

Submission of Kāpiti Coast District Council on the Proposed Changes to the Solid Waste Levy notified November 2019

1. Question 1 – “Do you agree the current situation of increasing amounts of waste going to landfill needs to change?”

Yes, Kāpiti Coast District Council believes that urgent action is required to address the increasing amounts of waste going to landfill in Aotearoa/New Zealand and to transition from the current Linear Economy (take, make, dispose) to a Circular Economy model of material re-use and recovery.

2. Question 2 – “Do you have any comments on the preliminary Review of the effectiveness of the waste disposal levy outlined in appendix A”

Council agrees with the assessment in Table 7 of Appendix A that since the last review of the levy the amount of waste disposed of in New Zealand has not decreased and that the amount of waste reused, recycled, or recovered in New Zealand has not increased.

3. Question 3 – “Do you think the landfill levy needs to be progressively increased to higher rates in the future (beyond 2023)?”

Yes, Council believes the current levy rate of \$10 per tonne and the application of the levy only to waste accepted at Municipal Solid Waste (Class 1) Landfill has resulted in:

- Minimal financial incentive on customers to commit to reduction or diversion of waste.
- Insufficient funding at Local Government level to create and support effective waste minimisation.

Council supports the proposed levy increases through to 2023 and supports additional levy increases beyond 2023. Kāpiti Coast District Council believes that clear levy increase signals beyond 2023 will provide certainty and drive investment in effective waste reduction and resource recovery.

Council is acutely aware that increased funding from the Waste Levy to Territorial Local Authorities will be necessary to support sustainable local and regional waste diversion actions and initiatives.

At the same time Council is aware that significant investment may be required at a national level to create capacity for effective recovery of specific resources and the Waste Levy funds is an appropriate mechanism for seed funding such investment as the country transitions to the Circular Economy model.

Council believes that the proposed Levy Investment Plan to guide government investment decisions on the WMF must balance the potentially conflicting demand of national infrastructure investment and funding of effective local and regional waste diversion.

For this reason, and given Territorial Local Authorities experience as the principal enablers of the Waste Minimisation Act to date, the Council wishes to ensure TLA representatives are involved in the development of the Levy Investment Plan.

4. Question 4 – “Do you support expanding the landfill levy to more landfills, including:

i. “waste disposed of at industrial monofills (class 1)

Yes

ii. “non-hazardous construction, demolition waste (eg, rubble, concrete, plasterboard, timber) (class 2)

Yes

iii. “contaminated soils and inert materials (class 3 and 4) (whether requiring restrictions on future use of site or not)?”

Yes

Council is aware that the current practice of applying the levy only to Class 1 MSW landfills has resulted in significant and inappropriate diversion of waste to construction and demolition sites.

5. Question 5 – “Do you think that some activities, sites, or types of waste should be excluded from the landfill levy, including:

i. “cleanfills (class 5)

No, as discussed in our response to Q.6

ii. “farm dumps

Yes, as discussed in our response to Q.6

iii. “any others (eg, any exceptional circumstances)? If so, please specify.”

No, cleanfills (i) and any other (iii) should NOT be excluded. See notes under question 6 below.

Farm Dumps - Council supports the inclusion of Farm Dumps in the Landfill Classification included in the consultation document and supports compliant Farm Dumps being excluded from the levy. See further comments under question 6.

6. Question 6 – “Do you have any views on how sites that are not intended to be subject to a levy should be defined (eg, remediation sites, subdivision works)?”

Cleanfill (Class 5) – The exclusion of Cleanfill sites creates two specific challenges to the waste levy application:

- Virgin excavated natural materials are in themselves a “resource” with potential for reuse (e.g. Peat, topsoil, clay, rock, soils).

- The exclusion of cleanfill sites will incentivise inappropriate disposal of other “borderline” materials at these sites.

Council proposes the application of a \$5 per tonne levy to these sites.

Farm Dumps: Council is concerned that any reference to “permitted activity in council plans” in further defining Farm Dumps may introduce ambiguity. Council proposes that for the purpose of the levy classification “Waste that should be accepted at these sites” (Table 3.) the criteria for Farm Dumps should be the same as Controlled Fill (Class 4).

Any Others - Council notes the intent on page 29 of the consultation document that the levy not be applied to cover:

- Site remediation (e.g. filling in a quarry after it ceases operation)
- Movement of soil during subdivision (e.g. creation of engineered contours as part of site development)

Council supports the intent that the levy not be applied to the volume neutral movement of soil during subdivision or infrastructure development such as new road projects. Council does not believe such practices fall under the definitions of landfill and should therefore not be included.

Council is concerned that “Site Remediation” may provide an opportunity for avoidance of appropriate levies. In particular, the remediation of quarry sites (quarry sites have been commonly used as landfill sites) using waste which would otherwise be classified as suitable for Class 4 landfills and attract a levy.

Council is also aware that closed landfill sites require ongoing remediation such as the re-contouring of capping, topsoil and grassing.

Council supports a clear definition of Site Remediation to inform the levy regulations and agrees that one determining factor may be the payment (including offsetting of costs) to dispose of material at the site should such payment exceed the cost of the remediation works.

7. Question 7 – “Do you prefer the proposed rate for municipal (class 1) landfills of:

- i. \$50 per tonne
- ii. \$60 per tonne
- iii. other (please specify, eg, should the rate be higher or lower?)”

ii. Council prefers the proposed rate of \$60 per tonne.

8. Question 8 – “Do you think that the levy rate should be the same for all waste types? If not:

- i. “should the levy be highest for municipal landfills (class 1)?

Yes

- ii. “should the levy be lower for industrial monofills (class 1) than municipal landfills (class 1)?

Yes

- iii. *“should the levy be lower for construction and demolition sites (class 2) than municipal landfills (class 1)?*

Yes

- iv. *“should the levy be lowest for contaminated soils and other inert materials (class 3 and 4)?*

Yes

- v. *“ should a lower levy apply for specified by-products of recycling operations?”*

No, Council believes that waste is waste regardless of the source.

Council believes that question 8 may better be posed as “Do you think that the levy rate be the same for all Landfill types” with the acceptance criteria for each landfill defining the appropriate levy.

Further to the above and as discussed in our response to Question 6, Council believes a further levy of \$5 be applied to Cleanfill sites.

- 9. Question 9 – “Do you support phasing in of changes to the levy, and if so, which option do you prefer – increase then expand (option A); expand and increase (option B); expand then increase (option C); expand then higher increase (option D); or none of the above?”**

Council supports the “increase then expand” phasing however suggests that the following table would be more effective than the proposed options:

Landfill type	Increase then expand
Municipal landfills (class 1)	\$20 1 July 2020 \$30 1 July 2021 \$40 1 July 2022 \$60 1 July 2023
Industrial monofills (class 1)	\$20 1 July 2022, \$25 July 2023
Construction and demolition fills (class 2)	
Contaminated soils and inert materials (managed and controlled fill sites; class 3 & 4)	\$10 1 July 2022, \$15 July 2023
Cleanfill (class 5)	\$5 1 July 2022, \$7 July 2023

Council believes the above phasing provides the following benefits:

An increase to Municipal landfills in 2020 is appropriate given the collection and reporting processes are already in place.

The increase to other landfill sites may better be introduced in 2022 (rather than earlier) to allow the following:

- Provide time for the data collection methodologies (e.g. weighbridge, volumetric measure at entry or periodic fill survey and density conversion) development of reporting systems, and establishment of an effective and fully resourced compliance body.

- Provide time for operators of these landfills to establish appropriate waste diversion activities to support the intent of the levy
- Given that the application of a \$20 levy to an existing construction and demolition landfill may result in an immediate increase in disposal fees of up to 200% (compared to a net 14% increase for waste to municipal landfills with a move from \$10 to \$20) delaying the introduction of levies will allow developers and contractors time to explore other waste diversion activities.

The inclusion of a \$5 levy for cleanfill in the table has been discussed earlier in this submission.

10. Question 10 – “Do you think any changes are required to the existing ways of measuring waste quantities in the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009?”

Council supports better measurement and collection of data. Council notes that changes to customer requirements, weighbridge requirements, and data collection, verification and analysis, will take time and funding to enable.

11. Question 11 – “Do you think any changes are required to the definitions in the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009?”

No

12. Question 12 - “What do you think about the levy investment plan?”

Council believes that an effective, fit for purpose levy investment plan is critical if Aotearoa/New Zealand is to achieve sustainable waste minimisation and transition to a Circular Economy.

In this respect council is concerned that while the broad principles of the investment plan and the identification of priority areas are included in the consultation document we are effectively being asked to consult on something that has yet to be developed sufficiently to enable robust analysis.

A levy investment plan is necessary to ensure that the Waste Minimisation Fund is better targeted to create onshore resource recovery capability and projects that support TLA initiatives and services. Current contestable Waste Minimisation Fund spending has not resulted in any major waste minimisation activity or infrastructure that's has had significant benefits for New Zealand and this does need to be addressed.

Council strongly supports that the main focus of the investment plan is on government levy spend through the Waste Minimisation Fund. Council doesn't see a need for the investment plan to 'inform' TLA's how to spend their share of the levy. As stated in the document, under the Act TLA's have to develop a WMMP where they include how their levy share will be spent. This is a democratic decision making process that's already in place and that is suitable to enable local and regional services, actions and initiatives desired by communities to which local and regional authorities are accountable.

Council requests that the Minister recognises the essential role that TLA's play in waste minimisation practices and services (as listed below) and requests that

TLA's are invited to participate in partnership with the Ministry in the development of the Levy Investment Plan. TLA representation may be via Local Government NZ and the TLA Officers Forum of the Waste Management Institute of New Zealand.

In support of this proposal Council notes the essential role of TLA's in the delivery of Waste Minimisation:

- Local Waste Management and Minimisation Plans (as required by the WMA 2008)
- Establishment of Solid Waste Bylaws to guide and regulate waste minimisation practices in their district/s
- Provision of Waste Minimisation education, engagement and promotion in the absence of the provision of these services at a national level
- Provision of residential recycling services via kerbside collection, recycling stations and diversion facilities at transfer stations and green waste composting operations
- Supporting and promoting other waste minimisation activities beyond TLA's operational involvement such as diversion of Construction & Demolition wastes.
- Investment of ratepayer funds, additional to funds received via the WMF, in waste minimisation activities.

With regard to the "priority areas for investment" stated in the consultation document Council generally supports these priorities but does not support addressing 'legacy' waste disposal practices. Councils' concerns here are that the WMA's primary role is to establish and support effective waste minimisation in Aotearoa/New Zealand.

Any diversion from this goal to address or fund legacy issues e.g. landfills at risk from Climate Change, would distract from the primary goal of the Act which should remain forward looking and focussed on minimisation.

Council acknowledges the importance of the Levy Investment Plan with regard to supporting the establishment of onshore waste materials (re)processing capacity and other initiatives to enable transition to a Circular economy model.

At the same time TLA's will be involved in the provision of maintaining and expanding local infrastructure and services to ensure provision of recovered feedstock for reprocessing. Council is concerned that there is potential for the Levy Investment Plan to compromise local minimisation actions should the plan not achieve an appropriate balance between enhanced processing capability and the enhanced local facilities and services which will support these.

Council further notes that the administration and enforcement of the expanded waste levy will require significant additional Ministry resources. Resourcing of the Ministry (and the funding of resourcing via the WMF) in order to achieve effective compliance will be essential.

In the past, the fund has returned 50% of the WMF to TLA's. Given the need to invest in onshore (re)processing and to support effective compliance with the expanded levy, Council acknowledges that this percentage may no longer be appropriate.

In summary, Council believes that the Levy Investment Plan is critical to the success of achieving effective waste management and that genuine collaboration through partnership with the Ministry and Local Government in developing the Plan will be required.

13. Question 13 – “If the Waste Minimisation Act 2008 were to be reviewed in the future, what are the changes you would like a review to consider?”

Council believes that the Act itself is generally fit for purpose in that it provides opportunity for effective waste minimisation subject to the political will to use the instruments provided in the Act to drive waste minimisation.

Council believes that a future review should consider increased Local Government representation on the Waste Advisory Board for the same reasons as those listed in our response to Question 12 above.

Another matter that should be reconsidered is the definition of waste that is used in the Act, more specifically the exclusion of diverted materials that are not being disposed or discarded. As a result of this definition Council has not been able to licence collectors of diverted materials that operate in our District, losing the opportunity to obtain data from these collectors on diverted materials through the licence. This is an example of where the Act itself does not support the purpose as set out in section 56 (3) (b) (data gathering) and in general does not support one of the main drivers of this levy proposal which is to improve waste data.

Should the Waste Minimisation Act be reviewed in the future Council would welcome an opportunity to provide feedback and submissions into a future consultation process.

14. Question 14 – “Do you agree that waste data needs to be improved?”

Yes

15. Question 15 – “If the waste data proposals outlined are likely to apply to you or your organisation, can you estimate any costs you would expect to incur to collect, store and report such information? What challenges might you face in complying with the proposed reporting requirements for waste data?”

Council agrees that having accurate waste data is crucial to inform effective planning for waste minimisation initiatives. It will help identify gaps and opportunities in waste minimisation activities and support more robust investment decision making.

Using waste data (disposal and collection data) to measure the “success of waste minimisation projects and strategies” should be approached with caution though as in practice (and as part of the levy reporting to the Minister) it has proven to be almost impossible to establish a viable link between ‘success’ and the data that are available to measure that success. Data collected at the disposal end do not provide any objective proof that participants/residents have changed their behaviour as a result of education, simply because it doesn’t measure what they have done to reduce and reuse their waste in the first instance. Only recycling and end disposal are measurable through waste disposal facilities and there is an array of factors that influences whether there is an increase or a decrease of ‘waste per capita’, of which education is only a very small portion. Whether behaviour change has been established on a household or business scale can only be measured by way of surveys, which is not practical for many reasons.

Council feels that more detail is needed on the reasons for collecting the data, how (specifically commercially sensitive data and geographic source data) will be collected and what for the data are going to be used. This applies to data being provided by operators and collectors as well as for data reporting delivered to the Minister by TLA’s. Council has been submitting data reports since 2010 but is

unaware that this has ever been used to inform policy or investment decisions.

A requirement for more data on composition and geographic source data will inevitably require further staff resourcing. While Council supports the proposal to improve waste data, there is a need to define what level of detail will provide valuable insights to the Ministry, and weigh this benefit against the costs associated with implementing more regulated data collection processes.

At this stage and given the actual data collection scope has yet to be finalised we are unable to respond to the cost section of this question with any accuracy.

Overall challenges for data improvement will be dependent on the nature of the processes developed to support the data gathering (e.g. interfaces with landfill/transfer station data collection systems) and the practicality of the scope (e.g. accurate determination of geographic waste sources may pose challenges).

16. Question 16 – “What are the main costs and benefits for you of the proposals to increase the levy rate for municipal landfills, expand the levy to additional sites and improve waste data?”

Costs – Council believes that the following costs will be incurred by Council:

- Increased staff time in data collection and reporting
- Increased staff time in education, information and promotion in support of the increased diversion of recoverable materials
- Increased staff time and expenditure in responding to illegal dumping subsequent to the expansion of the levy to cover landfills other than the current MSW sites
- Potentially significant adjustments to existing collection practices and infrastructure to align with the requirements of proposed new collection and processing guidelines necessary to support expanded onshore reprocessing.
- Potential capital investment (potentially in public/private partnership) in establishing new resource recovery initiatives

With regard to compliance and enforcement (bullet point 3 above) Council would like to add that as acknowledged in the document, it's likely that expansion of the levy will lead to increased illegal dumping. To proactively enforce compliance, TLA's need to be sufficiently resourced and supported by legislation. Under the Litter Act 1979, TLA's are the primary regulators within their territorial boundaries for illegal dumping activities. It's very difficult to enforce the provisions of the Litter Act as it currently stands, as there is a high threshold for the evidence required to issue an infringement, and the cost of chasing fines often outweighs the fine itself. On this basis, it is necessary to review the Litter Act *in line with* the introduction of the expanded waste levy to enable more effective enforcement.

Furthermore, with limited resources Council always has to consider enforcement priorities, of which illegal dumping is just one. Regular monitoring will also be necessary. While the proposal suggests that enforcement activities can be funded through Council's levy share (by listing Bylaws in their WMMPs), a bylaw for enforcement of illegal dumping would be established under the Litter Act, not the Waste Management Act 2008 (WMA) to which the fund relates. The document lists the Christchurch bylaw that established a licensing regime for cleanfills and as such licence conditions as set under that bylaw can be enforced under that bylaw. Christchurch's Waste Management Bylaw 2009 regulates illegal dumping and in the enforcement section the bylaw refers to the Litter Act. Council considers this a poorly used example in the proposal and wants the Minister to clarify what (legal and

monetary) provision will be made for the increased requirement for monitoring and enforcement of illegal dumping.

Benefits – Council envisages the following benefits:

- The establishment of onshore reprocessing capacity will provide greater certainty and clarity for councils in determining which products may be recovered at best cost and guide investment and promotion decisions.
- Additional levy funding received by councils (assuming this is sufficient) will enable councils to introduce new, or expand existing, waste diversion facilities (potentially in public/private partnership)
- The expansion of the levy will result in an improved cost/benefit of waste diversion activities such as concrete crushing and recovery of waste timbers and reusable soils
- Greater clarity around landfill categories and levy reporting requirements may reduce the current inappropriate practice of diversion of MSW to non-levied landfills
- Enhanced data will enable better decision making