

HAMILTON CITY COUNCIL SUBMISSION ON:

**Taking Responsibility for our Waste:
Proposals for a New Waste Strategy; Issues
and Options for New Waste Legislation
(October 2021 Consultation Document)**
Ministry for the Environment



10 December 2021



**Hamilton
City Council**
Te kaunihera o Kirikiriroa

Improving the Wellbeing of Hamiltonians

Hamilton City Council is focused on improving the wellbeing of Hamiltonians through delivering to our five priorities of shaping:

- A city that's easy to live in.
- A city where our people thrive.
- A central city where our people love to be.
- A fun city with lots to do.
- A green city.

The topic of this submission is aligned to our **'A green city' priority**.

The focus of this priority is to become a sustainable city by challenging the way we grow our city and how we live within our city. To achieve this, we want to continue to minimise our impact on the land by leading the country in waste minimisation practices.

Council Approval and Reference

1. This submission was approved (under delegated authority) by the Chair and Deputy Chair of Hamilton City Council's Environment Committee (as resolved at Hamilton City Council's 11 November 2021 Council meeting).
2. Hamilton City Council Reference: D-3986317 - submission # 671.

Key Messages

3. Overall, Hamilton City Council is supportive of the October 2021 Consultation Document **Taking Responsibility for our Waste: Proposals for a New Waste Strategy; Issues and Options for new Waste Legislation** that would replace the Waste Minimisation Act 2008 and the Litter Act 1979.
4. The New Zealand Waste Strategy and legislation sets the framework for how waste is managed. Together these set:
 - The government's aspirations, priorities and actions to manage waste; outline how the government will work with councils.
 - The scope of councils' work, and what we are responsible for and, provide councils with legal regulatory tools (including enforcement and monitoring).
5. We see an incredible opportunity ahead where real systems level change could address the past and present issues of pollution, climate change and biodiversity loss. We applaud the Ministry's work so far in contributing positively to setting us on the right course, including banning microbeads, plastic bags and increasing the waste levy.
6. We tautoko the ambition to have a completely circular economy by 2050.
7. However, we are concerned that the actions proposed in the consultation do not reflect the scale of the crisis, nor the urgency of the transformation required.
8. We are concerned that the proposed legislation does not address the underlying root of the problem – a linear economy, and actions and investments that are prioritised at the top of the waste hierarchy and in alignment with circular economy principles.
9. We believe there must be increased responsibility on the producers/manufacturers/retailers/industry rather than emphasising actions around consumers.
10. Whilst we support the proposed staged approach and suggested timing in this strategy and recognise the need to allocate time to 'catch-up' and lay the foundations for transformational change, we feel that there is a lack of urgency and lack of strategic direction in Stage 1.
11. We recommend that Construction and Demolition (C&D) be included in Stage 1. The importance of sector level change is significant, as the C&D industry in New Zealand represents 5% of GDP, yet 50% of waste in New Zealand is related to C&D, therefore presenting a huge opportunity for change.
12. Furthermore, we encourage an increased focus on the impact of C&D in order to hit proposed targets.
13. We would also like to see greater emphasis on the public sector showing leadership through setting the highest target for reducing waste rather than shared 30-50% reduction between public and business.
14. We agree that regulatory foundations and enforcements are required to enable change in pushing ahead Stage 2. However, we are concerned that any new powers may not actually be realised (e.g., the WMA 2008 powers have never been fully realised).

Introduction

15. Hamilton City Council would like to thank the Ministry for the Environment for the opportunity to make a submission to the October 2021 Consultation Document **Taking Responsibility for our Waste: Proposals for a New Waste Strategy; Issues and Options for new Waste Legislation** that would replace the Waste Minimisation Act 2008 and the Litter Act 1979.
16. Overall, we are supportive of the proposals outlined in the Consultation Document.

Previous Submissions Made on Waste Management

17. Hamilton City Council takes a considerable interest in matters regarding waste management and has made a number of submissions in this space in recent years - for example:
 - Hamilton City Council's 4 February 2020 submission to the consultation document - **Reducing Waste: A More Effective Landfill Levy** – refer [here](#)
 - Hamilton City Council's 11 September 2018 submission to the consultation document **Proposed Mandatory Phase Out of Single-Use Plastic Shopping Bags** – refer [here](#)
 - Hamilton City Council's 12 June 2018 submission to the **Litter (Increased Infringement Fee) Amendment Bill** – refer [here](#)

Part 1: Why we need to Transform our Approach to Waste

18. **Q:1 Do you think changes are needed in how Aotearoa New Zealand manages its waste?**
 - 18.1. Hamilton City Council agrees that changes are needed in the way Aotearoa New Zealand manages waste.
 - 18.2. Under the current Waste Minimisation Act, territorial authorities are tasked with the “effective and efficient waste management and minimisation within its district”. Territorial authorities don't control what is put into the system, so achieving the scale of waste minimisation needed is not possible. We support a redesign of our economic system where local government can be enabled to meaningfully contribute to a transition to a circular economy. In the first instance, we think change needs to occur to design waste out of the system prior to production as well as designing out waste in production and rewarding recovery.
 - 18.3. Hamilton City Council agrees that generators of waste should bear the cost of waste disposal of their products through mechanisms such as product stewardship and extended producer responsibility.
 - 18.4. Hamilton City Council supports the waste hierarchy to avoid waste but notes that waste data needs to be significantly improved to identify what waste could be reduced.
 - 18.5. Reuse systems should be prioritised in the first instance. Recycling systems should be established with the view that certain materials, such as plastic, degrade over time and should be reduced. On shore recycling systems should ensure that the required feedstock does not incentivise feedstock production. Materials that downcycle over the course of their life should go down in volume over the life of the new waste strategy rather than be incentivised.
19. **Q2: Do you support tackling our waste problems by moving towards a circular economy?**
 - 19.1. Hamilton City Council supports moving from a linear waste system towards a circular economy. It is well understood that the current rate of resource consumption is not sustainable for the planet.
 - 19.2. If implemented well, transitioning to a circular economy promises to have positive outcomes for waste elimination, emissions reduction, biodiversity loss - as well as social equity. There are many different interpretations of what a circular economy means and represents. We support implementing a circular economy if there is emphasis on developing a common understanding to avoid “greenwashing” of circular economy actions and investments.

Part 2: Proposed New Waste Strategy for Aotearoa New Zealand

20. Q3: Do you support the proposed vision?

- 20.1. Hamilton City Council supports the proposed vision in principle.
- 20.2. Ensure mechanisms are in place to ensure momentum is sustained and 3 yearly action and investment plans support progress along the course of the 30 years.
- 20.3. Hamilton City Council supports expansion of the vision which currently is focused on a circular economy as the end goal rather than the bigger picture of a system which reduces consumption and manages waste. The vision could be expanded to include the role of the people.
- 20.4. Hamilton City Council agrees that the underlying principles of circular economy are already a significant part of tea ao Māori approach, which sees knowledge and action as intertwined.

21. Q4: Do you support the six core principles, or would you make changes?

- 21.1. Hamilton City Council supports the six core principles but suggests changes could be made to principle 6.
- 21.2. Principle 6 focuses on delivering outcomes, but a step back could be taken to ensure partnership and participation is enshrined as part of the operating models in accordance with the principles of Te Tiriti o Waitangi. True partnership can enable Māori to shape the foundation, principles and transition to a circular economy.
- 21.3. Whilst the principles address the main concerns, Hamilton City Council suggests that there is a missed opportunity to make waste reduction and avoidance the priority over efficient management of product focused waste.

22. Q 5: Do you support the proposed approach of three broad stages between now and 2050, and the suggested timing and priorities for what to focus on at each stage?

- 22.1. Generally, Hamilton City Council supports the proposed approach of three broad stages and timing between now and 2050, with some modifications.
- 22.2. The consultation acknowledges the need to have “widespread changes in mindset, systems and behaviour” in Stage 2, but education, change in mindset and behaviours should be a priority at each stage. As per point 4.9, it is essential for all stakeholders to have a common understanding of circular economy principles and co-develop how a circular economy is expressed in order to avoid contrary actions or “greenwashing”.
- 22.3. It is not clear that “bringing resource recovery systems up to global standards” represents the level of ambition that is needed as the “global standard” still varies across the world. Up until the China National Sword policy, most Western countries were sending poor quality plastics offshore under the banner of recycling. Without defining what the “global standard” is, we have concerns that this is replicating poor practice. While we can learn from overseas examples, we propose that Aotearoa New Zealand define our own standard of resource recovery system with a well-articulated level of ambition reflective of our unique situation.
- 22.4. It is not clear what differentiates “bringing our resource recovery systems up to global standards” in Stage 1 and “optimising resource recovery for growing circular systems” in Stage 2. Ideally, we could establish resource recovery systems that are already optimised for a circular economy in Stage 1. In addition, equitable funding needs to be made available to create and operate modern resource recovery. More on this is discussed in question 10.
- 22.5. Stage 1 should include the roll out of mandatory product stewardship schemes that align with the higher part of the waste hierarchy. This should be rolled out in a timely manner.
- 22.6. The reduction of consumption should be a priority for Stages 2 and 3.

23. Q 6: Looking at the priorities and suggested headline actions for stage one, which do you think are the most important?

- 23.1.** Hamilton City Council supports the roll out of a suite of actions that complement each other.
- 23.2.** Hamilton City Council supports expanding Priority 3 to 'developing and supporting new behavioral norms to avoid or reduce waste' rather than just 'education and information programmes'.
- 23.3.** Hamilton City Council supports expanding Priority 5 'reducing emissions from organic waste' to include recognition of the value of organic waste to address regenerative agriculture, the bioeconomy and the need to reduce organic waste at source.

24. Q 7: What else should we be doing at Stage 1?

- 24.1.** Hamilton City Council supports Priority 1 explicitly stating that the vision to transition to a circular economy by 2050 will be a whole of government approach. It is essential for all agencies to have the same goal and that a common understanding of circular economy principles is developed.
- 24.2.** Hamilton City Council supports additional actions at Stage 1 including:
- Extending the horizon for increased levy rates to encourage alternatives to landfill.
 - Defining waste and other related terms consistently across legislation, for example applying Emissions Trading Schemes obligations to all Class 1 sites and not limiting it to those with only household waste.
 - Extended producer responsibility for all packaging, fashion, building materials and other production sectors.
 - Listing forthcoming product stewardship schemes beyond the 6 priority products.

25. Q8: What are the barriers or roadblocks to achieving the Stage one actions, and how can we address them?

- 25.1.** Central government is the only entity that has the power to regulate in support of systemic change. A barrier to achieving Stage one actions is that the Ministry is adequately resourced and has the ongoing political will to mobilise legislation that supports a transition to a circular economy. The WMA 2008 already contains powers to regulate and ban products and materials that could incentivise reusables and push our economy to circularity. In the course of the 10 years of the WMA, mandatory product stewardship schemes have not been put in place. While the bans in microbeads and plastic bags have been utilised, the powers under Section 23 have not fully been realised.
- 25.2.** The distribution of waste levy funding is not equitable across the country, resulting in various levels of service and innovation being available from local government and having the available staff to fulfil roles in this new low waste, low carbon future. There is currently a small pool of experienced staff across waste related sectors. Understanding of how to apply the circular economy is limited as this is a new area of development.
- 25.3.** A barrier to success is the lack of communication channels for local government, local government representation in central government decision-making and ability to give advice to the Ministry for the Environment. We suggest this could improve by mandating local government representation on the Waste Advisory Board as discussed in question 17. Communication could also be improved through regional coordination and Ministry for the Environment presence in regional waste officer meetings.
- 25.4.** In order to successfully transition to a circular economy, all sectors need to be engaged. In addition to central and local government mandates, there needs to be equitable accountability and responsibility on the part of manufacturers, producers and retailers. Without this, consumers will have to deal with residual waste.

26. Q 9: Do the strategic targets listed in Table 1 focus on the right areas?

- 26.1.** Hamilton City Council agrees that better definition of categories be included in the strategic targets to make meaningful change. In the consultation document, it is acknowledged that there is a lack of reliable data. It is difficult to say if the strategic targets focus on the right area without understanding the baseline data this is coming from and the level of impact that the suggested reduction would have.
- 26.2.** “Litter” should be broken into three distinct categories: “litter”, “illegal dumping” and “leakage”. There is a difference in terms of motivations, behaviour and enforcement between “little litter”, such as cigarette butts and food wrappers, to illegal dumping, such as mattresses, large bags of rubbish, etc. In addition, there is “leakage” from industry and the waste management sector that also needs to be addressed. For example, plastic resin (aka nurdles) has been found en masse in Wellington and in sampling of both the West and East Coasts in the Waikato Region. The distinction and targets for these should be made as the pathway to mitigation is different.
- 26.3.** Diversion and recycling numbers should be included as markers for progress. This could be based on the National Waste Data Framework but including organic diversion.

27. Q 10: Where in the suggested ranges do you think each target should sit, to strike a good balance between ambition and achievability?

- 27.1.** Hamilton City Council supports highly ambitious markers of progress and targets that match the urgency of the waste problem.
- 27.2.** However, these targets need to establish what baseline data is being used to fulfil informed target setting. The Waikato and Bay of Plenty Regional Waste Stocktake (due to be released in 2021) shows the kerbside diversion potential from landfill across the two regions is 59.1% (including paper, plastics 1-7, steel and aluminum, glass and organics). Other councils have estimated the kerbside diversion potential for their district or city to be anywhere from 50-70%. It also needs to be considered that the divertable potential for councils with services already in place will be lower than those just putting services in. We suggest using SWAP data rather than estimates to be able to set the most accurate targets for household waste disposal reduction.
- 27.3.** While Hamilton City Council support immediate action towards change, we also have concerns that considering the time required to establish infrastructure and systems, as well as behaviour change, meeting household targets by 2030 might not be feasible. Local government can support this through education, as well as expanding services and infrastructure, but these take significant time to go through the Long Term Plan process, secure funding etc. This large reduction from households will require individuals to make significant changes to their purchasing and consumption habits. Without greater embedding of the circular economy, this timeframe is a challenge. It’s noted in the consultation that recycling systems are more advanced for households, which means that diversion is already happening, so it makes a large target even more challenging. We support interim targets being set to help navigate these considerations.
- 27.4.** Hamilton City Council agrees that achieving ambitious targets requires adequate funding and subsidy of capital and operational costs.
- 27.5.** Hamilton City Council supports a more ambitious target for businesses as they are a comparable source of waste. While it is acknowledged that there is already established household recycling, businesses are not mandated to recycle, furthering the point their target can be more ambitious.
- 27.6.** Hamilton City Council supports differing sector targets depending on industry sectors. For example, a planning consultant versus a construction and demolition business. Hamilton City Council further suggests broadening targets and focusing on waste prevented through procurement strategies, or targets for the top of the waste hierarchy rather than focusing on ‘bottom of the cliff’ waste reduction targets.

Part 3: Developing more Comprehensive Legislation on Waste: Issues and Options (Embedding a Long Term, Strategic Approach to Reducing Waste)

- 28. Q 11: Do you think new legislation should require the government to have a waste strategy and periodically update it?**
- 28.1.** Hamilton City Council agrees that central government should be required to have a waste strategy that aligns with circular economy principles that underlines actions and investment at the top of the waste hierarchy.
- 28.2.** The WMA 2008 has not been enacted to its fullest potential. Hamilton City Council is concerned that the right regulations will not necessarily be enacted simply by introducing new legislation. To get effect from new waste legislation, time bound targets for new regulations should also be set as well as having a strategy.
- 29. Q 12: How often should a strategy be reviewed?**
- 29.1.** Hamilton City Council supports a six-year strategy review with a three-year target review to align with Hamilton City Council's Long Term Plan.
- 30. Q 13: How strongly should the strategy (and supporting action and investment plans) influence local authority plans and actions?**
- 30.1.** Hamilton City Council supports central government being more accountable and leading the way with local government following to ensure better outcomes. The creation of regulatory actions would generate consistency and stronger, less vulnerable markets. It would also help support the smaller districts who simply do not have the rate base to fund infrastructure.
- 30.2.** However, Hamilton City Council agrees that a central government strategy and supporting action and investment plans, and local authority plans and actions should align. The strategy should therefore influence but not control local authority plans and actions in order to maintain local flavour and community engagement.
- 30.3.** Absorbing WMMPs into the Long Term Plan process risks the complex issues of waste not getting adequate visibility with community engagement or councils. We support maintaining WMMPs on a 6-yearly cycle, but with a provision for interim WMMPs which will allow national/regional alignment (without doing the full special consultative procedure set out in Section 83 of the Local Government Act 2002). We also request Ministry for the Environment approved adjustment to spend (without reviewing a WMMP) as 6 years is a long timeframe to be locked into a document that dictates the allowable spend. This will enable a reasonable amount of flexibility to adapt to community or government trends or changes.
- 30.4.** Hamilton City Council understands that unless the Ministry ensures the rules of the system and the strategy are relatively constant over an extended period of time, the risk of central government 'flip-flopping' remains high.
- 31. Q 14: What public reporting on waste by central and local government would you like to see?**
- 31.1.** Hamilton City Council supports greater communication between central and local government and requests to be regularly updated on the progress of legislation and schemes that will impact local government. For example, it is likely that territorial authorities will be involved in providing infrastructure, facilities, contracts and coordination of product stewardship schemes.
- 31.2.** If data is being collected for waste this should be made public. Hamilton City Council will support a public platform where national live data from OWLS can show sums of all waste categories being collected. Reporting should separate all landfill types, so it is easy to identify if progress is being made or where to target actions.

32. Q15: Do you agree with the suggested functions for central government agencies?

- 32.1.** Hamilton City Council agrees with most of the suggested functions for central government agencies, but again raise the issue that for some of these functions central government hasn't proven to be effective. The example already raised is the full use of Section 23 of the WMA 2008. We support including a mechanism that would ensure progress won't stall based on political pressures.
- 32.2.** Hamilton City Council supports the idea that determining, and approval of levy funding have more of a multi-agency approach that could include local government and iwi. This would allow more balance and mitigate the risk that a politically driven cabinet makes these choices. This would also enable more equitable decisions to be made in terms of access to infrastructure and large-scale funding, rather than continuing to increase the market share of a few companies. At a minimum, we propose that spending priorities be part of a consultation process.

33. Q 16: What central government agencies would you like to see carry out these functions?

- 33.1.** Hamilton City Council supports further investigation into this matter. However, data/licensing and monitoring could be better supported by a central government agency and/or regional council mandate. Potentially enforcement powers for territorial authorities directly from central government regulation could remove local political barriers.

34. Q 17: How should independent, expert advice on waste be provided to the government?

- 34.1.** Hamilton City Council supports the maintenance of the Waste Advisory Board, but with some modifications to ensure advice is being given that accurately represents the various perspectives from across sectors.

35. Q 18: How could the legislation provide for Māori participation in the new advice and decision-making systems for waste?

- 35.1.** Hamilton City Council agrees that in addition to having iwi representation on the Waste Advisory Board, investing and expanding the opportunities for Māori circular business development, education and training might support engagement and behavior change in waste reduction.
- 35.2.** Hamilton City Council supports legislation and a strategy which upholds Te Tiriti obligations and outlines how Tangata Whenua, Iwi and hapu will be engaged as genuine partners as part of a systems level change. In the first instance, the best way to find out how legislation could provide for Māori participation would be to directly consult Iwi and hapu on this question.

36. Q 19: What are your views on local government roles in the waste system, in particular the balance between local and regional? Who should be responsible for planning, service delivery, regulatory activities like licensing, and enforcement of the different obligations created?

- 36.1.** Hamilton City Council agrees there needs to be a more well-defined role for territorial authorities and regional councils under the new legislation.
- 36.2.** Whilst Hamilton City Council supports a transition to a circular economy where waste is designed out of the system, it is difficult to update the wording in this section beyond "effective and efficient waste management and minimisation within its district", as territorial authorities don't control what is put into the waste stream. Territorial authorities should largely maintain the role they have in service delivery, education and working with the community. With product stewardship on the horizon, those working in close proximity to the community could take on an enhanced education and behaviour change role. Planning and service delivery should be part of a territorial authority WMMP process.
- 36.3.** Hamilton City Council supports a stronger or clearer statement requiring local authorities to provide collection and recycling services and disposal facilities (either directly or through contracted providers), as long as these services are equitably and adequately funded. Baseline services such as recycling and organics collection and processing need to be subsidised.

- 36.4.** In addition to the previous point, Hamilton City Council supports capital and operational costs funded or subsidised to meet the targets, which are set at a national level, so should therefore support equitable services across the urban, rural areas as well as in the North and South islands. A kerbside food scraps service is also more expensive in rural areas, meaning ratepayers in these areas have a more expensive service to agree to.
- 36.5.** Hamilton City Council does not support standardisation of food scraps collection and processing - rather a blended approach should be applied to allow for both local and regional processing. We support the standardisation of kerbside recycling, along with enforcement abilities to allow territorial authorities to issue spot fines for recycling contamination.
- 36.6.** Hamilton City Council supports a continued 50:50 split of levy funding to be distributed to local government (territorial authority and regional councils). With an increased need for progress outlined by the national targets, all councils should be mandated and have funding that covers a minimum of one FTE dedicated to waste prevention, administrative costs and an operational budget. Some smaller councils have an inadequate budget to make any progress toward waste prevention, minimisation and management. For example, in some instances where a rateable population is small, an influx of tourism generates an amount of waste that cannot be well managed. In addition to this, smaller councils often have higher transportation costs to contend with. With an increase of levy funding, WMA should require that all territorial authorities have a FTE focusing on waste minimisation, otherwise we see waste officers splitting their role with other responsibilities so no real progress is possible.
- 36.7.** Hamilton City Council recognises that a number of smaller district councils throughout the country will also want to implement the recommended initiatives around waste prevention, minimisation and management. However, as many of these councils have relatively small populations spread across large land areas, they are likely to face considerable resourcing/financial constraints. This is a good example of a key issue that could be considered by the Panel undertaking the 'Review into the Future for Local Government', particularly in terms of delivery of service and associated funding mechanisms.
- 36.8.** Hamilton City Council agrees that regional councils could play a valuable role in data collection and licensing, and potentially enforcement. Regional councils already have auditing skills and experience in the water and land use space, which can support the quality needed for data reporting. Resource consent conditions for waste facilities can be used as a method of data collection and some already require waste data reporting. This would mean licensing may not be required. With regional council involvement, there is an opportunity to look into collecting data and report on the tonnage of waste disposed to farm dumps as well as record their locations.
- 36.9.** Waikato Regional Council has demonstrated the benefit of having a dedicated role to waste prevention for over 10 years. Hamilton City Council therefore supports all regional councils to fulfil this role, including coordinating communication and networking among local government authorities, setting strategy for the region, providing a unified voice back to central government, acting as a conduit for community organisations, and conducting research.

Putting Responsibility at the Heart of the new System

- 37. Q 20: Do you see benefit in adapting the United Kingdom's duty-of-care model for Aotearoa New Zealand's waste legislation, supported by appropriate offences and penalties?**
- 37.1.** Hamilton City Council supports this approach of duty-of-care which places responsibility onto everyone involved in the creation, handling, storage, presentation and processing/disposal of waste. It also ensures tracking and traceability through the system, so has the potential to be a good source of data. This approach ensures waste is handled appropriately, minimising harm to the environment, ensures waste producers must pass their waste onto an appropriate handler for the next stage of the journey and so on...acting as a stick, when necessary, but on the flip side gives those seeking to act responsibly the security of knowing that their waste will be handled appropriately.

- 37.2.** Hamilton City Council agrees that duty-of-care should also include producers, importers and retailers being responsible for designing out waste, swapping non-recyclables or non-reusable packaging for recyclable or reusable packaging.
- 37.3.** Hamilton City Council submits that in part, we already have a duty-of-care framework to draw on from Te Ao Māori through the concepts of manaakitanga and kaitiakitanga. The benefit of applying the duty-of-care model will depend on the more detailed codes of practice which will indicate how duty-of-care is implemented, how this is adapted, what is actioned as a result, and how in alignment with the waste hierarchy the duties relate to. For example, in the United Kingdom, all waste holders are responsible for preventing waste from escaping and causing pollution or causing harm. Parameters need to be set around who this would apply to and how this should be enforced. Of particular concern is the release of microplastics into the environment. For example, research is growing to suggest microplastics are being released into the ocean via wastewater treatment. In that instance, would textile producers be responsible to ensure this waste is prevented, or would this be the responsibility of local government? If the latter, this is another case of local government being the ambulance at the bottom of the cliff.
- 38. Q 21: Do you support strengthening obligations around litter by creating an individual duty-of-care to dispose of waste appropriately?**
- 38.1.** Hamilton City Council supports strengthening obligations around litter by creating an individual duty-of-care.
- 38.2.** Hamilton City Council agrees that the Litter Act, as it stands, is ineffective in preventing and enforcing offences. The current powers of territorial authorities to act on litter are limited and do very little to disincentivise littering, flying tipping or even transportation of unsecured loads.
- 38.3.** Hamilton City Council supports new legislation that proposes the introduction of increased penalties, and provisions and offences that are easier to administer and enforce. Proposed volume-based litter offences, available to local government and Litter Enforcement Officers, will provide offences and penalties that are commensurate to the impact and volume of waste. Furthermore, Hamilton City Council supports the addition of a new dangerous littering offence that will apply to persons who litter dangerous items e.g., glass or syringes.
- 38.4.** Hamilton City Council supports the establishment of a new duty to notify contaminated land. The Duty-to-Notify requires a person in management or control of land to notify the Environmental Protection Authority (EPA) as soon as practicable if the contamination may pose a significant risk to human health or the environment.
- 38.5.** Hamilton City Council supports expanding duty-of-care to businesses, including domestic building sites required to separate out materials for recovery, rather than taking the 'one skip to landfill' approach and expanding duty-of-care to waste collectors who should not be obligated to transport contaminated recycling i.e., leave on kerbside with sticker/explanation/solution.
- 39. Q 22: What else could we do so that litter is taken more seriously as a form of pollution?**
- 39.1.** Ultimately, we need to look at the approach toward "litter" and calibrate if actions and investments are in alignment with the waste hierarchy and circular economy principles. If we create more durable products that are designed for reuse and have systems that create value instead of waste, we will have less litter. For example, product stewardship should create some of this value.
- 39.2.** The distinction between "little litter", illegal dumping and leakage needs to be made clear as the motivations and sources are different for each category. In making these distinctions, the types and source of litter will be taken more seriously, data can be accurately gathered, and appropriate mitigation can be put in place.

- 39.3.** Regardless of the scale, enforcement needs to be enabled through local authorities being able to issue spot fines in alignment with the level of offence. This could encompass recycling contamination, to someone throwing trash out the car window, to inorganics being thrown in a gully. We need to identify who will be responsible for different types of leakage, from plastic pellets (which would be easier to prevent) to microplastics in wastewater. There needs to be a multi-agency approach with territorial authorities, regional councils, and central government agencies such as the EPA.
- 40. Q 23: Do you support a nationwide licensing regime for the waste sector?**
- 40.1.** Hamilton City Council supports a nationwide licensing regime for the waste sector.
- 40.2.** Hamilton City Council agrees that data licensing should move up from local government to the Ministry to stop huge replication of time and effort across New Zealand. This sits better as a national programme because waste flows beyond territorial boundaries and if a council is competing with the private sector, making councils responsible to collect data from their competitors (the private sector) will be problematic.
- 40.3.** Furthermore, Hamilton City Council would support in principle and at a minimum, regional councils becoming the gatekeeper for data and licensing requirements which, aligns with current monitoring and enforcement responsibilities.
- 41. Q 24: Should the new legislation include a power to require a tracing system to be developed for some or all types of waste?**
- 41.1.** Hamilton City Council supports this in principle whilst recognising that some types of waste require more control, such as asbestos, hazardous substances and Class 9 (dangerous goods) substances. If tracing was expanded beyond this, the systems to do this would need to be technology-enabled to reduce the hindrance of increased administration.
- 42. Q 25: What aspects of the proposals for regulating the waste sector could be extended to apply to hazardous waste?**
- 42.1.** Hamilton City Council agrees that hazardous waste is best kept under separate legislation (Hazardous Substances and New Organisms Act and the new Resource Management Act) and that a separate system is used to track hazardous waste as the management of this type of waste is different.
- 42.2.** Improve legislative support for product stewardship schemes.
- 43. Q 26: Should the new legislation keep an option for accreditation of voluntary product stewardship schemes?**
- 43.1.** Mandatory schemes take time to obtain 'tick off' from central government as they require very strict guidelines. Hamilton City Council prefers mandatory schemes be put in place, but support the option being kept open for industry to participate in voluntary schemes. Voluntary schemes still need to be set up with quality and be accredited to avoid greenwash, misinformation or the drive for this to contribute to profit. Conditions should still be developed to align with best practice. This could be supported by local government input and review.
- 44. Q 27: How could the accreditation process for new product stewardship schemes be strengthened?**
- 44.1.** The accreditation process for new product stewardship schemes should be strengthened by contribution and review from local government. For example, the EcoStore takeback scheme was funded out of the waste levy, but these bottles were just being recycled as part of this programme, which would occur in kerbside. We see this as an ineffective and a poor use of time and money when an effective scheme, that is not already part of an existing service and is in-line with the waste hierarchy, would be for refill.
- 44.2.** Those designing a scheme should be independent of industry as selecting one organisation over another places bias in the scheme. We support schemes that are inclusive and ensure the scheme is available across the country.
- 45. Q 28: How else could we improve the regulatory framework for product stewardship?**

45.1. Hamilton City Council agrees that product stewardship schemes do not guarantee that businesses take responsibility for the cost of their waste if this is not built into the design. These schemes must require polluters pay, including regulations to cover clean-up costs, as is being implemented or considered in jurisdictions across Europe. Product stewardship schemes should have criteria that ensure schemes related to plastics result in reduction, increase employment opportunities, decrease carbon emissions along the supply chain, decrease environmental leakage, increase reuse, and eliminate toxic monomers and additives.

Enhancing Regulatory Tools to Encourage Change

46. Q 29: What improvements could be made to the existing regulatory powers under section 23 of the Waste Management Act 2008?

46.1. The WMA 2008 already contains powers to regulate and ban products and materials that could incentivise reusables and push our economy to circularity. We applaud actioning the Section 23 ban for microbeads and plastic bags. Still, we have concerns that use of the powers under Section 23 have not fully been realised. The existing regulatory powers under Section 23 can largely remain, if these are actioned through time bound targets.

47. Q 30: What new regulatory powers for products and materials would be useful to help Aotearoa move towards a circular economy?

47.1. Hamilton City Council supports time-bound targets, including to/for (but not limited to):

- Bans - e.g., materials that are not recyclable; organics from landfills.
- Standards provisions - e.g., quality standard provisions under Section 23 to allow a wider range of mandatory standards across the supply chain and implement national standards for recycling; incentivise reusables; regulate product design to align with the waste hierarchy; and a regulatory approach for single use compostable products which will have negative implications if not addressed (this also includes compostable standards).
- Improving the quality of recycling - e.g., expand and clarify the labelling power in Section 23 to identify the best recycling system for New Zealand (and implement).
- Levy - continue to increase the waste levy to the international practice of \$140 /tonne.
- Product stewardship - including provision to declare priority products at regular intervals or in alignment with set targets for manufacturers, importers and producers.
- Data - set mandatory standardised forms or methods of information collection.

48. Q 31: Would you like to see a right to return packaging to the relevant businesses?

48.1. Hamilton City Council supports the right to return packaging to the relevant businesses and agrees that any scheme needs to be connected to Duty-of-Care so those who receive it, do not just send to landfill.

49. Q 32: Would you like to see more legal requirements to support products lasting longer and being able to be repaired?

49.1. Hamilton City Council supports additional legal requirements to support products lasting longer and being able to be repaired. Standards for durability should be developed and applied to products and further, the products need to be designed to be easy to repair to ensure the cost of repair inhibits buying new. If New Zealand is to meet the target of waste reduction by 70%, as set in the markers for progress, consumption needs to change.

50. Q 33: Is there a need to strengthen and make better use of import and export controls to support waste minimisation and circular economy goals? For example, should we look at ways to prohibit exports of materials like low-value plastics?

- 50.1. Hamilton City Council supports prohibiting imports first, followed by exports. Considering that the target is to remove low-value plastics from the waste stream, banning them would support the reduction of our unrecyclable materials.

Ensuring the Waste Levy is Used to Best Effect

51. Q 34: What type of activities should potentially be subject to levy? Should the levy be able to be imposed on final disposal activities other than landfills (such as waste to energy)?

- 51.1. Hamilton City Council supports waste to energy being levied for any feedstock that does not reduce waste. This should not include anaerobic digestion or organics and food scraps. Incineration and pyrolysis need to match the landfill rate, so incineration does not become viable and lock in feedstocks. The levy should apply to the lower levels of the waste hierarchy and levy avoidance.
- 51.2. Hamilton City Council agrees the levy should apply to stockpiled recyclables that go to landfill. The cost of this should be incurred by the contractor as it is the ownership of the contractor to find the market. Finding the market could be included in Duty-of-Care.

52. Q 35: What factors should be considered when setting levy rates?

- 52.1. Hamilton City Council supports the provisions to review the waste levy not more than 3 years after the last review stated under Section 39 of the WMA 2008. Hamilton City Council applauds the recent levy increase but sees an opportunity to align the levy rate with international best practice of \$140/tonne.

53. Q 36: How could the rules on collection and payment of the waste levy be improved?

- 53.1. Hamilton City Council supports criteria on how to store each stockpile type to increase quality, as well as how long these can be held.
- 53.2. Stockpiling materials to get them to market is necessary. Stockpiling for a genuine reason should be permitted, but more fine tuning is required to avoid degradation of material. For example, concrete stockpiling and volumes of weighty construction and demolition waste will not readily result in degradation, but cardboard does degrade.

54. Q 37: What should waste levy revenue be able to be spent on?

- 54.1. Hamilton City Council generally supports a widening of what levy funding can be spent on to include enforcement, monitoring and licensing.
- 54.2. In the Regulatory Impact Statement for the 'Increase and Expansion of Waste Disposal Levy' (refer [here](#)), it is estimated that recycling and resource recovery sectors need approximately \$2.1 to \$2.6 billion in capital investment and \$0.9 billion in operational funding over the next 10 years. There is a 51% subsidy from Waka Kotahi NZ Transport Agency for roading maintenance and some projects. As discussed, waste levy revenue should go into the capital and operational costs of running systems that respond to the upper level of the waste hierarchy. We see an opportunity for job creation and community resilience through increasing the capacity for resource recovery aligned with the top of the waste hierarchy. This could occur through both public/private partnership and through partnership with the community.
- 54.3. In the current system, territorial authorities take full responsibility for products created further up the chain and need to find markets for recycling. Territorial authorities need to be able to access the other 50% of funding to support capital and operational costs. One option to consider is that smaller councils could be supported with an infrastructure funding round - outside of metro councils.
55. **Q 38: How should revenue from the waste levy be allocated to best reflect the roles and responsibilities of the different layers of government in relation to waste, and to maximise effectiveness?**

- 55.1.** Hamilton City Council supports that mandates for participation in waste prevention and enforcement should be extended to regional councils. Modelling of levy revenue and the cost of expanded services should occur to determine how funding should be split across different layers of government to ensure high quality participation and progress are enabled. At a minimum, Hamilton City Council supports a 50:50 split between central government and local government (including regional and territorial authorities).
- 56. Q 39: How should waste levy revenue be allocated between territorial authorities?**
- 56.1.** Hamilton City Council would support further modelling to assess if a more equitable solution would be for territorial authorities to receive a minimum operational budget, funding for at least one dedicated FTE position, and then an additional amount based on population and tourist influx. Another consideration in the model could be distribution as rural communities are more difficult to service than dense urban populations.
- 56.2.** Hamilton City Council supports levy funding in proportion to population and district/regional growth. For example, Hamilton City is exponentially producing more waste, most noticeably in the construction and demolition sector, as it experiences unprecedented growth. Construction and demolition waste makes up over 50% of Hamilton City's total waste stream. A mandate to require additional levy funding to support a decrease in this waste sector would result in less waste to landfill and a reduction in CO₂ emissions. Current levy spend is disproportionate to actual waste stream. This must be reflected to levy spend if targets are to be met.

Improving Compliance, Monitoring and Enforcement

- 57. Q 40: Which elements of compliance, monitoring and enforcement should be the responsibility of which parts of government (central government, regional councils, territorial authorities) under new waste legislation?**
- 57.1.** Hamilton City Council understands that enforcement is a multi-agency issue. Waste is picked up by numerous teams, such as Waka Kotahi NZ Transport Agency and roading and regulatory teams at councils. New legislation should require Waka Kotahi NZ Transport Agency to have a mandate to address state highway dumping and to work with local authorities to clean up and enforce dumping fines.
- 57.2.** Regional councils should also play a valuable role in compliance and enforcement. Regional councils already have auditing skills and experience in enforcement and prosecution. Regional council enforcement officers have experience both issuing fines and engaging offenders in education.
- 57.3.** Regional councils could play a valuable role in monitoring and tracking emerging contaminants from waste, such as microplastics.
- 57.4.** Coordination and standardisation would need to be put in place to ensure consistent data as part of a multi-agency approach. It would be useful to have consistent categories of what is collected and disposed of across organisations. Due to the number of teams involved, regional or national data reporting makes more sense. Reporting back to a national body would be helpful in identifying what the types and volumes are. This would help identify what services are needed to prevent illegal dumping.
- 57.5.** Hamilton City Council agrees that the Litter Act needs to enable spot/instant fines rather than going to court, much like the approach of the Land Transport Act.
- 58. Q 41: The need for enforcement work will increase under the new legislation. How should it be funded?**
- 58.1.** Hamilton City Council would support additional enforcement being funded through the levy and should be distributed equitably to ensure all councils have the ability to engage in enforcement commensurate with what will be mandated under the new legislation.
- 58.2.** Levy funding should enable anti-litter activities, including dealing with fly tipping.

- 59. Q 42: What expanded investigation powers, offences and penalties should be included in new waste legislation?**
- 59.1.** Hamilton City Council supports penalties being easier to issue, but measurable to the offence. This would provide an additional tool and enable action to be taken against persistent offenders without the current onerous and costly court proceedings. There should be no upper limit to fines e.g., tyres, which could cost millions of dollars for cleanup.
- 59.2.** Further, Hamilton City Council supports that it would be beneficial for territorial authorities to have the ability to issue on the spot fines (similar to the provisions provided under Section 13 of the Litter Act 1979), to combat contamination of kerbside collections.
- 59.3.** The requirements to prove dumping should be lessened, as they are currently completely prohibited under the Litter Act.
- 59.4.** What replaces the Litter Act should coordinate with the new RMA reform to include restrictions and bans on farm dumping and burning.
- 59.5.** Vehicle registration should be used to issue offences for littering out of vehicles.
- 59.6.** The use of CCTV should be enabled to identify offenders of illegal dumping.
- 60. Q 43: What regulatory or other changes would help better manage inappropriate disposal of materials (that is, littering and fly-tipping)?**
- 60.1.** In addition to what has been suggested, Hamilton City Council agrees that creating value would reduce litter. Programmes include a container deposit scheme (which includes glass), product stewardship schemes and phase out of hard to recycle plastics, bans, etc. Such initiatives would support the work that local government undertakes. Central government could undertake a national education campaign and should work with businesses to come up with solutions.
- 60.2.** Hamilton City Council agrees that a good balance of 'carrot and stick' is an effective tool to reduce waste. Territorial authorities could also utilise their Bylaws to incentivise behaviour. For example, although Hamilton City Council has the requirement for Site Waste Plans and Designing out Waste Plans in their Waste Management and Minimisation Bylaw, enforcing this is difficult and requires additional resource - there could be incentives in place to encourage set targets for reducing waste on site. Incentives could include reduced Resource Consent fees. Tauranga City Council is looking into withholding building consents and certificates of compliance for building work unless an applicant can demonstrate that they've prepared a waste management plan and then adhered to it. For example, they produce a disposal receipt at a recognised facility for the waste that they have diverted/disposed of prior to release of the Code of Compliance. This is to meet the goal of avoiding C & D waste going to landfill and illegal dumping of C&D waste, particularly contaminated waste from asbestos etc.

Further Information and Opportunity to Discuss Our Submission

- 61.** Should the Ministry for the Environment require clarification of the submission from Hamilton City Council, or additional information, please contact **Kirsty Quickfall** (Resource Recovery Advisor), phone 027 686 4446 or email kirsty.quickfall@hcc.govt.nz in the first instance.
- 62.** Hamilton City Council would also welcome the opportunity to meet with representatives from the Ministry for the Environment to discuss the content of our submission in more detail.

Yours faithfully



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CHIEF EXECUTIVE

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