

Tax Working Group Public Submissions Information Release

Release Document

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2 November 2018

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SUBMISSION: TAX WORKING GROUP INTERIM REPORT

1. SUMMARY

About Enviro NZ

- 1.1 Enviro (NZ) Limited ("**Enviro NZ**") is an industry leader in waste disposal, operating through three service brands: EnviroWaste, EnviroWay and ChemWaste. It is one of New Zealand's two largest waste disposal businesses. Enviro NZ operates several landfills in New Zealand, including the North Waikato Landfill at Hampton Downs, one of New Zealand's largest landfills.

Summary of submissions on Interim Report

- 1.2 This letter sets out our submissions on the Tax Working Group's assessment of the waste disposal levy ("**Levy**") in its Interim Report. In summary Enviro NZ:
- (a) supports expanding the Levy to cover waste disposed of at all landfills, not just the 11% of landfills that are currently covered;
 - (b) submits that to the extent Levy revenue is hypothecated to territorial authorities, better governance and transparency is required to ensure spending of that revenue aligns with the objectives of the Levy;
 - (c) submits that in assessing the appropriate Levy rate, evidence from other countries must be approached with some caution;
 - (d) submits that any increase in the rate of the Levy should be signaled well in advance and staggered to allow investment in alternative waste processing facilities to enable re-use and recoverability of as much waste as possible from the waste stream; and
 - (e) submits that the Tax Working Group should reflect the submission points set out above in whatever relevant recommendations it makes in its final report.

Next steps

- 1.3 Enviro NZ is, as noted, a significant participant in the waste management industry in New Zealand and is committed to protecting the environment and minimising the use of non-renewable resources. Enviro NZ is therefore well placed to participate in consultations regarding any future changes to the Levy, and wishes to engage further with officials and members of the Tax Working Group on these matters.

2. FIRST SUBMISSION: ENVIRO NZ SUPPORTS IMPOSING THE LEVY ON CERTAIN WASTE DISPOSED OF AT ALL LANDFILLS

Background

2.1 The Levy is imposed on "waste disposed of at a disposal facility" (unless an exception applies) under section 26 of the Waste Minimisation Act 2008 ("**Act**"). Disposal facility is defined as:

7 Meaning of disposal facility

(1) In this Act, unless the context requires another meaning, disposal facility means—

(a) a facility, including a landfill,—

(i) at which waste is disposed of; and

(ii) at which the waste disposed of includes household waste; and

(iii) that operates, at least in part, as a business to dispose of waste; and

(b) any other facility or class of facility at which waste is disposed of that is prescribed as a disposal facility.

(2) In subsection (1)(a)(ii), household waste means waste from a household that is not entirely from construction, renovation, or demolition of the house.

2.2 Importantly, "disposal facility" includes a landfill only if it is a landfill at which household waste is disposed of and which is operated at least in part as a business to dispose of waste. The limited number of landfills covered by this definition is acknowledged in the Ministry for the Environment's most recent review of the Levy ("**2017 Review**"):¹

At the end of the current review period [30 July 2016], New Zealand had 426 known waste disposal facilities. Of these, 45 were levied (11%) and 381 (89%) were non-levied facilities The 2014 review recorded 48 levied waste disposal facilities; three small waste facilities have closed since that time

2.3 While the volume of waste disposed of at the 89% of "non-levied facilities" is not known (as those facilities were "not required to provide any data at all"²), the 2017 Review refers to an estimate that 70% of New Zealand's waste is disposed of at non-levied landfills. A Levy that does not apply to disposal of some 70% of relevant waste is clearly less likely to be effective in achieving the objectives of the Act (raising revenue for promoting and achieving waste minimisation, and increasing the cost of waste disposal to recognise that disposal imposes costs on the environment, society and the economy).

¹ *Review of the Effectiveness of the Waste Disposal Levy 2017 in accordance with section 39 of the Waste Minimisation Act 2008* (Ministry for the Environment, July 2017) at 18.

² Above at 58.

Recommendation

- 2.4 Enviro NZ supports expanding the scope of the Levy to apply to waste disposed of at all landfills. The status quo as noted in the Interim Report (that the Levy applies to only 11% of facilities, covering approximately 30% of waste disposed of to landfills) is inconsistent with the purpose of the Levy and does not encourage investment into waste minimisation activities. The current Levy is unfair as a policy matter as it imposes inconsistent tax costs between different classes of landfills that are not subject to the same level of environmental standards. For example, construction and demolition waste can be disposed of at a levied landfill or at an unlevied landfill that may have less environmental protections. The Levy may therefore be distorting decisions as to which landfill waste is disposed of at, rather than promoting waste minimisation.

3. SECOND SUBMISSION: GOVERNANCE AND TRANSPARENCY REGARDING SPENDING OF LEVY REVENUE BY TERRITORIAL AUTHORITIES IS NEEDED

Background

- 3.1 Distribution of Levy receipts is governed by section 30 of the Act:

30 Secretary must distribute and spend levy money

The Secretary must distribute and spend all levy money received by—

- (a) paying any refunds to operators in accordance with regulations made under section 41(1)(k); and
- (b) paying shares to territorial authorities in accordance with sections 31 and 33; and
- (c) spending the remainder on 1 or more of the following:
 - (i) collecting and administering the levy;
 - (ii) funding projects that the Minister has approved for funding under section 38;
 - (iii) administration costs relating to projects that the Minister has considered or approved for funding (for example, the costs of approving or declining funding or of auditing the projects).

- 3.2 The 2017 Review reported that:³

The levy collector allocated \$92.2 million between 1 July 2013 and 30 June 2016. \$46.1 million was allocated to the territorial authorities and \$40.9 million was allocated to the Waste Minimisation Fund. \$5.2 million was spent on administering the levy.

³ Above at 26.

- 3.3 Of the \$46.1 million allocated to territorial authorities only \$37.8m was spent.⁴ Of the amount spent, \$18.2 million (ie, 48% of the total amount spent by territorial authorities) was spent on services. That spending represented a 130% increase on spending by territorial authorities on services during the previous review period of 1 July 2010 to 30 June 2013. We query whether this may include the use of Levy revenues to subsidise the cost of what would otherwise be ratepayer funded waste disposal services, which could be contrary to the intended objective of "raising revenue for promoting and achieving waste minimisation".
- 3.4 Spending by territorial authorities on research and reporting projects decreased 40% between the previous review period and the most recent review period. As noted in the 2017 Review, "[m]ost of the funding spent by territorial authorities on research and reporting projects was to improve understanding of waste minimisation activities within cities or districts". Again, the decrease in spending on research and reporting, and increase in spending on services, does raise the question of whether Levy revenues are being used in the manner most consistent with the purpose of the Levy and the Act.

Recommendation

- 3.5 The Levy is not intended to be a tax to be used for general purposes. Rather, the Levy is intended to "raise revenue for promoting and achieving waste minimisation".⁵
- 3.6 Appropriate governance and transparency as to how Levy revenues are being used is essential to ensuring Levy revenues are applied for that purpose. Such accountability measures will be even more important if the amount of the Levy collected increases. We consider that a greater portion of the levy fund should be contestable and that Territorial Authorities should be subject to the same rigorous business case justification and review process as the private sector.

4. THIRD SUBMISSION: EVIDENCE FROM OTHER COUNTRIES AS TO THE IMPACT OF LANDFILL TAXES ON WASTE VOLUMES SHOULD BE APPROACHED WITH CAUTION

Background

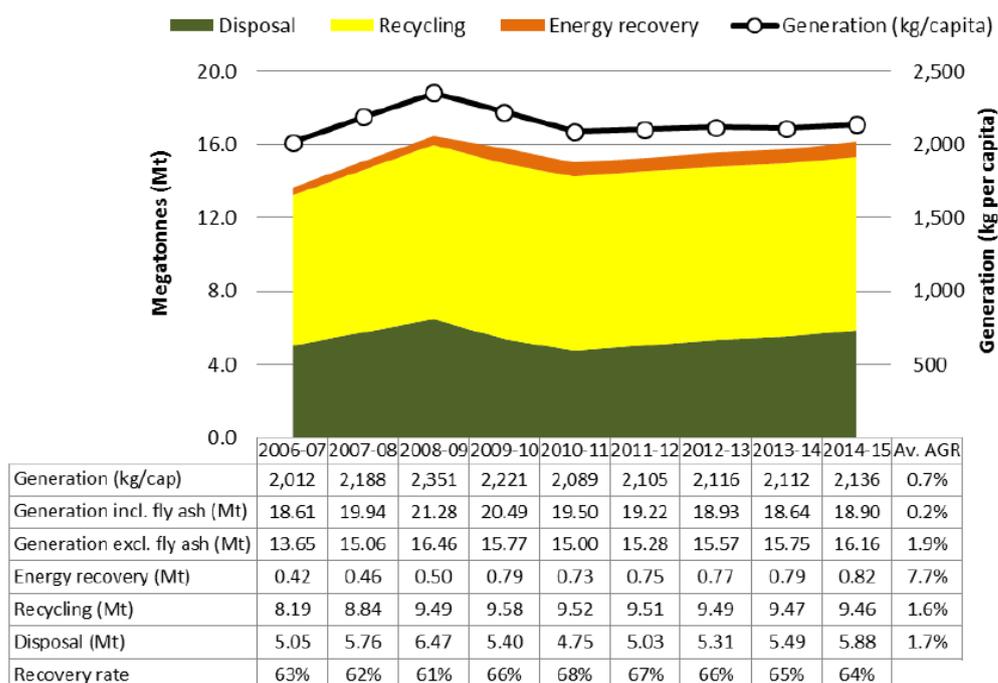
- 4.1 At page 70 of the Interim Report the Tax Working Group recommended "a reassessment of negative externalities associated with waste and landfill disposal in New Zealand". In reassessing those externalities, consideration of evidence from other countries with landfill taxes is understandable given the limited data in New Zealand regarding the amount of waste landfilled (see paragraph 2.3 above). However, it is important that the limitations of any comparisons are considered and acknowledged.

⁴ Above at 26-30.

⁵ Waste Minimisation Act 2008, section 25.

- 4.2 For example, figure 9.1 on page 70 of the Interim Report shows increases in the United Kingdom landfill tax rate between 1996 and 2016, and reductions in tonnes of waste landfilled in the United Kingdom at a standard rate ('000 tonnes) over the same period. The graph does not, however, show the amount of waste exported from the United Kingdom during that period. An analysis by the United Kingdom Environmental Agency in 2015 concluded that there was a "high correlation between export levels and landfill tax rates".⁶
- 4.3 That would suggest that rather than necessarily reducing the amount of waste, the increased landfill tax rate may have led to substitution of other waste disposal methods which (although outside the UK landfill tax base) may have their own environmental impacts. A more comparable study in terms of the behavioural response to rate increases may be found in New South Wales.
- 4.4 The New South Wales Waste Levy rates increased significantly between 1 July 2006 and 30 June 2015. For example, the rate applicable to certain waste received at a scheduled waste facility in the Sydney Metropolitan Area (now known as the Metropolitan Levy Area) increased from \$30.40 per tonne for the year ending 30 June 2007 to \$120.90 per tonne for the year ending 30 June 2015.⁷ As shown in the graph below, the average annual growth rate for waste disposal over that same period was 1.7%.⁸

Trends in waste generation and fate excluding fly ash, NSW 2006-07 to 2014-15



Relies on: interpolation of all data for 2007-08; interpolation of disposal data for 2011-12 and 2012-13; estimates of recovery from 2011-12 onwards (see Section 8.2 for details). 'Av. AGR' means average annual growth rate.

⁶ *Reasons for trends in English refuse derived fuel exports since 2010* (United Kingdom Environmental Agency, July 2015) at 23.

⁷ Protection of Environment Operations (Waste) Regulation 2005 (NSW), regulation 5(6)(a); Protection of the Environment Operations (Waste) Regulation 2014 (NSW), regulation 11(1)(a).

⁸ Australian National Waste Report 2016 (Blue Environment prepared for the Australian Department of the Environment and Energy, 20 June 2017) at 43.

Recommendation

- 4.5 In assessing the Levy rate, the limitations of comparisons with overseas experiences with landfill taxes should be considered and acknowledged. It should be further acknowledged that if increases in the rate of the Levy do not result in reduced volumes of landfilled waste, then there will be an unavoidable increase in cost borne by New Zealanders. Finally, increases in the Levy may have unforeseen effects, for example if Levy funding were to be used to fund new technologies which are no less harmful to the environment than a modern engineered class 1 landfill.

Yours faithfully

[1]

Jason Miles
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ENVIRO (NZ) LIMITED