

15 May 2025

The Ministry for Environment
Manatū mō te Taiao
PO Box 10362,
Wellington 6143

Tēnā koe,

Submission from the Manawātū District Council on the Proposed Amendments to the Waste Legislation.

The Manawātū District Council (MDC) thanks the Ministry for the Environment for the opportunity to provide feedback on the proposed amendments to the Waste Minimisation Act 2008 and the Litter Act 1979.

MDC has positioned itself as a community leader committed to enabling a circular economy for all waste streams across the district. MDC currently provides urban customers in Feilding and the villages of Sanson, Rongotea, Himatangi Beach and Halcombe with kerbside collection services for refuse, and recycling waste streams for Feilding only, while rural customers receive weekly refuse bag collection from rural drop-off points and access to mobile recycling centres. A food waste collection service for Feilding residents will also be introduced in 2025, supported by grant funding from the Waste Minimisation Fund.

MDC's waste management approach is guided by its Waste Management and Minimisation Plan, with performance measured through specific targets. For the 2024/25 period, the council has set a target of achieving 50% of actions within the plan. The proposed amendments to waste legislation, particularly those related to waste levy allocation and distribution, could significantly improve the council's ability to fund and implement these initiatives, especially given the proposed shift from a purely population-based allocation to a combined flat rate and population-based approach.

MDC, however, notes that the proposed amendment to Section 48 of the WMA that expands the Minister's authority from revising WMMP content to mandating specific actions for councils raises significant concerns about unfunded mandates and local planning autonomy. Under the current WMA, WMMPs must align with councils' waste assessments community priorities and funding realities. Manawatu District WMMP 2022-2028 currently prioritises rural waste diversion, agricultural plastic recycling, and cost-effective kerbside services tailored to our population density. There is concern that Ministerial directives risk overriding these locally informed priorities.

About 23 percent of MDC's waste levy funding is allocated to community recycling initiatives. Unfunded mandates may force reprioritisation of existing programs or require rates increases which will be a burden for our ratepayers. Further, the WMA already requires councils to "have regard to" the national waste strategy. However, the proposed power to direct actions could conflict with statutory obligations under the Local Government Act 2002, which mandates councils to align spending with community outcomes identified through consultation.

MDC recommends that the proposal be modified such that any mandated actions must be accompanied by ring-fenced funding or levy adjustments to reflect implementation costs and

that directives undergo formal consultation with affected councils to assess feasibility and local impacts.

Strengthening Penalties for Fly Tipping: A Call for Legislative Reform

MDC strongly urges the Government to increase the penalties for fly tipping (illegal dumping) under the Litter Act 1979. Despite ongoing advocacy from the wider local government sector since at least 2018, the current infringement regime has failed to deter persistent offenders. In the 2023/24 year alone, Manawātū District recorded 265 separate incidents of fly tipping, a figure that underscores both the scale and the intractability of the problem in our district. This ongoing issue not only imposes significant financial and operational burdens on Council and ratepayers, but also undermines community satisfaction and environmental outcomes, as reflected in recent resident surveys.

The current maximum infringement fee of \$400 is demonstrably insufficient as a deterrent, especially when weighed against the real costs of remediation and the environmental harm caused. Council's experience is that without a substantial increase in penalties, including higher infringement fees and more robust enforcement tools, fly tipping will continue to escalate. We therefore urge the Government to prioritise legislative reform that enables councils to impose meaningful penalties, and to ensure that the polluter pays principle is truly upheld in practice.

Responses to Questions

1. Do you support the proposal for a modern EPR Framework?

MDC supports the proposal for a modern and more robust EPR framework noting that the Waste Minimisation Act in its current form lacks enforceable mechanisms to hold producers accountable for end-of-life products. By mandating producer responsibility for design, collection, recycling, and disposal, the proposed EPR framework remedies this gap in the current WMA. MDC supports the proposal as it would shift waste management costs, currently sitting at 90 percent for territorial authorities like MDC, to producers, thereby aligning with the polluter pays principle.

Do you support discontinuing the government accreditation of voluntary product stewardship schemes?

MDC supports in part, discontinuing accreditation of voluntary schemes noting that current accreditation system has not been largely effective. MDC notes that the accreditation criteria contained in Section 14 of the WMA focus on administrative compliance rather than environmental outcomes. Overall accreditation under the WMA has been administratively intensive with limited coverage thereby failing to significantly shift environmental outcomes. MDC agrees that voluntary schemes may still operate independently without state validation which will reduce the bureaucratic load on central government while allowing innovation outside the legislative framework.

MDC recommends that the criteria for accreditation could be enhanced to ensure that the accredited schemes deliver meaningful environmental outcomes and serve as a precursor to comprehensive EPR frameworks.

MDC also recommends that the Secretary retains oversight of input methodologies and performance auditing to ensure that schemes are equitable and avoids unwarranted cost inflation to consumers.

2. Do you support the proposal to adjust the allocation of waste levy funds to councils using a combination of a flat rate and population-based calculation?

MDC supports the proposed adjustment to the waste levy allocation formula. The current population-based approach does not adequately reflect the fixed costs that smaller councils face in providing essential waste and recycling services, regulatory functions, and community education. MDC considers that a base flat rate, combined with a population weighting, will help ensure that all councils have a minimum level of funding to meet their statutory obligations and to invest in local waste minimisation initiatives. This approach is more equitable and will help address the funding disparity that currently exists between large and small territorial authorities.

3. Do you support the scope of use of levy funds?

MDC supports the changes that permit territorial authorities to use the levy for activities that promote or achieve waste minimisation in accordance with MDC's Waste Management and Minimisation Plan as Council already allocate waste levy funds to projects aligned with its WMMP. MDC's Waste Levy Grants Policy also explicitly funds initiatives that 'promote or achieve waste minimisation' and align with WMMP priorities.

MDC supports changes that permit territorial authorities to use the levy for costs associated with managing emergency waste and for activities that provide for the remediation of contaminated sites and vulnerable landfills. This could particularly help in responding to civil defence emergencies to fund waste recycling, for example, demolition waste from earthquakes. We also support the use of the levy for compliance, monitoring, and enforcement of mismanaged waste.

4. Suggestions for criteria that could form a decision-making framework for possible spending of the waste levy on environmental benefits and/or reduction of environmental harm.

Criterion	Rationale
Alignment with the Waste Minimisation Act and New Zealand Waste Strategy	This will ensure legal and strategic consistency.
Measurable Environmental Outcomes	This will enable the delivery of tangible, reportable benefits.
Cost Effectiveness/Public value lens	Maximises value for public investment
Innovation and Scalability	Driving systemic change and future proofs investment
Demonstrates Co-Benefits	Projects that deliver co-benefits offer superior value.

5. *Do you support removal of the current blanket exclusion from the levy for waste-to-energy facilities.*

MDC supports the removal as all forms of disposal should be subject to the same regulatory and financial instruments. Excluding waste-to-energy distorts market signals and undermines the waste hierarchy. All applications to the Waste Minimisation Fund for different levels of the waste hierarchy should be considered for their individual costs and benefits as opposed to being subject to blanket exclusions. Any levy for this form of disposal should reflect the full environmental cost, including emissions.

6. *Do you agree that the Minister's considerations for a review of the effectiveness of the waste levy should mirror the scope of the purpose of the WMA and the parameters for levy spend (once these are decided)?*

Yes, MDC supports this as consistency improves policy alignment, transparency, and accountability. This will enable both local and central government measure effectiveness relative to intended environmental outcomes.

7. *Do you support changing the timeframe for review of the effectiveness of the waste levy from every three years to at least every five years?*

No, MDC does not support changing this timeframe. Regular reviews (every three years) ensure the levy remains responsive to changing waste trends, economic conditions, and community needs. For a district like Manawatu, where waste profiles can shift rapidly due to population growth, agricultural activity, and severe weather events, more frequent reviews provide opportunities to adjust policy settings and funding allocations in a timely manner. Extending the review period to five years risks delaying necessary adjustments and could reduce the effectiveness of the levy as a waste minimisation tool. MDC, however, recommends that special exemptions for review should be introduced, particularly for much larger or longer-term initiatives.

8. *Do you support replacing the current levy-waiver requirement of 'exceptional circumstances,' instead enabling the Secretary to waive the requirement for an operator to pay any amount of levy in specified circumstances?*

Yes, MDC supports replacing section 29(a) of WMA 2008 as the current 'exceptional circumstances' threshold is too restrictive and creates uncertainty for councils and operators dealing with complex waste situations, such as contaminated site remediation or disaster recovery. Allowing the Secretary to waive the levy in specified circumstances provides needed flexibility and enables a more pragmatic response to emerging waste management challenges, particularly for local authorities managing legacy waste issues or responding to emergencies.

9. *Do you support limiting the waiver requirement to emergency event situations for which a state of national or local emergency has been declared under the Civil Defence Emergency Management Act 2002 and biosecurity responses have been undertaken under Part 7 of the Biosecurity Act 1993?*

MDC does not support limiting the waiver requirement to emergency event situations. While it is appropriate to enable waivers during declared emergencies, there are other situations—such as large-scale contaminated site remediation or unforeseen environmental hazards—where a waiver may be justified even if no formal emergency is declared.

Restricting waivers only to declared emergencies and biosecurity responses could prevent councils from accessing relief for significant but non-emergency waste situations that still pose risks to community wellbeing and the environment.

10. Do you agree the waiver requirement for waste from the remediation of a contaminated site should specify any eligibility criteria that an application must meet? If so, please share any suggestions for eligibility criteria.

MDC is of the view that clear eligibility criteria ensure transparency, consistency, and fairness in the application of waivers. MDC suggests that the criteria should include:

- Evidence that remediation is required to protect human health or the environment.
- Demonstration that the site poses a significant risk, and that remediation would be unlikely without financial relief.
- Assessment of alternative funding or disposal options.
- Consideration of the scale and urgency of the remediation.

11. Do you support requiring a Minister to consider specific criteria before recommending levy exemption regulations are made (instead of the current requirement that the Minister is satisfied 'exceptional circumstances' exist)?

MDC is supportive of this proposal as the requirement of the Minister to consider specific, published criteria increases accountability and transparency in decision-making. It also provides greater certainty for councils and operators, supporting better planning and risk management for waste-related projects.

12. Do you support applying a timeframe of a maximum of five years before levy exemptions via regulations must be reviewed or allowed to expire?

Yes, a five-year review or sunset clause ensures that exemptions remain relevant and justified, preventing outdated or unnecessary exemptions from persisting indefinitely. This approach supports ongoing oversight and allows for policy adjustments as circumstances change.

13. Do you agree that the Minister should be able to impose conditions on levy exemptions?

MDC agrees that imposing conditions allows the Minister to tailor exemptions to specific circumstances, manage risks, and ensure that exemptions are used appropriately. Conditions can also require monitoring or reporting, supporting transparency and accountability.

14. Do we need to clarify in legislation when the levy should be imposed on waste disposed of at a disposal facility, so that waste reuse on site is operationally necessary and reasonable?

Yes MDC considers that clarification would reduce ambiguity for both facility operators and regulators, ensuring that genuine reuse activities are not penalised while preventing loopholes that could undermine the intent of the levy. This is particularly important for rural councils managing diverse waste streams and facility types.

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

- a. an approval system with limits and conditions.*
- b. changes to the stockpile calculation process to track the throughput of materials.*

c. a stockpile volume threshold limit.

d. improved data collection, record-keeping, and reporting provisions, to increase transparency and traceability of material entering and leaving a site.

e. defining/amending the terms 'diverted material,' 'accumulation' and 'stockpiling' in the legislation?

MDC supports the foregoing improvements to stockpiling controls.

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

a. the Ministry for the Environment.

b. the New Zealand Customs Service.

c. territorial authorities?

MDC supports these changes as clearer roles improve coordination and accountability. MDC welcomes the proposed changes that can clarify the statutory functions of territorial authorities to enable the effective planning and resourcing of waste management. We however note that any new or expanded responsibilities for councils must be matched by funding and support especially for smaller councils.

17. Do you support a change in the Secretary for the Environment's ability to retain levy payments to a territorial authority, from mandatory to discretionary?

MDC does not support levy retention as discretionary retention of levy payments could create uncertainty for councils and may create equity and transparency issues. It is unclear what this proposal is intended to achieve, and MDC seeks clarity on the benefits of this proposal.

18. Do you support enabling the Waste Advisory Board to provide advice at its discretion?

Yes, allowing the Board to provide advice proactively ensures emerging issues can be addressed promptly and that policy development benefits from expert input.

19. Do you agree the regulator should have greater powers to receive data, including the ability to share with other regulators and the Ministry?

MDC recognises that improved data sharing enhances compliance, enforcement, and policy effectiveness. It also reduces duplication of effort and supports a more integrated approach to waste management.

20. Do you support the proposed tiered approach to the compliance tools and sanctions?

Yes, A tiered approach enables proportionate responses to different types and severities of non-compliance, improving fairness and effectiveness in enforcement.

21. Do you support integrating littering and other types of mismanaged waste into the same regulatory framework for waste management and minimisation?

MDC supports consolidating the Litter Act and the Waste Minimisation Act 2008. The current separation creates unnecessary administrative complexity and enforcement challenges.

22. Do you support enabling regulations for the collection of data on littering and dumping?

Yes, data collection is essential for understanding the scale and nature of the problem, targeting interventions, and evaluating effectiveness. Fly tipping is a major problem, and the

recording of the data is essential for us to identify problem areas, repeat offenders and trends relating to types of rubbish dumped. Several times this recording of data has proved invaluable to resolve repeat offences where prosecutions have been carried out or infringements issued, and the offending has ceased. However, council would need some funding and support to collect and report this data.

23. Do you support expanding the purpose of the WMA to include littering and other mismanaged waste in the new waste legislation?

Council is of the view that including littering and mismanaged waste aligns the Act with current environmental challenges and supports a more comprehensive approach to waste minimisation.

24. Regarding public authorities, do you support:

a. limiting the definition of 'public authority' as proposed.

b. enabling public authorities (amended as proposed) to warrant Litter Control Officers or appoint Litter Wardens, to manage and enforce littering and other mismanaged waste offences?

Yes, council supports both proposals as a clear and focused definition supports efficient enforcement and avoids confusion. It also enables local solutions and supports effective enforcement at the community level.

25. Do you support removing the assignment of a statutory role for the promotion of litter control to any specific agency or organisation?

Yes, council is in support of this proposal.

26. Do you support public authorities having a discretion whether they provide waste receptacles in public places but an obligation to empty those receptacles if they provide them?

Yes, MDC recognises that councils are best placed to determine the need for receptacles in different locations. An obligation to empty provided receptacles ensures public health and amenity are maintained.

27. Do you support removing the requirement for the Medical Officer of Health to be satisfied that litter receptacles are emptied promptly, efficiently and at regular and prescribed intervals?

Council believes that this responsibility is more appropriately managed by councils, who are directly accountable to their communities for service delivery.

28. Do you agree that a local or public authority should:

a. retain the ability to make grants to any organisation for the abatement or prevention of litter?

b. be able to spend such sums of money as it thinks fit on any scheme or campaign for the abatement or prevention of litter?

c. retain the ability to make bylaws to help reduce littering and dumping, if they are not inconsistent with the provisions of the new legislation?

d. retain the ability to deter, prevent, require timely clean-up, and enforce waste escaping/being carried on to public or private land?

Council supports the foregoing as these powers are essential for councils to tailor responses to local litter and dumping challenges and supports innovation in prevention and enforcement.

29. Do you support enabling all types of Litter Control Officers to apply different tiers of compliance tools, where they are authorised to act?

Yes, this provides flexibility and ensures enforcement can be proportionate to the offence.

30. Do you agree that, in enforcing offences, Litter Control Officers should be able to:

a. use vehicle registration and ownership details?

b. use appropriate evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences?

Yes, these powers are necessary for effective investigation and enforcement, particularly in rural areas where vehicle-based dumping is common.

31. Do you support the proposed amendments to the compliance monitoring and enforcement framework for littering and other mismanaged waste offences?

Council takes the view that the amendments will provide councils with better tools to address persistent and emerging issues related to mismanaged waste.

32. Do you support lowering the threshold for evidence of a mismanaged waste offence, to allow for effective compliance monitoring and enforcement by Litter Control Officers?

Council believes that lowering the evidentiary threshold will act as a stronger deterrent and will improve enforcement outcomes.

33. Do you agree that public authorities should be able to be compensated by the offender if the mismanaged waste offence has caused significant environmental harm?

Yes, Council deems it necessary to be compensated as it ensures that the polluter pays principle is upheld and councils are not left to bear the costs of remediation.

34. Do you agree that public authorities, regulators, or occupiers of private land where a littering offence is committed, should be able to recover reasonable costs associated with the removal of the litter/waste and/or the environmental harm caused from the offender? If not, please explain why and provide any suggested alternatives for covering these costs.

Yes, MDC considers that cost recovery is essential for fairness and also ensures that the burden of remediation does not fall on ratepayers or landowners who are not responsible for the offence.

35. If you are a Litter Control Officer who has used the existing section 9(2)– (4) of the Litter Act (to require an occupier of land or premises to take all reasonable steps to prevent litter being carried or escaping onto the public place), please answer the following.

a. Are the current provisions efficient or effective for addressing this type of mismanaged waste issue in your area? Yes | No | Unsure

b. If not, please provide more information about the limitations of the provisions.

MDC officers have not implemented Section 9(2)-(4) of the Litter Act 1979 and are therefore unable to comment on the effectiveness of the provisions.

36. Please provide your feedback on the draft infringement levels for the proposed mismanaged waste compliance framework

The draft infringement levels appear broadly appropriate, providing a range of penalties that reflect the seriousness of different offences. However, it is important that infringement fees are set at a level that acts as a genuine deterrent, particularly for large-scale or repeat offenders. For rural districts, consideration should be given to the practicalities of enforcement and the need to ensure penalties are proportionate to the environmental harm caused.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'H. Worboys', with a large loop at the end.

Helen Worboys, JP
Mayor