unsure**
28. 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**
29. 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**
 - 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**
 - 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 **Yes | No | Unsure**

- d) 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**
- 30. Do you support enabling all types of LCOs to apply different tiers of compliance tools, where they are authorised to act? **Yes | No | Unsure**
- 31. Do you agree that, in enforcing offences, LCOs should be able to:
 - a) use vehicle registration and ownership details **Yes | No | Unsure**
 - b) use appropriate evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences? **Yes | No | Unsure**

Please share any further thoughts or ideas on these proposals.

CME framework

- 32. Do you support the proposed amendments to the CME framework for littering and other mismanaged waste offences? **Yes | No | Unsure**
- 33. Do you support lowering the threshold for evidence of a mismanaged waste offence, to allow for effective CME by LCOs? **Yes | No | Unsure**
- 34. 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**

Please share any further thoughts or ideas on these proposals.

Cost recovery for removal of waste and correction of damage

- 35. 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**

Please share any further thoughts or ideas on this proposal.

Feedback requested from Litter Control Officers

- 36. If you are an LCO 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.
 - a) Are the current provisions efficient or effective for addressing this type of mismanaged waste issue in your area? **Yes | No | Unsure**
 - b) If not, please provide more information about the limitations of the provisions.
- 37. Please provide your feedback on the draft infringement levels for the proposed mismanaged waste compliance framework.

Please share any further thoughts or ideas on these proposals.

Appendix 1: Summary of proposed extended producer responsibility framework

Table 4: Summary of proposed key roles and responsibilities for EPR schemes

Role	Requirement
Minister for the Environment (the Minister)	
1. Establishment powers	<ul style="list-style-type: none"> a. Invite applications to be the producer responsibility organisation (PRO) for a scheme b. Appoint a PRO on advice from the Secretary for the Environment (the Secretary) c. Ability to set scheme commencement date (and expiry date if required)
2. Regulatory parameters for schemes	<p>Powers to set regulatory parameters for how a specific EPR scheme will operate, including:</p> <ul style="list-style-type: none"> a. setting and varying specific categories of products that would be subject to the scheme b. setting performance parameters such as mandatory return rate targets and requirements where targets are not met c. developing definitions of recycling/processing/repair/reuse/safe disposal requirements d. parameters for take-back obligations and exemption criteria e. obligations for all participants within scheme to comply with conditions such as design requirements and information disclosure requirements f. setting a deposit level in regulation g. obligations for take-back service providers and operators (eg, covering cashflows such as payments and reimbursements) h. setting and collecting charges (including frameworks for how charges are set (eg, input methodologies) and eco-modulation of scheme charges) i. specifying how particular parties will be covered by the scheme (eg, material recovery facilities, councils) – including provisions for fraud prevention j. prohibiting first responsible suppliers from selling their products unless they meet certain obligations k. regulating products, materials and waste in the ways outlined in section 23 of the WMA (for products whether included in an EPR scheme or not) <p>Primary legislation would establish that charges would be:</p> <ul style="list-style-type: none"> l. set by the PRO with consideration for parameters set out for the scheme (eg, through input methodologies) m. collected by the PRO or Secretary (or authorised party)
3. Monitoring and intervention	<ul style="list-style-type: none"> a. Require reports/information from PRO in accordance with information disclosure requirements b. Require the PRO to replace an existing scheme charge with a charge specified by the Minister c. Issue a Gazette notice allowing for exceptions to scheme requirements in exceptional circumstances

Role	Requirement
	<p>d. Review the operation of the scheme after a specified period of time, and in other defined circumstances (such as failure to meet targets)</p> <p>If scheme performance issues arise, the Minister would have the ability to:</p> <ul style="list-style-type: none"> a. appoint a Crown review team b. appoint a Crown Manager c. dissolve the PRO Board d. take over and manage assets of the PRO e. make changes to the Board
Secretary for the Environment (or authorised third party)	
4. Establishment responsibilities	<ul style="list-style-type: none"> a. Priority setting tool for identifying potential products for EPR b. Undertake non-statutory process to develop further details for how a successful scheme may be designed and operate (eg, through open procurement process with requirements to ensure industry, Māori and public interests are represented) c. Set criteria for assessment of PRO application d. Provide advice to the Minister on appointing a PRO e. Be required to act independently in discharging functions, powers and duties
5. Setting detailed requirements	<p>Develop and publish:</p> <ul style="list-style-type: none"> a. information disclosure requirements b. scheme-specific design requirements c. framework for setting and collecting scheme charges
6. Registration and approval of regulated products	<ul style="list-style-type: none"> a. Establish and operate registration portal and categorise regulated products b. Approve products for sale in the scheme
7. Monitoring and provision of advice on scheme performance	<ul style="list-style-type: none"> a. Undertake full review of scheme as required b. Monitor scheme performance c. Enforce obligations using improved CME tools d. Appoint auditors to support compliance monitoring e. Provide advice to the Minister as required
Producer responsibility organisation	
8. Establishment	<ul style="list-style-type: none"> a. Secure funding to set up corporate office, systems and procedures b. Enter into arrangements with producers/importers/other relevant parties (eg, take-back service providers and operators, councils) c. Set up relevant scheme logistics (eg, establishing a return network and transport logistics, or procuring counting and consolidation facilities) d. Enter into arrangements for recycling/reuse/repair of products/materials
9. Ongoing scheme operation	<ul style="list-style-type: none"> a. Promote the scheme and ensure participants have necessary information to participate in the scheme b. Coordinate and manage the scheme in compliance with regulations and requirements set by the Secretary c. Manage financial elements of scheme, including: <ul style="list-style-type: none"> - setting scheme charges, and reviewing and updating as required - collecting deposits and/or scheme charges from producers/importers - paying handling fees to return point operators - arranging payment of refunds directly or indirectly (eg, via return point operators)

Role	Requirement
	<ul style="list-style-type: none"> d. Manage sites required for scheme operation (eg, consolidation and counting sites) e. Arrange for transport/recycling/processing/repair/reuse of specified products f. Collect agreed information from scheme participants
10. Reporting and advice	<ul style="list-style-type: none"> a. Provide regular reporting as set out in the information disclosure requirements b. Provide advice to the Secretary on specified topics c. Provide to the Minister (through the Secretary) on assessments of scheme performance, financials and forward projections
Scheme participants (eg, producers, manufacturers, importers, retailers, return point operators, councils, materials recovery facilities, recyclers, consumers, exporters, online retail platforms)	
11. Comply with obligations placed on them	<ul style="list-style-type: none"> a. First responsible suppliers are prohibited from selling their products unless they meet certain obligations b. Take-back service providers and operators will be subject to obligations (eg, to enter into service agreements with PROs, covering payments of deposits, handling fees, etc)
Ministry for the Environment	
12. Ensure appropriate compliance monitoring and enforcement	<ul style="list-style-type: none"> a. Monitoring schemes and identifying non-compliance through a range of means b. Where non-compliance is identified, applying CME tools appropriate to the level and severity of offending using the tiered approach outlined in Table 2.

Appendix 2: Litter Act changes to public authorities who can appoint Litter Control Officers

Table 5: Public authorities that can appoint Litter Control Officers and proposed changes

Litter Act 1979	New list under proposed legislative changes
<ul style="list-style-type: none"> • Territorial authority • New Zealand Transport Agency • Wellington Regional Water Board • Harbour Board • Airport authority • Administering body of the Reserves Act 1977 means the board, trustees, local authority, society association, voluntary organisation, or person or body of persons appointed under the Act to control and manage the reserve, includes any Minister of the Crown (other than the Minister of Conservation) so appointed • Trustees of a cemetery • All other bodies/classes of bodies which by any Act or by the Governor General by Order in Council are declared public authorities for the purposes of this Act 	<ul style="list-style-type: none"> • Territorial authority • New Zealand Transport Agency • Reserves Act 1977 – bodies appointed under the Act to administer reserves • All other bodies/classes of bodies which by any Act or by the Governor General by Order in Council are declared public authorities for the purposes of this Act

Table 6: Persons who can be appointed as Litter Control Officers and proposed changes

Litter Act 1979	Proposed legislative change
<ul style="list-style-type: none"> • Constable • Traffic officer • Conservation Act 1987 – warranted officer • Reserves Act 1977 – officer means any ranger or constable and any officer or employee of an administering body who is authorised by that body to exercise powers of an officer • Maritime Transport Act 1994 – harbour master • Walking Access Act 2008 – enforcement officer and honorary enforcement officer appointed by the Walking Access Commission (also includes every sworn member of the police, every fish and game ranger and warranted officer – section 2(1) Conservation Act) • Fisheries Act 1996 – fishery officer, honorary fishery officer and other officer (also includes every officer in command of any vessel or aircraft of the New Zealand Defence Force and every constable) • Wildlife Act 1953 – ranger (also includes constable) • National Parks Act 1989 – ranger • Te Urewera Act 2014 – warranted officer and honorary warranted officer (appointed jointly by 	<ul style="list-style-type: none"> • Carry over the list from the Litter Act in its entirety (except for ‘Traffic officer’, as this role no longer exists)

chief executive of Tūhoe Te Uru Taumatua and the Director-General of Conservation)	
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Interim Regulatory Impact Statement: Amendment of waste legislation 2025

Decision sought	Release of a public consultation document
Agency responsible	Ministry for the Environment
Proposing Ministers	Minister for the Environment
Date finalised	27 March 2025

Briefly describe the Minister's regulatory proposal

The overall proposal is to amend existing legislation (Waste Minimisation Act 2008 and Litter Act 1979) (the Acts) and merge into a single, modernised, and fit-for-purpose Act that addresses known issues and limitations and enables tools that can address present and future waste-related challenges.

Summary: Problem definition and options

What is the policy problem or opportunity?

There are several components to the policy problem. In part, there are multiple issues stemming from limitations of the existing (and old) legislation (Waste Minimisation Act 2008 (WMA) and Litter Act 1979), which has restrictions to effectively address environmental harm from waste and litter. This issue is coupled with an issue of market failure whereby voluntary and market-led mechanisms are not effective in supporting widespread waste minimisation outcomes (and broader waste-related outcomes) on their own.

A change is required to modernise and improve existing legislation, make it fit-for-purpose and equip users of legislative provisions with effective tools to respond to current and future waste-related challenges. Use of both Acts over many years has revealed their shortcomings across a range of areas, as experienced by a range of parties (local and central government, regulated parties, and others in the waste sector). For example, the ability to ensure compliance with legislative provisions (including secondary legislation) and applying commensurate penalties/offences, effectively manage litter and dumping, ensure waste-related activities can be funded without having significant costs fall on local communities, and the ability to implement regulations in a timely manner (such as product stewardship schemes). There is an opportunity to improve waste disposal and resource recovery outcomes with a revised legislative framework that overcomes these shortcomings within existing legislation.

Based on previous engagement, regulated parties and the wider waste sector are generally supportive of efforts to improve outcomes for the sector through regulatory mechanisms.

This support reflects the need to ensure the system is fair and transparent as well as ensuring there is public buy-in and confidence in the waste system, which relies on action at a localised level. Regulatory mechanisms can include: setting a level playing field (such as for operators and facilities); providing clarity on roles and responsibilities; ensuring that operators/parties engaging in misconduct face appropriate consequences; requiring data and reporting that can be aggregated and shared publicly and used to assess the effectiveness of the legislation.

The opportunity is to ensure fit-for-purpose legislation with effective tools for managing waste and broader environmental risks.

What is the policy objective?

The broad intended objective is to establish modern and fit-for-purpose legislation, which will provide the legislative framework for improved waste-related outcomes. Revised legislation is intended to address known issues and limitations and enable tools that can address present and future waste-related challenges.

Fit-for-purpose legislation is one of the key enablers for achieving the outcomes of the (revised) waste strategy.¹ The intended outcomes of the strategy are to: reduce per capita waste disposal; increase reuse and recycling of materials and products so that we retain valuable resources in the economy; minimise emissions and environmental harm from waste and litter; ensure resource recovery and disposal facilities are managed to minimise their environmental impacts; and limit the environmental harm caused by contaminated sites including legacy sites.

Success of this regulatory proposal will be measured through stakeholder support of the legislative reform (from consultation phase to legislative implementation), improved waste-related outcomes (particularly where legislation has a direct impact on those outcomes such as improved compliance activities and reduced instances of littering and mismanaged waste), effective use of legislative provisions (for example, in relation to levy spend parameters, product stewardship schemes), and – over the long term – the longevity of the legislative reform implemented.

What policy options have been considered, including any alternatives to regulation?

Policy options considered include a range of legislative approaches from light-touch to more directive approaches (noting this depends on the type of provision or tool being considered). These are detailed further in the subsequent sections that outline options considered for each topic (ie, proposal), which includes consideration of options against the status quo.

Topics in this RIS are as follows:

- allowing TAs to use levy funds to support a wider range of outcomes
- establishing a graduated compliance model to support compliance monitoring and enforcement activities
- creating an expanded range of tools for addressing littering and dumping.

The status quo (or ‘do nothing’ scenario) essentially involves working within the existing legislative provisions. Key elements of this scenario include, but are not limited to:

¹ The waste strategy states “fit-for-purpose legislation that supports: an efficient market for waste management and recycling; optimal investment decisions; appropriate responsibilities across the supply chain” as part of the means for achieving improved waste outcomes.

- levy funds continue to be allocated based on current methodology to both central and local government, with levy spend parameters being broad for the central government portion and narrow for the local government portion
- levy allocation settings result in significant funding disparities between larger and smaller TAs
- a small number of regulations have been established under the WMA in relation to data and reporting; setting levy rates for waste disposal facilities; restrictions on the sale of certain types of plastic items (plastic bags, microbeads, some single-use plastic items)
- there continue to be limited mechanisms for addressing non-compliant behaviour
- costs associated with clean-up of littering and dumping fall on local communities
- continued development of regulated product stewardship schemes for the six declared priority products (with various challenges and inefficiencies for industry and government as detailed further below).

What consultation has been undertaken previously?

Public consultation took place in late 2021 to seek feedback and ideas on content for the (then) new waste strategy and legislative reform. This was designed to get general feedback to assist the development of proposals for the strategy and the legislation. While the strategy was the focus, the consultation included some high-level proposals for legislative reform. This consultation produced nearly 2,500 submissions from individuals, the waste sector, businesses, and local government. There was a high level of support for transforming the way we manage waste and the moving towards a ‘circular economy’ approach (ie, designing out waste, keeping valuable resources in use for longer), which was a core theme of the waste strategy at the time. A greater focus on mechanisms to reduce waste generation was broadly supported. Most submitters wanted to see more regulatory tools and decisions being made that would deliver outcomes embedded in the upper part of the waste hierarchy. Whilst aspects of this proposal differ from those consulted on in 2021, this previous consultation provides a useful sounding board on stakeholder’s perspectives in waste legislation.

For the proposals currently being considered, the Ministry has engaged in targeted engagement with three key stakeholder groups in December 2024 (Waste Advisory Board, representatives from WasteMINZ’s territorial authorities officers forum, representatives from the Waste and Recycling Industry Forum). This entailed separate meetings to present the proposals and seek written feedback. The majority of the feedback received supported the proposals on waste legislation reform and also encouraged careful consideration of how the proposals would be implemented.

Public consultation on the full suite of legislative proposals is expected to be undertaken commencing April 2025, subject to Cabinet decisions.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Within the suite of proposals, the preferred option in the Cabinet paper is the same as the preferred option in this interim RIS, which entails:

- allowing TAs to use levy funds to support wider range of activities
- establishing a graduated compliance model
- creating an expanded range of tools for addressing littering and dumping.

Summary: Minister's preferred options in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

An increase in compliance tools will likely result in more compliance activity to ensure a level playing field and non-compliant activities (such as dumping of waste materials or levy avoidance activities) are managed appropriately. Based on current settings (not proposed to change), these activities are funded through the waste levy and undertaken by the Ministry for the Environment. Regulated parties that are non-compliant would be expected to experience an increase in enforcement activities in response to non-compliant actions (with the adoption of a graduated compliance model this could range from directive notices to requiring costs for clean-ups, with actual costs subject to further decisions).

Broader use of levy funds for TAs, may result in a net reduction in waste minimisation activities that have been historically funded at the local level. However, given the increase in levy rates and projected increase in levy revenue over the next 4-5 years, actual waste minimisation expenditure is likely to be variable across different TAs.

Costs associated with secondary legislation (regulations established through enabling provisions) are not included as these can vary in scope significantly and will be assessed at the time of any of these enabling provisions being used.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Changes to the use of levy funds will likely create some distributional impacts as levy funds allocated to TAs will be used to support a broader range of environmental outcomes, not exclusively waste minimisation outcomes as per the status quo. Benefits will accrue to those groups/organisations that are directly impacted (ie, funded entities) as well as to local communities that may be indirectly impacted.²

Regulated parties that are compliant with existing requirements will see enhanced mechanisms to ensure there is a fair and level 'playing field' for the market. This should improve competition as improved compliance tools will help ensure that non-compliant operators are not able to 'undercut' competitors through improper behaviour. Also, there will be a reduced risk of levy avoidance, which will ultimately impact the amount of levy funding allocated to a broad range of environmental outcomes.

² For example, this could be proximity to contaminated sites that are remediated, or in relation to improved waste clean-up activities (such as following an emergency event or dumping of waste materials).

Local communities will experience a reduction in littering and dumping in their communities as a result of improved powers to tackle mismanaged waste. There will also be appropriate penalties for those responsible for littering and mismanaging waste, which will help support confidence in the wider waste management system.

Benefits associated with secondary legislation (regulations established through enabling provisions) are not included as these can vary in scope significantly and will be assessed at the time of any of these enabling provisions being used.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

Based on available information, the benefits of the Minister's preferred options are likely to outweigh the costs.

Implementation

Not applicable for this interim RIS as per advice from the Ministry for Regulation.

Limitations and Constraints on Analysis

This is an interim RIS to support the release of a consultation document and will be updated as appropriate to support Cabinet's consideration of policy proposals to support the legislation drafting process.

As policy development has occurred over an extended period, proposals that have been included in an earlier RIS (March 2023) and are consistent with current proposals included in the consultation document are not included in this interim RIS. Those proposals covered a range of topic areas and culminated in Cabinet decisions on those policy proposals³, but did not proceed to drafting due to a change of government.

Following briefings and discussions with the Minister during policy development, some of the earlier proposals will not be retained and are not included in consultation document (for example, proposals that could impose a significant regulatory burden on affected parties). Further details of these earlier proposals are outlined in the appendix. Minor changes and technical refinements to existing legislative provisions are not included in the consultation document or in this impact analysis.

This interim RIS comprises proposals that are additional to (or replace) earlier decisions, which includes:

- use of levy funds by territorial authorities
- tools for compliance monitoring and enforcement
- tools for addressing littering and dumping.

The consultation document is framed as seeking feedback on a suite of specific proposals (rather than presenting a range of possible options). The analysis in this and previous RIS documents, and subsequent ministerial decisions, have refined the scope. The suite of proposals in the consultation document covers aspects that would be specified within the new primary legislation and aspects that create enabling powers with further detail to come

³ CAB-23-MIN-0002, CAB-23-MIN-0004, CAB-23-MIN-0005, CAB-23-MIN-0006.

if, and when, they are adopted (this would be undertaken in detail at the time of developing regulations and are subject to multiple variables that cannot be analysed in this impact analysis). Therefore, the analysis reflects this mix.

The analysis assumes the WMA and the Litter Act will be consolidated rather than continue as two separate legislative instruments.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

**Signed by the responsible
Manager(s)**



Date:

27 March 2025

Quality Assurance Statement

Reviewing Agency: Ministry for the Environment

QA rating: Partially meets

Panel Comment:

Given this is an interim RIS to assist with seeking approval to consult, and the government priorities are constraining the scope/options, the panel is comfortable with a partial meetings ranking.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem?

1. New Zealand's current waste-producing, linear, 'take-make-dispose' system approach relies heavily on extracting virgin materials/resources and enables continuous consumption and replacement over the efficient use of resources, the reduction of the use of harmful substances and keeping products and materials in use for as long as possible. Our current waste management system causes environmental harm, greenhouse gas emissions, and economic losses. It is not sustainable over the long term without continued harm to the environment.
2. New Zealand generates significant volumes of waste, most of which is disposed of in landfills. We dispose of more municipal waste per capita than Australia and many other Organisation for Economic Co-operation and Development (OECD) countries and recover and recycle less. For comparison, we disposed of around 706 kilograms of waste in municipal landfills per capita (FY2022/23). South Australia in 2016 sent around 360 kilograms of waste to landfill per capita and achieved over 80 per cent diversion from waste disposal.
3. This poses both economic and environmental challenges and is a matter of substantial public concern. Environmental challenges include inappropriate use and management of plastics; greenhouse gas emissions; impacts of inappropriate disposal including litter; and harm caused by legacy sites.

Legislative context

4. The core regulatory framework for waste and litter comprises the Waste Minimisation Act 2008 (WMA) and Litter Act 1979 (Litter Act), with additional regulations that have been established under the WMA.⁴
5. The broad functions of the Litter Act include: defining who can appoint or, by virtue of their office, be a Litter Control Officer (LCO) and Litter Warden, where they can act and what powers they have on public and private land; establishing a statutory provision for promotion of litter control to a named entity (currently Keep New Zealand Beautiful); clarifying powers and duties of public authorities and others; assigning penalties to littering offences ranging from infringements through to prosecutions.
6. The WMA sets waste-related responsibilities for central and local government, contains enabling provisions for several waste minimisation tools (such as product restrictions and establishing regulated product stewardship schemes), and establishes the framework for the waste disposal levy (the levy). The levy is an economic tool to disincentivise waste being disposed of to landfill and to encourage alternative approaches to producing, using and managing products and materials at their end of life. Provisions in the WMA establish core levy settings (eg, purpose of the levy, distribution of levy revenue, use of levy funds) with further details specified in secondary legislation (eg, regulations to set differential levy rates applied to different classes of landfills).

⁴ Including: Waste Minimisation (Information Requirements) Regs 2023; Waste Minimisation (Tyres) Regs 2023; Waste Minimisation (Plastic Shopping Bags) Regs 2018; Waste Minimisation (Microbeads) Regs 2017; Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regs 2009.

7. While the WMA does include a range of enabling powers to support waste minimisation policies and activities, these have had limited use over the past 17 years.⁵ To date, their use has been limited to:
 - establishing regulations for product stewardship schemes for priority products
 - phasing out the distribution of some single-use plastic products (ie, products containing microbeads, plastic bags, single-use produce bags, straws and other plastic utensils)
 - creating record keeping and reporting requirements
 - setting levy rates to be applied at different classes of disposal facilities.
8. Other legislation forms part of the wider regulatory framework. For example, landfills and waste disposal are also subject to regulation as part of the Emissions Trading Scheme in relation to greenhouse gases generated through the anaerobic breakdown of organic materials in landfills. Additionally, the Resource Management Act 1991 which covers a range of landfill operational matters such as requirements for managing discharges to land, air, and water.

How is the status quo expected to develop?

9. Experience from working within the existing legislative provisions has revealed many limitations in terms of scope of provisions, restrictions with enabling powers, ability to affect desired change in a timely manner, and mechanisms for addressing non-compliance. Based on current legislative parameters, the status quo is expected to develop as set out below:
 - levy funds continue to be allocated based on current methodology to both central and local government (50:50 split), with levy distributed to individual TAs resulting in significant funding disparities between larger and smaller TAs (the latter often have difficulty funding waste minimisation activities, particularly those with seasonal population spikes)
 - levy spend parameters are broad for central govt portion (following amendments in 2024) and narrow for the local government portion (the latter restricted to waste minimisation activities)
 - continuation of a small number of regulations established under the WMA (listed above)
 - there continues to be limited mechanisms for addressing non-compliant behaviour
 - costs associated with clean-up of littering and dumping fall on local communities
 - continued development of regulated product stewardship schemes for the six declared priority products (with various challenges and inefficiencies for industry and government as detailed further below)
 - continuation of existing processes, such as: TAs engaging with local communities to develop waste management and minimisation plans (WMMPs); Minister for the Environment setting central govt waste investment priorities via Gazette; the Waste Advisory Board providing advice to the Minister upon request
 - likely overall marginal improvements to volumes of waste disposal, but this is largely dependent on response to incentives and disincentives in the system.

⁵ This is reflective of practical limitations of enabling provisions (eg, development of regulated product stewardship schemes) and also indicative of a limited appetite by successive governments to use these powers (eg, levy rates remained at \$10 per tonne for over 10 years, creating little disincentive to disposal; regulations on waste data reporting have only been recently implemented).

Previous government decisions, legislation and impact analysis relevant to this problem

10. The previous government had commenced reform of the WMA and Litter Act, which progressed to confirmed Cabinet policy decisions⁶ to inform drafting of a Bill for introduction to the House of Representatives. However, given the change of government in late 2023 this was not able to progress further.
11. In May 2024, amendments to the WMA (Waste Minimisation (Waste Disposal Levy) Amendment Act 2024) were passed under urgency as part of Budget night legislation, which enabled the central government portion of the levy to be spent on a wider range of environmental activities and, in doing so, enabled savings to the Crown through broader use of levy funds.⁷ Additionally, the amendment included incremental increases to levy rates (scheduled for 2025 to 2027), which will increase levy revenue and create a greater disincentive to waste disposal.
12. Following the WMA amendments, the government also commissioned independent reviews into the performance of government spending/investment funded by the levy (undertaken by Sapere) and the investment decision-making process and back-office functions in the Ministry for the Environment relating to the levy, with a focus on value for money (undertaken by KPMG). The purpose of these reviews was to ensure that levy investment and administrative activities were (and continue to be) managed effectively and efficiently and deliver value for money. The independent analyses by KPMG and Sapere indicated that the levy is administered and invested efficiently and effectively by the Ministry and is delivering net positive outcomes. The Sapere report concluded that levy investment delivers a net positive outcome to society (cost-benefit analysis of 1.37) and did not find any evidence that ‘crowding out’ of private investment has occurred as a result of investment of the levy.
13. Cabinet has recently published a revised waste strategy,⁸ which replaces the strategy the previous government published in 2023. The revised strategy sets out the following outcomes to be achieved:
 - a reduction of waste disposal per person
 - increasing reuse and recycling of materials and products so that we retain valuable resources in the economy
 - minimising emissions and environmental harm from waste and litter
 - ensuring resource recovery and disposal facilities are managed to minimise their environmental impacts
 - limiting the environmental harm caused by contaminated sites including legacy sites.
14. These outcomes are intended to be achieved through:
 - fit-for-purpose legislation that supports: an efficient market for waste management and recycling; optimal investment decisions; appropriate responsibilities across the supply chain

⁶ Suite of Cabinet papers, minutes and RIS available [here](https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/cabinet-papers-seeking-policy-decisions-on-the-content-of-new-waste-legislation/): <https://environment.govt.nz/what-government-is-doing/cabinet-papers-and-regulatory-impact-statements/cabinet-papers-seeking-policy-decisions-on-the-content-of-new-waste-legislation/>

⁷ The central government portion of levy funds can be used for: activities that reduce environmental harm or increase environmental benefits; some local authority emergency event waste-related costs; the costs related to the Ministry’s waste and hazardous substances functions; and duties and projects that provide for the remediation of contaminated sites.

⁸ New Zealand waste and resource efficiency strategy (2025) [Waste and resource efficiency strategy | Ministry for the Environment](#)

- cost-effective, outcomes-focused investment of the waste disposal levy in infrastructure, innovation and local projects
 - working with the sector, business, local government and communities to develop and implement practical cost-effective solutions
 - where necessary, targeted policy/regulatory measures
 - using the waste hierarchy to guide decision-making, enabling resources to be retained in the economy at their highest value where possible.
15. In November 2024, Cabinet approved⁹ the government's waste and resource efficiency work programme (also referred to the waste and resource efficiency action plan), which includes:
- ensuring fit-for-purpose waste legislation (modernising the WMA and Litter Act)
 - investment of the waste disposal levy
 - reducing waste emissions (implementation of actions from ERP 1 and 2)
 - continued development of regulated product stewardship schemes.
16. Collectively, the government's waste strategy, waste and resource efficiency work programme, and earlier legislative amendments help set the direction and overall objectives for the waste portfolio (including the proposals in scope for this current legislative reform).
17. Previous impact analysis documents that relate to the current proposals include:
- Regulatory Impact Statement: Proposals to support a transformation in waste management in New Zealand (finalised in March 2023).
 - Extended Producer Responsibility, stage 1 cost recovery impact statement (finalised in 2023)
 - Supplementary Analysis Report for Waste Minimisation (Waste Disposal Levy) Amendment Bill 2024 (finalised in May 2024).¹⁰

What is the policy problem or opportunity?

18. There are several components to the policy problem. In part, there is an issue of regulatory failure due to limitations of the existing legislation (Waste Minimisation Act 2008 (WMA) and Litter Act 1979), which has restrictions to effectively address environmental harm from waste and litter. This issue is coupled with market failure whereby voluntary and market-led mechanisms are not effective in supporting widespread waste minimisation outcomes (and broader waste-related outcomes) on their own.
19. Use of the WMA and Litter Act over many years has revealed their shortcomings across a range of areas, particularly in relation to ensuring compliance with legislative provisions (including secondary legislation) through applying commensurate penalties and offences, managing litter and waste dumping in a range of scenarios, and ensuring levy funding settings are fit for purpose. There is an opportunity to improve waste disposal and resource recovery outcomes with a revised legislative framework that overcomes these and other shortcomings.
20. Poor waste management contributes to climate change and pollution, harm to human health and directly affects many ecosystems and species. Landfills containing organic matter, (disposal considered the last resort in the waste hierarchy), release methane, a very

⁹ These decisions also involved rescinding previous Cabinet decisions to implement kerbside recycling services and the planned phase-outs of hard-to-recycle and single-use plastics.

¹⁰ Supplementary Analysis Report for 2024 WMA amendment [here](https://environment.govt.nz/assets/publications/Supplementary-Analysis-Report-Waste-Minimisation-Waste-Disposal-Levy-Amendment-Bill-2024.pdf)
<https://environment.govt.nz/assets/publications/Supplementary-Analysis-Report-Waste-Minimisation-Waste-Disposal-Levy-Amendment-Bill-2024.pdf>

powerful greenhouse gas linked to climate change. Waste is not only a problem for the environment, but it also represents lost economic opportunities. Waste is a by-product of production and consumption and once produced, costs are incurred to manage it. An alternative, where practical, is for the waste from one process to provide resources as inputs to other processes through recycling.

21. New Zealand has growing levels of litter.² There are several environmental and human health harms associated with litter and waste dumping. For example, plastic can break down into microplastics over time which can contaminate the environment and enter the food chain. Even biodegradable organic waste such as garden waste has the potential to spread invasive plant species and other pest organisms. Some litter and dumped waste can also be hazardous, such as demolition waste containing asbestos. 'Mismanaged waste' is a term to describe the waste that does not enter the formal waste management system – such as litter, dumped waste and escaped waste (blown by the wind or carried by water). Mismanaged waste in the environment is a sign that the formal waste management system is not working as intended.
22. The existing legislative framework for compliance monitoring and enforcement is very limited and does not equip users with the appropriate tools to address non-compliant behaviour across a range of scenarios. The costs of cleaning up litter and waste dumping fall on councils, public and private landowners, communities, and volunteers. Although the exact figure is unknown, the national annual cost likely amounts to millions of dollars. Auckland Council reportedly cleans up an average of 136 tonnes of illegally dumped waste every month, costing around \$2.6 million per year.¹¹
23. In recognition of these and other waste-related costs (such as remediation of contaminated sites and emergency waste clean-ups), and the challenging financial context facing TAs, there is opportunity to expand the use of levy funds to support a broader range of TAs' activities. This would build upon changes already made to the central government portion of levy funds.
24. Current Acts (WMA and the Litter Act) have limited tools to effectively address these environmental issues. Consequently, they need modernising to ensure they have tools to address waste-related challenges, provide clarity on roles and responsibilities (particularly for central and local government), amend levy-related settings to enable TAs to undertake their legislated responsibilities, and to equip users with appropriate powers to support effective regulatory compliance monitoring and enforcement.
25. Sector stakeholders have frequently advocated for more effective use of regulatory provisions across a range of areas (eg, in relation to extended producer responsibility schemes, ensuring an even playing field for waste operators, and compliance tools to address littering and dumping).
26. Similarly, from an agency point of view, experience in working with the Acts over several years has highlighted how provisions – those in primary legislation and also enabling provisions to establish regulations – are not appropriate for current challenges and have limitations to effective use.¹²
27. Revised legislation does not preclude complementary non-regulatory tools and voluntary measures also being applied where relevant. Non-regulatory tools and voluntary measures can be an effective accompaniment to a clear regulatory framework. This includes investment to support recycling and reuse initiatives (eg, Waste Minimisation Fund), data

¹¹ Auckland Council waste assessment (2023) [Waste Assessment 2023](#)

¹² For example, this includes a more effective legislative framework for industry-led extended producer responsibility schemes (compared to the current framework for product stewardship that both industry and government have found problematic).

provision to support markets, mechanisms to ensure a level playing field, and industry-led initiatives to promote positive waste-related credentials.

What objectives are sought in relation to the policy problem?

28. The overall objectives sought in relation to the policy problem are as follows:
- minimise and manage waste, through appropriate mechanisms
 - minimise greenhouse gas emissions and other environmental harm from waste-related activities
 - ensure clear roles and responsibilities are set for obligated parties
 - enable effective tools and powers to address present and future waste-related issues.
29. The objectives for legislative amendments are to create modernised, fit-for-purpose legislation that addresses known issues and limitations and enables tools that can address present and future waste-related challenges.
30. These objectives are aligned with the Government's priorities and intentions for waste, as outlined in the waste strategy and stated in other related documents.

What consultation has been undertaken?

31. Public consultation on a previous proposal took place in late 2021 to seek feedback to assist the development of proposals for the waste strategy and to guide legislative reform. This consultation produced nearly 2,500 submissions from individuals, the waste sector, businesses, and local government. There was a high level of support for transforming the way we manage waste and the moving towards a 'circular economy' approach (ie, designing-out waste, keeping valuable resources in use for longer), which was a core theme of the waste strategy at the time.
32. The consultation covered a mix of high-level proposals for legislative reform and some specific, detailed proposals. Submitters wanted to see more regulatory tools and decisions being made that would deliver outcomes embedded in the upper part of the waste hierarchy (ie, a greater focus on reducing waste generation and for waste to be 'designed out' of the system where possible). Note that the package consulted on in 2021 had some similar, but some differing, components to the current proposals.
33. Following public consultation and subsequent advice, Cabinet made policy decisions to guide drafting of the Bill. However, this was not able to progress to further due a change of government.
34. The current suite of proposals for legislative reform have been subject to further briefings to the Minister for the Environment seeking approval to progress policy development on particular components for reform – these represent a mix of proposals consistent with earlier ones and some new proposals.
35. For the proposals currently being considered, the Ministry engaged in targeted engagement with three key stakeholder groups in December 2024 (Waste Advisory Board, representatives from WasteMINZ's territorial authorities officers forum, representatives from the Waste and Recycling Industry Forum). The purpose was to test proposals, seek written feedback and share the revised waste strategy (there had been no public consultation on the revised waste strategy).
36. Proposals that received broad support during this engagement included:
- establishing a modern and more effective compliance regime: all stakeholder groups consider compliance powers within the Litter Act and WMA are not fit for purpose, and

therefore support a graduated range of compliance monitoring and enforcement (CME) tools

- improved control and enforcement of littering and other types of mismanaged waste: stakeholders groups (in particular, representatives from TAs that most likely to deal with littering/dumping in their communities) supported a reform of the Litter Act, acknowledging that current powers to act are outdated and weak.

37. There was also broad support for earlier proposals (ie, those covered in the previous RIS) including: 9(2)(ba)(i)

and improved enabling tools for addressing harmful products and materials, including through establishing extended producer responsibility schemes.

38. Proposals that attracted more divergent views included:

- widening the use of levy funds for TAs – some stakeholder groups noted the risk that levy funds could be readily consumed by other activities (whether environment-related or broader), while others supported it
- responsibilities of TAs, such as where they may act as market participant while also setting ‘rules’ via bylaws and/or collecting data from other market participants.

39. Public consultation on the full suite of legislative proposals is expected to commence in April 2025, pending Cabinet decisions.

40. Additionally, public consultation in recent years on other related topics (for example, emissions reduction plan, phase-out of problematic plastics, regulated product stewardship schemes) has also informed the current legislative proposals.¹³

41. Informal consultation has occurred with public authorities who appoint Litter Control Officers and use provisions in the Litter Act (eg, territorial authorities and the Department of Conservation). Informal consultation on the bylaw provisions of the WMA has only occurred with two technical specialist groups: the Taituarā Regulatory Bylaw Reference Group and the Bylaw Special Interest Group.

42. Informal feedback on the use of the current WMA provisions has also been received through development of regulatory product stewardship schemes, implementation of other regulations under the WMA and compliance monitoring and auditing of levy payments by registered Disposal Facility Operators.

Section 2: Assessing options to address the policy problem(s)

What criteria will be used to compare options to the status quo?

43. Criteria are linked to overall objectives and are as follows:

- Effectiveness in supporting positive environmental outcomes – assessed in terms of supporting improved waste minimisation and related environmental outcomes (such as greenhouse gas emissions reduction); whether the option makes measurable improvements to current situation
- Efficiency in system implementation and operations – assessed in terms of level of complexity, time and costs to implement and/or operate; administrative burden on regulators and/or regulated parties

¹³ For example, the practicality of some enabling provisions that establish regulations (eg, to place restrictions/bans on products; to establish regulated product schemes, which requires multiple consultation steps).

- Flexibility and adaptability to present and future needs – assessed in terms of likelihood of being able to provide effective tools and powers to address present and future waste-related issues (insofar as these can be anticipated).
44. These criteria are broadly consistent with the approach in the previous RIS, while also aligned to the direction and priorities of the Government.

What scope will options be considered within?

45. Policy development has occurred over an extended timeframe (spanning two governments) with many of the current proposals being consistent with the earlier decisions. Therefore, the overall scope has been shaped to some extent by earlier policy development. Following briefings and discussions with the Minister, some earlier proposals are not being progressed (for examples, proposals that would likely impose a significant regulatory burden on affected parties).
46. Stakeholder engagement (as discussed above) has also informed policy development and individual proposals included in the consultation document.
47. In terms of government decisions, the starting point for the present analysis is Cabinet’s decision to reform waste and litter legislation, which is included as a key component of the Government’s waste and resource efficiency work programme. Additionally, the revised waste strategy lists ‘fit for purpose revised waste legislation’ as one of the key enablers for achieving the desired outcomes of the strategy (discussed further in previous sections).
48. Amendments to the WMA in 2024 (progressed under urgency and without public consultation) have also shaped the scope of options being considered. This relates to type of policy proposals (such as opportunities for expanding use of levy funds) as well as the process followed (that is, many sector stakeholders have requested that any further legislative change allows for public consultation). These aspects also need to be balanced against the need for the planned Bill to progress in a timely manner through all stages.
49. More generally, relevant experience from other countries and jurisdictions provides a useful comparison or benchmark for options identification as there are common approaches to enabling waste minimisation outcomes using a mix of regulatory and market mechanisms. Therefore, non-regulatory options are discussed where relevant for each proposal (eg, educational tools, investment).
50. Additionally, given the nature of the problem, the analysis involves assessment against retaining the status quo, which has proven to be largely ineffective and problematic across a range of issues.

Previous regulatory impact analysis

51. Most of the proposals presented in the consultation document have been subject to consideration via an earlier RIS. Therefore, they are not duplicated here. The full suite of proposals is listed in the appendix.

Topic 1: Use of levy funds by territorial authorities

52. The levy is a hypothecated (ring-fenced) instrument that collects a differential fee on waste disposed of at registered disposal facilities. Currently, the WMA requires that 50 per cent of the levy is allocated to the central government, while 50 per cent of the levy is allocated to territorial authorities (TAs) to spend on waste minimisation activities.
53. In 2024, targeted amendments were made under urgency to the WMA to enable the central government portion of the levy to be spent on a wider range of environmental activities. The

levy rates were also increased incrementally from July 2024 to July 2027, which will generate more levy revenue. The 2024 amendments did not affect legislated levy provisions for the TA portion of the levy.

54. The range of options explored consider several factors: increase in levy revenue forecast for the next few years; a broad range of environmental challenges that TAs are increasingly having to deal with (many of which are exacerbated by the effects of climate change, aging infrastructure and a lack of investment in infrastructure over many decades); and the broader financial context facing TAs and their local communities (increasing debt, rates increases).
55. On the latter point, work is underway, led by the Department of Internal Affairs, to reset the core obligations of councils (as set out in the Local Government Act 2002) and how these are funded. Any resulting changes, likely over the medium- to long-term, may have a consequential impact on waste management and minimisation responsibilities undertaken by TAs and the use of levy funds that currently support some of these activities.
56. These options are also linked to legislated roles and responsibilities, reporting and accountability requirements, and bylaw-making provisions. As such, it will be necessary to consider the preferred option in conjunction with these other proposals for overall coherence. We expect that these proposals as presented in the consultation document will generate some useful feedback during public consultation. The options considered (as outlined below) are based on expanding status quo settings in recognition of the above points.¹⁴

What options are being considered

Option One – Use of levy funds is limited to waste minimisation activities in accordance with each TA’s waste management and minimisation plan [Status Quo]

57. Currently, the WMA requires that each TA may only spend levy funds on matters to promote or achieve waste minimisation and are in accordance with its waste management and minimisation plan (WMMP) (section 32). Additionally, when considering funding decisions, TAs must consider the effects that the decision may have on any existing waste minimisation services, facilities, and activities (section 32 (2)).
58. The WMMP is intended to be the guiding document for councils to promote and achieve effective and efficient waste management and minimisation within their districts. The WMA also sets out requirements for what the WMMP should contain as well as the process for developing, reviewing and adopting it. TAs’ levy spend is also reported to the Ministry and subject to audits.
59. As increases to levy rates are implemented (scheduled increases will continue to 2027), the increased levy revenue will result in significantly more funds available to TAs for waste minimisation purposes.

Option Two – Allow use of levy funds to include wider waste-related activities

60. This option would expand upon Option One to include spending levy funds on:
 - costs associated with the management of emergency waste and to repair or replace waste management and minimisation infrastructure damaged by an emergency
 - remediation of contaminated sites, including vulnerable landfills
 - waste-related compliance monitoring and enforcement activities.
61. This scope reflects some of the expanded scope for the central government portion of the levy, noting that those amendments ultimately benefit local government. The Contaminated

¹⁴ As at time of drafting this RIS, further legal advice on expansion of levy funds was pending.

Sites and Vulnerable Landfills fund is available for territorial and regional councils to apply to and the funding for emergency waste is intended to support local authorities with the costs associated with managing waste following a declared emergency event. It is assumed that this option may trigger revisiting the criteria for those centrally managed funds.

62. This option would afford TAs the expanded scope and autonomy to allocated funds to the broader range of waste-related activities. It would also provide TAs with a specific funding source for their current compliance monitoring and enforcement activities for mismanaged waste. The Litter Act does not provide for a funding mechanism for this local government mandate; therefore, TAs use general rates.
63. Option Two would have implications for existing reporting mechanisms. This option would also ideally entail a clear supporting framework to help prioritise funding decisions (this could be legislated, set by the Minister via Gazette notice, or operational guidance from the Ministry for the Environment).
64. This option introduces the risk of an emergency event or a contaminated site remediation project using all the allocated levy funds for a particular TA for a given year. (Note also that TAs that receive a relatively lower allocation of levy funds may opt to carry over the funding into the next financial year/s until sufficient funding is secured to implement a large project).

Option Three – Allow use of levy funds to include wider waste-related activities and a broad range of environmental activities

65. This option further expands upon Option Two so includes the use of levy funds as described above plus permits levy funds to be used for activities that reduce environmental harm or increase environmental benefits. This replicates an amended provision in the WMA that now allows the Secretary for the Environment to spend the central government portion of the levy on activities that reduce environmental harm or increase environmental benefits (section 30(i)(c)(iv)). The objective of this 2024 amendment was to enable savings to the Crown, as this provision enabled established environmental activities and initiatives that were previously Crown funded to be funded by levy revenue.
66. Option Three would also have implications for existing reporting mechanisms. This option would also ideally entail a clear supporting framework (legislated or otherwise) to help prioritise funding decisions.
67. This option, in addition to the option described for Option Two, also potentially introduces a greater risk of inconsistent application of the broadened scope across 67 individual TAs; it is unclear if waste minimisation activities would continue to be a priority area in this scenario where multiple environmental activities can be supported by levy funds. This could be partially mitigated through use of an appropriate decision-making framework for use of levy funds.

Option Four – Allow use of levy funds to include any activities undertaken by TAs

68. This option would effectively remove restrictions on the use of levy funds and permit TAs to allocate this funding to any service or activity it has responsibility for.
69. This option would have significant implications for legislative design as the levy essentially becomes a general tax and may require changes to related provisions (eg, function and process for WMMPs, responsibilities of TAs, how and where the levy is collected/who pays for it). This in turn, may also risk the achievement of the other purpose of the WMA (to encourage waste minimisation and a decrease in waste disposal in order to protect the environment from harm and provide environmental, social, economic, and cultural benefits), in that the levy on waste is a purely economic incentive to decrease the disposal of waste and increase waste diversion.

How do the options compare to the status quo?

	Option One [<i>Status Quo</i>]	Option Two	Option Three	Option Four
Effective in supporting waste-related environmental outcomes	0	++ Allows for levy to be spent on wider range of waste-related outcomes	+ Likely some diminished focus on waste-related outcomes, given broader scope of levy spend	-- Likely significantly diminished focus on waste-related outcomes, given broader scope of levy spend
Efficiency of implementation and operation	0	- Some levels of additional complexity; assumed to trigger changes to WMMP process and status quo reporting requirements	- Some levels of additional complexity; assumed to trigger changes to WMMP process and status quo reporting requirements	-- Greater levels of additional complexity; assumed to trigger changes to WMMP process and status quo reporting requirements
Flexibility and adaptability	0	++ Funds able to support wider range of waste-related outcomes	++ Funds able to be used for wider range of environmental activities and adaptable to future needs, though may be expense of waste-related outcomes; additional complexity to prioritisation and decision-making processes	+ Funds able to be used for wider range of activities as needed, though likely at expense of waste and wider environmental outcomes; additional complexity to prioritisation and decision-making processes
Overall assessment	0	++	++	--

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

70. From a purely waste minimisation and management perspective, the preferred option is Option Two (allow use of levy funds to include wider waste-related activities) as this strikes the best balance between maintaining support for critical waste-related activities while also expanding this to areas of increasing need (remediation of contaminated sites and vulnerable landfills, costs associated with managing emergency waste, and providing funding for compliance activities to address waste dumping and other mismanaged waste).
71. While Option One does allow all TA levy funds to be allocated towards waste minimisation purposes there are likely to be limits to its effective investment over the long term (note the parallels with investment of the central government portion of levy funds). Additionally, not

allowing TAs to use some funding for the remediation of contaminated sites and emergency waste costs will likely result in the central government portion of levy funds for these purposes being over-subscribed.

72. Option Two also attempts to balance the objectives of ensuring that levy funds are used to support priority waste-related outcomes while also helping to relieve some financial pressure on local government. Note that some emergency waste costs can be covered by insurance and the contribution of costs for contaminate site remediation does not remove any relevant obligations for landowners (such as under the Resource Management Act 1991).
73. The 2021 consultation showed broad support from local government submitters to use levy funds to address concerns over historic or vulnerable landfills and contaminated sites and for the enforcement of litter abatement. However, during consultation on the second Emissions Reduction Plan (in 2024), local government also expressed concerns that amending the levy to include spending on a wider range of (non-waste related) activities could limit the amount of funding available for waste minimisation activities. They highlighted the waste infrastructure deficit in New Zealand (estimated at \$2.1 to \$2.6 billion)¹⁵ that would persist if funding was directed to other priorities and result in continued restrictions to improved waste minimisation outcomes over the longer term.
74. Targeted consultation (with the Waste Advisory Board, representatives from WasteMINZ's territorial authorities officers forum, and representatives from the Waste and Recycling Industry Forum) in December 2024 resulted in most responders supportive of the Option Two approach. While some expressed significant concern that widening the use of levy funds too much (as in Option Three and Four) could result in the funding of a variety of low-value activities at the expense of waste and environmental outcomes, other responders suggested that the suite of waste activities could be broader still, to include complementary infrastructure.
75. Additionally, significant changes to the levy spend parameters and other waste reform proposals may have a consequential effect on the Government's ability to meet the waste-related actions in the Emissions Reduction Plans 1 and 2. For example, a combination of not having mandatory kerbside organic waste collections (as announced in late 2024) together with enabling TAs to spend the levy on other matters at their discretion, may result in some of the TAs with existing kerbside organics collections opting to cease these services and reprioritise their levy spend elsewhere.
76. Option Three also has advantages and offers a greater degree of flexibility by allowing individual TAs to support a wider range of environmental outcomes with levy funds, which has the potential to reduce the rates burden for local communities in some instances.
77. More generally, the extent to which benefits are realised may be variable, given the range of levy funds allocated to TAs and a wider scope for levy spend. However, councils would likely still need to meet broader local expectations to provide waste minimisation services, such as recycling collections (recognising the existence of private collection services that individuals can purchase). The benefits may also be impacted by any changes to legislated responsibilities of local government (as set out in the Local Government Act 2002) and how core and non-core activities can be funded.¹⁶
78. In general, levies should be imposed only if it is appropriate for a certain group to contribute money for a particular purpose (ie, there is a relation between the levy being charged and

¹⁵ Grant Thornton (2020): Report on waste disposal levy investment options [Waste disposal levy investment options | Ministry for the Environment](#)

¹⁶ Minister for Local Government's proposals for reform: [Government getting local government back to basics | Beehive.govt.nz](#).

the particular objective). The amount of the levy imposed on a particular group should be commensurate with the degree of connection between the group and the objective or function concerned.¹⁷

79. Possible detriments of widening the scope of levy spend too far would include:

- challenges with oversight and accountability of levy spend¹⁸
- a decrease in public support for the levy system
- councils needing to manage a broader array of competing funding priorities
- reduced longer term investment in waste minimisation as demand for use of the levy broadens and increases, including increased political influence in what it is spent on
- unclear implications for any existing consultation and reporting requirements (ie, legislated requirements for WMMP development and consultation; levy spend reporting as established through regulations).

80. To help mitigate these risks we propose a supporting process such as decision-making framework to help with prioritising and associated changes in reporting requirements.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

81. For the purposes of the consultation document, the Minister's preferred approach is to propose Option Three. This will be presented to seek feedback on the components of the proposed widened scope (eg, the status quo use of levy funds, allowing use of levy funds for wider waste-related activities, and allowing use of levy funds for a broader range of environmental activities). As discussed above, there are some trade-offs for each option and further feedback from affected parties would assist subsequent advice on this proposal.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups (identify)	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups		n/a	
Regulators		n/a	
Others (eg, wider govt, consumers, etc.)	Possible reduction in waste minimisation activities, in lieu of other activities	Low-medium	Low

¹⁷ Written advice from LDAC (not available as at time of RIS drafting), which has cautioned against scenarios where a 'levy' effectively functions as a tax.

¹⁸ Note that any decision-making that is consistent with the legislation is unlikely to be challenged.

<i>For fiscal costs, both increased costs and loss of revenue could be relevant</i>	(contaminated site remediation; emergency waste costs; other environmental activities)		
Total monetised costs		n/a	
Non-monetised costs		Low-medium	
Additional benefits of the preferred option compared to taking no action			
Regulated groups		n/a	
Regulators	Increase in funding to support TA regulatory functions	Medium	Medium
Others (eg, wider govt, consumers, etc.)	Local Government and local communities – increased ability to support activities that may otherwise be part-funded via rates	Medium	Medium
Total monetised benefits*		n/a	
Non-monetised benefits		Medium	

**Note: levy revenue forecasts can estimate monetised benefits (ie, levy funds allocated to TAs over a given period), however, it is not possible to separate this scenario (where funds can be spent on wider range of activities) from status quo scenario (where these funds can be spent on waste minimisation activities only).*

Topic 2: Tools for compliance monitoring and enforcement (CME)

82. Current mechanisms for compliance within the WMA are very limited, which means it is not possible for the regulator (currently the Ministry for the Environment) to ensure effective monitoring and compliance across a range of activities and operators. The regulator function is varied and involves a cross-section of New Zealand society, including overseeing the actions of landfill operators, manufacturers of specified products, retailers and the public.
83. Offences in the WMA are not well designed, with the prohibited actions not directly related to the harm. The WMA provides for prosecution as the main means of addressing non-compliance, with a \$100,000 maximum fine across all main offences at a central government level (section 65) and a maximum fine of \$20,000 for a breach of bylaws (section 66).
84. Some of the risk areas include levy avoidance behaviour (which can potentially reduce levy revenue intake) and improper disposal of waste materials (which can result in environmental harm and associated clean-up costs).
85. To illustrate, there is currently no legislative ability to compel disposal facilities to pay the levy, except with recovery of debt through court proceedings which is time consuming and costly (section 36). Without stronger CME powers, there is no low-cost method to obtain the levy from disposal facilities.

86. With increasing levy rates and other regulatory costs (such as health and safety, emissions, consents, and monitoring) there is also a risk of improper behaviour (such as through illegitimate disposal of materials) by some operators wanting to be seen as a 'cheaper' service provider, resulting in unfair advantage. Furthermore, waste operators who follow the rules will see illegitimate operators not being penalised for breaching the rules, given the current lack of powers. With an increase in waste levy, legitimate waste operators will expect that illegitimate operators will be compelled to pay their share of the levy.
87. The Litter Act also has CME limitations that impact the ability of Litter Control Officers (LCO) from several public authorities from efficiently and effectively preventing, controlling or deterring littering or dumping of waste (as the detection, infringement and prosecution rates are very low) and from recovering the costs of cleaning up mismanaged waste.
88. This is partly due to the Litter Act being introduced in a time when littering was considered unsightly and unhygienic, rather than pollution that harms wildlife and contaminates soils and waterways. Some of the shortfalls of the Litter Act are listed below:
- the inability for a LCO to enforce littering penalties due to the difficulty in identifying the offender and offending and the high bar for evidence of littering
 - inability to issue infringements to the owner of the vehicle involved in the littering/dumping of waste. Therefore, even if a LCO can identify the vehicle involved, no further action can be taken unless the driver can also be identified and stopped
 - inadequate provisions for preventing and enforcing litter that spills over or is blown over from private land on to public or private land
 - the inability to require a person to clean up the littered/dumped waste from public land (the current requirement is too high a threshold to meet) and set a timeframe within which that must occur
 - insufficient cost recovery provisions for CME and clean-up
 - no ability for seeking compensation if the littering causes environmental harm
 - the need for a suite of tools for CME rather than only prosecution including information sharing among regulators.
89. The WMA CME framework must bridge a range of regulatory tools to be effective in minimising waste and controlling mismanaged waste. Part A of the Government Expectations for Good Regulatory Practice¹⁹ contains expectations for the design of regulatory systems. These expectations specify the need for clarity, flexibility and accessibility including the ability of regulated communities to clearly understand their obligations and what sanctions they may face as a result of any wrongdoing.
90. The current WMA and Litter Act compliance provisions do not meet these expectations. A modernised framework would have greater powers to detect non-compliance, include a mix of criminal and civil approaches, and provide the ability to use appropriate penalties. This would ensure all regulated parties have clear obligations and understand what enforcement action may be taken.
91. Note that while there are two options presented below, in practical terms there may be multiple variations within Options Two that are possible.

What options are being considered

Option One – Retain current legislated compliance framework [Status Quo]

92. As outlined above, existing provisions in the Acts for addressing non-compliance are very limited. Prosecution is the only remedy available, but often prosecution would be a disproportionate response. This means that in cases where non-compliance falls below a

¹⁹ [Good regulatory practice | The Treasury New Zealand](#) page 2, April 2017.

prosecution threshold, there is no consequence. Accordingly, there is little incentive for the waste sector or the public to comply with the WMA and Litter Act.

93. Additionally, the status quo entails a broader framework of processes to help regulated parties understand and comply with their obligations (some or all of these processes could also be used with Option Two). This includes:

- onboarding and education to ensure that the sector understand their legislative obligations as the levy has expanded
- monitoring through audits to confirm compliance of facility operators
- intelligence-lead compliance by monitoring trends and identifying areas where sector engagement and education is required
- alleged breach notification to the Ministry – reporting of non-compliance, and follow up investigations.

94. Balance is required between educational approach and enforcement tools, which is currently limited to prosecution only. Most investigations and compliance do not meet the threshold for making a prosecution and the cost of taking a case to Court is prohibitive for LCOs, particularly with no effective provisions for cost recovery or compensation for environmental damage.

Option Two – Establish a graduated compliance model with greater data sharing and reporting requirements

95. This option entails adding compliance tools that are commonly used in legislation into the WMA. This would include a graduated response model to provide a range of tools and powers to the regulator²⁰ for CME (rather than just prosecution) and enabling greater information sharing provisions between regulators for CME purposes. Additionally, this option would include a requirement for the regulator to annually report on CME performance which would enable the assessment of the effectiveness of the CME tools.

96. The graduated response model would recognise different levels of offending and allow for appropriate means of intervening through use of compliance guidance, risk management tools, warnings and directive notices, punitive sanctions, and remediation requirements.

97. Given the substantial links between the WMA and Litter Act with other environmental legislation (eg, RMA and HSNO Act), there is an opportunity to create information sharing obligations through legislative provisions to help ensure that there are no gaps in addressing non-compliant behaviour across the whole environmental system. For example, this could enable LCOs the ability to seek advice and assistance from the Ministry as central government regulator in certain circumstances, such as for complex mismanaged waste cases, where there is suspected levy avoidance activity, or where mismanaged waste cases span multiple public authority jurisdictions.

98. Non-compliant behaviour in a waste context can often mean also breaching the law in other legislation. For example, a non-compliant landfill may be breaching land use and discharge rules under the Resource Management Act 1991, or an illegal stockpiling operation may also breach resource management and/or workplace safety regulations. Therefore, enabling information-sharing and cooperation between regulators is vital for a coherent regulatory system and appropriate responses to non-compliant behaviour.

99. The purpose of legislated performance reporting is to maintain public confidence in the regulator functions, which are critical to effective deterrence and helping the regulated community and other stakeholders understand how the regime works and what outcomes the processes achieve. Reporting also enables the regulator to assess the effectiveness of

²⁰ Regulator refers to current regulator under the WMA and any public authority warranted Litter Control Officers – currently provided for under the Litter Act.

CME measures and the rate of compliance and non-compliance. Over the long term, the system will need to demonstrate its performance and ensure flows of information and obligations for reporting that are essential to a robust regime.

Option considered and discarded

100. Earlier in the policy development process, officials had also considered the adoption of a ‘duty of care’ model to support improved responsibility and, ultimately, more effective compliance monitoring and enforcement. This approach was outlined in the previous RIS and the framework based on that used in the United Kingdom.
101. While this approach does have some benefits, it also has inherent complexities. To briefly illustrate, the framework would entail several overarching duties (applicable to specific parties) consisting of a:
- general duty to manage and dispose of waste appropriately
 - duty to pass waste to an authorised operator or facility
 - duty to recycle properly.
102. Each of these overarching duties would be supported by specific requirements setting out more detailed obligations with corresponding offences and penalties. The specific requirements would be in primary legislation and regulations would provide additional detail on exemptions, supporting infringement schedules for lower-level offending and when the obligations will come into force. The duty of care system would also rely on other supporting regulations to establish a national licensing scheme and national environmental standards.
103. Based on further consideration of the duties of care model, including discussions with LDAC (this information was not available at the time of the drafting the 2023 RIS), we concluded that there were other more effective approaches to improving compliance mechanisms.

How do the options compare to the status quo?

	Option One [<i>Status Quo</i>]	Option Two
Effective in supporting waste-related environmental outcomes	0	++ Greater ability to detect non-compliance, which will help avoid (or address) environmental harm
Efficiency of implementation and operation	0	+ Has some additional complexity that may take time to bed-in; some education of regulated parties may be required; more efficient system in med- to long-term
Flexibility and adaptability over time	0	++ Permits a tiered graduated response approach; inherently flexible with several tools available to address non-compliance
Overall assessment	0	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

104. Option Two is the preferred approach. A modernised CME framework would provide greater powers to detect non-compliance, encourage fairness and consistency across the sector and wider waste system and enable a proportionate response to non-compliance whilst reducing the risk of levy avoidance behaviour and reduced levy revenue.
105. Option Two would provide a wider range of tools within the WMA, for the detection of non-compliance that is proportionate to the level of offending. The graduated response model would strike the right balance between low level offending (with an educational approach or infringements) to gain compliance, with the highest level of offending continuing to be addressed through prosecution.

Is the Minister's preferred option in the Cabinet paper is the same as the agency's preferred option in the RIS.

106. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups (identify)	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups	Nature of the cost or impact related to non-compliant activity	Low-Medium	Medium
Regulators	Likely increased use of compliance tools; guidance and education of regulated parties may be required	Medium	Medium
Others (eg, wider govt, consumers, etc.) <i>For fiscal costs, both increased costs and loss of revenue could be relevant</i>	Impact related to any non-compliant activity	Low	
Total monetised costs	Unable to quantify costs; note that compliance activities are currently levy funded (no additional costs to tax- or rate-payers for improved compliance activities.	n/a	
Non-monetised costs		Low-Medium	

Additional benefits of the preferred option compared to taking no action			
Regulated groups	Fair playing field for all; assurance that non-compliant parties are penalised appropriately	Medium	
Regulators	Appropriate tools available to address non-compliant actions and behaviour	High	
Others (eg, wider govt, consumers, etc.)	Increased trust and confidence in waste system; Reduced risk of levy avoidance	High	
Total monetised benefits	Levy avoidance behaviour reduced	Unknown	Unable to quantified
Non-monetised benefits		High	

Topic 3: Tools for addressing littering and dumping

107. Littering and dumping of waste can harm the environment and human health and costs the Crown and communities millions of dollars per year to clean up. There are several environmental and human health harms associated with litter and waste dumping. For example, plastic can break down into microplastics over time which can contaminate the environment and enter the food chain. Even biodegradable organic waste such as garden waste has the potential to spread invasive plant species and other pest organisms. Some littered and dumped waste can also be hazardous, such as demolition waste containing asbestos. Based on available data New Zealand has increasing levels of litter.²¹
108. Littering is currently enforced by a range of public authorities who appoint Litter Control Officers (LCOs) (with enforcement powers) or Litter Wardens (with no enforcement powers). In addition, other persons, by virtue of their office, are deemed to have been appointed as LCOs. This includes police constables, warranted Conservation Officers, National Park and Reserves Rangers and Harbourmasters.
109. The costs of cleaning up litter and dumped waste falls on councils, public and private landowners, communities, and volunteers. Although the exact figure is unknown, the national annual cost likely amounts to millions of dollars. Auckland Council reportedly cleans up an average of 136 tonnes of illegally dumped waste every month, costing around \$2.6 million per year.²²
110. Existing provisions in the Litter Act and WMA are ineffective in preventing, controlling or deterring this behaviour. There is a limited range of offences and the threshold for evidence of an offence is very high (as discussed further in this and subsequent sections).
111. This proposal for littering and dumping considers approaches to address known issues with existing legislative provisions.
112. Legislative provisions that enable a range of offences to be enforced (from small-scale littering to large-scale dumping, which can also be considered levy avoidance behaviour) would assist in addressing several known issues with current provisions:

²¹ The total number of individual items, the weight and estimated volume of litter nationally all increased per 1000 m², since 2019: [Keep New Zealand Beautiful National Litter Audit | Ministry for the Environment](#)

²² [Waste Assessment 2023 \(aucklandcouncil.govt.nz\)](#)

- preventing and enforcing litter that spills over or is blown over from private land on to public or private land (without the owner's permission)
 - the inability to require a person to clean up the littered/dumped waste from public land and set a timeframe within which that must occur and seek compensation from
 - insufficient cost recovery provisions for CME and clean-up
 - the inability for a LCO to enforce littering penalties due to the difficulty in identifying the offender and offending (the current requirement in section 14 of the Litter Act is for the LCO to observe a person committing an infringement offence or have reasonable cause to believe such an offence is being or has just been committed by that person)
 - potential for compensation if the littering and dumping causes environmental harm
 - limited information sharing among regulators.
113. This topic is closely linked to the compliance monitoring and enforcement (CME) topic as most of the litter control and management provisions are CME tools. Note that while there are two options presented below, in practical terms there are multiple variations within Options Two that are possible.

What options are being considered

Option One – Current legislative settings [Status Quo]

114. The Ministry for the Environment has administered the Litter Act 1979 since 2014 when the legislation was transferred from the Department of Internal Affairs. In the 1970s, litter tended to be framed as unsightly and unhygienic, rather than pollution that harms wildlife and contaminates soils and waterways. This framing of litter is reflected in the design of the Litter Act and the limited tools it provides.
115. The Litter Act was established to make better provision for the abatement and control of litter. It bans littering and dumping in public places and on private land without the owner's consent. The Act enables public authorities the power to appoint LCOs or Litter Wardens and a range of people are deemed to be LCOs by virtue of their office.
116. Some of the key features of the Litter Act include:
- public authorities must provide, maintain and empty suitable litter receptacles at every public place where littering is likely to occur
 - where it can be shown that excessive litter is coming from any land or premises, the relevant public authority may require the occupier of the land or premises to provide and maintain litter receptacles of suitable as may reasonably be necessary to ensure that the public place may be kept free of that litter. Where any occupier fails to comply with any such request, the public authority can provide and install those receptacles and may recover the cost from the occupier as a debt due to the public authority.
 - if litter is considered to 'grossly deface or defile an area', the territorial authority may serve a clean-up notice to the occupier of the land
 - LCOs may issue infringements where they observe a person committing an infringement offence or have reasonable cause to believe the offence is being or has just been committed
 - littering on public land or private land without consent has a fine not exceeding \$5,000 or \$20,000 for a body corporate. The penalty is higher where the litter is likely to endanger any person or to cause physical injury or disease or infection to any person coming into contact with it (being in particular any bottle whether broken or not, glass, article containing glass, sharp or jagged material, or any substance of a

toxic or poisonous nature). In such circumstances a person is liable to a fine of up to \$7,500 and a body corporate is liable to a fine of up to \$30,000.

Option Two – Create an expanded range of tools for addressing littering

117. This option includes several mechanisms for addressing littering and dumping. A core component is to ensure legislation can be applied to a range of ‘mismanaged waste’ scenarios (in part through including this in the Purpose of the amended waste legislation). The Litter Act provides a very broad definition of litter, which includes waste matter. The WMA defines waste which also encapsulates littering. Therefore, we propose not to carry over the definition of ‘litter’ and to define ‘mismanaged waste’ instead. This would entail expanding upon the current narrow characterisation of ‘littering’ being a minor act with inconsequential environmental impact and to ensure the definition captures waste that has ‘leaked’ or has the potential to ‘leak’ (intentionally or not) from the formal waste management system into the environment (air, water and soil).
118. Mismanaged waste could vary by volume, type and harm in the following ways:
- litter (smaller amounts and typically pieces of discarded packaging waste)
 - dumped waste (larger volumes, such as construction and demolition (C&D) waste, deliberately discarded out of sight and often avoids the appropriate disposal fee and levy)
 - ‘escaped’ waste or waste that has the potential to escape (typically C&D or packaging waste) that is blown by the wind or carried by water away from one site to elsewhere due to inappropriate management and storage of the waste
 - litter and waste that is particularly harmful to humans and the environment such as hazardous waste, syringes, broken glass or invasive weeds/non-native species in dumped green waste
119. The level of harm caused through mismanaged waste could be reflected through tiered penalty provisions (discussed in previous sections).
120. This option would also enable improved data and reporting tools. Current data on litter and dumped waste is inconsistent, and incomplete, with no centralised collation or reporting. It is not possible to determine the total waste disposed of, the level of illegal disposal, and whether existing policy interventions are having the desired effect. Therefore, this option would extend the current WMA data and reporting mechanisms to littering and dumping.
121. Additional mechanisms and refinements in this option include:
- use vehicle ownership details for the CME of littering and dumping
 - clarify which public authorities can warrant LCOs
 - remove the statutory responsibility for one organisation (Keep New Zealand Beautiful) to be the body primarily responsible for the promotion of litter control
 - clarify the roles, responsibilities and CME tools for regulators and public authorities who manage and enforce littering and dumping.
122. This option reflects sector feedback. The Ministry held a series of workshops between April and June 2023 with LCOs from a range of public authorities that helped identify the proposals for consultation. The workshops were attended by the Council or other public authority representative with responsibility for litter enforcement. The current Litter Act provisions were presented and attendees invited to share their shortcomings, challenges they face with littering compliance monitoring and enforcement, and their suggestions to improve the Litter Act.

How do the options compare to the status quo?

	Option One – [<i>Status Quo</i>]	Option Two
Effective in supporting waste-related environmental outcomes	0	++ Improved range of tools expected to reduce littering and mismanaged waste
Efficiency of implementation and operation	0	+ Ability to tackle non-compliant activities with costs falling on non-compliant parties; may require some time to bed-in new powers
Adaptable to range of scenarios over time	0	++ Broader range of tools available will overcome limitations of current provisions
Overall assessment	0	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

123. The preferred option is Option Two. This provides stronger mechanisms for addressing littering and dumping with a wider scope (different types of mismanaged waste) and ability to detect offences.
124. For the status quo, most councils, and other public authorities (such as the Department of Conservation), report challenges with using the existing legislative provisions, partly because an infringement can only be issued in a narrow set of circumstances and requires that the LCO has observed someone in the act of littering or dumping (section 14 of Litter Act). Other reported challenges include:
- no mechanisms for issuing clean-up notices (where the litter defaces or defiles an area which is a high bar to meet and does not reflect the environmental harm that may be caused by the mismanaged waste),
 - ineffective mechanisms for preventing or enforcing ‘escaped’ waste from private land on to public land,
 - ineffective cost-recovery provisions for clean ups,
 - infringements can only be issued upon conviction which does not allow a LCO to use a range of compliance and enforcement tools to deter offences, and no mechanism for information sharing between LCOs to detect repeat offenders.

Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

125. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups (identify)	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups	Low evidence certainty as not possible to estimate how many people might have been deterred from committing a littering offence	High for those that commit an offence. Low for others	Low
Regulators	Ongoing due to prevalence of littering and dumping activities. Limited evidence certainty as actual clean-up and enforcement data not routinely collected; reliant on anecdotal sources May be impacted by increasing levy rate and cost of living (and therefore incentive to mismanage waste).	Medium Range of activities: direct costs for clearance, education, enforcement activities due to increasing levy rate and cost of living (and therefore incentive to mismanage waste).	Low-medium
Others (eg, wider govt, consumers, etc.) <i>For fiscal costs, both increased costs and loss of revenue could be relevant</i>		High for those that commit an offence. Low for others	
Total monetised costs		n/a	
Non-monetised costs		Medium	
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Incentivised to prevent mismanaged waste and not commit an offence as likelihood of detection and infringement higher.	Medium	Medium
Regulators	Reduced costs of taking enforcement action to issue an infringement as Court action only a response for the most serious of offences.	Medium	
Others (eg, wider govt, consumers, etc.)	Improved environmental outcomes from reduced mismanaged waste and littering, Increased awareness and	Medium	

	understanding of mismanaged waste issues, likely causes and potential prevention measures through improved data collection and reporting		
Total monetised benefits		n/a	
Non-monetised benefits		Medium-High	

Section 3: Delivering an option

How will the proposal be implemented? How will the proposal be monitored, evaluated, and reviewed?

126. Not applicable for this interim RIS as per advice from Ministry for Regulation.

Appendix: Additional information on earlier proposals considered for legislative amendments

A summary of proposals considered but not progressed is outlined below:

Measures related to regulating products and materials

- Proposals for enabling powers to: place restrictions on the sale/distribution of products or materials in New Zealand; include stronger information requirements on specified products and materials; establish environmental performance standards for specific products.

Measures related to regulating how waste is managed

- Proposals for enabling powers to: establish a national waste licensing scheme; establish a waste tracking system for specified waste types; create national standards that could apply to waste sector sites and/or activities.

Measures related to recognising the Treaty of Waitangi in legislation

- Proposals to recognise the Treaty of Waitangi and the interests of Māori in effective waste minimisation and management outcomes (such as via a descriptive Treaty clause or a general operative clause).

Measures related to referencing the waste hierarchy in legislation

- Proposal to incorporate the waste hierarchy for specific provisions to help inform decision making for those provisions.

Measures related to strategic direction

- Proposals to require a national waste strategy to be produced, how often it is reviewed, and its scope.
- Proposal to allow for directing and/or intervening in WMMP process.

For reference, a summary of the proposals presented in the March 2023 on legislative reform is outlined below.²³

Setting roles and responsibilities

Central government

- Option 1 – Status quo: Ministry for the Environment retains existing central government waste functions
- Option 2: Ministry for the Environment expands to take on increased central government waste functions (either by expanding the current division or setting up a new business unit)
- Option 3: Separate departmental agency, hosted by Ministry for the Environment, but with operational autonomy
- Option 4: Policy functions remain with Ministry for the Environment; most operational activity is carried out by EPA (preferred)

²³ Available here: <https://environment.govt.nz/assets/RIS-proposals-to-support-a-transformation-in-waste-management-in-nz.pdf>

Note: This earlier preferred option is not being carried forward to consultation; no change to the status quo.

Local government

- Option 1 – Status quo: Broad, non-specific responsibility for TAs
- Option 2: Focused responsibility for TAs (preferred)
- Option 3: Reduced responsibility for TAs

Waste levy settings

Hypothecation of levy revenue

- Option 1 – Status quo: all levy funding is hypothecated for waste purposes (preferred)
- Option 2: some levy funding is hypothecation for waste purposes, the remainder returned to the general budget
- Option 3: no levy funding is hypothecated, with all levy funding directed to the general budget. Funding for waste purposes would need to be appropriated through the budget process or included in baseline funding within the relevant appropriation.

Note: This preferred option was in-part supplanted by amendments to the WMA in 2024.

Controls on use of funds

- Option 1 – status quo: waste levy to be used to promoting or achieving waste minimisation, but cannot be used for compliance management and enforcement (CME) or anything that isn't considered a project
- Option 2: waste levy to continue to be used to promote or achieve waste minimisation, but allow waste levy to also be spent on research and aspects of CME
- Option 3: broaden how waste levy funds can be used in alignment with the Waste Strategy and the new legislation (preferred) PLUS listed controls for central and local govt

Note: This preferred option was supplanted by amendments to the WMA in 2024 for central government use of levy funds.

Allocation of levy funds

- Option 1 - Status quo: Waste levy funds are evenly split between central and local government (preferred)
- Option 2: Waste levy funds are entirely managed centrally and distributed to territorial authorities based on need
- Option 3: Reduced allocation of waste levy funds available to territorial authorities; remaining levy funds managed centrally
- Option 4: Waste levy funds are split evenly between three pools: central government (its costs and general funding activity); local government (its costs, community funding); contestable investment fund focused on infrastructure.

Distribution of levy funds to TAs

- Option 1 - Status quo: A distribution based solely on population

- Option 2: Allocate the local government portion with a combination of a percentage (20 per cent) distributed equally between all territorial authorities, and the remainder (80 per cent) distributed using a population-based calculation (preferred)
- Option 3: Allocate the local government portion with a combination of a percentage distributed (33 per cent) based on a flat rate for all, a percentage (33 per cent) available through a contestable territorial authority only fund, and the remainder (33 per cent) distributed using a population-based calculation.

Removal of waste to energy exclusion

- Option 1 – Status quo: All forms of waste-to-energy remains excluded from the waste levy
- Option 2 – Remove the blanket exclusion of waste-to-energy from the waste levy, with application to specific types of facilities and technologies to be implemented through regulations. (preferred)

Regulatory tools

Measures to promote better use of products and materials

- Option 1 - Status quo: Tools currently available in the WMA
- Option 2 – expanded range of tools, including extended producer responsibility framework. (preferred)

Note: Some components of the earlier preferred options are not being carried forward to consultation.

Measures to regulate how people manage waste (multiple tools considered against status quo)

- Option 1 – Status quo: Tools currently available in the WMA
- Option 2 – Duties of care framework (preferred)
- Option 3 – National standards for recycling and waste disposal (preferred)
- Option 4 – Waste tracking system (preferred)

Note: The earlier preferred options are not being carried forward to consultation; no change to the status quo.



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Economic Policy Committee: Period Ended 11 April 2025

On 14 April 2025, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 11 April 2025:

9(2)(f)(iv)

ECO-25-MIN-0049

Waste and Litter Legislation Amendments: Approval to Consult
Portfolio: Environment

CONFIRMED

Rachel Hayward
Secretary of the Cabinet



Cabinet Economic Policy Committee

Minute of Decision

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Waste and Litter Legislation Amendments: Approval to Consult

Portfolio **Environment**

On 9 April 2025, the Cabinet Economic Policy Committee (ECO):

- 1 **noted** that in November 2024, ECO agreed to an action to consult on detailed waste legislation proposals in 2025 [ECO-24-MIN-0254];
- 2 **approved** the release of the consultation document attached under ECO-25-SUB-0049 for public consultation;
- 3 **authorised** the Minister for the Environment (the Minister) to approve minor and technical amendments to the consultation document prior to its release, in line with the policy decisions agreed by Cabinet;
- 4 **noted** that the public consultation period is intended to be for a period of six weeks commencing before the end of April and concluding at the beginning of June 2025;
- 5 **noted** that, following consultation, the Minister intends to report back to ECO to seek final policy decisions to enable drafting instructions to be issued to the Parliamentary Counsel Office by the end of September 2025.

Rachel Clarke
Committee Secretary

Present:

Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Shane Jones
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston
Hon Dr Shane Reti
Hon Tama Potaka
Hon Simon Watts
Hon Chris Penk
Hon Penny Simmonds
Hon Andrew Hoggard
Hon Nicola Grigg
Hon Scott Simpson
Hon Mark Patterson
Simon Court MP

Officials present from:

Office of the Prime Minister
Officials Committee for ECO

