



9 December 2021

Waste Strategy and Legislation
Ministry for the Environment
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NEW ZEALAND

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Dear Sir/Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on *Te kawē i te haepapa para / Taking responsibility for our waste: Proposals for a new waste strategy – Issues and options for new waste legislation.*

Yours sincerely

Katherine Rich
Chief Executive



**Te kawē i te haepapa para / Taking
responsibility for our waste: Proposals for
a new waste strategy – Issues and options
for new waste legislation**

**Submission by the New Zealand Food & Grocery
Council**

9 December 2021

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (**NZFGC**) welcomes the opportunity to comment on *Te kawae i te haepapa para / Taking responsibility form our waste: Proposals for a new waste strategy – Issues and options for new waste legislation* (the **Consultation Paper**).
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$40 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$34 billion in export revenue from exports to 195 countries – representing 65% of total good and services exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 45% of total manufacturing income.
3. NZFGC has over 90 of its members directly engaged in one or more of its packaging sustainability committees. NZFGC commissioned an independent collation of the food and grocery packaging consumption data of its members and more broadly of the wider retail sector and we draw on the data collected in this submission. NZFGC works closely with the Australian Food & Grocery Council and is part of a global Extended Producer Responsibility (**EPR**) network (recognised by the OECD) to drive best practice in resource and waste management.

OVERARCHING COMMENTS

4. **Shared Vision** – NZFGC strongly supports the vision to look after the planet’s resources with care and responsibility; to respect and understand our inseparable connection with the environment; and to inhabit a land where nothing is wasted. We welcome the opportunity to express this view in response to the Consultation Paper.
5. Our members agree that it is unacceptable that New Zealand is one of the highest generators of waste per person in the OECD. In our view, the waste strategy must deliver a pristine environment where our land is maintained for productive or other nationally important use rather than sending our waste to landfill. Based on this shared vision, we question why the strategy does not acknowledge the desire to move away from landfills and putting our waste in the ground. The direction for this is clear as set out below.
6. **Lack of business engagement** – NZFGC is concerned that the strategy has been developed without any producer, brand or retailer involvement as far as we can assess. NZFGC nor its Board or Sustainability Committee has been involved in the advisory process. The lack of early involvement of businesses outside the waste sector in the strategy preparation process is of great concern and the absence of business input is evident throughout the consultation paper where business is barely if at all mentioned except as a source of funding.
7. Business and production drives our economy using resources to manufacture products for consumers both here and overseas. We cannot avoid consumption, but our members have been rapidly moving from a make, take and dispose approach towards circular economy principles. New Zealand’s waste strategy must involve manufacturers and retailers as critical partners rather than being classed as “others”.
8. **Cost-Benefit Analysis** – The proposals would increase the power, size and reach of the Government’s waste organisation whether this is the Ministry for the Environment (**MfE**) or another body however do not identify the costs to achieve this. There needs to be a full cost benefit analysis to determine the costs of a new or enlarged organisation and the cost of delivering the proposed UK model of an EPA and Licensing Agency. We support the

principle of 'delivering equitable and inclusive outcomes' and this must consider the increased costs to the consumer from the proposed regulations.

9. **Packaging waste to landfill** – The purpose of packaging in food and beverage is to protect and preserve products and this has been clearly demonstrated as a result of Covid 19. Packaging generally prevents more waste than it creates, with food and product waste a recognised issue. Packaging is targeted throughout the strategy with specific considerations under duty of care, return to producer and litter. NZFGC has collated the available data on packaging (including all paper) consumption and recovery and an estimated 425k tonnes are landfilled annually representing 14% of the total waste to municipal landfill. Paper and cardboard are 60% of this tonnage. This is a key reason for supporting a circular economy but also a key reason to ensure that the focus of measures and stakeholders is beyond the current producers/manufacturers in the food and grocery sector.
10. **Right to return packaging** – The strategy suggests introducing a right to return packaging. This again illustrates how the development of the strategy has been done in a vacuum without input from industry. There would be a significant carbon footprint involved in physically returning packaging to the supplier or retailer and would be a major reverse logistics exercise, put further pressure on retailers in terms of space and be impractical to administer. We comment further on this below.
11. **Waste and Litter Reduction Targets** – The targets proposed for waste generation, reduction and litter are based on what the Ministry has confirmed is poor data with no clear methodology. Without understanding the baseline, it is difficult to see how targets can be set, where and how they will be measured.
12. **Voluntary Product Stewardship Schemes** –NZFGC supports voluntary measures by industry to drive innovation at best cost. Voluntary product stewardship schemes such as Soft Plastic Recycling; Glass Packaging and Agrecovery involving NZFGC members are now well placed to transition to meet the regulatory requirements for priority products. NZFGC is working with The Packaging Forum and others to lead the co-design of a mandatory Extended Producer Responsibility (**ERP**) Scheme for Plastic Packaging and this process will benefit from the existence of the voluntary soft plastics scheme.
13. **Scheme Management and Fee Setting** – Industry led schemes, whether voluntary or mandatory, should not have management or fee structures set by Government. The design process will determine material flows, funding, and the most efficient scheme management requirements. This should not be predetermined by a Government department, particularly in the absence of industry advice and input.
14. **Australasian Recycling Label** – The strategy should stipulate that the Australasian Recycling Label (ARL) is the preferred labelling system for New Zealand in order to avoid confusion and additional costs. The Government's consultation by Martin Jenkins in 2020 found that:

“the ARL should form the basis of a New Zealand recycling label... Increasing the use of the ARL is likely to be the quickest, easiest and lowest cost option to improve recycling labelling in New Zealand”.

The ARL has been recognised by the United Nations Environment Program (**UNEP**) as one of the leading labelling systems scoring positively for clarity, accessibility, and reliability. A potential downside from anything that is unique to New Zealand is that some products may not be made available for sale in New Zealand from international brands due to the small size of the New Zealand market and the cost of applying that requirement.

15. **Responsibility – Duty of Care** – NZFGC agrees that individuals are responsible for their actions to manage waste and to dispose of their waste responsibly. We support increased penalties for littering behaviour by individuals however we are concerned that the proposed duty of care responsibilities could also make producers responsible for the behaviour of individuals.
16. **Waste Levies** – The waste strategy must also consult on how the waste levies are spent including the proportion of levy monies allocated as of right to councils. There is no question in the Consultation Paper relating to appropriateness of the 50% allocation to councils/territorial authorities. We would also note that any onerous application of levies, unique requirements or cost barriers can work to drive more consumers to purchase online from international platforms when their favourite products are either not available or not price competitive due to those costs. This may contribute more waste with the local industry left to meet any obligations such as levies imposed. It is critical that the playing field is level.

DETAILED COMMENTS

PART 1: WHY WE NEED TO TRANSFORM OUR APPROACH TO WASTE

Q1 *Do you think changes are needed in how Aotearoa New Zealand manages its waste?*

17. Yes. It is unacceptable that New Zealand is reportedly one of the highest generators of waste per person in the OECD and that the amount of waste which we are sending to landfill each year is increasing when much of this could be recycled, reprocessed or reused.

Q2 *Do you support tackling our waste problems by moving towards a circular economy?*

18. Yes, NZFGC supports tackling waste problems by moving towards a circular economy.

PART 2: PROPOSED NEW WASTE STRATEGY FOR AOTEAROA NEW ZEALAND

Q3 *Do you support the proposed vision?*

19. Yes. We support the ambition in the vision statement.

Q4 *Do you support the 6 core principles, or would you make changes?*

20. Yes, but we would like to suggest some changes.

21. We understand the need to address and remediate legacy waste and the potential impact of climate change on old landfills, however this needs to be separate from the future emphasis on circularity. It is not clear what the principle “take responsibility for the past, present and future condition of our natural environment” actually means for businesses. What responsibility do current producers have for products which were disposed of decades ago?

Q5 Do you support the proposed approach of the three broad stages between now and 2050 and the suggested timing and priorities for what to focus on at each stage?

22. NZFGC does not support the proposed approach of the three broad stages between now and 2050 and the suggested timing and priorities. The current waste strategy has been in place since 2008 and our waste has increased since then. The time frames look to have been selected based on ease of using decades rather than necessarily what can or should be achieved.
23. The catch-up phase will be challenging to deliver in eight years particularly given the strategy will not be implemented until 2023. However, embedding a new normal doesn't start until 2040. This should be brought forward.
24. Significant change needs to be, and in our view, can be implemented quickly. Resource recovery and recycling systems need to be invested in, established and implemented as soon as possible. These systems are major factors for New Zealand to realise it's vision in the strategy.

Q6 Looking at the priorities and suggested headline actions for stage one, which do you think are the most important?

25. The most important priorities in Stage 1 are to stimulate innovation and redesign, to get resource recovery systems and recycling systems working well and to get harmonisation of kerbside systems.
26. The key barrier to success arises through not engaging with business across the supply chain to put the strategy framework in place, to innovate and to drive consumer education.
27. Local and central government and the waste industry cannot do this in a vacuum. Business needs to be a key stakeholder in developing the strategic planning framework and this should be spelt out in the document not hidden within the context of "others". The business community is imperative to support collation of data, accountability, research and innovation.
28. In relation to Priority 4: Get Resource recovery and recycling systems working well, much of this is already in progress for packaging.
29. Simplify material streams: NZFGC is working with members to fast track the phase out of difficult to recycle plastic resins (PVC and Polystyrene) and to help them transition where possible to mono polymers. Harmonisation of kerbside systems across the country would support this, reduce consumer confusion and contamination.
30. Introduce consistent labelling: Industry is adopting the ARL for packaging and the Ministry for the Environment has recognised that the ARL is the best approach for New Zealand, as it has an evidence-based system behind it to ensure items that carry the ARL can actually be recovered in the system. This must be enshrined in the Waste Strategy to prevent competing labelling systems which will create confusion and result in contamination of the recycling stream.
31. Investment in infrastructure: The technology is already available with appropriate investment, and this needs to be in place well before 2030. It is disappointing that the Government has not provided any funding to support soft plastics recycling at Future Post or Second Life Plastics and others investing in plastic processing capacity. Government

funding in Australia for infrastructure has made a very significant impact for Australia's business and consumer sectors.

32. The investment in improvements at MRFs to reduce contamination levels has already led to benefits in recovery and this now needs to be extended. The Government's recommendations for standardising kerbside collections will have a critical impact on industry and consumer's ability to deliver on the waste strategy and should be designed to maximize recovery of resources rather than standardizing down to the lowest common denominator.
33. Further, in 'producer pays' systems, industry will demand a greater say in how materials are collected for recycling and where and how they are recycled. This will necessarily change the existing dynamic where councils and the waste sector determine what is or is not recyclable. This is why it is imperative to have producers involved in the development of waste strategy from the start. Many of our members are involved in Extended Producer Responsibility (**EPR**) Schemes around the world and can advise on how the material flow and funding flows for waste management change under these systems. NZFGC is part of a global industry alliance to advance EPR schemes.
34. NZFGC's Fibre Packaging and Compostable Products sub committees have identified the issues impacting end of life solutions for these products. Under Priority 5 and as part of the Emissions Reduction Plan, paper and cardboard would be banned from landfill. 253,000 tonnes of fibre are currently sent to landfill annually, so significant market intervention or investment is urgently required to deliver on this Priority.
35. *Encourage uses and markets for recycled materials:* Our members are already investing heavily in R&D working with their suppliers to redesign their packaging towards a circular economy.
 - **Dole** replaced its plastic bag packaging with new soft plastic compatible smaller tape
 - Re-design of **Earthwise's** laundry liquid bottle and personal care brands to 100% rHDPE
 - **George Weston Foods** replaced its plastic bread tags with cardboard tags and this measure will eliminate 18 million plastic tags in the first year.
 - **Goodman Fielder's** Nature's Fresh has replaced plastic tags with recyclable cardboard; conducted extensive R&D with supplier Pact Group to design its mayonnaise bottles using 100% recycled PET; and has launched the first recycled HDPE milk bottle in New Zealand using 30% RHDPE for its Meadow Fresh brand.
 - **Lewis Road's** introduction of 100% recyclable rPET milk bottle which was awarded Gold in the sustainability category at the 2020 WorldStar Packaging awards.¹
 - **My Food Bag** launched its new recycling service in partnership with NZ Post which allows its customers to opt in to receive a recycling bag to fill with all their household soft plastics
 - **Nestlé** has collaborated with other companies in Australia to develop a prototype KitKat soft plastic food wrapper made with recycled content. Nestlé, CurbCycle, iQ Renew, Licella, Viva Energy Australia, LyondellBasell, REDcycle, Taghleef Industries and Amcor brought their individual expertise together to collect and process waste soft plastic, turn it back into oil, and create a food-grade prototype wrapper.
 - **Essity** (formerly Asaleo Care) has recently launched Sorbent facial tissue boxes with no plastic. As well, there is 20% post-consumer recycled content in its soft plastic packaging for Sorbent, Handee and Purex products, which are made in Kawerau..
 - **The Collective** introduced the 1st yoghurt bottle in NZ to use recycled plastic.

¹ Tab 3 <https://www.worldstar.org/winners/worldstar/2020/>

Q7 *What else should we be doing in stage 1?*

36. There is an immediate need for a central data base and data collection model. The need for environmental reporting which “gives a fair and accurate representation of New Zealand’s environment” is covered by the Environmental Reporting Act 2015 which is administered by the Ministry for the Environment and Minister of Statistics. Data capture should be included within this Act.

Q8 *What are the barriers or roadblocks to achieving the stage 1 actions, and how can we address them?*

37. NZFGC believes that the best way to take this further and fast is to work with the business community to fast-track change. Industry has signed up to the Plastic Packaging Declaration by 2025 and many of our members have committed to having all packaging reusable, recyclable or compostable by 2025. Businesses build these commitments into their planning processes and budgets. Industry is already phasing out hard to recycle plastics. PVC and Polystyrene represent just 4% of the plastic resins placed on market².

Q9 *Do the strategic targets listed in Table 1 focus on the right areas?*

38. No. The Ministry has acknowledged that its data is of poor quality. We are therefore concerned that setting targets without a clear idea of what the baseline is and what methodology will be used is effectively setting targets against poor data. We recommend the Ministry makes data improvement a high priority to address. This same recommendation has come up in all the meetings leading up to the UN Food Systems Summit:

- ***“quality data is a crucial place to start to ensure that we can track improvement.***
- ***a stocktake of current data is required with a scope to establishing new data – recognising that there is often a high cost for robust measurement.”***³

39. The Ministry has explained that households will have a higher reduction target of between 60-70% because they already have access to collection systems. This may be true for packaging, but households generate much more waste than packaging. 40% of waste recycled at transfer stations comes from households.

40. From a business perspective, it is not clear whether the target is across all businesses or is business specific. Are all businesses required to reduce waste disposable by 30-50% irrespective of their starting point? And irrespective of the weight of the different elements of their waste profile?

41. We would ask what is the baseline for the 60% litter reduction target and how will this be measured? And is 40% of the baseline remaining as litter acceptable?

42. Industry takes targets very seriously. Once set they become internalised into business processes. There does not appear to be a clear rationale for how the Ministry has set the targets outlined in Table 1.

² NZFGC Plastics survey 2020

³ p13 *Summary of New Zealand's National Food System Dialogues: Preparation for the United Nations Food Systems Summit 2021*, MPI, August 2021

Q10 *Where in the suggested ranges do you think each target should sit, to strike a good balance between ambition and achievability?*

43. As in the response to question 9, we need to see the baseline for the current situation and what methodology will be used before we can comment on the target range.

PART 3: DEVELOPING MORE COMPREHENSIVE LEGISLATION ON WASTE: ISSUES AND OPTIONS

EMBEDDING A LONG TERM, STRATEGIC APPROACH TO REDUCING WASTE.

Q11 *Do you think new legislation should require the government to have a waste strategy and periodically update it?*

44. Yes, NZFGC considers it could be helpful for the new legislation to require the government to have a waste strategy and for that strategy to be periodically updated.

Q12 *How often should a strategy be reviewed?*

45. Other: Timing should be aligned with the phases so that progress can inform the transition to the next phase.

Q13 *How strongly should the strategy and supporting action and investment plans influence local authority plans and actions?*

46. This needs to have two key aspects that are independent of each other but that work in concert:

- 1) Regulatory and policy setting including targets e.g. MFE
- 2) Operational performance and delivery e.g. EPA or MBIE.

47. Both these aspects should then be required to be used by local authorities for their planning and actions.

Q14 *What public reporting on waste by central and local government would you like to see?*

48. Government needs to lead with robust data on waste generated and recovered by government departments and councils and the percentage of products made from recycled materials which are procured. While some of this data might already be reported through annual reports, the information should be extracted and collated centrally to provide a coherent measure of progress.

49. There should be transparency around waste expenditure and how this is sourced including revenue from rates, Waste Minimisation Fund, collection costs by material and other revenues related to waste and product stewardship.

Q15 *Do you agree with the suggested functions for central government agencies?*

50. No, NZFGC does not agree with the suggested functions for central government agencies. The proposals will create a super Ministry with wide ranging powers over industry which will significantly increase costs.

Q16 What central agencies would you like to see carry out these functions?

51. No comment. We believe this is a matter for Government to determine.

Q17 How should independent, expert advice on waste be provided to the government?

52. The consultation paper does not provide any details about who was involved in the advisory process to develop the proposal, but we do not believe that business leaders (producers, manufacturers, retailers) were involved to any extent if at all. We recommend that a business advisory group with senior leaders from across the supply chain be established to provide advice to the government on waste matters.

Q18 How could the legislation provide for Maori participation in the new advice and decision making systems for waste?

53. No comment.

Q19 What are your views on local government roles in the waste system, in particular the balance between local and regional? Who should be responsible for planning, service delivery, regulatory activities like licensing, and enforcement of the different obligations created?

54. There needs to be a full cost benefit analysis to determine the costs of the new or enlarged organisation and the cost of delivering the proposed UK model of an EPA and Licensing Agency. We support the principle of “delivering equitable and inclusive outcomes” and this must consider the increased costs to the consumer from the proposed regulations.

55. From a product stewardship perspective it is not clear how a model which is required to cover all costs from collection through to processing fits with the existing kerbside infrastructure. Further, under producer pays systems, industry will demand a greater say in how materials are collected for recycling and where and how they are recycled. This will change the existing dynamic where councils and the waste sector determine what is or is not recyclable. There will need to be transparency of funding flows between all parts of the supply chain.

PUTTING RESPONSIBILITY AT THE HEART OF THE NEW SYSTEM

Q20 Do you see the benefit in adapting the United Kingdom’s duty of care model for Aotearoa’s waste legislation, supported by appropriate offences and penalties?

56. NZFGC supports the concept of shared responsibility for reducing waste including making individuals responsible for the appropriate disposal of their waste. The ‘duty of care’ model should also include a requirement on government (local or central) to ensure adequate collection systems are in place.

57. The strategy identifies benefits of introducing track and trace monitoring and reporting however there is no mention of the costs. Increasing regulatory costs will increase business costs and the cost of consumer goods. Many businesses are already separating out their waste including food waste to meet their own sustainability targets and we would like to understand the costs of introducing the UK model.

58. We would like to see the strategy reflect informed discussion with UK's Department for Environment Food & Rural Affairs about what has worked well within the UK Act, what they would do differently and any cost benefit analysis that has been done over the past 20 years. We have sought advice from our industry colleagues in the UK and support the 'duty of care' proposals for management of waste.

Q21 Do you support strengthening obligations around litter by creating an individual duty of care to dispose of waste appropriately?

59. International research shows the most effective way to reduce litter is to change attitudes, awareness and behaviour through education, incentives, building community engagement and ownership of the problem. We support creating a 'duty of care' on individuals to dispose of their waste responsibly. However, we are concerned about whether these proposals will also make businesses responsible for the individual behaviour of their customers. Littering behaviour is an individual action and cannot be made the responsibility of the producer. We have sought advice from our industry colleagues in the UK and the duty of care is not extended to producers under the EPA.

Q22 What else could we do so that litter is taken more seriously as a form of pollution?

60. NZFGC supports an increase in fines for littering. However, a 'stick' approach will not stop littering.

61. There is no definitive social science to suggest that any particular demographic litters any more or less than any other. Littering behaviour is influenced by many factors including the availability of public place recycling and rubbish bins, bin design, maintenance and servicing, the presence of graffiti and other litter, and public feelings of safety and pride of place.

62. Research over many years by *Be a Tidy Kiwi* (<https://beatidykiwi.nz>) finds that environmental features and infrastructure influence littering behaviour. *Be a Tidy Kiwi* uses a methodology known as the Clean Communities Assessment Tool (CCAT) which is an environmental monitoring tool for measuring the incidence of littering in a given area. Local efforts at litter prevention are measured by rating landscaping, bin design, maintenance and servicing, as well as other features within the control of owners or caretakers that influence littering, bin use and litter accumulation. This assesses those public place features influencing people's actual disposal behaviour (whether they used a bin or not).

63. The waste strategy will focus on litter audits, however we believe these need to be supplemented by an understanding of the causes of littering. To this end we strongly support a national and sustained public awareness campaign which is not limited to three year waste management fund cycles. This needs to be sustained by continued support and roll out of standardised colour coded bins and signage to ensure that people have access to 'binrastructure'.

Q23 Do you support a nationwide licensing system for the waste sector?

64. NZFGC is not opposed to a nationwide licensing system for the waste sector but would want to see more information on this proposal. We are aware that Australia has moved to requirements for permits and this has been useful to monitor what is collected and where it is ending up. Experience by the Food & Grocery sector in the UK has been that a licensing system for waste has shown to be a sensible protection measure. The best elements from these two experiences could greatly assist in any like arrangements for New Zealand.

Q24 Should the new legislation include a power to require a tracing system to be developed for some or all types of waste?

65. Before a tracing system was developed, considerable further policy and operational considerations would be needed about the level of data, collection and use.
66. NZFGC does not believe, therefore, that the legislation should include a power to require a tracing but rather to anticipate that if a tracing system was developed, then a power to require the provision of data from specified points in the system would be best. This is because any system for tracking waste would need to capture data at the correct points in the process to contribute to the improvement of systems.
67. Such a provision would only be feasible if the definition of hazardous waste was more clearly specified in the strategy and should not include loose references to “other wastes of concern” which could be used as a catch all.

Q25 What aspects of the proposals for regulating the waste sector could be extended to apply to hazardous waste?

68. No comment

IMPROVING LEGISLATIVE SUPPORT FOR PRODUCT STEWARDSHIP SCHEMES

Q26 Should the new legislation keep an option for accreditation of voluntary product stewardship schemes?

69. NZFGC supports voluntary measures by industry to drive innovation at best cost. Voluntary product stewardship schemes such as Soft Plastic Recycling; Glass Packaging and Agrecovery involving NZFGC members are now well placed to transition to meet the regulatory requirements for priority products. NZFGC is working with The Packaging Forum and others to lead the co-design of a mandatory Extended Producer Responsibility Scheme for Plastic Packaging and this process will benefit from the existence of the voluntary soft plastics scheme.
70. Government processes are generally long and cumbersome (for example, the Container Deposit Scheme design; the Plastic Packaging Design process) and industry can and does move faster. Voluntary schemes can provide a clear progression to mandatory to meet societal and Government targets.

Q27 How could the accreditation process for new product stewardship schemes be strengthened?

71. Product stewardship schemes are important ways for industry to demonstrate its commitment to designing out waste and ensuring end of life solutions. We appreciate that the Ministry’s support for schemes has had to be reduced with other demands on its resources. For this reason, we suggest the Ministry could appoint an independent body to assess and certify schemes against the criteria and to monitor their progress.

Q28 How else could we improve the regulatory framework for product stewardship?

72. Product Stewardship schemes must be producer led (by definition). NZFGC is strongly opposed to proposals to give a government agency the powers to set fees or appoint other agencies to manage such schemes. Industry is often far more cost conscious in such activities in order to minimise the impacts more broadly across businesses and will therefore innovate to reduce management costs. Producer costs would therefore reflect the real cost of the programme and should be spread and applied according to what was placed by that member into the market.
73. We support the principle of eco-modulation but this should come through the design process and not be pre-determined.

ENHANCING REGULATORY TOOLS TO ENCOURAGE CHANGE

Q29 What improvements could be made to the existing regulatory powers under Section 23 of the Waste Minimisation Act 2008

74. 23c: Take-back services, fees and refundable deposits We do not support increasing regulations to control or prohibit disposal or sale of products and services without clarity about the targeted products. The proposal states “there must also be reasonably practicable alternatives available”. Who determines what constitutes reasonable alternatives?
75. 23f: Labelling The strategy considers scope to expand and clarify the labelling power to support other initiatives like recycling and product stewardship. Industry is adopting the Australasian Recycling Label (ARL) which has also been endorsed by the Government’s consultancy into the best approach for New Zealand. On this basis we request the Waste Strategy formally endorses the ARL, as it has an evidence-based system behind it to ensure items that carry the ARL can actually be recovered in the system. We do not support legislation to create a unique labelling system for New Zealand given 95% of supermarket SKUs are common to Australia and New Zealand. This would also threaten the availability of imported products which would be a barrier to trade. The strategy should stipulate that the Australasian Recycling Label (ARL) is the preferred labelling system for New Zealand for avoidance of confusion and additional costs.
76. The Government’s consultation by Martin Jenkins in 2020 found that:
“The ARL should form the basis of a New Zealand recycling label. Increasing the use of the ARL is likely to be the quickest, easiest and lowest cost option to improve recycling labelling in New Zealand”.⁴
and
“Using the ARL as the basis for a future recycling label will allow faster uptake, at potentially lower cost.”⁵
77. The ARL has been recognised by UNEP as one of the leading labelling systems globally scoring positively for clarity, accessibility, and reliability and it should form the basis of a New Zealand recycling label. A potential downside from anything that is unique to New Zealand is that some products may not be made available for sale in New Zealand from international brands due to the small size of the New Zealand market and the cost of

⁴ p2 *Recycling labelling – options for New Zealand – final report*, Martin Jenkins, 5 August 2020

⁵ p60 *Recycling labelling – options for New Zealand – final report*, Martin Jenkins, 5 August 2020

applying that requirement. The result may be consumers driven to source from elsewhere those products that they particularly want as personal imports.

78. *23i: Information to be collected and provided* This is fundamental to success and therefore must be considered a pre-requisite to ensure long term success.

Q30 What new regulatory powers for products and materials would be useful to help Aotearoa move towards a circular economy?

79. NZFGC does not support increasing regulations to control or prohibit disposal or sale of products and services without clarity about the targeted products.

80. The proposal states: “there must also be reasonably practicable alternatives available”. NZFGC would want to know who would determine what constitutes reasonable alternatives before regulations were proposed. We are, for example, concerned at the rejection for funding requests for waste disposal alternatives for New Zealand when these are commonly available or in train for development in like countries.

Q31 Would you like to see a right to return packaging to the relevant business?

81. NZFGC does not support a ‘right’ to return packaging to the relevant business. This does not mean we are not strongly in favour of recycling and the circular economy. We do not support such a ‘right’ as it would be a major reverse logistics exercise and add resource and environmental costs that could otherwise be avoided. Full life cycle efficiency outcomes should be pursued in any circular economy systems.

82. By ‘reverse logistics exercise’ we mean that the potential for value recovery by reusing individually returned packaging to each relevant business is lost because of the need to then aggregate across businesses when that can be done without the ‘return to business’ step. Such a ‘right’ would also increase internally generated waste, put further pressure on retailers and manufacturers in terms of space and handling and use more resources to despatch returned packaging to aggregate with others and be impractical to administer.

Q32 Would you like to see more legal requirements to support products lasting longer and being able to be repaired?

83. NZFGC is strongly opposed to such a requirement for the food and grocery sector. There are considerable and detailed shelf-life requirements for many products covered by our members, most importantly the safety considerations for food. We do not believe that food and grocery products generally need to ‘be repaired’. This recommendation should stipulate the product sectors it is referring to.

84. Such a proposal would, in any event, need to consider “who” and “what” determines a reasonable period for repair.

Q33 Is there a need to strengthen or make better use of import and export controls to support waste minimisation and circular economy goals. For example, should we look at ways to prohibit exports of materials like low value plastics?

85. New Zealand is a long way from most of its import and export markets. Freight costs and timelines already make trade complex and, in some cases, prohibitive reducing consumer choice.

86. NZFGC supports ensuring that imported products and their packaging are compliant with New Zealand's legislation and are on a level playing field with domestic products however we need to be cognisant of our geographic limitations. We also note that the proposed provisions will be expected to be notified to the WTO and it is important not to be putting in place what might be considered non-tariff barriers.

ENSURING THE WASTE LEVY IS USED TO BEST EFFECT

Q34 What types of activities should potentially be subject to a levy? Should the levy be able to be imposed on final disposal activities other than landfills (such as waste to energy facilities?)

87. NZFGC notes that the current provisions relating to setting a levy for waste going to disposal facilities requires the Minister to consider the costs and benefits, the advice of the Waste Advisory Board and to be satisfied that there has been adequate consultation with those who may be significantly affected before setting a levy rate.
88. In our view, levies are blunt regulatory tools to change behaviour and that before looking at other activities that might be subject to a levy, it is better to ask whether the current levy has changed behaviour and what other behaviours might need to be changed. We should also consider what other tools might be available, including non-regulatory and regulatory interventions, that could be more efficient at changing the target behaviours. It is a requirement of good regulatory practice to consider non-regulatory options before going to regulatory options such as levies.
89. We would also highlight that while our sector contributes at a low level to packaging waste, any onerous application of levies, unique requirements or cost barriers can work to drive more consumers to purchase online from international platforms when their favourite products are either not available or not price competitive due to those costs.
90. The effect of this may contribute more waste with the local industry left to meet any obligations such as levies imposed. It is critical that the playing field is level when any duty of care obligations are imposed, whether a levy to fund a product stewardship scheme or recycling processes or a requirement to apply a specific labelling message.
91. In any event the definition of waste to energy needs to be defined. For example, technology to convert plastic into oil provides added value and should not be subject to a levy.

Q35 What factors should be considered when setting levy rates?

92. As noted above, legislation already sets out requirements for cost benefit analysis in any levy-setting arrangement and this is standard good regulatory practice. Levies must be considered within the overall framework of costs and benefits to industry, consumers and government as required by good regulatory practice.
93. In considering the application of levies or other regulatory intervention, the principle of equity needs to be applied. If industry pays the levy on waste and also pays a product stewardship fee for placing product / packaging on the market, it is paying twice.

Q36 How could the rules on collection and payment of the levy be improved?

94. The Consultation Paper proposes four areas where improvements might be made in relation to the existing levy: stockpiling materials, reuse of materials on site at disposal facilities, waivers and exemptions. The companion question that needs to be asked and which is alluded to is “What behaviours are the proposed improvements addressing and will the proposals change these?”
95. The Consultation Paper answers some of these e.g. reducing the bar on waivers; making it easier to seek exemptions. In other areas, the alternatives appear less clear: in relation to stockpiling, more stringent requirements could impact facilities dealing in the most efficient ways with materials; and in relation to reuse of materials at disposal sites, instead of the administrative cost of an approvals system, and since the interpretation of which materials fit into the category is the problem, it would seem that the non-regulatory option of issuing more detailed guidance should be considered.

Q37 What should waste levy revenue be able to be spent on?

96. NZFGC is concerned that there has been no question relating to the 50/50 split of the current levy revenue between central and local government. Of the list of possible expanded areas for levy revenue application in future (pp 71-72 in the Consultation Paper), only litter clean-up and enforcement at local government level justifies a share. In our view, broader scope requires broader oversight applied at the central Government level in order to ensure there is the best prospect of value for money for the entire country.
97. We are also concerned at some of the more expansive/ill-defined areas of potential revenue spend such as “preventing plastics entering marine environments”. We note in particular, concern that even though spend on “new infrastructure and equipment” is foreshadowed, actions to date have not supported applications for new treatment facilities which have been regularly rejected.
98. We believe a tightly defined area of expenditure should be maintained and limited to the existing areas with the added clarification that waste minimisation projects includes early-stage research, new infrastructure and equipment and data collection and management.

Q38 How should waste levy revenue be allocated to best reflect the roles and responsibilities of the different layers of government in relation to waste and to maximise effectiveness?

99. As noted above, the Consultation Paper does not address the principal inequity in the waste levy which is that local government is allocated 50% of the waste levy. The Ministry has not asked the obvious question which is “should 50% of the waste levy be allocated to local government in the future or should it be allocated to projects of strategic national importance?” In our view, allocation of the levy to projects of strategic national importance should be the priority.

Q39 How should waste levy revenue be allocated between territorial authorities?

100. NZFGC considers that, as with waste minimisation projects, the waste levy should be allocated on a 100% contestable basis. Waste minimisation projects must be selected based on national, strategic need not as part of a council allocation. The allocation should be strategy led from the outset.

Q40 Which elements of compliance, monitoring, and enforcement should be the responsibility of which parts of government under new waste legislation?

101. The strategy proposals anticipate significantly increased power for government. The Ministry is currently struggling to manage 34 landfill sites and how it will manage 500 existing and legacy sites is not clear. However, as with microbeads and the ban on plastic bags, where the Ministry was greatly assisted by the high level of voluntary compliance by businesses and consumer support for the changes, this could be the break-through factor in delivery. For example, by the time the microbead legislation was in place, very few if any cosmetic/personal hygiene products contained microbeads.
102. In the sustainability area including in waste, industry and consumers are generally ahead of the legislative proposals and the 'scale of compliance activity' may not eventuate or be necessary to the extent anticipated by the Ministry.
103. The Consultation Paper notes that bylaws at local government level can be inconsistent in terms of use and content. This may be exacerbated by the proposed legislative changes.
104. Our experience in the food and grocery sector is that inconsistency is most evident for businesses that operate in more than one territorial authority. Providing the option for these businesses to be subject to central government oversight for compliance and enforcement could be significantly more efficient and would be consistent with the approach taken, for example, with compliance under the *Food Act 2014* where the Ministry for Primary Industries undertakes compliance of businesses operating in multiple local government jurisdictions and local government undertakes compliance for businesses operating only in one jurisdiction.
105. In another example, for biosecurity matters and food recalls, the Ministry for Primary Industries handles all complaints and responses on information received from the public (other than complaints made directly to manufacturers). The split on responsibilities for compliance, monitoring and enforcement for waste matters should be based on the least cost to consumers, government and industry.

Q41 The need for enforcement work will increase under the new legislation. How should it be funded?

106. NZFGC is firmly of the view that enforcement is a public good and should be funded by government, as it is in a range of other areas. There is an extensive body of work around the otherwise perverse outcomes of treating enforcement as a private good. Ideally, funds collected from increased and broader fines and penalties should be ringfenced to waste minimisation and management activities but this could also include enforcement.

Q42 What expanded investigation powers, offences and penalties do you think should be included in the new waste legislation?

107. NZFGC considers that privacy and property protection laws need to be considered in any expansion of investigatory powers. We are also of the view that the use of digital and other new technologies needs to be carefully assessed by experts in the field before inclusion in evidentiary arrangements.

Q43 What regulatory or other changes do you think would help better manage inappropriate disposal of materials (that is littering and fly tipping?)

108. The proposed policy seems to be predicated heavily on citizen reporting and CCTV surveillance. We believe the focus should be on continual and heightened efforts in education and awareness by funding an ongoing and long-standing campaign over decades.