

## Christchurch City Council submission on the Waste Minimisation (Solids) Bill

The Christchurch City Council (Council) would like to thank the Parliamentary Select Committee for the opportunity to respond to this Members Bill. The Council understands that this is a complex area which engenders many and varied perspectives. The Council believes positive outcomes will arise from this national discussion on waste minimisation and through discussions on the policy and regulatory tools needed to advance on the New Zealand Waste Strategy.

The following representatives from the Council would like to make an oral presentation to the Select Committee.

Name:		
Contact details:		

This submission will first address matters of a general nature then will discuss aspects specific to each section of the Bill.

### Overall Feedback

In relation to this Waste Minimisation Bill the Council supports:

1. The intent of the Waste Minimisation Bill. That is, a greater emphasis on national and local waste minimisation policy and tools (e.g. product stewardship, economic instruments, more broadly based incentives and disincentives and outcome-focused legislation that is empowering, not prescriptive). Consequently, the Council supports the proposed national Waste Minimisation Levy as put forward by the Waste Working Group facilitated by the Ministry for the Environment (MFE) from March to May 2006 (for completeness Attachment 2 contains the Council submission to the Ministry on the National Waste Minimisation Levy). The Council also supports in general, the conclusions of the recent report from the Parliamentary Commissioner for the Environment (PCE) on changing behaviour through the use of economic instruments (PCE 2006. *Changing behaviour: Economic instruments in the management of waste*. Wellington).
2. National waste minimisation programmes for issues that are beyond the control of local authorities and that warrant a nationally consistent approach (e.g. product stewardship programmes, national waste minimisation levy, national education programmes and best practice guidelines and standards).
3. Authorities cooperating regionally or in "waste catchments" (i.e. natural boundaries exist that limit the flow of waste due to demographic, geographic and economic factors) for improved waste management and minimisation (e.g. the Canterbury Waste Joint Committee, WSN Environmental Solutions [www.wsn.com.au/](http://www.wsn.com.au/) and Sustainability Victoria [www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au) ). Legislation could enable the formal establishment of these bodies (wherever they occur) and MFE could facilitate their establishment and operation through guidelines, support and information sharing etc. This legislation would not need to be prescriptive and could allow the bodies to devise solutions suited to the area they represent.

*Please note the Council envisages no more than five regional groups operating in New Zealand and these groups would not necessarily reflect local government boundaries, but the natural boundaries related to the flow of waste, which may change over time and as neighbouring communities join into the various groups.*

4. Greater links being made between waste minimisation and resource efficiency (water, materials, labour), energy conservation, climate change and environmental and public health.
5. Increased support for the NZ Waste Strategy and for achieving its targets.
6. Greater business involvement in improving environmental and social performance (e.g. advocacy and support for businesses to improve resource efficiency and product stewardship).
7. Business reporting of environmental and social performance (e.g. “Triple Bottom Line” or “Sustainability Reporting” either by individual businesses, industry sectors or product stewardship organisations).
8. Consistent and regular reporting of waste data from territorial authorities throughout New Zealand and greater provision of information to authorities from waste operators to inform policy and improve transparency, while giving regard to commercial sensitivity.
9. Greater provision of information to consumers about the “sustainability” of products at the point of sale and of brand owners or suppliers (e.g. eco-labelling of individual products and indicators of sustainability for brand owners or suppliers).

In relation to this Waste Minimisation Bill the Council has the following concerns.

1. The Council believes that this Bill, in its current form, is too prescriptive and not workable both politically and operationally and will result in excessive costs to the community for compliance and enforcement. Consequently, the Council is of the opinion that this Bill as it stands, will be unacceptable to the public, businesses and to local authorities.
2. In the Council's view the Bill does not reflect best international practice for regulatory tools for waste minimisation because it is too prescriptive, not flexible and will not allow for innovation and change. The Bill has a focus on how things should be done rather than on the outcomes sought. The Council would recommend an outcome focused approach to allow for change and innovation (i.e. let communities and businesses determine how best to meet the desired outcomes).
3. The Council is concerned that some aspects of this Bill are dealt with by existing legislation and that some aspects of this Bill are inconsistent with current legislation. For example, territorial authorities already have the power to prohibit disposal or require information from waste handling operators via bylaws under Part 8 of the LGA 2002. Authorities are also required to have waste management plans under LGA 2002. Further, clause 21 (c) of this Bill is not consistent with the decision making process for Local Government established in Part 6 of the LGA 2002.
4. The Bill has a focus on “products” but not “services” which also contribute to waste and by focusing only on “Solid Waste” does not align with the types of waste covered by the New Zealand Waste Strategy (e.g. solid, liquid and gaseous wastes) and may overlook synergies with energy, climate change and more generally sustainability.
5. The penalties within this Bill are onerous and not related to the scale or frequency of the offence or to the ability to pay.

## Specific Comments

### Part 1. Definitions

The Council has concerns about many of the definitions used and would expect these to be resolved through the drafting process, however some specific issues are addressed below:

1. *Brand owner* definition should also include wholesale and retail sectors (not just manufacturers and importers) because product stewardship programmes are best applied throughout the supply chain.
2. *Construction and demolition waste*, for simplicity and clarity, should refer to the origin of waste not the individual material types (e.g. waste material that originates from construction, refurbishment or demolition activities including earthworks, roading and civil engineering).
3. *Consumer* should refer to a person or organisation that acquires and / or uses goods or services.
4. It is not clear whether the “Full Cost” of waste disposal includes the environmental costs.
5. *Organic waste* could refer to “waste material that is comprised of animal or vegetable matter.” The definition in the Bill seems unnecessarily complicated.
6. The Waste Minimisation Hierarchy used in this Bill could also include “Redesign” at its highest level.
7. The distinction between “Material Recovery” and “Recycling” is unclear in this Bill. Recycling is effectively the recovery of materials.
8. The distinction between “Treatment” and “Disposal” is unclear in this Bill. Both should be captured by Residual waste management. Disposal is effectively a treatment for residual waste.

### Part 2. National Waste Minimisation Authority

1. CCC supports the establishment of a national body to progress waste minimisation and to manage the waste minimisation levy as put forward by the Waste Working Party facilitated by MFE in March to May 2006. Many waste related issues are best dealt with at the national level and by national policy and legislation (e.g. product stewardship, best practice guidelines and standards). The Council believes that a national body may also be able to address more localised issues because of New Zealand’s modest size and because many of the issues and options would be consistent across the country and solutions with the appropriate process, could be modified to suit local conditions.
2. The Council considers this Bill to be overly prescriptive in terms of the establishment and operation of this body and that the focus of the body may be too narrow (if it only relates to SOLID waste). The Council suggests that a wider role, perhaps *environmental management* (used in Canada) or *sustainability* (used in Victoria) should be considered for this body given that:
  - The definition of waste in the NZ Waste Strategy includes solid, liquid and gaseous wastes and many substances can flow to and from either state (e.g. organic and chemical wastes). Further, the New Zealand Waste Strategy challenges territorial authorities to plan, in an integrated an way, the management of all of these wastes.
  - Litter prevention should also be considered given the various synergies between these areas and because unwanted impacts of increased disposal charges will need to be managed accordingly.
  - Strong synergies exist between environmental management or sustainability and waste minimisation (the issues, themes, tools and approaches are the same). Approaches to businesses and the community could be more coordinated with a sustainability focus and would better reflect the interconnected nature of our society and its waste.
  - Focusing on solid waste could potentially overlook the other “wastes” that occur within our economy, (i.e. the waste of materials, energy, water, time, labour and emissions). It is not enough to focus on solid waste that is landfilled, but wasteful behaviour as a whole. Similar issues were experienced when Eco-recycle Victoria (waste focus) was established. It was too narrow to be effective and consequently, the new Sustainable Victoria [www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au) (sustainability focus) was created.

3. The Council recommends that any body established to manage and allocate the funds generated from a national waste minimisation levy should have a high degree of transparency and contain autonomous, cross-sector representation.
4. As a general comment, many of the proposed functions for the new body appear to be already covered by MFE. What will happen to these roles and responsibilities once the proposed body is established? If a clear distinction is made between policy development (MFE) and implementation (proposed new waste authority) will this lessen the effectiveness of both?

### Part 3. Waste Control Authorities

1. Council does not believe it is necessary to legislate for waste control authorities. Most of these provisions are established under the LGA 2002 and bylaws can be established under the Part 8 of the LGA 2002 to achieve the requirements of clauses 24 and 25 of this Bill.
2. If Waste Control Authorities are established, the Parliamentary Select Committee will need to consider the overlapping responsibilities of regional and local government (e.g. Environment Canterbury role in managing hazardous waste compared to the Council role of managing municipal waste). The way this Bill is written both regional and local government would be waste control authorities (Section 20 (1)).
3. Could a Waste Control Authority be a non-council organisation (refer to Waste Services NSW [www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au) and Sustainability Victoria [www.sustainability.vic.gov.au](http://www.sustainability.vic.gov.au) in Australia)? A recent report in Australia concluded that among other things, individual councils were not in the best position to manage waste minimisation because of cost, economies of scale, complexity, in-flexibility of local councils and inexperience (Productivity Commission 2006, *Draft Waste Management Report*). In the future, organisations operating on a regional or waste catchment basis established by territorial authorities may seek to receive funds from a national waste minimisation levy and national legislation should allow for this to occur.
4. Guidance provided to local government and to businesses on the development of Waste Management Plans could be more helpful than prescribing what they contain, as set out in clause 22 of this Bill (e.g. best practice guidelines).
5. The Council does not support that every territorial authority (or Waste Control Authority) require a license from every waste collector, transporter, consolidator and disposal operator (clause 22 (c)), on the grounds that it is onerous, and better managed at the key nodes (e.g. at refuse stations and landfills). According to the Bill a waste collector operating throughout the country would be required to gain a license from numerous authorities, potentially with inconsistent conditions in each location. An alternative model could be considered where operators are required to gain a license from the proposed national body, to operate anywhere in New Zealand provided they meet nationally consistent best practice. This could be similar to the *Duty Of Care* legislation in the United Kingdom and Australia where operators must ensure waste is handled in an appropriate way and in line with best practice. This could be established in such a way (with necessary checks and balances) that it would be self regulating, industry could enforce itself as occurs elsewhere.  
 Web reference: [www.defra.gov.uk/environment/waste/legislation/duty.htm#](http://www.defra.gov.uk/environment/waste/legislation/duty.htm#).  
[www.worksafe.gov.au/OHSLegalObligations/DutyOfCare/dutycare.htm](http://www.worksafe.gov.au/OHSLegalObligations/DutyOfCare/dutycare.htm)
6. The Council strongly opposes the concept of it having to assess waste management plans created by each organisation in Christchurch (clause 26, also refer to comments in Part 7 of this submission). This would be onerous, costly and is likely not to result in waste minimisation, but an industry of waste minimisation planning (e.g. focuses on outputs not outcomes). The Council would prefer a national and sector based approach to the preparation of waste management plans and reporting as part of producer responsibility organisations and commitments.

#### Part 4. Disposal Bans

1. The Council supports regional or waste catchment disposal bans for selected materials as long as viable waste minimisation alternatives are readily available for the particular material. National bans on materials could lead to adverse behaviour and result in inappropriate disposal, especially for more remote and rural communities (one size will not fit all locations e.g. the West Coast of the South Island).
2. Where the burden of compliance lies needs to be considered more fully. The Council does not consider it efficient to require the transporters of waste to be required to enforce the ban on waste materials (Section 34 (2a)). A ban is best applied at source and at key nodes (refuse stations and landfills). For waste collected at the kerbside (domestic or commercial) the compliance should rest with the generator of waste (the household or individual business). Enforcement officers could then fine the disposer for non-compliance – not the collector of the material.
3. Material can be banned now through the establishment of a Bylaw under the LGA 2002.

*Please Note: The Council has banned materials from private cleanfills via the Cleanfill Licensing Bylaw 2004. This Bylaw has not been challenged by industry and in fact, has their support, because it creates a level playing field for all operators, and has helped them “clean up” cleanfills. It also presents a business opportunity from the recovered resources. With industry support the Council is now considering banning a greater range of materials from cleanfills with the ultimate aim of having only natural materials being acceptable for disposal. Presently 50,000 tonnes per year of materials are recycled in Christchurch because of this Bylaw.*

#### Part 5. Waste Disposal Levy

1. The Council supports the establishment of a uniform national levy on all waste (without exception) disposed of in landfills and cleanfills either on the basis of volume or tonnes, provided the revenue is held in a hypothecated fund (not in the consolidated fund) and that a minimum of 50% is returned to the place of origin for the purposes of waste minimisation. Consequently, the Council supports the proposed National Waste Minimisation Levy as put forward by the Waste Working Group facilitated by the Ministry for the Environment (MFE) from March to May 2006.
2. Please note that most cleanfills do not possess weighbridges so a volume measure would help to reduce compliance costs. Cleanfills are also more numerous than landfills (e.g. 12 licensed cleanfills operate around Christchurch compared to 1 landfill for the majority of Canterbury).
3. Requiring weighbridges to be used at all sites is onerous (clause 38 (1)), especially for smaller councils and localised landfills. Many localised landfills are closing in favour of regional landfills, all of which would have weighbridges. So in time, this issue will be resolved without it being a requirement.
4. A ramping up of the levy amount should be considered to ease the burden on the rates community and to reduce adverse reactions and behaviour associated with a large jump in disposal costs (clause 41(2)).
5. How revenue generated by the levy is allocated and used is obviously a matter to be worked through by the Select Committee. The Council considers that revenue remaining after each year should be accumulated and not allocated to the various agencies as prescribed in the Bill (clause 44 (2)). The Select Committee could also consider the basis for returning funds to communities (e.g. tonnes, population, land area or tourist numbers). Many small communities in isolated locations are less able to minimise waste in a cost effective way and may have high tourist numbers and a low rating base. Consideration should be given to how these communities can access funds above that generated by the levy in the area. Larger centres should be willing to support these communities – for the greater good of the country and for the positive image sent to tourists etc.
6. Specifying uses for the levy is too prescriptive (clause 44). The use of levy funding should be used for waste minimisation and in each instance be determined by the territorial authority itself, based on local issues and public consultation as reflected in each territorial authority’s waste management plan. Businesses or Product Stewardship Organisations should cover their own costs associated with establishing waste minimisation plans, freeing up funding for other national waste minimisation programmes.

## Part 6. Producer Responsibility / Product Stewardship

1. The Council supports targeted product stewardship programmes and tools (initially for hazardous and problematic wastes e.g. for oil, paint, chemicals, pharmaceuticals, pesticides (and their containers) electronic items, batteries, tyres, and vehicles) and supports business derived waste minimisation solutions (i.e. businesses are in the best position to solve their own waste problems with guidance and support from central and local government). Product stewardship agreements should include measurable targets and require monitoring of performance towards achieving those targets.
2. The Council strongly supports the simultaneous establishment of “non-specific backstop” product stewardship legislation that will give the Government powers to respond to non-compliance or market failure to meet targets. This legislation must be established simultaneously to establishing voluntary schemes. This would minimise delays that may occur once a failure or non-compliance has been confirmed (delays of three years could occur through the development of specific legislation after the fact) and to provide a real and significant incentive for industry to participate in the voluntary product stewardship programmes. This legislation would effectively allow the Government to “talk quietly while holding a big stick” specifying a “do it, or else” approach as adopted in Canada.
3. The Council is of the view that product stewardship programmes from around the world should be considered and the best practice adopted here. For example, Canada, appears to have a robust stewardship model for potentially hazardous substances [www.env.gov.bc.ca/epd/epdpa/ips/](http://www.env.gov.bc.ca/epd/epdpa/ips/) . The Council is aware of and supports the work of the MFE along these lines.
4. The Council does not support container deposit-refund legislation (i.e. where the consumer is refunded for returning packaging containers to the place of purchase). This is considered to be operationally inefficient and costly for the community (given that consumers ultimately pay the cost of such schemes). This is fundamentally a “collection system” and so doubles up on the effective kerbside collection services offered throughout New Zealand. In addition, these schemes tend to focus on beverage containers (glass and metal cans), which collectively occupy less than 1% of the waste stream. These materials are successfully being managed in other ways and through existing services.
5. The Council does however, support advance payment schemes on selected items, where the cost of recovering and recycling the item is included in the purchase price, or for cars on its initial registration in New Zealand. These schemes can be structured in a range of ways suited to the specific product, but generally, the upfront payment is made to a product stewardship organisation who then fund the recovery and recycling of the item. This option is efficient because it tasks industry to provide an efficient recovery and recycling system and to design items so they may be more easily recycled (because the initial price can influence consumer decisions). It is also efficient because the cost of recycling does not fall to the rate-payer or to the final user, but to the initial purchaser (i.e. user-pays).
6. The Council also supports further investigation by central government into the scheme proposed by Dr Cassells on the management of end of life vehicles in New Zealand (S. Cassells 2005, *Toward the Sound Management of End of Life Vehicles in New Zealand*, PhD Massey University, Palmerston North, New Zealand). The scheme proposed by Dr Cassells appears to be an effective way of reducing illegal dumping of cars and ensuring that cars are dismantled in an appropriate and environmentally sensitive way.  
Web Reference: [www.wasteminz.org.nz/conference/conferencepapers2005/Sue%20Cassells.pdf](http://www.wasteminz.org.nz/conference/conferencepapers2005/Sue%20Cassells.pdf)
7. Product Stewardship programmes encourage responsibility from the “cradle to the grave” (or ideally from the “cradle to the cradle”). Therefore, they are ideal tools to address issues related to the products design, use, reuse and disposal, such as energy or water efficiency, social responsibility (e.g. health and safety of production and legal compliance) and appropriate treatment and disposal. Further, brand owners must not be encouraged to simply transfer environmental and social problems offshore. Consequently, the legislation should allow for the widest possible meaning of the term “stewardship” and brand owners should be encouraged to take full account of the upstream and downstream effects of their products whether they reside in New Zealand or not (e.g. taking electronic items to China for deconstruction and giving little regard for public and environmental health).
8. The Council does not support the overly prescriptive approach adopted in this Bill for product stewardship or the extensive powers given to the “Director”.

## Part 7. Organisational Waste Minimisation Plans

1. The Council supports the concept of encouraging organisations to think about waste minimisation, but does not support requiring all organisations to prepare waste management plans and submit them to territorial authorities for approval (clause 65). This approach is too prescriptive and unworkable (e.g. it is unrealistic for a waste minimisation plan to be established PRIOR to an organisation commencing operations (clause 65 (2))).
2. The Council strongly opposes the concept of it having to receive and review all waste management plans generated from each organisation in Christchurch. This would be costly and unrealistically assumes councils have the necessary capacity to effectively review the information presented.
3. This approach focuses on the output of a waste management plan rather than the outcome of waste minimisation itself. The Council anticipates that if such legislation was established it would result in a costly “waste planning industry” that may not lead to actual waste minimisation outcomes.
4. The Council considers that these issues are best dealt with through the establishment of product stewardship programmes, with the related organisations developing sector specific waste management plans and reporting performance at a national level.

*Please note: that the North Shore City Council has established a Bylaw that requires event organisers to develop waste management plans. Consequently, this power is currently available to Councils through Section 6 of the LGA 2002.*

## Part 8. Procurement Policy

1. The Council supports positive procurement programmes (e.g. GOVT3 programme) and within reason, giving preference to recycled content and to suppliers/contractors with a high degree of environmental and social responsibility. The Council would like to see a dual focus for this area of the Bill: 1) A focus on brand owners; and 2) a focus on products and services. The Council experience in this area strongly points to the need to establish the creditability/performance of suppliers, rather than the myriad of products or services that they may provide. Establishing the credibility/performance of brand owners for procurement purposes could be assisted by the Product Stewardship Programme and supported by eco-labelling.
2. Progress in this area may be advanced by tools that enable the “sustainability” of various products or services to be determined and relayed to customers (e.g. eco-labelling). The Council is aware of Environmental Choice labelling, but it is not widely adopted by industry and the Council suggests an investigation into the barriers of uptake related to the scheme (e.g. the cost of joining and the promotion of the scheme both to brand owners and consumers).
3. The Council has concerns about the requirement for public organisation to preferentially choose products or services that cost 33% more than alternatives (clause 69 (2b)). It believes that this will be unacceptable to most local authorities and could substantially raise costs for these organisations.

## Part 9. Public Reporting

1. The Council considers that this is addressed by the requirement in the Part 6 of the LGA 2002 for territorial authorities to report progress towards pre-determined community outcomes and set levels of service etc as part of the Long Term Council Community Plan and Annual Reporting process.
2. From a commercial perspective, best practice and investment trends would encourage this activity to occur on the basis of competitive advantage, consequently legislation may not be required. Further, if producer responsibility groups were established they would be in a better position to present the performance of the whole sector at the national level, which could be more meaningful to the public and policy makers. Ideally this reporting should include environmental and social performance (wider than just waste minimisation).