

6. UPDATE ON WASTE MINIMISATION ACT 2008

General Manager responsible:	General Manager City Environment, Jane Parfitt DDI 941 8656
Officer responsible:	Manager City Water and Waste, Mark Christison
Authors:	Brian Gallagher, Timaru District Council

PURPOSE OF REPORT

1. To provide the Canterbury Waste Joint Committee with an update on the Waste Minimisation Act 2008 (the Act).

BACKGROUND

2. The main reason for the Act is that overall progress towards waste minimisation throughout the country has been variable. The current New Zealand Waste Strategy has no mandatory requirements and has relied upon voluntary progress to achieve the targets.
3. The Waste Minimisation Bill was originally submitted to Parliament in May 2006. Two rounds of submissions were heard and the Local Government and Environment Select Committee reported back to Parliament in March 2008.
4. The Waste Minimisation Act received the Royal assent in September 2008.

Overview of the Waste Minimisation Act

5. The purpose of the Act is to encourage a reduction in the amount of waste that is generated and disposed of in New Zealand and lessen the environmental harm of waste. Until now progress has been voluntary and the Act has been introduced to ensure improvements with waste minimisation practices are implemented.

Part 2 - Product Stewardship

6. Part 2 of the Act encourages and in certain situations requires the development of product stewardship schemes, through which the responsibility for managing the end of the life of a product and the environmental impacts of the product is shared by those involved in the product's life. The Act provides for official accreditation of product stewardship schemes, including voluntary schemes. A number of successful voluntary schemes have already been established, however, there are a number of problems including free riders, a lack of comprehensive coverage, and the difficulty of establishing effective targets.
7. Part 2 provides the means by which products will be classified as priority products, how compulsory product stewardship schemes will be developed and accredited and voluntary schemes accredited for some products.
8. The Minister for the Environment (the Minister) will have the power to determine priority products. The Minister will be required to consult affected parties and consider advice from the Waste Advisory Board before declaring a product to be a priority product.
9. The sale of priority products would be regulated only where this was considered necessary to ensure that relevant schemes achieved the environmental objectives established for the product, and where the benefits of regulation exceeded the cost.
10. As the Ministry for the Environment (MfE) will be seeking feedback from stakeholders over the coming months the Committee needs to give some consideration as to prioritisation of waste that needs to be more effectively managed for waste minimisation, for example, glass, electronic items, treated timber, etc.

Part 3 - Waste Levy

11. A waste levy of \$10 +GST per tonne of waste landfilled will be introduced from 1 July 2009. The levy will most likely be collected by an agent appointed by MfE. Only the owners of disposal facilities, i.e landfills where waste is deposited will pay the levy. Levy money will not be collected by the MfE agent from interim facilities such as transfer stations.
12. It is likely that levy payments will be due on a monthly basis with payment required in the second month after waste has been disposed. The first levy payments will be due in September 2009.
13. The quantity of waste disposed at the three landfills in Canterbury for the 2007/08 financial year was 326,782 tonnes.

• Kate Valley	290,596 tonnes
• Redruth	35,397 tonnes
• Kaikoura	789 tonnes
<u>TOTAL 2007/08</u>	<u>326,782 tonnes</u>

14. These quantities would equate to \$3,267,820 million dollars in waste levy being collected from the Canterbury region.
15. Respective disposal facilities will now have to raise disposal fees for the 2009/10 year to allow for the levy charge.
16. Each council will also have to allow for additional funding to pay the levy charges for the 2009/10 year for the waste they dispose.
17. Fifty percent of the funds raised nationally by the levy less any refunds will be returned to councils based upon a population proportional allocation method. It is proposed that this will be paid quarterly.
18. With levy payments being made monthly and payouts quarterly there is a significant amount of funds that could generate interest. If \$31 million is collected annually the monthly amount is \$2.58 million at 7% = \$180,000 or \$2.17 million per annum. This would be sufficient funds for the administration and setup costs for the levy system and would enable more funds for further waste minimisation projects.
19. Initial discussion with MfE staff indicated that quarterly payment of the levy by disposal facility owners will not be approved as the owners will, in effect, be holding on to government money. Whether this matter has received full consideration between Treasury and MfE is not known. It is recommended that the Joint Committee consider a submission to provide MfE with some feedback on the potential benefits of the interest from the levy fund.
20. The balance of funds less the administration costs for implementing the Act and levy system will be available for other waste minimisation projects subject to application from a contestable fund.
21. It likely that as waste quantities disposed to landfill decreases, the levy will be raised to maintain funding. It is also highly likely that the levy will be raised over time as a further disincentive for landfilling. This will also provide more funding for waste minimisation.
22. In the UK the landfill tax was introduced in 1996 at £7/T. It is now at £32/T and expected to rise to £48/T by 2011. In NSW Australia, the levy was introduced in 1993 at \$4.20/T. It is now \$21.20/T for Sydney and \$13.20 for the coastal regions of NSW.

Council Allocation

23. It is proposed that the first payments to councils of the guaranteed levy funds will be paid out in December 2009.
24. It was estimated in 2006 that the national quantity of waste being landfilled is approximately 3 million tonnes per annum. This will equate to \$30 million being collected. Based upon the 2006 Census an approximate allocation of funding returned to the respective Councils is shown in the following table.

25. Of the potential \$3.26 million collected through waste disposed in Canterbury, approximately \$2.02 million or 62% will be returned based upon the 2006 population census. Compared to the 50% to be returned nationally, this amount is 12% above the national figure of 50% and this reflects the good waste minimisation practices being undertaken in the Canterbury Region compared to other locations. In time, as other areas divert more waste, this amount should reduce compared to the amount collected, unless Canterbury continues to improve with further waste minimisation initiatives.

	2006 Census	% NZ Pop.	50% Levy \$15,500,000	
Kaikoura District	4,884	0.12	\$18,271	
Hurunui District	11,589	0.28	\$43,354	
Waimakariri District	42,678	1.03	\$159,658	
Christchurch City	361,941	8.74	\$1,354,021	
Selwyn District	34,668	0.84	\$129,693	
Ashburton District	27,693	0.67	\$103,599	
Timaru District	43,290	1.04	\$161,948	
Mackenzie District	5,487	0.13	\$20,527	
Waimate District	7,173	0.17	\$26,834	
	539,403	13.02	\$2,017,906	62%
Total New Zealand Pop.	4,143,279			
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Total Levy Funds Collected				
2007/08 tonnes	326,782	\$10	\$3,267,820	
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Balance for Contestable Fund and Administration			\$1,249,914	38%

Contestable Fund

26. Criteria for allocating the contestable fund is likely to be consistent with criteria for prioritising waste minimisation activities set out in the 2002 waste strategy as well as development of the product stewardship programmes.
27. MfE and the Waste Advisory Board that has been established along with input for stakeholders will help develop the criteria for the fund allocation.
28. The types of projects that are likely to be funded as a priority will include proposals to:
- Establish appropriate domestic reprocessing infrastructure for recovered materials, such as improved plastics washing and sorting facilities.
 - Assist communities that face disproportionate demands for waste minimisation relative to their ability to raise funds, such as in high tourist areas, for example, MacKenzie and West Coast Districts.
 - Introduce recycling and recovery services for new materials or in areas that currently lack them. Such services could include kitchen waste and garden waste processing facilities.
 - Increase the recovery of wastes targeted by the 2002 waste strategy where progress has been poor.
 - Research and develop new and innovative approaches for minimising problem wastes and markets for recycled and recovered material.
 - Establish regional waste minimisation projects where the nature of waste problems requires such an approach.

- (g) Enhance monitoring and measuring systems where these are needed to improve data on waste.
- (h) Assist small and medium-sized businesses to reduce the costs of waste from their operations

Part 4 - Territorial Authorities

- 29. Part 4 of the Act will transfer the waste management provisions in Part 31 of the Local Government Act 1974 which remain largely unchanged. However, Part 4 places more emphasis than the 1974 legislation on territorial authorities' encouraging and promoting waste minimisation.
- 30. Under Part 4 territorial authorities will be required to adopt waste management and waste minimisation plans (currently waste management plans under the Local Government Act 1974). The Act provides more guidance on the content of plans.
- 31. Clause 43 is a new provision, which will allow two or more territorial authorities to draw up joint waste management plans.
- 32. Councils will need to have an adopted waste management plan under the Local Government Act to receive the guaranteed levy funding. Existing plans will need to be reviewed before 2012 to take into consideration the requirements of the new Act.
- 33. Clause 51 provides greater emphasis on waste assessment and planning that is a pre-requisite before adopting a new plan.
- 34. Clause 46 will give the Governor General the power, on the recommendation of the Minister, to direct territorial authorities to amend their waste management and minimisation plans. This provision should ensure national consistency between authorities, and make sure that plans take into account national policy.
- 35. The Minister is required to be satisfied that the territorial authority's plan is adequate to promote effective and efficient waste management and minimisation before making any recommendation that authorities be compelled to make changes.

Part 5 - Offences and Enforcement

- 36. Part 5 sets out offences and penalties and provides for enforcement officers to be appointed by the Secretary for the Environment or a territorial authority to monitor compliance with regulations.
- 37. Proposed fines range from up to \$5,000 for preventing an enforcement officer from gathering information or conducting inspections, up to \$100,000 for breaching certain regulations concerning products, materials, waste or reporting requirements.

Part 6 - Audit and Reporting

- 38. Part 6 provides that regulations can be made for the purpose of obtaining information on waste. These regulations detail the requirements for operators of disposal facilities, operators of facilities where waste is received, and territorial authorities to keep records and provide information to the Secretary for the Environment.
- 39. This information can be used to determine the levies disposal facilities would pay, and to equip MfE to monitor the impacts and the minimisation of waste, and for planning purposes. Before regulations were made parties that would be significantly affected would have to be consulted, along with the Waste Advisory Board, and a consideration of the costs and benefits expected from implementing the regulations would be required.
- 40. This part of the Act also includes provisions regarding the appointment of auditors and their powers to monitor certain facilities to determine the amount of levy to be paid or the records to be kept.

41. This part will improve the collection of national data, including information on how territorial authorities spent monies from the waste disposal levy.

Part 7 - Waste Advisory Board

42. A waste advisory board is to be established. The board will provide advice on waste minimisation to the Minister and to the Secretary for the Environment upon request. The Minister will be required to seek the board's advice on a number of matters, including declaring a product to be a priority product, making guidelines about product stewardship schemes, and setting criteria on how the contestable portion of the levy fund would be allocated.
43. Members of the Board recently appointed include;

Rob Fenwick (Chair)	Sheryl Stivens
Lynne Kenny	Lesley Stone
Morris Love	Nandor Tanczos
John Pask	
44. All members were appointed after a public call for nominations, and were selected for their knowledge, skills and experience relating to the Waste Minimisation Act 2008, community projects for waste minimisation, industry (including the commercial waste industry), local government, and tikanga Māori. Over 100 nominations were received for the Board.

Implementing the Waste Minimisation Act

45. The Ministry for the Environment will be seeking feedback from stakeholders over the next few months to assist with the implementation of the act.

Some key topics include ;

- (a) A review of the New Zealand Waste Strategy Targets
 - (b) The waste levy, what products will be exempt, allocation of funds, etc
 - (c) Product stewardship regulation
 - (d) Accreditation of product stewardship schemes and priority products
 - (e) Reporting requirements under the Act, and
 - (f) Guidance on council waste management plans.
46. Final direction will not be available until a new government and cabinet have been confirmed.
 47. MfE will be working on draft regulations, etc from November 2008 through to March 2009.
 48. It is expected that the regulations will be finalised by April 2009 and that further workshops on implementing the Act and regulations will be held from March to May in 2009.

Budget Implications and LTCCP's

49. The respective councils will need to adjust budgets for the disposal of waste to allow for the \$10 waste levy from 1 July 2009. The levy will need to be allocated only for waste being disposed to landfill. It does not apply for waste that is processed for composting, recycling and reuse. However, any by-product disposed to landfill from these operations will incur normal disposal fees which will include the levy.
50. The respective councils will need to confirm how the guaranteed revenue from the national levy will be allocated. The council must identify that the amount to be expended is allocated only to waste minimisation initiatives that are identified in the council's Waste Plan.
51. The budgeting and policy requirements will need to be incorporated into respective LTCCPs.

Conclusion

52. New disposal fees will be introduced from 1 July 2009 as a result of the waste levy and councils needs to allow funding for the increase in disposal costs.
53. Councils need to determine how to allocate the guaranteed levy funds. Only waste minimisation activities as part of a council waste management plan will be eligible for the funding. Overall, waste minimisation plans will need to be reviewed by 2012, taking into consideration the Waste Minimisation Act, any new regulations, product stewardship and updated waste targets.
54. Councils and staff should be proactive in the consultation phase with MfE over the next six months to help to ensure a smooth transition and best outcome approach with the implementation of the Waste Minimisation Act.

Recommendations

- (a) That this report be received and noted.
- (b) The Canterbury Waste Joint Committee recommends that a submission be prepared by staff to the Ministry for the Environment regarding the potential benefits of the interest from the levy fund.
- (c) Should the Ministry for the Environment request feedback on potential priority products or other issues mentioned in paragraph 45 of the report, that staff be requested to prepare a coordinated reply on behalf of the Canterbury Waste Joint Committee.