



# Hamilton City Council – Staff Feedback

## Proposals to Amend the Waste Minimisation Act 2008 and the Litter Act 1979

Ministry for the Environment

29 May 2025

# 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 staff feedback is aligned with all of Hamilton City Council's five priorities.

## Council Approval and Reference

This staff feedback was approved by Hamilton City Council's Chief Executive on 29 May 2025.

Feedback # 803

It should be noted that the following feedback is from staff at Hamilton City Council and does not, therefore, necessarily represent the views of the Council itself.

## Introduction

1. Hamilton City Council staff welcome the opportunity to provide feedback to the Ministry for the Environment on its **Proposals to Amend the Waste Minimisation Act 2008 and the Litter Act 1979**.
2. This feedback includes key issues outlined in the 11 March 2025 feedback from Hamilton City Council staff to the Ministry for the Environment's 'Initial Review of Bylaws for the Waste Minimisation Act 2008 and the Litter Act 1979' – [refer here](#)
3. Unlike other legislation reviews that staff have participated in, it has been challenging to comment on specifics or provide the Ministry with insights without seeing full details of the changes proposed. Therefore, Hamilton City Council staff have provided this response based on experience and recommendations for change.

## Key Messages and Recommendations

4. Hamilton City Council has been actively working on waste minimisation strategies, and its Waste Management and Minimisation Plan outlines the Council's approach to reducing landfill waste and promoting sustainable practices. [Waste Management and Minimisation Plan 2024-2030](#)
5. Staff support updating fines under the **Litter Act 1979** to reflect current landfill costs, enforcement expenses, and inflation as a logical step to ensure they remain an effective deterrent.
6. The **value of infringements** has not been specified so we cannot provide feedback on whether the levels are adequate. A review of infringement penalties is required to ensure they align with the cost of enforcement and waste disposal, making them more impactful in discouraging non-compliance. If fines remain too low, they may not serve as a strong enough deterrent, particularly for businesses that factor them into operational costs rather than seeing them as a true penalty. In Hamilton City Council's experience, the cost of a prosecution far outweighs the penalty awarded, therefore a more robust value of infringements is a more cost-effective deterrent for illegal dumping.
7. Maintaining the **current framework** of the **Litter Act 1979** while ensuring it remains **effective and enforceable** makes a lot of sense. The Act provides **straightforward enforcement tools** for councils to issue infringement notices and fines, ensuring the littering penalties serve as a deterrent without creating unnecessary administrative burdens. By keeping the existing structure intact, councils can **continue their work** on litter prevention, waste minimisation, and public awareness campaigns without navigating **complex regulatory changes**. If adjustments are needed, they should focus on **fine-tuning specific provisions**, such as updating fine amounts to reflect modern waste disposal costs, rather than overhauling the system.
8. If a review of the framework is conducted, it should explore whether these penalties are sufficient or if additional enforcement mechanisms, such as the ability to fine body corporates and/or **mandatory cleanup orders**, should be introduced to ensure compliance.
9. Abandoned **shopping trolleys** is an issue not only for our council but councils across the country. A review of the framework should consider the implications of abandoned shopping trolleys on councils and enable appropriate mechanisms to hold retailers accountable for timely collection of their trolleys.

10. The **Waste Levy** has undergone several changes in recent years. Staff support the **50/50 allocation** between **central and local government** remaining in place as it ensures that territorial authorities can continue funding waste minimisation initiatives in line with their **WMMPs**. Staff support the **20/80 apportionment** as it is particularly beneficial for **smaller councils** as it allows them to receive a fairer share of funding relative to their waste management responsibilities. Staff support the increased scope of the levy.
11. Reviewing the connection between **bylaws** and a **Waste Management and Minimisation Plan (WMMP)** is a crucial step in ensuring clarity and effectiveness in waste management policies.
12. Improving **local licensing provisions** for **cross-boundary activity** could enhance coordination between councils and streamline regulatory processes.
13. The view of staff is that **Section 58** of the **Waste Minimisation Act 2008** is still relevant today as it governs the ability of territorial authorities to make waste **bylaws that support waste minimisation efforts**. This section allows councils to regulate waste collection, disposal, and recycling to align with their WMMPs.

## Response to the Ministry for the Environment's Key Questions

14. **Waste Minimisation Act Part 2: Product stewardship**
15. **Question 1: Do you support the proposal for a modern EPR framework?**
16. Yes.
17. **Question 2: Do you support discontinuing the government accreditation of voluntary product stewardship schemes?**
18. Yes.
19. **Please share any further thoughts or ideas on these proposals.**
20. Staff are supportive of the EPR framework, which needs to be done at a national level (government role) rather than a regional level (territorial authority role).
21. **Waste Minimisation Act Part 3: Waste disposal levy**
22. ***Distribution of levy funds***
23. **Question 3: Do you support changing the distribution of levy funds to territorial authorities from a population-based calculation to a combination of a base flat rate (20 per cent) and a population-based calculation (80 per cent)?**
24. Yes.
25. **Please share any further thoughts or ideas on these proposals.**
26. While we support the distribution of the levy to a combination of a base flat rate and a population-based combination (20/80 split) as being a fairer way to distribute funds to smaller councils, the implications (i.e. the dollar value) for our Council and how this may align to already approved WMMP's is unknown and unclear from the information provided.
27. ***Scope of use of levy funds***
28. **Question 4: Please indicate your support for changes that would permit territorial authorities to use the levy for:**

29. **Question 4a: activities that promote or achieve waste minimisation, in accordance with and as set out in the territorial authorities' Waste Management and Minimisation Plan.**
30. Yes.
31. **Question 4b: costs associated with managing emergency waste.**
32. Yes.
33. **Question 4c: activities that provide for the remediation of contaminated sites and vulnerable landfills.**
34. Yes.
35. **Question 4d: compliance, monitoring and enforcement of mismanaged waste.**
36. Yes.
37. **Question 4e: Activities that reduce environmental harm or increase environmental benefits.**
38. Yes.
39. **Please share any further thoughts or ideas on this proposal.**
40. Staff support the increase in scope of waste levy uses. The cost of illegal dumping management can be significant. Access to the Waste Levy could be significant for territorial authorities struggling with illegal dumping. By directing funds towards education and prevention, territorial authorities can reduce waste sent to landfill while tackling the root cause of illegal dumping
41. Staff support the proposed changes that allow levy funds to be used for emergency waste management and remediation of contaminated sites and vulnerable landfills. From a waters perspective this better protects from harmful substances entering stormwater management systems and negatively impacting receiving environments. However, staff would like clarity on whether the levy could also be applied to more sustainable alternative treatments for biosolids.
42. Staff would like more clarity on the application of the proposed definition for 'mismanaged waste' for biosolids or sludge removal in waters processes, e.g. currently Hamilton City Council's biosolids are repurposed, however, clarity is needed on how the proposed amendments would apply if the situation changed and Council needed to stockpile until an alternative was found and/or it needed to go to landfill.
43. **Question 5: Please share any 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.**
44. Decision for levy spending should be at the territorial authority's discretion however the decision-making framework should be able to demonstrate that spending is providing an environmental benefits and/or reduction, and not a service provision i.e. utilising levy to provide kerbside waste removal.
45. ***Further levy effectiveness considerations***
46. **Question 6: Do you support removal of the current blanket exclusion from the waste-to-energy facilities.**
47. Yes.
48. **Question 7: 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).**
49. Unsure.

50. **Question 8: 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?**
51. Yes.
52. **Please share any further thoughts or ideas on this proposal.**
53. Hamilton City Council is generally supportive of removing the current blanket exclusion from the levy for waste-to-energy facilities. Not all waste-to-energy plants yield the same outcomes. If the levy is applied to all "waste-to-energy" applications, it would treat different processes, such as anaerobic digestion and incineration, the same, even though their environmental impacts differ significantly. For example, waste used in cement kilns, like at Golden Bay Cement, which substitutes coal, should be treated differently from waste-to-energy plants which are not replacing less sustainable energy sources.
54. We require further clarification on what is intended in question 7.
55. Changing the timeframe for review from three years to at least every five years provides for better long-term planning and better aligns to the cycle of a WMMP.
56. ***Use of waivers***
57. **Question 9: Do you support replacing the current levy-waiver requirement of 'exceptional circumstances', instead of enabling the Secretary to waive the requirement for an operator to pay any amount of levy in the specified circumstances?**
58. Yes.
59. **Question 10: 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?**
60. Yes.
61. **Question 11: 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.**
62. Yes.
63. **Please share any further thoughts or ideas on these proposals.**
64. We support the limiting of the waiver to declared emergency events under the Civil Defence Emergency Management Act or biosecurity responses, where there is a clear public health or environmental risk.
65. The waiver requirement for waste from the remediation of contaminated sites should include clear eligibility criteria. Applications should demonstrate that alternative treatment or disposal options have been properly considered and be assessed against defined criteria to ensure waivers are granted only where they are necessary, justified, and aligned with waste minimisation goals. This waiver option should also be extended to cover remediation of vulnerable landfills.
66. ***Conditions and exemptions***
67. **Question 12: 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)?**
68. Yes.

69. **Question 13: Do you support applying a timeframe of a maximum of five years before levy exemptions via regulations must be reviewed or allowed to expire?**
70. Unsure.
71. **Question 14: Do you agree that the Minister should be able to impose conditions on levy exemptions?**
72. Unsure.
73. **Please share any further thoughts or ideas on these proposals.**
74. Staff support the development of specific criteria, as opposed to the current exceptional circumstances which is not defined. Specific criteria could include the potential regional or nationwide implications of an exemption, and the consideration of alternatives to landfill disposal.
75. Staff require further clarification on what is intended in questions 13 and 14.
76. ***Reuse of material at disposal facilities***
77. **Question 15: 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?**
78. Yes.
79. **Please share any further thoughts or ideas on these proposals.**
80. A legislative review could help clarify acceptable reuse practices, ensuring that disposal facilities can operate efficiently while still contributing to waste minimisation goals. Additionally, this will help prevent differing interpretation by operators and provide a level playing field for all disposal facilities. Common activities where waste is reused includes soil materials for daily cover and intermediate cover, and aggregates used for construction. Clear definitions would support consistent application and enable consistent enforcement across disposal facility types.
81. ***Stockpiling controls***
82. **Question 16: Do you support improvements to stockpiling controls by introducing tools such as:**
83. **Question 16a: an approval system with limits and conditions.**
84. Yes.
85. **Question 16b: changes to the stockpile volume threshold limit.**
86. Yes.
87. **Question 16c: a stockpile volume threshold limit.**
88. Yes.
89. **Question 16d: improved data collection, record-keeping and reporting provisions, to increase transparency and traceability of material entering and leaving a site.**
90. Yes.
91. **Question 16e: defining/amending the terms 'diverting material', 'accumulation' and 'stockpiling' in the legislation?**
92. Yes.
93. **Please share any further thoughts or ideas on these proposals.**
94. Staff support an approval system with limits and control conditions. Generally, we support measures to stop levy avoidance.

95. While staff support stockpile volume threshold limits, the limits need to be consulted with industry to ensure the levels are appropriate and do not cause issues at sites. This will only work if sites have a weighbridge to calculate volumes. This is also dependent on the site's location to the market as a higher stockpile limit may be justified if the site is located further from the market to make recycling financially viable.
96. One consideration would be to have a national environmental standard for each waste stream that could be stockpiled to create blanket controls.
97. Improved data collection should not incur onerous administration. There could be a threshold level that triggers data requirements.
98. The consultation document does not specify what the definitions referred to in 16e are changing to.
99. **Various Parts of the Waste Minimisation Act: Clarifying the roles and responsibilities in the waste legislation**
100. **Question 17: Do you support the proposed changes to the roles and responsibilities for:**
101. **Question 17a: the Ministry for the Environment.**
102. Yes.
103. **Question 17b: the New Zealand Customs Service.**
104. Yes.
105. **Question 17c: territorial authorities?**
106. Yes.
107. **Question 18: 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?**
108. Yes.
109. **Question 19: Do you support enabling the Waste Advisory Board to provide advice at its discretion?**
110. Yes.
111. **Please share any further thoughts or ideas on these proposals.**
112. Hamilton City Council have a team dedicated to waste prevention who are proactive in enabling education, coordination, partnership, joint work, and research across our city supporting and engaging our residents to live further up the waste hierarchy.
113. If an amendment is made to Section 48 of the WMA to enable the Minister to direct territorial authorities to do a particular activity through their WMMP, consultation should be required ahead with all territorial authorities involved.
114. Staff recommend that the Waste Advisory Board appointments should rotate, and measures should be maintained to ensure there is a mix of perspectives and backgrounds.
115. **Waste Minimisation Act Part 5: Modernising the compliance and data regime**
116. **Question 20: Do you agree the regulator should have greater powers to receive data, including the ability to share with other regulators and the Ministry?**
117. Yes.



118. **Question 21: Do you support the proposed tiered approach to the compliance tools and sanctions?**
119. Yes.
120. **Please share any further thoughts or ideas on these proposals.**
121. Staff require further clarity on the enforcement process for each tier because this information has not been provided in the consultation document.
122. Ensuring compliance without adding unnecessary administrative burden on territorial authorities is key. If mandatory cleanup orders were introduced, they would ideally be structured to place the responsibility on offenders rather than local authorities. One approach could be automatic enforcement mechanisms, such as fines escalating if cleanup isn't completed within a set timeframe or requiring offenders to cover the cost of council-led cleanup efforts. This could streamline enforcement while ensuring territorial authorities aren't burdened with extra work.
123. This currently works well, and we suggest the current tools are added to rather than removed. Staff require tools that do not require a prosecution and legal expenses. The proposed tier approach needs to be simple – don't make it too complex by trying to put all compliance into one section.
124. It is unclear where an infringement notice sits within the tiers. The Litter Act works well but the fines are too low.
125. The cautionary tool within the proposed tiered approach should be an option and not necessarily a starting point at the lower end of the scale. We need to retain the ability to act at our own discretion.
126. **Litter Act: The effective enforcement and cost of recovery of littering and other types of mismanaged waste**
127. *Scope of the legislation*
128. **Question 22: Do you support integrating littering and other types of mismanaged waste into the same regulatory framework for waste management and minimisation?**
129. No.
130. **Question 23: Do you support enabling regulations for the collection of data on littering and dumping?**
131. Yes.
132. **Question 24: Do you support expanding the purpose of the WMA to include littering and other mismanaged waste in the new waste legislation?**
133. No.
134. **Please share any further thoughts or ideas on these proposals.**
135. The advantage of the Litter Act is that it is well tested and works well. There is a risk of losing this if it is blurred with the WMA as the WMA is more strategic.
136. Staff do not support expanding the purpose of the WMA to include littering and other mismanaged waste as minimisation is very different to enforcement and there should be a clear distinction between the two.
137. While we support enabling regulations for the collection of data, there are complexities to this as it comes from different units within territorial authorities, such as parks, transport, waters, etc. A national data licensing programme is necessary to improve the ability to collect waste data.

138. *Roles and responsibilities*
139. Question 25: Regarding public authorities, do you support:
140. Question 25a: limiting the definition of 'public authority' as proposed.
141. Yes.
142. Question 25b: 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?
143. Yes.
144. Question 26: Do you support removing the assignment of a statutory role for the promotion of litter control to any specific agency or organisation?
145. Yes.
146. Question 27: Do you support public authorities having discretion whether they provide waste receptacles in public places but an obligation to empty those receptacles if they provide them?
147. Yes.
148. Question 28: 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.
149. Yes.
150. Question 29: Do you agree that a local or public authority should:
151. Question 29a: retain the ability to make grants to any organisation for the abatement or prevention of litter.
152. Yes.
153. Question 29b: be able to spend such sums of money as it thinks fit on any scheme or campaign for the abatement or prevention of litter.
154. Yes.
155. Question 29c: retain the ability to make bylaws to help reduce littering and dumping, if they are not inconsistent with the provisions of the new legislation.
156. Yes.
157. Question 29d: retain the ability to deter, prevent, require timely clean-up and enforce waste escaping/being carried on to public or private land?
158. Yes.
159. Question 30: Do you support enabling all types of Litter Control Officers to apply different tiers of compliance tools, where they are authorised to act?
160. Yes.
161. Question 31: Do you agree that, in enforcing offences, Litter Control Officers should be able to:
162. Question 31a: use vehicle registration and ownership details.
163. Yes.
164. Question 31b: use appropriate evidence-gathering, search and surveillance powers for vehicles that are implicated in serious dumping offences?

165. Yes.
166. **Please share any further thoughts or ideas on these proposals.**
167. Staff strongly support these proposals as they strengthen existing tools and remove unnecessary administrative burden on territorial authorities.
168. ***Compliance and monitoring enforcement framework***
169. **Question 32: Do you support the proposed amendments to the compliance monitoring and enforcement framework for littering and other mismanaged waste offences?**
170. Yes.
171. **Question 33: Do you support lowering the threshold for evidence of mismanaged waste offence, to allow for effective compliance monitoring and enforcement by Litter Control Officers?**
172. Yes.
173. **Question 34: Do you agree that public authorities should be able to be compensated by the offender if the mismanaged waste offence has caused significant environment harm?**
174. Yes.
175. **Please share any further thoughts or ideas on these proposals.**
176. In general, staff support the compliance monitoring and enforcement framework for littering and other mismanaged waste offences, however, suggest the following considerations:
177. The fines specified in the Litter Act 1979 need updating, i.e. at a minimum they need to reflect inflation and the increased costs of applying these infringements, the costs of disposal, and act as a deterrent to unwanted behaviour. It should be noted that these fines have not been reviewed since 1979. Although a prosecution can be issued under the bylaw, this has associated risks for the territorial authority and can be difficult to recover. It would be much easier to adopt an infringement notice rather than bring a prosecution under either the Litter Act 1979 or the Waste Minimisation Act 2008.
178. Most illegal dumping is at least one rubbish bag, so the value of the infringement for this level of illegal dumping needs to be set high enough to deter this behaviour. Staff recommend moving one bag of rubbish to tier 2.
179. An infringement notice amount of \$3,000 for individuals and \$10,000 for body corporates would streamline enforcement under the Act, be more in line with overseas amounts, and act as a more reasonable deterrent for people undertaking illegal dumping.
180. Consideration should be given to annually raising these amounts by the CPI to allow for inflation.
181. Most of Hamilton's current infringements sit in the prosecution tier but we want to be able to infringe them rather than prosecute. The costs of bringing any action to court are likely to far outweigh the costs of bringing any prosecution, particularly with individuals who do not have the means to pay a fine.
182. We do not have the resource required for the cautionary tier and therefore we recommend this is changed so that we can go straight to infringement at our discretion.
183. Kerbside contamination of recycling is an issue. Through amendments to the WMA and Litter Act, Territorial Authorities could be supported to reduce contamination though standardising what process should be followed if kerbside contamination occurs. If contamination becomes an offence, then territorial authorities would be enabled to enforce based on the tiered approach proposed.

184. *Cost recovery for removal of waste and correction of damage*
185. **Question 35: 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.**
186. Yes.
187. **Please share any further thoughts or ideas on these proposals.**
188. Reasonable costs could be open for interpretation so this needs to be defined. It is difficult to put a dollar value on this, but these cases invariably involve legal fees, contractor costs, and Council staff time.
189. *Feedback requested from Litter Control Officers:*
190. **Question 36: 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 on the public place), please answer the following.**
191. **Question 36a: Are the current provisions efficient or effective for addressing this type of mismanaged waste issue in your area?**
192. Unsure.
193. **Question 36b: If not, please provide more information about the limitations of the provisions.**
194. We have not had to use this section of the Litter Act.
195. **Question 37: Please provide your feedback on the draft infringement levels for the proposed mismanaged waste compliance framework.**
196. In general, without knowing the dollar value on the infringement notices, it is difficult to comment on the framework.
197. One consideration is identifying commercial waste as an explanation of infringement level, which should be sitting at level 3 and prosecution.

## Further Information and Opportunity to Discuss our Feedback

- 198.** Should the Ministry for the Environment require clarification of the feedback from Hamilton City Council staff, or additional information, please contact **Sarah Wilson** (Head of Resource Recovery) on **027 808 0246**, or email [Sarah.Wilson@hcc.govt.nz](mailto:Sarah.Wilson@hcc.govt.nz) in the first instance.
- 199.** Hamilton City Council representatives would welcome the opportunity to discuss the content of this feedback in more detail with the Ministry for the Environment.

Yours faithfully



**Lance Vervoort**

**CHIEF EXECUTIVE**

#### **FURTHER INFORMATION**

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