

10 December 2021

Ministry for the Environment
PO Box 10362
Wellington 6143

by email: wastelegislation@mfe.govt.nz

Canterbury Mayoral Forum submission on the Ministry for the Environment's discussion document, *Te kawe i te haepapa para: Taking responsibility for our waste: Proposals for a new waste strategy; Issues and options for new waste legislation*

1. The Canterbury Mayoral Forum (CMF) thanks the Ministry for the opportunity to make a submission on the discussion document, *Te kawe i te haepapa para: Taking responsibility for our waste: Proposals for a new waste strategy; Issues and options for new waste legislation*.

Background and context

2. The CMF comprises the mayors of the ten territorial local authorities in Canterbury and the Chair of Canterbury Regional Council (Environment Canterbury), supported by our chief executives. The purpose of the Forum is to promote collaboration across the region and increase the effectiveness of local government in meeting the needs of Canterbury's communities.
3. All Canterbury councils actively participate in the Forum: Kaikōura, Hurunui, Waimakariri, Selwyn, Ashburton, Timaru, Mackenzie, Waimate and Waitaki District Councils, Christchurch City Council and Canterbury Regional Council (Environment Canterbury).
4. We note that Environment Canterbury, Christchurch City, Waitaki, Timaru and Hurunui District Councils and the Canterbury Waste Joint Committee are also making submissions. We support careful consideration of these submissions.

Mayors standing together for Canterbury.

Secretariat, E: secretariat@canterburymayors.org.nz W: www.canterburymayors.org.nz
C/- Environment Canterbury, PO Box 345, Christchurch 8140 T: 03 345 9323

Mayoral Forum's *Plan for Canterbury*

5. The CMF published the *Mayoral Forum's Plan for Canterbury* in September 2020, which sets out the CMF's five key priorities in this local government term.
6. Our vision for Canterbury is sustainable development with shared prosperity, resilient communities and proud identity. A key aspect of this vision is for all of us together to care for our natural resources to secure both present and future opportunities.
7. The Mayoral Forum's Plan for Canterbury contributes to the Government's wellbeing aspirations of New Zealand and to the achievement of the United Nations Sustainable Development Goals adopted in 2015. Our thinking, planning and actions are also informed by the SOLGM (now Taituarā) 2020 report on *Navigating critical 21st-century transitions* which includes a transition to a low waste society.
8. We welcome this opportunity to provide Canterbury's view on the issues raised in the discussion document.

Transforming our approach to waste

9. With New Zealand being one of the highest generators of waste per capita internationally it is critical that changes are made to the management of waste in this country.
10. The concept behind the circular economy is supported. A strong mandate that shifts the responsibility of product end-of-life to those producing the products and encourages a circular economy is recommended.
11. The CMF notes a well thought out legislative and policy framework will be required to manage the extensive implications and risks associated with this change. Improved regulations and infrastructure will be necessary to achieve a reduction in the amount of waste being produced and the other intended changes.
12. The enactment of comprehensive waste legislation and the development of a new national waste strategy will be critical first steps for transforming our approach to waste. The CMF advocates for comprehensive waste legislation, include provisions to mandate the strategy, its monitoring and periodic review and for the establishment of a stand-alone agency, to manage waste and resource recovery including the Waste Minimisation Fund.
13. This programme of legislation, improved regulation and investment in new infrastructure needs to be appropriately resourced and prioritised for completion within the first years (Stage 1) of the strategy.

Vision

14. The CMF supports the vision of a circular economy for Aotearoa New Zealand where we look after our natural resources, respect our connection with the environment and strive for a country where nothing is wasted.

Principles

15. The six principles that underpin the proposed new strategy are supported by the CMF, however more emphasis and detail is required regarding education and behaviour change. Both principle one and two refer to the need to “confront entrenched behaviours” and “entrench a new mind set” but the draft strategy does not provide any detail on how the Ministry proposes to confront behaviours or entrench new mind sets.

Proposed Course

16. The CMF supports setting out a staged approach to 2050, however we consider that the goals are too conservative and not challenging enough and the proposed timeline for the three stages does not provide sufficient drivers for meaningful change. Consideration should be given to have aspects of the stages run concurrently, rather than setting them out end-to-end.
17. The development of infrastructure, where possible on a regional basis to prevent duplication and ensure efficiencies, needs to be fast tracked to ensure the appropriate systems and facilities are already established when progressing to Stage 2.

Stage one priorities

18. The CMF supports the early implementation of the strategic framework and enactment of the new waste legislation.
19. It is critical for the success of this stage that there is adequate resourcing for the work to be completed and implemented.
20. Priority three is strong on education but does not appear to have any focus on behaviour change. Information and education are important, and we acknowledge the long lead time required for change in public understanding, but until people have better options available to them, such as resource recovery and recycling systems, they are unable to act, so prioritising investment in these systems sooner may achieve better outcomes.
21. There is support for the proposed standardisation of residential collection materials, however current methods used will depend on local infrastructure and other localised inputs/factors. Local authorities need to have flexibility in the collection and processing methodology to achieve the outcomes in a manner best suited to that locality.
22. As noted in Environment Canterbury’s submission there is an internal inconsistency between considering bans on disposal of organic material in landfills on the one hand and improving landfill gas capture on the other. Waste to energy investments in infrastructure require very long-term assurances of feedstock which does not encourage waste avoidance or minimisation.
23. The CMF acknowledges the importance of understanding the scale of past damage and the best approaches for remediating it. A clear plan, legal responsibility and funding needs to be put in place for proactive management of closed landfills and other contaminated sites.

24. Other actions to consider in stage one include:

- clearly defining the term “waste” and ensuring it is used consistently
- the establishment of a contestable fund specifically to address the remediation of legacy waste disposal sites
- creating a National Environmental Standard for Disposal to Land
- increasing focus on work with businesses, manufacturers and importers to encourage and implement change in the right direction, outside of those products covered by product stewardship schemes.

Markers of progress

25. Targets are supported to measure progress. With the measure for households and businesses based on disposal data rather than generation it is likely that this number will grow (with better data) before it reduces. It is important that measuring reductions starts from a true baseline.

Developing comprehensive legislation

26. The CMF considers it would be premature to attempt to redesign the roles of the various levels of government at this stage without understanding the recommendations of the Future for Local Government review and the outcomes of the resource management reform process.

27. The consultation document contains no analysis of the current examples of regions and sub-regions working together to plan, coordinate investment and jointly deliver services.

28. The statement that territorial authorities usually limit their involvement in collection and disposal of waste to residential collection (p.49) demonstrates a comprehensive lack of understanding by the Ministry of the scope and reach of local government in this area.

29. Territorial authorities run transfer stations, fund education on waste programmes, own council-controlled organisations involved in major landfills harvesting gas emissions, manage former landfills and fund remediation of legacy sites, contribute to regional reuse and recycling facilities, and own and operate self-funding tip shops. The Mackenzie District Council for example offer a \$20 waste-free parent pack with washable nappies to keep disposables out of landfills. Residential kerbside collections are just a fraction of territorial authorities' involvement in the collection and disposal of waste.

30. The CMF supports standardisation, but careful consideration should be given to whether it is practical to make stronger and clearer statements requiring local authorities to provide collection and recycling services and disposal facilities (either directly or through contracted providers). Existing infrastructure and funding challenges and the opportunities extended by product stewardship and greater use of economic instruments, increased levies and taxes all need to be evaluated as part of this. In small rural and or remote communities it is currently not economically feasible to require local authorities to provide collection and recycling services and disposal facilities.

31. The proposed functions for central government appear to be consistent with central government agency functions under other (current) legislation. However, the CMF supports the creation of an independent agency for the management of waste and resource recovery, a Waste Authority separate from the Ministry for the Environment which would retain its role in developing policy and legislation. This approach has been adopted in other countries and

territories, including in Australia with the recent announcement of Recycling Victoria¹, a separate entity to be established in July 2022, which will oversee and regulate the state's waste and recycling sector.

32. It is our view that the waste agency should be responsible for delivering on the targets in the Government's Waste Strategy. The functions of the new agency could include the collection and funding of levy data, licensing, data and reporting, education programs and regulations in respect to EPR.
33. Of particular importance to the CMF would be ongoing liaison with local government and other key partners, whether it be a central government agency or the Ministry for the Environment.

Duty of care

34. The proposal to introduce duty of care obligations as the new regulatory regime for waste is supported in principle, provided the enabling of tracing is confined to the proposed licensing or authorising system.
35. The CMF considers that duty of care needs to be meaningful and apply across the supply chain in the same way as the duty of care applies to all persons and enterprises under the health and safety in employment legislation. Any model will require adaption to reflect conditions within New Zealand.
36. While local government bylaws enable the operation of local licensing systems, they are tailored to local situations and conditions, and so the "proliferation of slightly different systems and processes around the country" (p.53) is not as much a problem as the discussion document implies. The statement that "in a country of our size it would be better to have a single nationwide licensing system than to continue with individual territorial authorities introducing their own systems" (p.54) does not take localism into account and the imperative of being closely in touch with communities.
37. A nationwide licensing system for waste is supported, but it needs to enable regional/local enforcement powers and delivery mechanisms.
38. Initiatives to develop regulated product stewardship schemes are supported. The accreditation of voluntary schemes could be an interim step, with the expectation that after a period they would become mandatory.

Regulatory Tools

39. The discussion document argues for building a practice of systematically collecting good data (p.34), and that data reliability will improve over the next few years, given the new data regulations (p.38) possibly referencing the Digital Identity Services Trust Framework Bill currently referred to select committee. Data limitations mean that central government currently does not have the ability to track this for all parts of society (p.38) which also limits information to disposal data rather than generation data (p.39).

¹ <https://www.premier.vic.gov.au/recycling-victoria-leads-way-sustainable-future>

40. The concepts of responsibility and connection are at the heart of the proposed new strategy to enable tracing (p.51) and a tracing system (p.54). Presumably, a tracing system is needed because “continuing to rely on voluntary action is unlikely to see transformation to a circular economy” (p.61). Data collection powers are proposed in the new legislation (p.63) to ensure there are enhanced tools to start gathering data, and to provide “clearer and more comprehensive powers for the government to obtain information from all those involved” (p.63).
41. Data gathering is needed to better understand waste generation rather than just disposal.
42. The CMF shares the concerns outlined in the discussion document and agrees with the statement “information powers always require detailed scrutiny as they are developed because of potential misuse, privacy concerns, and storage” (p.63). It is noted that if tracing systems are too onerous for small business, there could be unintended consequences, which may impede rather than assist the development of a circular economy.
43. Requiring specified products to incorporate a proportion of recycled material, banning or restricting the import of hard to recycle products, and encouraging or enforcing the use of materials that are easily recycled or composted are supported, as these would help New Zealand progress towards a circular economy.
44. The CMF supports expanding the legal requirements for the right to repair. There is opportunity to link this with importation standards, the use of border controls and waste import tariffs.

Use of the Waste Levy

45. All final disposals and residual waste should be subject to the waste levy to incentivise activities further up the waste hierarchy.
46. Setting levy rates should be based on the significance and risk posed by the waste stream to which the levy is applied. Consideration should be given to the cost of alternatives such as recovering and recycling materials. For landfill levies to work as effective incentives alternative options for the management of materials destined for landfills must be available (recycling, composting etc).
47. The waste levy fund should support activities across the waste hierarchy, in particular initiatives and systems that move activity up the waste hierarchy. Ongoing education and behavioural change programmes should continue to be supported and expanded to include litter reduction and awareness campaigns.
48. Broadening how levy funds can be used and allowing flexibility to be able to channel funding towards new initiatives are supported.
49. The allocation of the waste levy needs to be done in a way that creates coordination and cooperation across boundaries and addresses the challenges faced by small populations servicing large geographic areas or the presence of a high number of non-residents (such as tourists).
50. Subject to a stronger role in waste and resource recovery by regional councils, funding should also be allocated to regional infrastructure. There could be good waste minimisation outcomes at a regional level that could benefit from access to the fund.

Compliance, Monitoring and Enforcement

51. The discussion document points out that local government bylaws are inconsistent nationwide (p.76). Local government bylaws are designed to be specific to the local area, so it is hardly surprising that they are inconsistent nationwide, and this is not a problem.
52. Before the new legislation devolves enforcement responsibility onto local government, there should be clear signals for the funding source of CME. Income received from compliance fees and licensing charges should fund CME activities.
53. The CMF supports the statement (p.77) that investigation and detection powers need to be carefully drafted to ensure they are proportionate to the issue and consistent with human rights.

The Particular Problem of Litter

54. The problem of litter is well canvassed in the discussion document (p.78-79) and the proposal to repeal the Litter Act 1979 and incorporate better detection, enforcement arrangements and penalties in new legislation is fully supported.
55. The possibility of creating a separate offence of littering from a vehicle, with responsibility resting with the registered owner, as has been legislated in other countries, should be explored for application in New Zealand. In addition, offence penalties that provide for third party reporting of littering should be explored.
56. Increased education at a local, regional and national level to drive behavioural change, with stronger penalties, including for manufacturers and retailers, for littering is supported. Initiatives such as Keep NZ Beautiful clean-up week should be given more impetus, funding and the outcomes of such programmes publicised to further raise awareness.

Soil Disposal and Clear Fill

57. Soil disposal and clear fill are not discussed in the consultation document. It is understood that 20% of class 1 landfill is "waste" soils. Some soils are geotechnically unsuitable for engineering or building purposes. Some are slightly contaminated for residential use, however there is soil that could be reused that currently ends up in disposal sites. Likewise, clear fill could be crushed and used for roading aggregate. The CMF supports the reuse of soils and clear fill where this is possible.

Conclusion

58. Thank you once again for the opportunity to make a submission on the discussion document.
59. Our secretariat is available to provide any further information or answer any questions the Ministry may have about our submission. Contact details are Maree McNeilly, Canterbury Mayoral Forum Secretariat, secretariat@canterburymayors.org.nz, 027 381 8924.

Ngā mihi

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line that tapers to the right.

Sam Broughton
Mayor, Selwyn District Council
Chair, Canterbury Mayoral Forum