



Remediation of contaminated sites

A guide to applying for a waste levy waiver under section 29(1)(b) of the Waste Minimisation Act 2008

Te whakatika wāhi tāhawahawa

He aratohu mō te tono whakaore utu para i raro i te wāhanga 29(1)(b) o te Ture Whakaiti Para 2008



Ministry for the
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Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
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Terms and abbreviations used in this document

Term	Description
Contaminated site	Defined in the Waste Minimisation Act 2008 as: <i>land where a contaminant is present, or is likely to be present, -</i> <i>(a) in any physical state in, on, or under the land; and</i> <i>(b) in concentrations that pose an unacceptable risk to human health or the environment</i>
CSVLF	Contaminated Sites and Vulnerable Landfill Fund
Detailed site investigation	Where the nature and extent of contamination and risk to human health and the environment are determined.
HAIL	Hazardous Activities and Industries List (published by the Ministry for the Environment)
OWLS	The Online Waste Levy System
Preliminary site investigation	Establishes the contamination history of the site and is part of the contaminated site identification process.
Remediation action plan	Details the selected remedial and management works and why they are the preferred option.
RCS	Remediation of a contaminated site (the short name for section 29(1)(b) waiver)
WMA	Waste Minimisation Act 2008

Background

Purpose of this document

This guide supports applicants applying for a waiver of the waste disposal levy under section 29(1)(b) of the Waste Minimisation Act (WMA) 2008 for remediation of a contaminated site (RCS waiver). It includes:

- what eligibility criteria needs to be met
- the application process
- how to apply for a waiver and what information is required
- how your application will be assessed
- how the levy credit is applied
- an application checklist.

Waste disposal levy

Under the WMA, Class 1, 2, 3 and 4 disposal facilities are required to pay a levy on the net tonnage¹ they dispose of. The WMA includes provisions under section 29 to enable a disposal facility operator (DFO) to apply for a waiver of the levy for waste that meets certain criteria. Previously, this provision was only available for exceptional circumstances, under section 29(1)(a).

On 1 July 2024, the WMA was amended through the Waste Minimisation (Waste Disposal Levy) Amendment Act 2024 to allow for a waiver to be granted for the remediation of a contaminated site. This new waiver is also referred to as Section 29(1)(b) – remediation of a contaminated site, or RCS waiver.

For more information about section 29(1)(a) waiver for exceptional circumstances, please contact levyadmin@mfe.govt.nz.

What is a waiver?

A waste levy is charged against specific tonnages of waste for certain classes of facilities. A waiver is the removal of this levy and may occur where specific criteria are met.

A waiver differs from an exemption (section 41 of the WMA), which is a blanket decision made by the Government by Order in Council to not apply the waste levy to specific types of waste or facilities.

¹ Calculated as gross tonnage minus diverted tonnage. It represents the actual weight of waste going to landfill or further processing.

Purpose of the remediation of a contaminated sites waiver

The purpose of extending section 29 of the WMA 2008 to include the waiver for RCS was to improve access to levy waivers for legacy contaminated sites and historic landfills vulnerable to the effects of climate change.

Eligibility

Check you are eligible

Your waste needs to meet both of the following criteria to be eligible to apply for a waiver:

- the waste must have been disposed of after 1 July 2024, at a levy liable facility
- the waste must be from a 'contaminated site' – this is defined under the Waste Minimisation Act as:

land where a contaminant is present, or is likely to be present, in any physical state in, or under the land and in concentrations that pose an unacceptable risk to human health or the environment.

Note: Approval of a waiver is not guaranteed if you meet the above criteria. Each application is assessed on its merit, case by case. More details about the information required as part of an application is covered later in this document. A proactive application is not able to be submitted as part of a tendering process to ensure price certainty. The Ministry will ask for confirmation from the waste generator that the disposal facility will be receiving the waste as indicated.

What applications would not be covered (ineligible)

If your waste meets any of the following criteria you are unable to apply for a waiver:

- the waste was disposed of before 1 July 2024
- the contamination levels of the waste do not pose an unacceptable risk to human health or the environment
- the waste will be diverted from landfill or sent to a disposal facility that is not levy liable
- in the case of landfill remediation, the landfill being remediated must be closed and no longer accepting waste
- an application covering multiple unrelated remediation projects. Applications for 'universal waivers' from a disposal facility operator to accept a variety of remediated or contaminated waste will not be considered.

The application process

Parties involved in the application process

The following parties have a role in the application process:

- **The applicant – disposal facility operator (DFO)** – The DFO is the waiver applicant. Only a DFO can make a waiver application through the Online Waste Levy System (OWLS) as they are the entity invoiced for the waste levy. The DFO must have already received the waste or have confirmation from the waste generator that the waste will be disposed of at their facility.
- **Waste generator** – the entity undertaking the remediation project. The waste generator is expected to work with the DFO to provide the information required for an application, but the application is not made under their name or business.
- **Ministry for the Environment (the Ministry)** – The Ministry will be responsible for processing and assessing the application. The Secretary for the Environment will decide whether to approve or decline the application.

The Ministry will require information from the applicant (the DFO) in conjunction with the waste generator (the entity undertaking the remediation project) to understand details about the remediation site to:

- determine that the site being remediated meets the definition of a contaminated site
- confirm timeframes for disposal
- confirm the waste and tonnages being disposed of
- confirm that any payment of the waste levy to the DFO will be credited back to the appropriate entity who paid the levy upon disposal.

When should a disposal facility operator apply for a waiver?

A DFO can apply for a waiver when they have:

- confirmation that they will be the disposal facility receiving the waste
- submitted an application with the required information, as outlined in this guide and checklist.

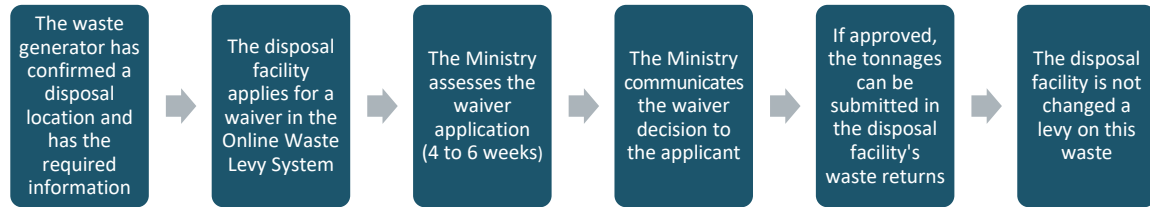
An application can be lodged in OWLS before the start of the remediation or disposal (proactive application), or it can be lodged after the waste has been disposed of (retrospective application).

Please allow 4 to 6 weeks for a waiver application to be processed.

Proactive applications

A proactive application is an application that is made **before** the remediation of the waste or disposal of the waste to a levy liable landfill.

Figure 1: Proactive application process



When an application should be made

A proactive application can only be made by the DFO once they have confirmation that they are the disposal facility, and they can provide all the information required as part of the application process. An application would be made using estimated tonnages from site investigations and may not be an accurate reflection of the final tonnages of waste disposed of.

Note: A proactive application cannot be submitted as part of a tendering process to ensure price certainty. The Ministry will ask for confirmation from the waste generator that the disposal facility will be receiving the waste as indicated.

The waste levy

Proactive applications are designed to allow the waste generator and DFO to have no levy charged at the time of disposal. This will occur if the waiver is approved **before** the DFO is due to report the waste in OWLS.

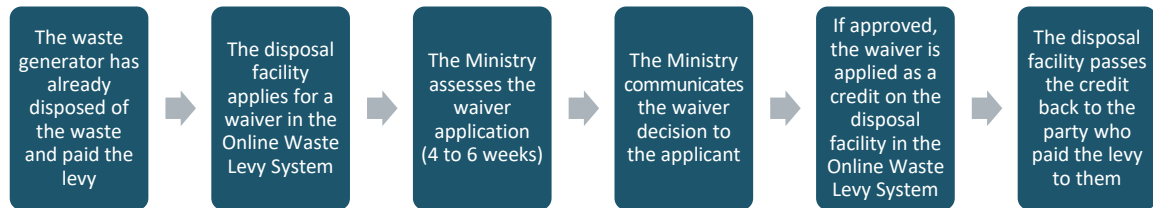
If your application is submitted close to the start of your remediation project, it may not be approved before the waste is disposed of and reported against. In this instance, the waste generator and DFO need to be aware that any waste disposed of will still be charged the levy.

Note: A proactive application is for the estimated tonnages that will need to be disposed of. A proactive waiver gives no assurance that additional tonnages over and above the estimated amount may be approved. Any tonnages that exceed the approved amount, may require an additional waiver application.

Retrospective applications

A retrospective application is an application that is made **after** the remediated waste has been disposed of at the disposal facility.

Figure 2: Retrospective application process



When an application can be made

A retrospective application can be made by the DFO any time after they have disposed of the remediated waste, and they can provide all the information required as part of the application process.

Note: Applications can only be made for waste that was disposed of **after 1 July 2024**.

The waste levy

Retrospective applications mean that the levy is paid on the disposed waste tonnages and, if approved, applied as a credit against the disposal facility in OWLS. If the DFO has charged their customer the levy (as part of their disposal costs), the Ministry will require evidence that the waived levy is credited back to the customer.

How to apply

An application must be lodged in OWLS by the disposal facility operator (DFO) who receives the waste. This is because the waste will be recorded as disposed of at that site, and the DFO is responsible for the payment of the levy.

Note: If a remediation project is being disposed of at several levy liable facilities, then each DFO will need to lodge their own waiver application in OWLS. The Ministry will work with all facilities involved in the project to ensure consistency.

What information is needed

We have provided a [checklist](#) as part of this guide. More information on the requirements is outlined below.

Note: If the waste generator has applied for funding through the Contaminated Sites and Vulnerable Landfills Fund (CSVLF), this information can also be used as part of the waiver application. The Ministry can access this information, and it does not need to be provided again with the waiver application. Any application should note whether funding has been provided through the CSVLF. More information on the CSVLF can be found on our [website](#).

Preliminary site investigation

A preliminary site investigation is the first step to assessing a site's potential for contamination. It looks at historical land uses, environmental risks, and potential sources of contamination. Part of this information may be obtained from your council from their Hazardous Industries or Activities List (HAIL) register.

Detailed site investigation

A detailed site investigation is strongly recommended to provide evidence of why the material being remediated poses an unacceptable risk to human health or the environment and requires remediation.

Any detailed site investigation will need to be completed by a suitably qualified and experienced practitioner and will be assessed against the Contaminated Land Management Guidelines 2021 1 and 5.

Remediation action plan

A remediation action plan is a plan that outlines the nature and extent of the contamination, why the remediation and disposal of the contaminated material is the preferred option, and how the remediation will be managed.

The reasonable test

What does ‘reasonable’ mean for the levy waiver for contaminated site waste?

Section 29(1)(b) states that the levy applied to contaminated site waste may be waived, if the Secretary (of the Ministry) considers it reasonable to do so.

To determine if an application meets the threshold of ‘reasonable’, the Secretary will consider aspects of the application which provide evidence that aligns with the purpose of the Waste Minimisation Act (WMA) (under section 3(1), see below). It is the responsibility of the applicant and waste generator to provide as much information and commentary as possible to support their application, and show how the remediation project aligns with the purpose of the WMA:

Section 3(1) of the WMA:

- (1) *The purpose of this Act is to encourage waste minimisation and a decrease in waste disposal in order to—*
 - (a) *protect the environment from harm; and*
 - (b) *provide environmental, social, economic, and cultural benefits.*

Tonnages

In proactive applications, the tonnage and value of the waiver is to be estimated by the waste generator. Evidence of how this was calculated and any potential additional tonnages that may need to be included in the final disposal must also be provided.

Note: A proactive waiver gives no assurance that additional tonnages over and above the estimated amount may be approved. Any tonnages that exceed the approved amount, may require an additional waiver application.

Financial agreements

As part of the assessment, the Ministry will request an agreement between the waste generator and the DFO on whether the levy will either:

1. not be charged by the disposal facility to the waste generator (the DFO is entitled to the full credit); or
2. will be charged by the DFO to the waste generator (the DFO will need to provide evidence they have refunded this to the waste generator once approved).

Assessing your application

Once a completed application is provided (i.e., all information has been provided to a standard acceptable to the Ministry), an applicant can expect a decision within **4 – 6 weeks**.

If any information is missing from the application, or the Ministry requires clarification to complete the assessment, this may delay the decision.

The decision will be provided in writing to the disposal facility operator (DFO) and where applicable, also to the waste generator by email.

Approved applications

If an application is approved, the applicant (and waste generator where applicable) will be notified in writing.

Proactive applications will be assigned a timeframe within OWLS that aligns with the dates of the application. The DFO will be able to submit the applicable tonnages within a specific area of their monthly waste return. The Ministry will remain in contact with the applicable parties during this process to ensure that the waived tonnage is being calculated and submitted correctly.

Retrospective applications will have a credit applied against the disposal facility in OWLS. Depending on the situation, the Ministry will require evidence this credit has been passed on to the customer.

A credit is normally applied against any invoices outstanding for the disposal facility. If the DFO would prefer to have the credit paid to them, a refund application would need to be made using the application process in OWLS. This is in addition to the waiver application.

Conditions

Approved waivers have the following standard conditions:

1. A specific project code must be used by the DFO when recording tonnages accepted to the site, which differentiates tonnages relating to the waiver (eg, docket book, spreadsheet).
2. Tonnages are recorded and reported through OWLS. Waste returns must be lodged in OWLS for all waste that has been waived from the levy.
3. Further information requested to reconcile the tonnages for the waiver must be provided by the applicant to the Ministry if requested.
4. If a functioning and compliant weighbridge is present on site, average tonnage or conversion factor methodology cannot be used.
5. A DFO must complete activity category reporting for all waived waste, using the category 'unusual activity'.
6. If the levy has been paid, the DFO must confirm and provide evidence that any credits granted by a waiver are credited back to the appropriate entity who paid the levy upon disposal.

7. The DFO must agree to site visits which may be conducted by the Ministry's compliance team or other subject matter expert, during the project.
8. The DFO is to advise the Ministry when the remediation is completed, and all contaminated site waste has been disposed of at the disposal facility.
9. Evidence that waste which has had the levy waived is disposed of and is not put aside for later diversion (for instance, contaminated soils being 'diverted' after six months).
10. Evidence of diverted tonnages and where it has been diverted to.

The Ministry may also set additional conditions. For example, if you have received funding from the Contaminated Sites and Vulnerable Landfills Fund, waiver conditions may be applied to ensure the requirements of the deed are met.

Note: It is the responsibility of the DFO to ensure that any of conditions specified within the approved waiver are complied with.

Declined applications

If an application is declined, the applicant (and waste generator where applicable) will be notified in writing by email. Any waste that has been disposed of, will be subject to the relevant levy.

A declined application may be eligible to apply for a waiver under section 29(1)(a) for exceptional circumstances. More information on this process can be provided by the Ministry if required.

Levy credit

If the approved application was one where the levy had already been charged against the remediated waste, then upon approval, a credit will be applied to the disposal facility operator (DFO) account in OWLS.

Does levy money which has been waived get refunded?

Unless agreed before application approval, the levy credit will be applied to the disposal facility's outstanding invoices and continue to be applied until the credit has been used.

It is the responsibility of the DFO to pass this credit back to the waste generator if they were charged the levy at the time of disposal. The Ministry will ask for confirmation of this.

DFOs can apply for a refund through OWLS, which would refund the levy paid back into their bank account. The Ministry requests that a refund is indicated as the preferred option at the time of making a waiver application.

If a refund is approved, the DFO will still be required to provide evidence of passing the refund to the waste generator if the levy was charged at time of disposal.

Find out more

For more information on the refund process, visit the [OWLS](#) user guide, or email info@wastelevy.govt.nz.

Where to go for help

Help on how to submit your application

For assistance on how to submit the application within OWLS, please contact 0800 WD LEVY or email info@wastelevy.govt.nz.

Technical guidance on how to navigate OWLS

[Online Waste Levy System \(OWLS 2.0\): User guide for waste disposal facility operators](#)

OWLS support: 0800 WDLEVY (0800 935 389) or email info@wastelevy.govt.nz

More information

For waiver specific questions contact levyadmin@mfe.govt.nz.

Appendix: – Waiver checklist

Information for disposal facility operators to supply	
<p>Do you have confirmation that you are the disposal facility receiving the waste?</p> <p>Note: An indication that you are the preferred disposal facility is not be sufficient. A letter from the waste generator confirming you as the disposal facility is required.</p>	<input type="checkbox"/>
<p>Have you included information explaining how you will credit the waiver back to the waste generator/customer?</p> <p>Note: Examples of how this credit may occur could be (1) The waste levy portion of the disposal fee was removed before invoicing or (2) The waste generator holds an account that will receive the waived levy back as a credit.</p>	<input type="checkbox"/>
<p>Have you attached evidence of the product codes you have used (or will use) to identify the remediated waste?</p> <p>Note: Evidence may include a spreadsheet of the waste tonnages received during the applicable months, showing the different product codes used.</p>	<input type="checkbox"/>
<p>Have you included information explaining how the waste tonnages will be calculated?</p> <p>Note: Your tonnages must be calculated according to the approved methodology of your disposal facility. Facilities wanting to use an average tonnage methodology will need to apply through OWLS</p>	<input type="checkbox"/>
<p>Have you included information on the estimated tonnage (if any) of any material that will be diverted from landfill and details of how the diversion of waste would occur?</p> <p>Note: This diversion would not be able to be claimed as part of your waiver tonnages in OWLS.</p>	<input type="checkbox"/>
<p>Have you attached evidence of any other conditions required by you or the waste generator as part of the project?</p> <p>Note: Examples may include set disposal hours, a GPS-tracked disposal location, a change in weighing methodology for the project (subject to Ministry approval).</p>	<input type="checkbox"/>
Information for the waste generator to supply	
<p>Have you attached details of any funding the waste generator may have received from the Contaminated Sites Vulnerable Landfill Fund?</p> <p>Note: Details may include the Deed between the waste generator and the Ministry.</p>	<input type="checkbox"/>
<p>Have you attached evidence confirming that the waste generator's site meets the definition of a contaminated site under section 5 of the Waste Minimisation Act?</p> <p>Note: Evidence may include a preliminary site investigation to establish the contamination history of the site.</p>	<input type="checkbox"/>
<p>Have you attached evidence that the material being remediated by the waste generator poses an unacceptable risk to human health or the environment and requires remediation? This could include the long-term risks if remediation did not occur.</p> <p>Note: It is advised that supporting evidence includes a detailed site investigation prepared by a suitably qualified and experienced practitioner in contaminated land in accordance with the Ministry's Contaminated Land Management Guidelines 2021 1 and 5.</p>	<input type="checkbox"/>
<p>Have you provided an assessment from the waste generator of the options for remediating the site and showing that the disposal is the preferred remedial option?</p> <p>Note: If 'no', you are not eligible to apply for a waiver.</p>	<input type="checkbox"/>

<p>Have you attached the estimated tonnage from the waste generator that will be disposed of to landfill (tonnage to be waived)?</p> <p>Note: <i>Estimated tonnages are only applicable for proactive waiver applications.</i></p>	<input type="checkbox"/>
<p>Have you included the estimated amount of levy you are requesting to be waived?</p> <p>Note: <i>Estimated value of levy is only applicable for proactive waiver applications.</i></p>	<input type="checkbox"/>
<p>Have you included the start date for the waste generator to begin remediation of the site, and the date for the final load of that site waste to be received by you?</p> <p>Note: <i>If your remediation was disposed of before 1 July 2024, you are unable to be considered for a waiver.</i></p>	<input type="checkbox"/>
<p>Have you attached an assessment of why your request for a levy waiver is 'reasonable'?</p> <p>Note: <i>This assessment should outline the environmental, social, economic and cultural benefits of this remediation.</i></p>	<input type="checkbox"/>