

early autumn. These places have attracted youths parking up and drinking and causing general trouble in the past. The liquor ban could cause youths to congregate in these areas more often particularly in the central city areas

Police do have the power of trespass to some of these locations.

A liquor ban in all of these locations would be supported by police however it would impact on law abiding citizens going to these places for picnics.

6.3. By-law viewed as unfairly targeting youth

A risk is that the liquor ban is seen as picking on the young people of the area. This report at times describes the actions of youths drinking, but the intention is not to target youths. It is simply a fact that most of the undesirable behaviour witnessed by police is exhibited by the younger members of society. The law will be enforced fairly and with discretion, across the age groups.

In a recent New Zealand Herald article an Auckland barrister, Tony Bouchier, commented on the liquor ban in Tauranga. He is quoted as saying "there was too much 'collateral damage' with the liquor ban and too many good kids were being arrested for what was essentially a minor offence...it was being used to harass a lot of youth in Tauranga." (Gee,2003 as cited in Fergus, 2003).

Waitakere Police have had numerous problems with large intoxicated groups of youths and mass youth disorder in the past; however these incidents generally have not occurred within the CBDs. Waitakere Police do not wish to unfairly target youths and would seek to educate and warn young persons. Arrests would only be for young people unwilling to comply and then each case could be judged on its merits.

Even after arrest police can offer "Diversion" to these people giving them to opportunity for a clean slate.

6.4. Incorrectly drafted legislation

Recent media publicity has highlighted occasions where prosecutions for breaches of a liquor ban have been withdrawn as a result of the ban not being correctly implemented. The problems occurred from the ban not being correctly advertised and lack of consultation.

The Waitakere City Council are well aware of the problems that have occurred in other areas.

AGI

7. People likely to be affected

7.1. People likely to be positively affected

- Residents
- Tourists visiting shop areas.
- Local retailers.
- Restaurateurs and their customers, patrons don't wish to encounter groups drinking alcohol as they leave the premises or witness drunken acts from their dining tables.
- Local liquor licensees, currently if youths are seen drinking near their premises, members of the public may form the impression it has been supplied by the publicans. Furthermore with the increased numbers of outlets placing tables on the pavements, patrons do not wish to be accosted by groups of people drinking on the same pavement without restriction.
- Council staff, due to reduced rubbish collection and damage costs.

7.2. People likely to be adversely affected

- Residents whose parties extend to the public places.
- Persons drinking in public places.

7.3. People who will not be affected

- Licensed premises (including outdoor seating attached to licensed premises) these areas are covered under the liquor licences.
- Private property.
- People purchasing liquor from off-licenses as long as the alcohol purchased is not drunk in a public place and it is removed quickly from the liquor ban area.
- People taking liquor through public places within the ban area to and from residences and licensed premises, as long as the liquor is promptly removed from public places within the ban area.

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8. Powers of the police

8.1. Search

The Local Government Act 2002, Section 169 provides the police with certain powers of search in order to enforce a liquor ban. A member of police may, without a search warrant, and for the purpose of ascertaining whether liquor is present, search:

- A container in the possession of a person, who is in, or entering, an area subject to a liquor ban.
- A vehicle that is in or entering such a place.

The police officer may seize and remove such liquor that is in breach of the bylaw.

It should be noted that when enforcing the 24 hour general ban proposed for Waitakere, section 170 of the Act requires that police **must** inform the person that he or she has the opportunity to remove the vehicle or container from the public place. The person must be provided with a reasonable time to do so. This has the effect of providing the person with a means of protecting their privacy if they so desire (taken from General Liquor Ban: Orewa in Fergus, 2003).

8.2. Arrest

It is an offence to knowingly disobey the liquor ban. The police can arrest a person who commits an offence against the liquor ban, or if they have reasonable cause to suspect that they have done so.

The Waitakere Police will only arrest people who refuse to comply with a request to leave the area or tip their alcohol out, or who have been previously warned and are repeat offenders.

The police will not target people carrying alcohol to a BYO restaurant to have it with a meal. This is not within the spirit or letter of the law (taken from General Liquor Ban: Orewa in Fergus, 2003).

9. Enforcement

9.1. Warnings

As there is a requirement for persons to knowingly breach the ban, offenders will be warned in the first instance. Police will keep a record of who has been warned, if these persons continue to breach the ban they will be arrested.

A63

9.2. Discretion

Common sense and discretion will dictate the enforcement of the ban. Prior to the introduction of the ban, police staff will be trained in its enforcement and the appropriate use of discretion.

Family groups, or couples, enjoying a pleasant bottle of wine or beer on the beach in the restricted area, and who unwittingly breach the ban, can expect a quiet word of warning from the local police and no further action if they comply.

Waitakere Police Management do not wish to spoil the New Zealand tradition of weekend visits to the beach, on the contrary, the aim of seeking this by-law is to enhance the experience.

9.3. Arrest

If after being warned about breaching the ban, the same persons continue to offend, they will be arrested for breaching the ban. These people will be unable to use the defence that they were not aware of the liquor ban because of the records kept.

If people refuse to remove their alcohol from the ban area or tip it out, they will be arrested and the alcohol confiscated.

9.4. Ability to enforce the ban

There may be the question raised as to whether the police are able to enforce the ban. The ban will not bring with it any extra police officers. However, it should be realised that whether the ban is in place or not, police still attend the incidents of drunkenness and public drinking when called. This by-law will allow the police to take affirmative action on their arrival and should over time lead to a reduction in the need for police attendance. The area sought is one that Waitakere Police Management believe can be effectively policed and the ban enforced.

As Senior Sergeant Geraghty of New Plymouth police points out, the open road speed limit is 100 km/hr and people still break the law, but police deal with the offences that they detect. Similarly with the liquor ban in New Plymouth, people still flout the ban on occasion, but the police deal with the offences that come to their attention. It is expected the same situation will occur in Waitakere (taken from General Liquor Ban: Orewa in Fergus, 2003).

Waitakere Police expect the points outlined in Part 9, Enforcement to apply to the Waitakere Area.

Ab4

10. The Licensing Trusts in Waitakere

Licensing Trusts were introduced into New Zealand via the Licensing Trust Act (1949). Each Licensing Trust established also has its own individual Act.

The idea behind Licensing Trusts came from Scotland. Scotland's philosophy was that alcohol could be sold with care and responsibility, with the well-being of the community in mind, through a charitable organization whose profits flowed back to the community. This idea was embraced by New Zealand in the 1940s.

New Zealand Licensing Trusts such as **The Trusts** have authority, vested by the community, to retain influence over the sale of liquor in their area. This means that only they can establish and own hotels, taverns and 'off licenses' (They do not control liquor licenses in their areas. These are provided by local authorities¹).

Waitakere City has benefited from the Licensing Trust control of hotels, taverns and off licences. Unlike other areas that have high concentrations of licensed premises, Waitakere City only has a small number bars and off licenses' dispersed through the CBDs and small town centres throughout the city.

This has only helped in curbing the amount of alcohol abuse in and around our CBDs. There is a direct relationship with persons drinking in a public place to get "Primed" before entering bars and restaurants.

If the licensing Trust did not exist the supermarkets would be able to sell alcohol and there would undoubtedly be more licensed bars within the CBDs.

11. Liquor bans for Parks and Reserves

Although there is data to suggest liquor ban would be ideal in some parks and reserves, at this stage Waitakere Police have not progressed this any further.

¹ Excerpt from The Trusts Working for you

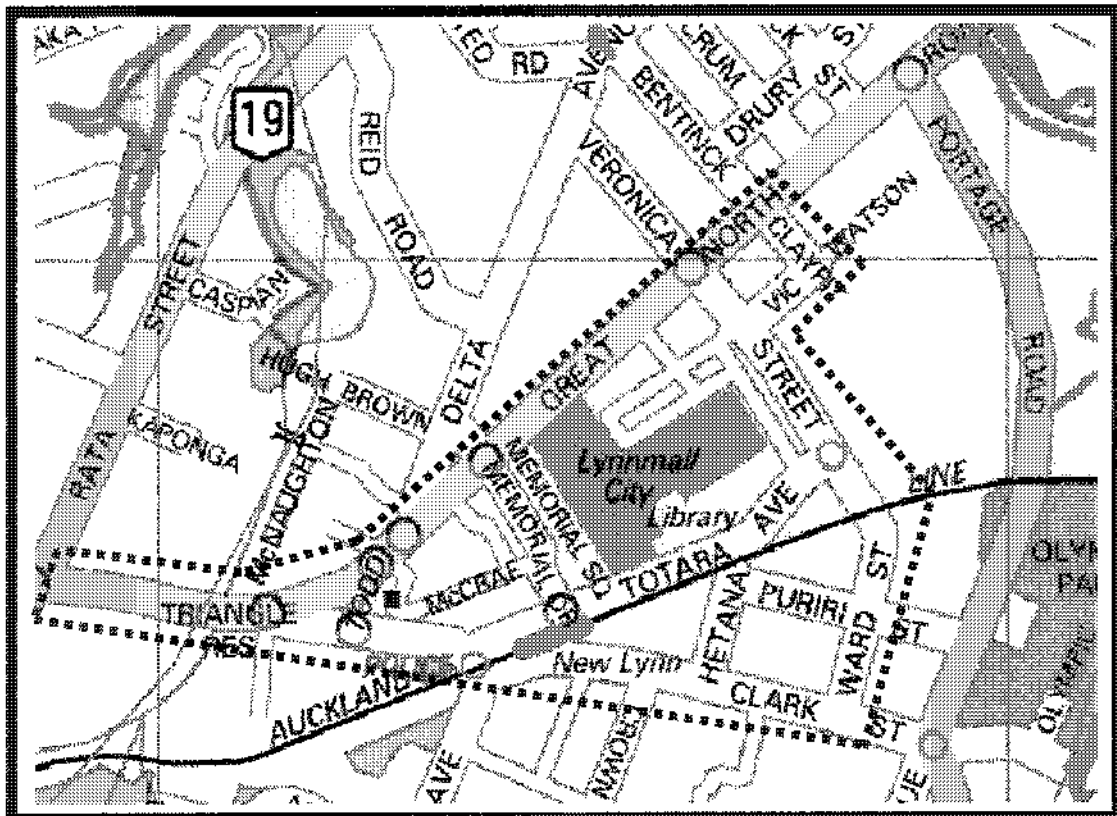
12. New Lynn, Gleneden and Henderson area's sought for General Liquor Ban:

12.1. New Lynn General Liquor Ban Boundary

The boundaries are as follows:

- Great North Road from the Rata Street to the intersection of Clayton Place
- All of Clayton Place from Great North Road taking in Watson Way down to Veronica Street
- Veronica Street from Clayton Place to Ward Street
- Ward street from Veronica Street to Clark Street
- Clark Street from Ward Street through the roundabout at Rankin Avenue to Great North Road

Figure 11: Proposed Boundary for General Liquor Ban



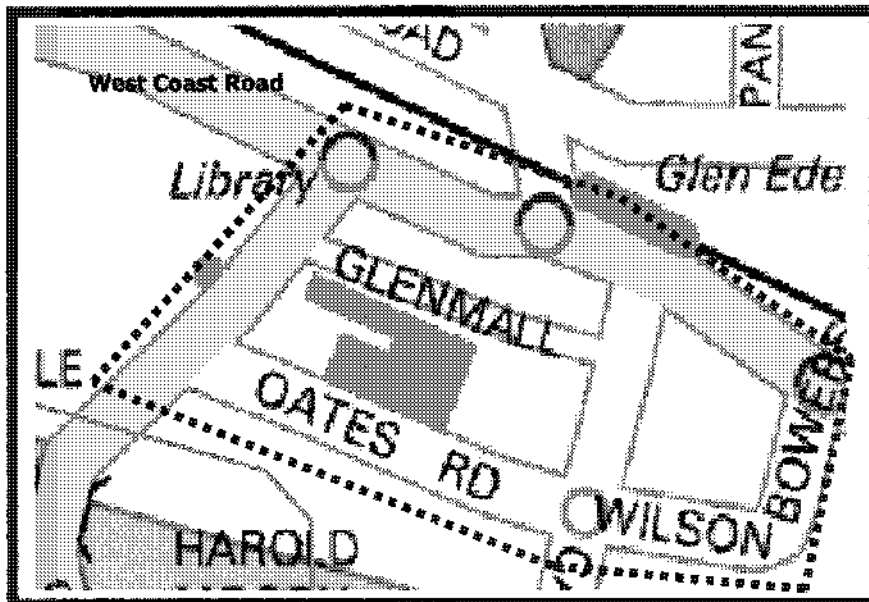
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12.2. Glen Eden General Liquor Ban Boundary

The boundaries are as follows:

- West Coast Road from the intersection of Glendale Road to the intersection of Bowers Road
- Bowers Road from the intersection of West Coast Road to Wilson Road
- Wilson Road from Bowers Road through the intersection of Captain Scott Road and taking in all of Oates Road until the intersection on Glendale Road
- Glendale road between the intersections of Oates Road and West Coast Road

Figure 12: Proposed Boundary for General Liquor Ban



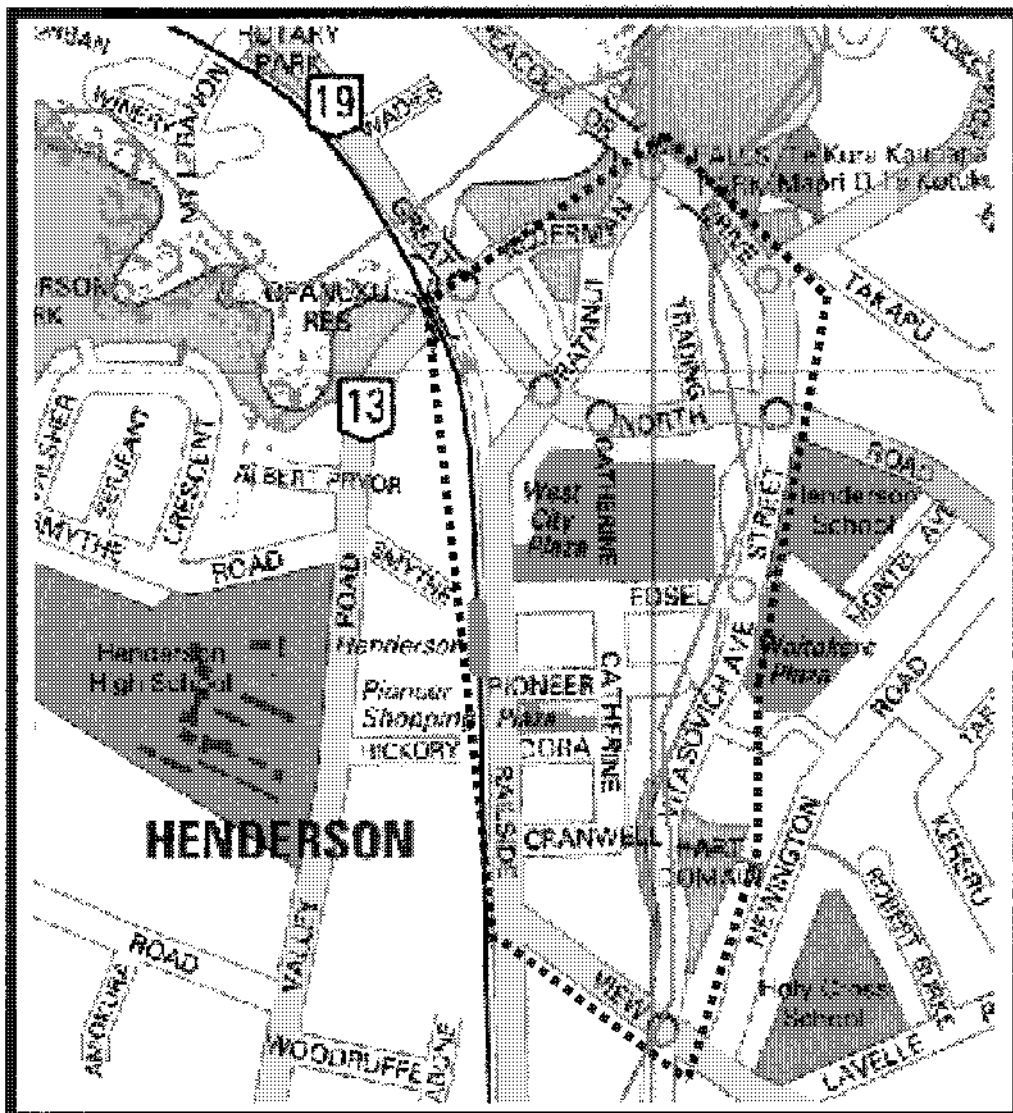
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12.3. Henderson General Liquor Ban Boundary

The boundaries are as follows:

- Alderman drive between Great North Road and Sel Peacock Drive
- Sel Peacock Drive between Alderman Drive and Edmonton Road
- Edmonton Road between Sel Peacock Drive and Great North Road
- Edsel Street from Great North Road to Vitasovich Street
- Vitasovich Street from Edsel Street taking in the Hart Domain to View Road
- View Road from Vitasovich Street to Railside Avenue
- Railside Avenue from View Road to Great North Road
- Great North Road From Railside Avenue to Alderman Drive

Figure 13: Proposed Boundary for General Liquor Ban



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New Lynn:

The area sought for the liquor ban in the New Lynn takes in all of the main shopping areas including areas around the bus and train station where a great deal of the alcohol offending occurs. Police believe this will avoid displacement into other areas of the CBD. It is intended that a ban in this area will discourage drinking in around the mall and bus and train stations, limiting the options of these offenders. It is hoped this would change their behaviour in this area.

Glen Mall:

This area sought for the liquor ban takes in much of the Glen Eden CBD and includes the roads around the entire mall, which should discourage persons from drinking around the mall. The problem of drinking is primarily on the main street of West Coast Road and as such has been included in the area. Again police seek to change the behaviour of these offenders.

Henderson:

The area sought for Henderson is much larger than just around the West City Plaza. Trading Place has been a continual problem for alcohol fuelled offending.

Catherine Street outside the mall also is a continual problem. The mall is also a difficult boundary to define as the West City Plaza owns a portion of the street outside the entrance.

Vitasovich and the Hart Domain attract a number of drinkers and has been the subject of disorder and violence. Including these areas within the liquor ban area will help to prevent displacement from the central CBD.

Railside Avenue is the natural boundary as the railway runs along side the street hemming in the CBD on its west side. In the middle of the ban area is Catherine Street and a number of smaller side streets that are at night not as well lit and less travelled by members of the public. This encourages people to drink within the area before moving into the mall and the main street and by including it in the ban area.

The liquor ban will set the boundaries further away from the central CBD and will discourage consumption of alcohol in the CBD and encourage these people to modify their behaviour.

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13. Conclusion

There is strong evidence supported by Intelligence data to support the implementation of a liquor ban in the three identified areas.

14. Recommendations

Waitakere Area Police Management recommend that the Waitakere City Council impose a Liquor Ban from 6.00pm to 6.00am on Thursday, Friday and Saturday, year round in the Central Business Districts of:

Henderson CBD taking in the following boundaries:

- Alderman drive between Great North Road and Sel Peacock
- Drive Sel Peacock Drive between Alderman Drive and Edmonton Road. Edmonton Road between Sel Peacock Drive and Great North Road
- Edsel Street from Great North Road to Vitasovich Street
- Vitasovich Street from Edsel Street taking in the Hart Domain to View Road. View Road from Vitasovich Street to Railside Avenue
- Railside Avenue from View Road to Great North Road
- Great North Road From Railside Avenue to Alderman Drive

Glen Eden CBD taking in the following boundaries:

- West Coast Road from the intersection of Glendale Road to the intersection of Bowers Road
- Bowers Road from the intersection of West Coast Road to Wilson Road
- Wilson Road from Bowers Road through the intersection of Captain Scott Road and taking in all of Oates Road until the inter section on Glendale Road
- Glendale road between the intersections of Oates Road and West Coast Road

New Lynn CBD taking in the following boundaries:

- Great North Road from the Rata Street to the intersection of Clayton Place
- All of Clayton Place from Great North Raod taking in , Watson Way down to Veronica Street
- Veronica Street from Clayton Place to Ward Street from Veronica Street to Clark Street
- Clark Street from Ward Street through the roundabout at Rankin Avenue to Great North Road

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Waitakere City Council Submission to the Local Government and Environment Select Committee on the Supplementary Order Paper to the Waste Minimisation Bill

1 Introduction

- 1.1 Waitakere City Council ("Waitakere") has provided separate written submissions on the Waste Minimisation (Solids) Bill (the "Bill") including initial written submissions in support of oral submissions made on behalf of Waitakere, Auckland Regional Council and North Shore City Council before the Select Committee hearing on 26 April 2007 and supplementary submissions in support of container deposit legislation.
- 1.2 This submission is largely consistent with submissions provided by a number of the greater Auckland Territorial Authorities including, Auckland City Council, North Shore City Council, Rodney District Council, Manukau City Council, Papakura District Council and Franklin District Council.
- 1.3 Unless otherwise submitted Waitakere supports the provisions of the Bill as amended by the Supplementary Order Paper.
- 1.4 In this submission Waitakere addresses the following:
 - a Ensuring the regulation, of, and in particular the reporting of information, relating to all recyclable material following the recent Court of Appeal judgment dated 26 September 2007 in which Carter Holt Harvey challenged the decision given in favour of three Territorial Authorities and their ability to regulate recyclable material/waste by way of bylaw. The Court of Appeal determined that recyclable material collected pursuant to private commercial collection, is not waste. Therefore recyclable material collected by way of private contract is not governed by the Local Government Act 1974, the provisions of the Councils' waste bylaws, or the Bill as currently drafted under the Supplementary Order Paper.
 - b Definitions provided by the Bill under the Supplementary Order Paper, in particular those definitions addressing waste types and products.
 - c Extension of product stewardship to ensure that the Bill covers all manufactured products and the proposal that such products are subject to a recycling and life expectancy code.

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- d Criteria for disbursement of waste levy revenue following indications set out in the Bill as to likely funding initiatives and percentages to Council and the National Contestable Fund.
- e The importation of the majority of Part 31 of the Local Government Act 1974 into Part 4 of the Bill and the implications of that importation.
- f Health and safety considerations following expressions of concern from Territorial Authorities and other agencies including the Police, Department of Labour, ACC and Land Transport, focusing on increasing support for container deposit legislation and automated collections to address poor health and safety practices in the waste industry.
- g Ensuring provision of all waste information (including information on recyclable material) for the purposes of reporting and audits.

2 Court of Appeal Decision

- 2.1 The Court of Appeal determined in *Carter Holt Harvey Limited v North Shore City Council & Ors* [2007] NZCA 420 that recyclable material collected by way of private contractual arrangement does not carry with it the concept of abandonment and therefore does not constitute "waste" for the purposes of Part 31 of the Local Government Act 1974, and any bylaws made under Part 31. Given the similarities in language between the Local Government Act 1974 and the proposed waste minimisation legislation this decision will also apply to all privately collected recyclable material under the Bill.
- 2.2 In order for the Bill to be effective it must be comprehensive in its coverage of all waste streams including recyclable material. The Court of Appeal judgment has the effect of excluding a significant proportion of the waste stream from the ambit of the Bill.
- 2.3 The Packaging Accord currently addresses a number of materials including: paper, plastic, glass and scrap metal (aluminium, steel and tin). All of these materials enter or have the potential to enter the waste stream and accordingly should be covered by the Bill. However, because of the Court of Appeal decision none of these classes of materials, when collected by way of contract from the owner's premises, are deemed to be waste and therefore no longer fall under the provisions of the Bill. Only recyclable material collected from the kerbside would be deemed to be "waste" and will fall under the reporting requirements of the Bill.
- 2.4 Government and Territorial Authorities will not be able to address properly waste avoidance and minimisation in a comprehensive and effective manner unless they have an accurate knowledge of the volume of the generation of recyclable material. The

consequence of the Court of Appeal decision is that this is no longer possible under the Bill as currently drafted. Accordingly, amendments need to be made to ensure collectors and operators dealing with recyclable material are covered by reporting requirements under this Bill.

3 Clause 5 – Interpretation: waste

3.1 The proposed amendments deal with the inherent difficulty of having waste minimisation legislation without providing a definition of the word “waste”, particularly in light of the Court of Appeal judgment. A definition of waste is crucial as other definitions within the legislation are defined in part by reference to the word “waste”, for example “recovery”, “recycling”, “reduction”, “reuse”, “treatment”, “disposal”. Two examples of the problems which arise are discussed below.

3.2 Reuse is currently defined as:

Reuse means the further use of waste in its existing form for the original purpose of the materials or products that constitute the waste, or a similar purpose.

3.3 However reuse is not a class of waste but rather a mechanism used to avoid material becoming waste. Further, as the Court of Appeal has determined that privately collected recyclable material is a second hand good, it follows that reusable materials, which are invariably second hand goods, can never be waste.

3.4 Recycling is currently defined as:

Recycling means the reprocessing of waste to produce new materials

3.5 Given the Court of Appeal decision, this definition now only extends to recyclable material abandoned by its owner and left essentially for kerbside collection. It does not include other privately collected recyclable material as the Court of Appeal determined that such material is not waste.

3.6 Waitakere submits that the definitions in clauses 5 and 5A must be revisited to address the issues raised by the Court of Appeal decision. It proposes that the following definitions be substituted or adopted:

Disposal means the deposit of waste on land or burning of waste without any associated energy recovery

Recovery means extraction of materials or energy from waste for further use or processing; and includes, but is not limited to, making materials into compost

Recycling means the reprocessing of used materials to produce new products

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Reduction means lessening of waste generation

Reuse means the further use of materials or products in their existing form for their original purpose or a similar purpose

Treatment

a means subjecting waste to any physical, biological, or chemical process to change its volume or character so that it may be disposed of with no or reduced adverse effects on the environment; but

b does not include dilution of waste

Waste means a product or material that is not wanted by its owner and cannot be reused in its existing form for its original or a similar purpose and includes recyclable, recoverable and treated materials and material designated for disposal

4 Clause 5 – Interpretation: Product

4.1 The proposed amendment deals with the problematic definition of the word “product”. Product is currently defined as including:

a “packaging” and

b “a class of product”.

4.2 Such a definition is ambiguous as it does not indicate whether it extends beyond packaging. Arguably it covers more than just packaging given the definition is inclusive rather than exclusive. However clarification of precisely what it is intended to cover is desirable. A comprehensive and unambiguous definition is preferable as it allows greater freedom to include new materials and products under product stewardship schemes in the future.

4.3 It is submitted that clause 5 be amended to include the following definition of product in substitution of the current definition in the Supplementary Order Paper:

Product means a manufactured material or substance and includes packaging and classes of products and packaging

5 Part 2 – Product Stewardship

5.1 Waitakere strongly supports inclusion of product stewardship under Part 2 of the Bill.

5.2 In addition to a focus on packaging, the product stewardship provisions are wide enough to encompass the lifecycle and environmental implications of disposal of other manufactured products.

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- 5.3 Waitakere owns and operates one of the largest refuse transfer stations in New Zealand and as a consequence has seen the damage to the environment that can be caused by products that have to be disposed of because of their short lifecycle and inability to be recycled.
- 5.4 The volume of these inferior quality, short life manufactured products is increasing each year. Waitakere submits that a large proportion of these products are purchased without consumer awareness of their inferior quality, inability to be recycled and short life expectancy.
- 5.5 Waitakere proposes that all products be subject to both a recycling and life expectancy code which would require products to be labelled indicating both the recyclability of the product (under the recycling code) and the expected life cycle of the product (under the life expectancy code). Such information would be subject to investigation by various consumer protection agencies.
- 5.6 Waitakere submits that manufacturers, importers or retailers be given the responsibility to assess and label their products accordingly.
- 5.7 The purpose behind this proposal is to arm consumers with knowledge of recyclability and life expectancy, and give them the opportunity to purchase better quality products with a longer life expectancy cycle, encourage sustainability and to discourage unnecessary disposal. If the consumer is given an indication of recyclability and life expectancy (which may indicate quality) then the consumer is given the opportunity to make a better informed purchase decision. Such a proposal would also enhance the objectives of the Consumer Guarantees Act.
- 5.8 It is submitted that clause 10(3)(e) is sufficiently wide to incorporate a requirement that as a minimum, priority products be subject to recycling and life expectancy codes. As suggested above, such codes could easily fall within reporting and consumer information requirements if they provided for by way of Ministerial Guidelines under clause 10.
- 5.9 These codes could also be included by way of regulations for all products (not just priority products) under clause 19 and in particular clauses 19(f) and 19(i).
- 5.10 It is submitted that clause 19(f) be amended to include the following addition:

Labelling of products

- (f) *prescribing requirements for the labelling of specified products including but not limited to a label indicating the recyclability of the product and expected lifecycle of the product.*

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5.11 It is submitted that clause 19(i) be amended to include the following addition.

Information to be collected and provided

(i) *requiring specified persons or specified classes of person to collect, and provide to the Secretary, information about any requirements imposed in any regulations made under any of paragraphs a, c, d, e, f and g.*

6 Part 3 – Waste Disposal Levy

Clause 26 - Secretary must distribute and spend levy money.

6.1 It is submitted that under clause 26(c) and clause 34, priority be given to funding of regional waste minimisation projects. Regional waste minimisation projects should receive priority funding for the following reasons:

- a Regions are reluctant to subsidise other region's initiatives;
- b Each region has its own waste issues which need to be addressed (e.g. greater Auckland region's lack of ownership of landfill facilities);
- c A co-ordinated approach to regional specific issues with adequate funding and resource is necessary to achieve waste reduction;
- d Regional initiatives are likely to involve development of infrastructure and other facilities to implement waste minimisation initiatives.

6.2 In addition it is submitted that a definition of "waste minimisation project" be included either under clause 26(c) or clause 5 as follows:

Waste minimisation project means a project which quantifiably reduces, diverts or avoids waste for disposal

6.3 It is also submitted that under clause 26(c)(iii), any levy revenue spent on administration costs relating to waste minimisation projects should not exceed 2% of the first year's total levy revenue income per annum.

Clause 27- Territorial authorities to receive share

6.4 Waitakere strongly supports the introduction of a waste levy. Further it advocates the apportionment of revenue received from such a levy to be provided directly to Territorial Authorities with the remaining percentage going to a National Contestable Fund. Historically the levy money received excluding all Territorial Authorities' shares has been referred to as the National Contestable Fund and for the purposes of this submission Waitakere continues to refer to that apportionment of levy money as the National Contestable Fund (NCF). Waitakere submits that the NCF should prioritise

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funding allocation for regional based waste minimisation initiatives where regions have a Regional Waste Plan/Strategy.

- 6.5 Waitakere supports the formula adopted under clause 27(2) for calculating each Territorial Authority's share. It also refers to its earlier submissions which addressed the apportionment of levy revenue in the first 3 years of operation.
- 6.6 The apportionment of levy revenue was developed and agreed in consultation with MfE, LGNZ, numerous Territorial Authorities and the waste industry.
- 6.7 The apportionment was designed to be undertaken on a staggered basis as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Levy	\$10/tonne	\$20/tonne	\$30/tonne	\$TBA	\$TBA
Percentage of levy revenue apportioned to Territorial Authorities	100%	75%	50%	50%	50%
Percentage of levy apportioned to National Contestable Fund	0%*	25%*	50%	50%	50%
Indicative total revenue from landfills	\$32 Million	\$64 Million	\$96 Million	?	?

All amounts are GST inclusive.

- any unclaimed or unspent Territorial Authority levy money to be directed back into the National Contestable Fund where regional initiatives are prioritised.
- 6.8 Based on the agreed approach as set out in the table above it is proposed that in the first year, 100% of levy revenue be distributed back to Territorial Authorities to pay for waste minimisation initiatives provided for in their Waste Management Plans. This approach is particularly important in respect of those Territorial Authorities who may not already have fully costed and comprehensive Waste Management Plans, as it will give them funding to produce those plans, costings and introduce some waste minimisation initiatives. In the second year only 75% of levy revenue would be distributed to Territorial Authorities and the remaining 25% would be available for the NCF. In the third year, Territorial Authorities would receive 50% of levy revenue with the remaining revenue being allocated to the NCF for the funding of waste minimisation projects.

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- 6.9 It is submitted that the Committee might reconsider the merits of adopting this approach to determining Territorial Authority shares for the first three years of collection of levy revenue.
- 6.10 Waitakere also relies on the findings of the Panel in the recent Summary Report of the Local Government Rates Inquiry. When reviewing seven possible new revenue sources of local government funding the Panel was only prepared to consider environmental taxes as having any potential value. The fact that there is an expectation that Territorial Authorities should be able to introduce taxes for activities that were traditionally funded via rates means that Territorial Authorities need to get a higher proportion of waste levy funding to enable them to carry out those activities.
- 6.11 Chapter 11 of the Government Rates Inquiry report states support for a waste levy as a new revenue source for local government:

“84. The Panel considered a range of possible new revenue sources, namely

- *a citizens or poll tax*
- *payroll tax, including a transport “versement” tax*
- *a local income tax*
- *a local consumption tax*
- *general revenue sharing*
- *industry and commodity taxes, including a bed tax*
- *environmental or green taxes, such as a **waste levy** and road congestion pricing. (emphasis added)*

85. The Panel does not support any of the first six possible new revenue sources. It considers all have varying disadvantages in terms of equity and economic impact. It does not consider they are worthy of further study. However, environmental taxes have potential value in the medium term. ”

Clause 29 – Secretary may retain levy money instead of paying territorial authority

- 6.12 Waitakere supports the provision that the Secretary may retain levy money if the Territorial Authority has not adopted a waste management and minimisation plan. However, to make this more workable and ensure that Territorial Authorities provide proper plans, Waitakere submits that clause 29 be amended to include the following as new clause 29(1)(b):

(b) the territorial authority’s waste management and minimisation plan is insufficient; or...

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Clause 33 – Minister may direct Secretary to retain payment to territorial authority

- 6.13 Waitakere supports the concept that the Secretary retains levy money for a Territorial Authority if it does not have an adequate waste management and minimisation plan. However, it submits that the levy money retained should be redistributed back to those Territorial Authorities who do have effective waste management and minimisation plans, for the purpose of waste minimisation projects and other initiatives. .
- 6.14 Redistribution to other Territorial Authorities is necessary to enable them to fund more of the waste minimisation projects set out in their waste management and minimisation plans. Territorial Authorities' proportion of the levy money currently contemplated, of \$10 - \$30 in the first three years, is not sufficient to fund all of the initiatives set out in Territorial Authorities' current Waste Management Plans. Therefore, any levy money retained by the Secretary should be redistributed back to Territorial Authorities to be used only for those waste minimisation projects set out in their waste management and minimisation plans.
- 6.15 Accordingly it is submitted that clause 33 be amended to include a new clause 33(2) as follows:
- (2) *The Minister may direct the Secretary to redistribute any payments of levy money to a territorial authority retained under s33(1) to the remaining territorial authorities in accordance with their territorial share as calculated under s27(2)*

Clause 34 – Minister may approve funding of waste minimisation projects

- 6.16 Waitakere repeats its submission at paragraph 6.2 above for the definition of a waste minimisation project as proposed.

7 Part 4 – Responsibilities of Territorial Authorities in Relation to Waste Management and Minimisation

- 7.1 Part 4 is largely comprised of an importation of the majority of Part 31 of the Local Government Act 1974 (the "1974 Act"). The provisions in Part 4 are fundamentally the same as that of the 1974 Act and retain the core meaning of the 1974 Act provisions.
- 7.2 Waitakere is concerned by the wholesale importation of Part 31, particularly as some of the provisions are historic and were intended to apply in a very different waste environment. Further, experience and case law has indicated that some of the 1974 Act, Part 31 provisions need to be amended to provide greater clarification. In particular it is concerned that while the provisions under Part 31 and now Part 4 charge Territorial Authorities with a statutory obligation to manage minimise and reduce waste, Territorial Authorities are not given legislative power to achieve this.

- 7.3 Territorial Authorities are also charged under clause 38(2) (b) with ensuring that waste management and minimisation is not injurious to health. It is submitted that in order to properly address this obligation Part 4 needs to be amended to include provision for health and safety standards and practices for all those involved in the collection, transportation and disposal of waste. This submission is addressed in more detail below at paragraphs 7.19-7.28

Clauses 38 and 39 – Territorial authority to encourage efficient waste management and minimisation and Waste Management and minimisation plans.

- 7.4 Clause 38 provides for Territorial Authorities to promote effective and efficient waste management and minimisation.
- 7.5 Clause 39 provides a mechanism to achieve this by way of the adoption and implementation of waste management and minimisation plans which promote a waste reduction hierarchy. However, whilst Territorial Authorities are under a statutory obligation to reduce waste, private industry is not. Indeed private industry ultimately profits from increased waste generation, in terms of collection from the kerbside and disposal at privately owned facilities.
- 7.6 A major obstacle in Territorial Authorities attempting to effect the waste reduction provisions of both the local government legislation and the Bill is the ability of private sector industry to aggressively under price Territorial Authorities' kerbside waste collection services. These collection services are usually financially incentivised by Territorial Authorities to influence waste behaviour but under the present system, private collectors can effectively undermine any attempt by Territorial Authorities to influence waste behaviour at this level because of their commercial focus and desire for increased market share.
- 7.7 Waitakere submits that this anomaly should be a consideration within the scope of the Select Committee and the Bill. Territorial Authorities currently make provision in their respective Waste Management Plans and Funding Policies as to whether or not to user fund by way of example, kerbside waste collection services. Waitakere suggests that where Territorial Authorities have implemented user funding of waste collection services as a method of waste reduction then they should be given exclusivity in the implementation and operation of kerbside waste collections. This type of exclusivity for kerbside waste collections will also enable Territorial Authorities to focus on proper waste reduction incentives and behaviour and will further limit the amount of litter and inconvenience caused by numerous private kerbside waste collection activities.
- 7.8 Likewise given the statutory obligations on Territorial Authorities to manage and reduce waste, they should be solely responsible for determining all the waste management and minimisation activities which can be provided within its district.

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- 7.9 Clause 39(3) (a) is similar in form and content to clause 44 waste management and minimisation activities and clause 47(2). However while clauses 44 and 47(2) recognise that waste transportation is a key component of waste management obligations, clause 39(3)(a) does not. Accordingly it is submitted that clause 39(3)(a) be amended for consistency to include provision for transportation of waste as follows:

The waste management and minimisation plan must –

- (a) *Provide for the collection, transportation and reduction, reuse, recycling, recovery, treatment or disposal of waste (including hazardous waste) in the district.*

Clause 41-Allocation of costs

- 7.10 This provision is a direct importation of section 544 of the 1974 Act. It was considered in the High Court decision, *Waste Management v North Shore City Territorial Authorities and Ors* [2006] 2 NZLR 787. In that case the Court determined that section 544 could not be used by Territorial Authorities to apply a levy in the form of an economic disincentive. Therefore, the only opportunity most Territorial Authorities have to provide economic incentives and disincentives as contemplated by section 544(2) and now clause 41(2) is by way of user pays waste collection services. Further, by allowing Territorial Authorities to exclusively undertake user funded kerbside collection the Territorial Authorities will be able to allocate the surplus funds derived from those services toward the implementation of other waste minimisation and reduction initiatives set out in their waste management and minimisation plans. Waitakere proposes that any additional Council surplus funds derived as a result of Territorial Authorities' exclusive ability to carry out user funded kerbside waste collections should be used by Territorial Authorities to fund other waste reduction and waste minimisation initiatives and projects as provided for in their plans.
- 7.11 In terms of the Bill and in particular the waste levy, this means that a lesser amount of waste levy revenue allocated to Territorial Authorities will need to be claimed to fund Council kerbside waste collection services. Instead such funds can be used for other more innovative waste reduction and waste minimisation initiatives by Territorial Authorities in accordance with their waste management and minimisation plans and pursuant to the percentage approach outlined in the table above at paragraph 6.7. This may also result in additional funds available to fund regional waste minimisation projects.
- 7.12 For these reasons it is also important that clause 41 address the allocation of any surplus funds Territorial Authorities may derive from their own waste collection activities, operations or facilities so that those profits may also be allocated by the

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Territorial Authority for the express purpose of waste minimisation projects in accordance with their waste management and minimisation plans.

7.13 Accordingly it is submitted that clause 41(1) is amended as follows:

41 Allocation of costs

(1) *A territorial authority must allocate the costs incurred in the implementation of or any profits received from its own user funded waste collection activities, operations and facilities for the implementation of its waste management and minimisation plan in the manner that the territorial authority considers will effectively and appropriately promote the objectives of the waste management and minimisation plan.*

Clause 44 – Waste management and minimisation activities

7.14 Clause 44 refers to the ability of a Territorial Authority to undertake itself or contract for any activity it considers appropriate for the effective and efficient management and minimisation of waste in its district. However, it does not address private waste management and minimisation activities. Given that Territorial Authorities have an overriding obligation to provide for waste management and minimisation within their districts, they need to be given sufficient legislative power to address all aspects of waste management and minimisation including dealing with private collectors and waste facilities.

7.15 It is therefore submitted that clause 44 be amended to include a new clause 44(2) as follows:

(2) *a territorial authority may regulate any waste management and minimisation activity carried out in its district whether by council, council contractor or private person if it considers such regulation is appropriate for the effective and efficient management and minimisation of waste in its district.*

7.16 There is also a reference at clause 44(b) to the collection, removal and disposal of night soil. Night soil is obviously historic in nature and as such should be deleted.

Clause 45 – Waste management and minimisation operations and facilities

7.17 Clause 45 refers to the ability of a Council to undertake itself provide and operate works and facilities for the management and minimisation of waste etc. However, it too fails to address private waste operations works and facilities. Given that Territorial Authorities have an overriding obligation to provide for waste management and minimisation within their districts they need to be given sufficient legislative power to address all aspects of waste management and minimisation including dealing with private collectors and waste facilities. This concern is similar to that expressed above at paragraphs 7.14 and 7.15.

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- 7.18 It is therefore submitted that clause 45 be amended to include a new additional clause 45(2) as follows:

(2) a territorial authority may regulate any waste management and minimisation operations works and facilities for the reduction, reuse, recycling, recovery, treatment or disposal of waste carried out in its district whether by council, council contractor or private person if it considers such regulation is appropriate for the effective and efficient management and minimisation of waste in its district.

Clause 46- Collection and disposal of waste

- 7.19 This provision appears to relate back to the obligation of Territorial Authorities to ensure the safe management and minimisation of waste, see clause 38(2)(b). Waitakere submits that this provision be extended to address serious health and safety concerns regarding waste industry practices.

- 7.20 As a consequence of various agencies (including the Commercial Vehicle Investigation Unit ("CVIU") of the Police, Department of Labour, Accident Compensation Corporation ("ACC"), Land Transport New Zealand) raising concern over the poor health and safety record of the waste industry Waitakere seeks the following:

- a prohibition of manual waste collections, particularly household bag, glass and can recyclable collections and inorganic collections.
- b the inclusion of provisions in the Bill dealing with health and safety standards compliance and the provision of health and safety information
- c introduction of container deposit legislation within the Bill.

- 7.21 Waitakere has received some alarming statistics as to the health and safety practices of the waste industry and in particular injuries sustained during manual waste collections (including bag, recyclables and inorganic waste collections).

- 7.22 In relation to manual collection the police have reported four fatalities since 2004 and numerous accidents. Waitakere reported that 100% of injuries reported in the last 12 months related to manual collection. Further, ACC reports a total of 196 claims nationally for the last year, (and it can reasonably be assumed that in fact considerably more injuries have occurred than those reported as the industry is renowned for the under-reporting of such incidents). Of those 196 injuries 118 (60%) are soft tissue injuries and are considered to relate to lifting. 104 of the 196 claimed injuries were serious enough to last 8-25 weeks.

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- 7.23 The CVIU identified the waste industry as being the worst of all New Zealand land transport operators. This finding is of significant concern to Territorial Authorities as they have a statutory obligation to manage waste and ensure that its collection transportation treatment and disposal is not injurious to health.
- 7.24 For these reasons Waitakere proposes that Territorial Authorities be given the powers to prescribe certain health and safety standards which may also include prohibition of certain methods of collection (such as manual bag, recyclables and inorganic waste collection practices) and/or a mandatory requirement that collectors use a particular method of collection such as automated bin collections. (see suggested amendments at paragraph 7.26 below)
- 7.25 It is submitted that the Bill be used as a means to introduce much needed health and safety measures. In particular, Waitakere proposes that the Bill include provisions relating to the mandatory provision of health and safety information and compliance with certain health and safety standards and practices for all those involved in the collection, transportation and disposal of waste and recyclable material. Waitakere suggests the Department of Labour is the appropriate statutory authority to determine the health and safety standards and codes of practice for waste collection, transportation and disposal. As provided above Waitakere submits that one of these standards should include a prohibition of manual collection. The inclusion of transportation is also new to the proposed wording.
- 7.26 Accordingly it is submitted that clause 46 be extended to include the following amendments as follows (sub-clauses (2) and(3) are new and are inserted in addition to the subclauses which previously had those numbers (which are retained and renumber accordingly):

46 Collection and disposal of waste

- (1) This section applies in relation to waste collected, transported and disposed under this Part*
- (2) The territorial authority may require compliance by any person involved in the collection, transportation and disposal of waste and recyclable material with prescribed health and safety standards and codes of practice*
- (3) The territorial authority may require information as to health and safety practices of any person involved in the collection, transportation and disposal of waste and recyclable material(including but not limited to information pertaining to minor and serious injuries sustained by any person during the course of waste and recyclable collection transportation and disposal activities, collection transportation and disposal methods used and vehicles and equipment used for those activities)*

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- (4) *The collection, transportation and disposal of waste must be executed promptly and efficiently, and at intervals specified by the Medical Officer of health having jurisdiction in the district....*
- (5) *If the collection, transportation and disposal of waste in relation to any premises is not executed in compliance with **subsection (2)**, the occupier or a Health Protection Officer may serve notice on the territorial authority of the non-compliance.*
- (6) *As soon as practicable after being served with the notice, the territorial authority must inform any contractor concerned.*
- (7) *If, after the notice is served the collection, transportation and disposal of the waste is not done within a reasonable time, the following person commits an offence:*
 - (a) *the contractor, if the work is being carried out by contract; or*
 - (b) *the territorial authority, if the work is being carried out by the territorial authority.*

- 7.27 Waitakere City Council has previously advocated for the introduction of container deposit legislation within the Bill. It now seeks reassessment of container deposit legislation as a means of improving waste collection health and safety practices and significantly reducing accident rates.
- 7.28 Statistics presented in the House of Representatives in Western Australia in May 2006 in support of container deposit legislation referenced such legislation as resulting in a 63% reduction in broken glass accidents concerning children. The speaker also referred to the "enormous advantages" in terms of the economy, sustainability, environment and community groups. For instance the introduction of container deposit legislation should lead to a dramatic decrease in litter.
- 7.29 Container deposit legislation also provides business opportunities for recycling and job creation if such operations were franchised as they are in other countries. A number of overseas material recyclers support Container deposit legislation because it provides clean, uncontaminated materials for reprocessing.
- 7.30 Clearly such legislation also provides a positive impact on the environment in terms of recycling, sustainability and reduction in litter.

Clause 47 – Bylaws

- 7.31 Given the concerns expressed above at paragraph 2 regarding the recent Court of Appeal judgment it is imperative that the proposed Bill rectify the anomaly created by that decision which now sees the exclusion of all privately collected recyclable material from waste reporting requirements. This is a very significant portion of the waste stream

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and one that is not limited to just paper but potentially to all forms of recyclable material collected transported or disposed of by way of private commercial contract.

7.32 In the event that Waitakere's submission at paragraph 3 is not accepted and the proposed definition of waste and recycling are not adopted Waitakere makes the following submission at paragraph 7.32 in the alternative to its submission at paragraph 3.

7.33 In order to obtain knowledge of accurate recyclable material waste generation volumes, so as to be able to properly assess waste minimisation and address waste reduction, it is submitted that clause 47(2)(b) be amended to include the following provisions as new clauses 47(2)(b)(iii) and (iv):

(iii) both the source, destination of recyclable material collected and transported;

(iv) the quantities and types of recyclable material collected, transported, processed or disposed of whether by way of public or private contract

8 Part 6 –Reporting and audits

8.1 Waitakere supports the new requirements for the reporting and auditing of waste information but submits that the current requirements for such information ought to be extended to include those involved in the collection, transportation, disposal and operation of facilities at which all classes of recyclable materials and waste are stored, recycled, recovered or treated. Although clause 76(b) purports to require information from operators of both disposal facilities and facilities where waste is received for reuse, recycling, recovery or treatment, it is rendered effectively useless by the recent Court of Appeal decision. The decision excluded operators of facilities that collect recyclable materials by way of private contract from being subject to such requirements. As a consequence of the Court of Appeal decision a major sector of the waste stream is excluded from the reporting and auditing requirements of Part 6 which makes Part 6 largely ineffective in achieving its purpose.

8.2 Accordingly it is submitted that clause 76(1) be amended to include the following provision, inserted as a new clause at 76(1)(c):

(c) requiring any class of person to record, keep and provide to the Secretary information recording the source and destination of recyclable material collected and transported,

(d) requiring any class of person to record, keep and provide to the Secretary information recording the quantities and types of recyclable material collected, transported, processed or disposed of whether by way of public or private contract.

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- 8.3 Further, if industry purports to argue that this information should not be required by way of the proposed legislative amendment on the grounds that it is already provided voluntarily under the Packaging Accord, Waitakere submits such an assertion is incorrect as the waste industry has repeatedly failed to comply with accurate waste reporting requirements under the Packaging Accord.
- 8.4 An example of this failure to provide accurate waste data is highlighted in an independent report, identified as RONZ/SMF report 'Improving Packaging Data & Recycling Information' SMF Project 6169 commissioned by the Recycling Operators of New Zealand, (RONZ) into the Packaging Accord in 2005. In addition the mechanism for establishing paper and cardboard packaging from total tonnes of paper collected is not even known to Paper Reclaim Ltd, a business that accounts for at least 20% of the total market share. Paper Reclaim report they are not even asked for their paper volume data and are unsure if these are reflected in the Packaging Accord results.
- 8.5 This lack of knowledge reflects the necessity for Part 6 to provide for the mandatory provision of reports concerning recyclable material as sought at paragraph 8.2 above.

9 Contact

For further information in relation to this submission please contact Jon Roscoe, Waitakere City Council's solid waste business unit manager - phone 836 8505, 021 379 146.

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Update on the Waste Bill and Implications for Council

With Commentary on the Roles of the Ministry for the Environment and other stakeholders.

Report to Waitakere City Council Planning and Regulatory Committee
Prepared by Envision New Zealand
February 2008

1. Introduction

This report provides a brief background into the Waste Minimisation and Resource Recovery Bill currently before the Select Committee for Local Government and the Environment and its the implications Council.

It also examines the roles Council, the Ministry for the Environment and other stakeholders have played in the development of the bill prior to and since it was pulled from the ballot box, and draws conclusions on:

- The opportunities the bill presents for council
- The culture of the Ministry for the Environment and its effect on stakeholders
- The Packaging Council of New Zealand's role as Secretariat for the Packaging Accord

2. Background to the Waste Minimisation and Resource Recovery Bill

2.2. Labour's 1999 Manifesto

The current waste bill has its roots in Labour's 1990s manifesto¹ which stated that; *Labour will establish a New Zealand Waste Reduction Working party, funded by a modest landfill levy, to be collected by the owners of all landfills, and serviced by the Ministry for the Environment.*

(See appendix 1. for additional statements from Labour's 1990 manifesto)

2.3. The Waste Reduction Working Party

Within a short time of Labour coming to power, the Ministry for the Environment invited a group of 13 "experts"¹ on to a renamed **Waste Management and Minimisation Working Party**. It soon became clear that the Working Party was merely

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¹ Members of the Working Party were: Jim Bradley, Steve Donnelly, Rob Fenwick, Barry Harris (Deputy Chair), Annie MacDonald, Ann Magee, Keri Pihana, Don Resiterer, Warren Snow, Richard Thompson, Martin Ward (Chair), Jim Watt, John Webber.

an adjunct to the workings of the Ministry rather than an independent group with standing and resources (via the proposed "modest levy"). The Ministry managed and controlled the working party's activities closely including pre-empting the task of electing a chairperson by employing their preferred candidate, Martin Ward prior to the first meeting of working party members. The writer's recollection as a member of the working party was that on receiving the final draft from the MFE, most members expressed their exasperation that the Ministry had not listened adequately to the input from the working party, as one member put it, "we might as well have not been here".

2.4 The Battle for the Landfill Levy

In spite of Labour's promise to introduce a landfill levy to, among other things, fund the work of the working party, MFE officials made it clear that there was "no political will" for such a levy. This effectively set the scene for a long struggle by disappointed councils, businesses and community groups who had waited with anticipation for funds to implement the policies outlined in the 2002 NZ Waste Strategy (which are further outlined in section 3).

2.5 The 2002 New Zealand Waste Strategy

The major output of the **Waste Management and Minimisation Working Party** was the New Zealand Waste Strategy. The much anticipated strategy with a vision of "Towards Zero Waste and a Sustainable New Zealand" was released in 2002. It was a compilation of world best practice concepts, policies and targets that if fully implemented could have had a significant impact on the way waste was managed in New Zealand.

The strategy's lofty vision and three core goals² were underpinned by national non-binding targets for organic, special, construction and demolition and hazardous wastes – as well as for waste disposal. The following five core policies formed the basis for action:

1. A sound legislative basis for waste minimisation and management
2. Efficient pricing
3. High Environmental Standards
4. Adequate and Accessible Information
5. Efficient Use of Materials

The almost universal cry from Councils, industry and community groups was that the strategy vision, values and targets were not backed up with empowering legislation – that "it had no teeth". Attempts by Councils, businesses and groups to convince the Ministry that the strategy was not providing the outcomes they had anticipated seemed to fall on deaf Ministry ears, even more so once new Chief Executive officer of the Ministry for the Environment, Barry Carbon was appointed in July 2002.

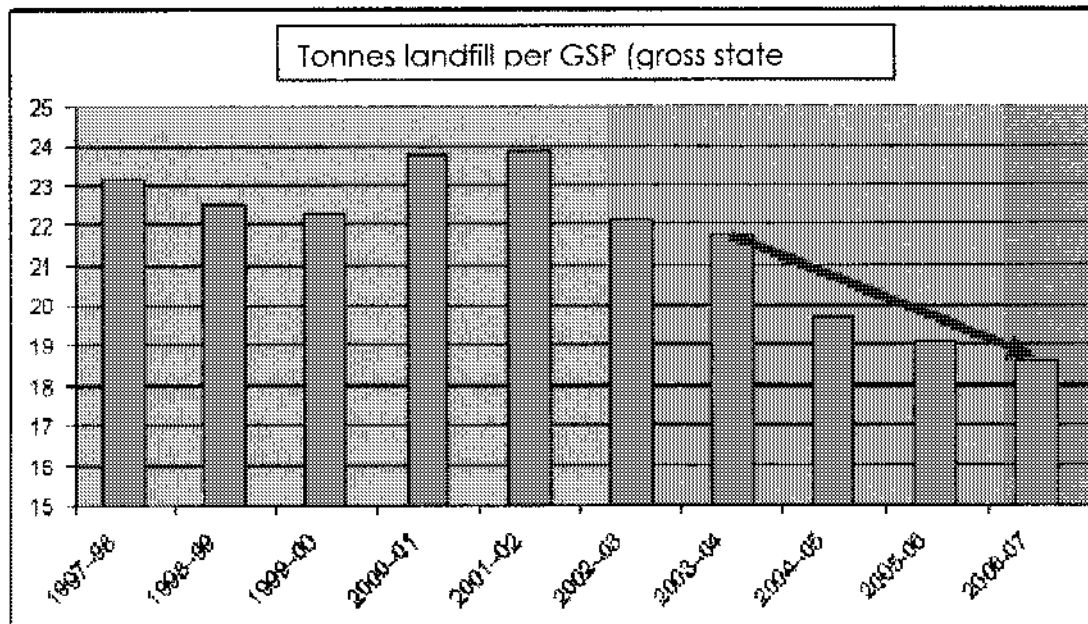
² The three core goals of the NZ Waste Strategy are: 1. Lowering the social costs and risks of waste, 2. Reducing the damage to the environment from waste generation and disposal, 3. Increasing economic benefit by more efficient use of materials.

Mr Carbon made one of his first tasks the restructuring of the Ministry and priorities changed with waste virtually falling off the list – partly no doubt because the NZ Waste Strategy was in place and that box was ticked.

Councils now had a national waste strategy that in spite of its well intentioned vision provided no relief from the rising costs, volumes and effects of waste, and a Ministry that was largely disengaged from the issue – albeit a critically important one to Councils.

2.6 South Australia and New Zealand – Same Strategy – Different Outcomes

In 2002 South Australia decided to put in place a new waste strategy and on 1 July 2003, the Office of Zero Waste South Australia was created by proclamation under the Public Sector Management Act 1995. The new Waste Authority reviewed the NZ Waste Strategy and felt that there was no need to reinvent the wheel. They adapted it to their own situation with vastly different outcomes to those of New Zealand. The main difference between the two approaches was that South Australia backed up their version of the NZ Strategy with legislation and action. The result has been a reduction in waste to landfill since 2002. Importantly, as illustrated in graph 1. below, South Australia has decoupled economic activity and population growth from waste production.



Graph 1: Shows how South Australia has decoupled waste production from economic growth

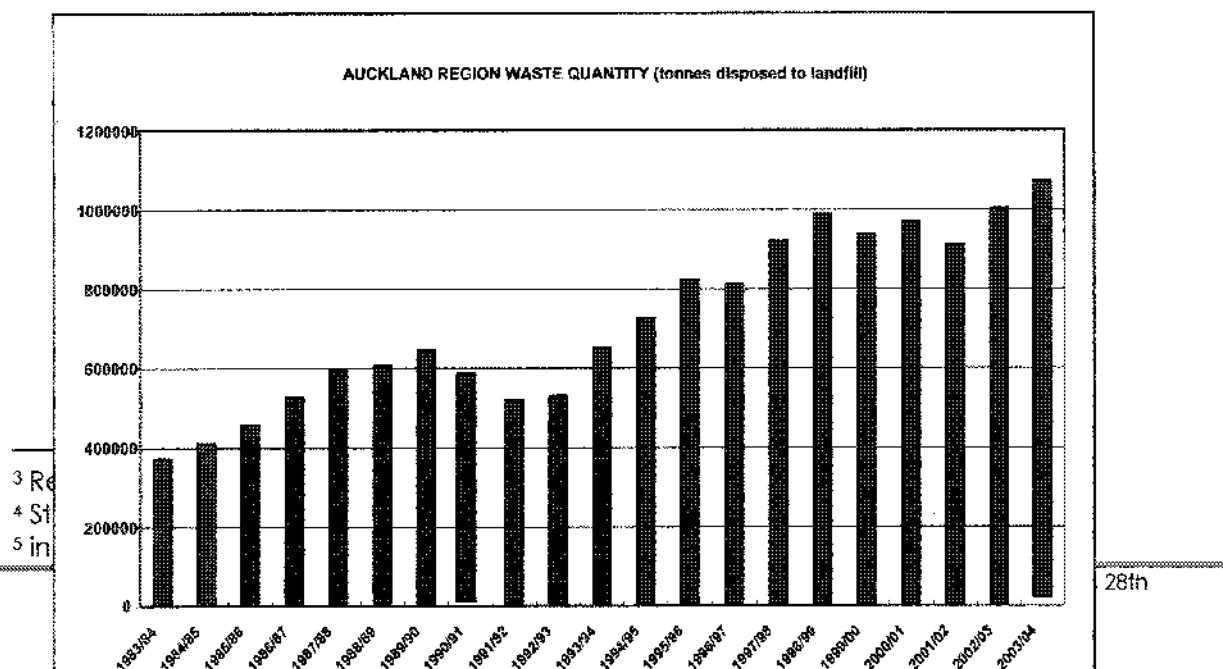
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Meanwhile the limited data available in New Zealand suggests that the volumes and costs of waste are still going up.

1. Data collated by the Auckland Regional Council on Auckland regional waste volumes (see graph 2.), showed that waste had increased almost threefold, from just under 400,000 tonnes in 1984 to over 1,050,000 tonnes in 2005.
2. A study³ carried out in July 2005 by Envision for Auckland Local Authorities estimated that Aucklanders spent \$162 million in 2005 to dispose of their waste. At the same rate of growth of the previous 20 years, Auckland could expect to be paying over \$280 million per annum to get rid of its waste by 2026.
3. The New Zealand Waste Strategy 2002 stated that 1.67 tonnes of waste is generated per person each year in New Zealand.
4. The Environment Ministry's report Environment New Zealand 2007 showed household consumption rose 39 percent between 1997 and 2006 while the population rose just 11 percent.
5. A recent article in The Press⁴ claimed that the results of our increased consumerism can be seen at the nation's rubbish dumps with an estimated 8.7 million tonnes of solid waste generated in 2006 - more than 1500kg of waste for every person.

The Urgency for Change

Two years ago a WWF report found that Earth's natural resources were being used 25 per cent faster than the planet could renew them. The report said "large-scale ecosystem collapse" was likely by the middle of the century. In this context, finding solutions to our unsustainable patterns of production and consumption would seem urgent – yet the MFE's inability to capture the political and public mood for change as evidenced in 1999 and provide the necessary leadership has resulted in 9 years of squandered opportunity and in spite of all the reports, road shows, conferences and additional Ministry personnel, minimal tangible results. Brian Fallow perhaps summed it up for many in a NZ Herald article⁵, where he outlined the range of economic instruments, including CDL, that could be applied for reducing waste, he wrote, "in the face of such examples, the Ministry for the Environment has done.... well, nothing really".



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Graph 2: Auckland Region Waste Quantity (Provided by Auckland Regional

2.7. The Greens Waste Bill

The Waste Minimisation (Solids) Bill⁵ was originally drafted and placed in the ballot by former Green Party MP Mike Ward. It was subsequently re-entered by Nandor Tanczos MP and drawn in May 2006. The Greens Waste Bill put waste squarely back on the national agenda and created a new opportunity for Councils to advocate for the legislative support that was missing with the 2002 Waste Strategy.

In June 2006, the Bill passed its first reading with Green, Labour, Maori Party and New Zealand First support. It went to the Local Government and Environment Select Committee, which received wide and varied submissions from the public.

2.8. The Supplementary Order Paper (SOP)

In September 2007 the Green Party and the Government announced joint amendments to the Waste Minimisation (Solids) Bill. A Supplementary Order Paper (SOP) was introduced to the Select Committee which introduced the following changes to the Bill:

1. Renamed the bill as the **Waste Minimisation and Resource Recovery Bill**
2. Retained the **Waste Levy** and set it at \$10 per tonne of waste to landfills, with regulatory power to increase this over time and with funds to be recycled into Waste Minimisation initiatives in the public, private and community sectors.
3. Replaced the original Bill's term of an 'Extended Producer Responsibility' scheme with a **Product Stewardship Scheme** that called for a list of priority products that would require relevant stakeholders to design a scheme to address the end-of-life collection, recycling and disposal of that product, and the waste associated with the product over its life, including in manufacture and packaging.
4. Replaced the **Waste Control Authority** part of the original Bill, with a **Waste Advisory Board** to advise the Minister on the effectiveness of the levy and how it should be dispersed, and on elements of Product Stewardship such as priority product lists and scheme design. The Board to be comprised of people with strong records in waste management, enterprise, public sector and community groups.

5 Update on the Waste Bill and Implications for Council. Report to Waitakere City Council Final, 28th February 2008.

5. Removed the provision for certain wastes to be banned from landfills.
6. Removed the requirement for every organisation to develop a waste minimisation plan.

2.9. Where the Bill is at

In February this year, the Select Committee heard additional oral submissions from invited submitters on the SOP. A departmental report from the Ministry for the Environment summarising submissions on the bill in the context of the SOP has recently been received by the Select Committee. The Select Committee will send the bill back to Parliament in April to await its second reading.

3. Waitakere City's Role

Waitakere City Council has gone to significant effort and cost in advocating for effective waste policies, both before and since the 2002 New Zealand Waste Strategy was released.

Council has led the way in what has been a drawn out process for achieving effective waste policies that serve the needs of councils and that give business the certainty and level playing field it needs to be able to invest in change.

Other councils and organisations have also put in considerable time and effort, but have found that the political commitment as evidenced in Labour's 1999 manifesto was not always shared by Ministry for the Environment officials.

The fact that councils and in particular Waitakere City Council have needed to put such time and effort into advocating for progressive waste strategies, suggests that advocacy for change by Local Government New Zealand and the Ministry for the Environment was at best weak and at worst non-existent.

3.1. Watching Brief on the passage of the Waste Bill

Waitakere City has kept a watching brief on the progress of the waste bill. Given the significant lobbying of vested interests associated with in particular the packaging industry who have sought to lock out the input of the public in matters relating to the regulation of packaging waste, Waitakere's role has been to the benefit of the wider community beyond its own borders.

3.2. Collaboration with North Shore and Rodney Councils

In 2004 Waitakere joined with North Shore and Rodney Councils to form the Northern Sector Group to pursue a cooperative approach to waste policy work including a waste bylaw that would give power to collect a waste levy. In 2005 the three councils passed a new waste bylaw which included a waste levy. A senior MFE employee wrote at the time of the benefits of retaining ownership or control of waste facilities and the effectiveness of waste levies and the then Minister of Local Government, Chris Carter applauded the joint bylaw. The Auckland CEOs Forum subsequently proposed a regional waste levy to be administered by a regional funding agency.