



Ministry for the
Environment
Manatū Mō Te Taiao

Product Stewardship and Water Efficiency Labelling

New Tools to Reduce Waste

Summary of Submissions

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Foreword

New Zealand has taken a step further towards effective sustainable growth by committing to the development of product stewardship policy.

The *New Zealand Waste Strategy* was produced in 2002 to establish a comprehensive framework for minimising and managing waste better. Product stewardship is one important policy tool recognised in this strategy. It calls on those involved in the life-cycle of products to take responsibility for environmental impacts at the end of a product's useful life. It also aims to fill gaps in the existing waste management regime.

The prime objective of product stewardship is to achieve environmental benefits efficiently and effectively. A product stewardship scheme requires clear definitions and targets to ensure it reaches its objectives. Public participation in developing the programme is therefore essential to help provide this clarity and to ensure broad support.

In July 2005 the Government released a discussion paper, *Product Stewardship and Water Efficiency Labelling: New Tools to Reduce Waste*. In response, the Ministry received 130 submissions. I want to thank everyone personally for the time and commitment you have shown in responding to this document. Since then, five product case studies have also been undertaken. The submissions raised some important policy issues, and the case studies have provided further information, which will be valuable in developing the policy framework for the Government to consider.

The submissions on water efficiency labelling are also contained in this document. These submissions have been useful in developing the proposals.

There is still work to be done before we have final proposals for consideration. I am pleased that people have engaged in the discussion and have provided valuable insights. I would like to make sure that any proposals submitted to the Minister are well conceived. The aim is to ensure that we develop and implement an effective product stewardship policy which recognises the unique aspects of New Zealand.



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1 Introduction and Context

1.1 Waste strategy

The 2002 *New Zealand Waste Strategy* set a new direction for the reduction, resource recovery and better management of waste in New Zealand. The strategy seeks to break the strong link between economic development and waste generation.

Reducing harm from some wastes requires additional measures throughout a product's life-cycle, from manufacture and use through to disposal. Product stewardship is one way to do this, and several useful industry-led product stewardship schemes already exist in New Zealand.

1.2 Release of discussion document

In July 2005 a discussion document, *Product Stewardship and Water Efficiency Labelling: New Tools to Reduce Waste*, was released for public comment. This document described some of the issues involved with product stewardship, and some options to consider. It also addressed a water efficiency labelling scheme (WELS) for whiteware (washing machines and dishwashers), toilets, urinals, shower-heads and taps.

The present document draws out the major issues raised by submitters, summarises the submissions received, and outlines work that is being done on product stewardship and WELS. Although the discussion document set out preferred options for product stewardship and WELS, the final shape of the policies and their adoption by the Government are yet to be determined.

1.3 Product stewardship

The discussion document gave the following description of product stewardship:

Product stewardship involves producers, importers, brand owners, retailers and other parties involved in the life-cycle of products accepting responsibility for the environmental impacts of the products throughout their life-cycle. At the manufacturing stage this includes having waste issues considered when decisions are made on the choice of material, the design of the product, the manufacturing process and efficiency of resource use. It may also include mechanisms such as resource recovery from waste and improved disposal of products. The term 'extended producer responsibility' is used in a similar way, although often with a narrower focus on the responsibilities of producers.

1.3.1 Options

The discussion document outlined the following four options:

1. the status quo – no regulation
2. industry-led schemes with regulation of ‘free-riders’
3. a mandatory approach to the establishment of product stewardship schemes
4. a mix of voluntary and regulatory approaches, which would use voluntary mechanisms, with regulation as a safety net to fill the gaps.

Without making a commitment on the final shape of product stewardship policy, the Ministry showed a preference for the fourth option. A full description of these options can be found in the discussion document.

1.4 Water efficiency labelling

The discussion paper also addressed WELS for whiteware, toilets and taps. This issue is linked to Australian initiatives to improve the efficiency of water use, but it also has energy benefits from savings in the use of hot water.

2 Issues Arising from the Submissions

2.1 Product stewardship

The submissions broadly reinforce the Ministry for the Environment's preferred option, which would use voluntary mechanisms, with regulation as a safety net to fill the gaps. The submissions also highlight areas where further policy work is needed. Each product area is different, and in many areas the markets are highly competitive and constantly changing. This means ensuring that any policy can be effectively and efficiently applied in all the areas where there are waste problems. Industry-led and voluntary schemes have the advantage of using industry knowledge and expertise to resolve environmental issues relating to products. In the regulatory area, detail is critical.

Following are the major themes that emerged from the comments.

- Voluntary mechanisms are clearly preferred by industry, sector groups and councils.
- Regulation that assists voluntary schemes and provides a backstop for gaps in voluntary action was supported by just over half of the submissions, including over half of the submissions from industry.
- Many submissions highlighted the need for regulation to be well designed and subject to careful analysis before it is implemented.
- Many submissions highlighted work in product stewardship they are involved with, covering a number of product areas. From this it became clear that there are different waste issues for different products, and often the market structure differs as well. These differences need to be reflected in any product stewardship policy.

The major issues requiring resolution include:

- a clear definition of product stewardship – what do we want to achieve?
- what does 'backstop' mean?
- how does approval of a voluntary scheme work?
- what agency should administer the scheme?
- the problem of parallel imports.

2.2 Water efficiency labelling

A number of technical issues were raised that need to be addressed to accommodate differences between New Zealand water supplies and those used in most of Australia. These issues will be discussed with New Zealand industry and the Australians.

3 Work Subsequent to the Discussion Document

3.1 Product stewardship

3.1.1 Case studies

The Ministry has been working with a number of industries to examine industry-led schemes and how these could function in the future. In some cases this work is looking at extending the contribution of existing schemes that are already in operation. We are working with stakeholders in a number of sectors, and are commissioning work to examine how schemes could be developed and what benefits a product stewardship policy would offer on a case-by-case basis. The sectors being examined are:

- whiteware appliances
- mobile phones
- agrichemical containers
- paint
- tyres.

The aim of these case studies is to show how schemes could result in improved environmental outcomes and allow us to better understand the practicalities of product stewardship policy. The work will focus on the minimum intervention needed to assist the sector – including whether regulation is needed at all. It is anticipated that this work will highlight any conflicts (or opportunities) with existing regulation. We will also be applying the lessons learnt from other sectors with successful schemes, such as the Packaging Accord and the Used Oil Collection Programme.

A preliminary analysis has highlighted several issues, some of which are discussed below.

Identifying responsibility for product stewardship

The case studies highlighted a variety of stakeholders in the supply chain who had chosen to take responsibility for the product. It needs to be made clear that a product stewardship policy does *not* limit responsibility to manufacturers. However, it is also important that the key player driving product design and use have some responsibility – brand-owners are often critical. Legislation would therefore have to reflect this shared responsibility between identified players in the supply chain.

Environmental impacts: in-use and end-of-life

Many products can have a larger environmental impact while they are being used than at the end of their lives – especially the more durable ones such as whiteware (from the case studies) and cars. Measures to manage products that have reached the end of their useable lives can affect how long people hold on to these products, and therefore might actually worsen the overall environmental impact (eg, if more efficient technology is available, or the old equipment is in a poor state). Alternatively, encouraging purchasing certain products based solely on their end-of-life disposal may mean more efficient products are seen as comparatively ‘less environmentally friendly’.

This means some consideration of the impacts of a product during its useable life span needs to be done when dealing with end-of-life issues. In addition, any publicity/education on end-of-life issues needs to recognise the significant issues relating to life-cycle impacts, especially when labelling such as Environmental Choice is used. Overseas labelling schemes that have an environmental focus deal with both environmental effects in-use and at end-of-life.

Priority setting

The case studies highlighted the difficulty in establishing whether a product should be a priority for action. This is not just in terms of which criteria are used to evaluate priorities, but also from the point of view of the amount and quality of the information that is available to allow an assessment. Often there is simply not enough information – even at an international level – to categorically assess some of the criteria. The ability to set targets suffers from the same lack of information.

Scope of prioritised ‘product’

Because product stewardship schemes have traditionally been undertaken on a voluntary basis, the definition of the types of product that are covered under a scheme has not been critical – stakeholders elected to participate, and so there was an element of self-definition. However, any scheme with a regulatory element would need to have a very clear definition of exactly what products it refers to, and this could provide a challenge.

For example, Tyre Track currently tracks truck and car tyres. However, from an impact point of view, motorbike tyres and large-wheel barrow and bicycle tyres (for instance) could be argued to have a similar impact.

Product stewardship agency

Some case studies suggested establishing a Product Stewardship Authority linked with Environmental Choice labelling. This is a common approach overseas. The agency would not have a regulatory function but would promote and support the establishment of schemes. On the other hand, this could be seen as unnecessary bureaucracy.

Mechanism for approving schemes where recognition is required

The case studies did raise instances where the industry wishes to continue with voluntary, industry-led schemes but wants some regulatory recognition. In the case of mobile phones, this would enable the take-back scheme to be recognised, which would help clarify requirements under the Secondhand Dealers and Pawnbrokers Act 2004. In other cases, it would be helpful if the customs service were able to supply the names of parties importing a particular product.

Mechanism for approving schemes where regulation is required

As explained in the discussion document, a key policy preference is to continue with industry-led, largely voluntary schemes, but include a mechanism to allow certain regulatory tools, such as a levy. In light of this requirement, the possible options could include some or all of the following mechanisms:

- agreements (no legislative mandate needed)
- statutory regulations, which could either cover a whole scheme or just parts of it
- an enforceable plan prepared under a public process defined in the statute.

The issue is whether or not a mechanism provided for the development of an enforceable plan would be useful to have in addition to voluntary agreements and regulation from Government. Plans could be promoted by either the Government or industry, but they would need to be approved by the Minister before being notified for a process that involves stakeholder input. After final Government approval the plan would be enforceable.

Interactions outside of this policy

A number of the case studies highlighted the fact that a number of schemes interact with other policies or mechanisms. The Ministry is working to clarify these, and as some are still under development it is a case of co-ordinating the various work streams. Areas identified in the case studies are:

- the fact that the current management of some products often involves council facilities to collect end-of-life product and is dependent on these facilities
- interactions with a waste levy
- funding the early stages of investigation for a product stewardship scheme
- bans on land-fill disposal to ensure products go through the product stewardship mechanisms
- bans on materials in particular applications
- overseas regulations or practices.

Key issues

Following are the key issues for further discussion.

- How do we assess which parties in the supply chain need to carry some of the responsibility?
- How do we gain more data in order to be able to set priorities?

- For each product stewardship scheme, what is the scope of the ‘product’?
- Would an oversight agency with non-regulatory functions be useful?
- Would it be constructive to have an enforceable plan mechanism in addition to voluntary agreements and statutory regulation from Government?
- How do we ensure that the product stewardship mechanism is supported by and complementary with other waste management initiatives (including waste levies and local authority management of solid waste)?

3.1.2 Other work

The Ministry is also engaging with stakeholders other than those involved via the case studies (particularly those who made submissions), and will expect to do so throughout the policy development process. In particular, we have been seeking to gain a better understanding of some of the opinions expressed in the submissions and how a policy could be best designed to resolve those issues.

The Ministry is also attempting to collate more information about the issues examined in the discussion document or highlighted in submissions. Overseas models and schemes are being studied in more depth, examining the framework adopted and analysing the tools, results and problems. Extensive consultation is being carried out with Australia and Canada, especially. This work will help us better understand how trends in product design and overseas regulations affect us. However, as discussed in many of the submissions, we are mindful of the unique aspects of New Zealand’s situation.

3.2 Timing

3.2.1 Product stewardship

Once the work above is completed, we will report back to the Government. The report will cover this analysis of submissions and will present policy options for the Government, along with their advantages and drawbacks. The report will be accompanied by a Regulatory Impact Statement that outlines the various options examined and the costs and benefits of each.

3.2.2 Water efficiency labelling

Once technical issues raised in the submissions have been addressed with industry, a report will be prepared for the Government so a decision can be made on whether to put forward WELS legislation. The aim is to have a voluntary labelling scheme in place in January 2007, and to have a mandatory programme by July 2007.

4 Summary of Submissions

This section gives a summary of submissions, and where appropriate comments on future work.

4.1 Overview of submissions

In total 130 submissions were received. Of these, 117 dealt with product stewardship and 48 with WELS. To break this down further, 13 submissions dealt only with WELS, 69 only with product stewardship, and 35 commented on both product stewardship and WELS.

Table 1: Origin of submissions

Submissions from	Product stewardship	WELS
Councils	22	15
Industry	39	12
Sector groups	20	10
Personal	25	5
NGO and other	11	6
Total	117	48

4.1.1 General themes of submissions

A number of submissions commented on the lack of information and detail in the discussion paper (27, 28, 29, 50, 56, 104, 116). These submissions outlined areas where they thought additional work is needed before any decisions are made. Submissions 29 and 50 felt more information on the waste situation is needed, and some thought that more cost-benefit information is needed before regulation can be justified (28, 50, 56, 104). There is also a need for a regulatory impact statement (RIS) and business cost compliance statement (BCCS) to be prepared. Submitter 27 thought more study should have been done before consultation.

4.2 Product stewardship

4.2.1 Main issues discussed in submissions

The submissions provided a range of comment. The main threads from the submissions were as follows.

- Voluntary mechanisms are clearly preferred by industry, sector groups and councils.
- Regulation that assists voluntary schemes and provides a backstop for gaps in voluntary action was supported by just over half of the submissions, including over half of the submissions from industry.

- Many submissions highlighted the need for regulation to be well designed and subject to careful analysis before it is implemented.
- Many submissions highlighted work in product stewardship they are involved with, covering a number of product areas. From this it became clear that there are different waste issues being faced with different products, and often the market structure differs as well. These differences need to be reflected in any product stewardship policy.

Table 2: Summary of responses on product stewardship

Option	Submitter preferences					
	Councils	Industry	Sector groups	Personal	NGO and others	Total
1 Status quo	–	12	12	–	–	24
2 Free-rider regulation	2	4	1	–	–	7
3 Mandatory approach	1	3	1	16	7	28
4 Regulatory safety net	19	11	5	2	4	41
Some regulation	–	5	–	7	–	12
No preference	–	4	1	–	–	5
Total	22	39	20	25	11	117

4.2.2 Ministry comment

The submissions broadly reinforce the Ministry for the Environment’s preferred option 4, which would use voluntary mechanisms, with regulation as a safety net to fill the gaps.

The submissions also highlight areas where further policy work is needed. Each product area is different, and in many areas the markets are highly competitive and constantly changing. This means ensuring that any policy can be effectively and efficiently applied in all the areas where there are waste problems. Industry-led and voluntary schemes have the advantage of using industry knowledge and expertise to resolve environmental issues relating to products. In the regulatory area, detail is critical.

Further work is improving the detail in the policy so we can build on and extend voluntary schemes.

4.3 Water efficiency labelling scheme

In general, the submissions saw benefits from adopting WELS in New Zealand, although they raised a number of technical issues that need to be addressed to accommodate differences between New Zealand water supplies and those in most of Australia. These issues are being discussed with New Zealand industry and the Australians.

Once these issues have been addressed, a report will be prepared for the Government so a decision can be made as to whether to put forward WELS legislation.

5 Submissions on Product Stewardship

5.1 Definition and scope

5.1.1 Defining product stewardship and who is responsible

There were some contrasting views on the definition of product stewardship, and underlying this were differences as to who should be responsible for waste. Product stewardship as defined in the document includes consumers having some responsibility, along with producers and others, throughout the life-cycle of the product, including post-use disposal. Extended producer responsibility (or EPR) focuses on the producer having a role after the product is sold and when it reaches the end of its life.

Submitter 44 noted the difference between extended producer responsibility and product stewardship, and submitter 110 thought that product stewardship, as outlined in the document, weakens the intent of EPR by diluting the producer's responsibility.

Many felt the responsibility for waste should not be limited to the producer. Some submitters felt that "all in chain have part to play" (80). Submitter 29 agreed that responsibility was wider than just with the producer and mentioned the US EPA definition of product stewardship, which includes manufacturers, retailers, users and disposers in sharing responsibility.

Some commented on the need to include consumers in the scope of product stewardship because they have a key role in purchase and disposal decisions (65, 97). On this issue, submitter 19 wrote:

A classic example is the rich person in his/her new car, driving past a poor person's home and tut-tutting at the unsightly car wrecks outside. We need Rich Person to understand that he/she (and other owners of the car on the way along) contributes to the final problem of disposal.

Submitter 86 also felt that orphan products contribute a strong case for shared responsibility.

Many noted that the producer of products has a particular role. Submitter 70 felt that a life-cycle approach is needed and the:

... manufacturer should take responsibility for minimising the environmental and social impacts:

- *during the sourcing of raw materials*
- *during the manufacture and transport of the products*
- *during the use of the products, and*
- *during the disposal of products at the end of their useful life.*

Submitter 116 noted the role of producers in the choice of product design.

Others focused their discussion more on who should pay for waste issues. These submitters felt that consumers should face the cost of waste once they discard products, rather than having councils or ratepayers face the cost (41). It was noted that where costs are internalised then the costs are reflected in the prices consumers pay. Consumers have a role because they make choices on what they buy, so consumer awareness is important and they have some responsibility in waste management (66).

Submitter 29, in commenting on the definition of product stewardship, specifically rejected definitions that make product stewardship “an analogue of EPR or polluters pay”. In any product stewardship work the need for a clear definition of producer/manufacturer and distributor was noted (97).

5.2.2 Stewardship compared to waste management

A number of submissions were concerned that the discussion focused too much on waste. Submitter 65 argued that waste management is only one aspect of product stewardship and that a product life-cycle approach is needed. Submitter 78 felt product stewardship was “product policy” rather than a waste policy, and felt that an “end of pipe approach” should be avoided.

Submitter 66 felt that product stewardship involves “more than waste minimisation” and suggested an amended definition that emphasises environmental protection and social considerations through the product’s life-cycle:

Product stewardship is a resource and product centred approach to environmental protection and social consideration, whereby producer, brand owner, consumers, corporations, communities, retailers, recyclers, local and national governmental agencies share responsibility for the life-cycle of a product (design, use and disposal).

Submitter 35 noted that recycling is not the only important area. There is also a need to reduce excessive use of materials and packaging. Submitter 85 saw a need to reuse, recycle or reduce waste, and argued that this would involve more than just recovery of product by the manufacturer or agent: the redesign of products and processes also has the potential to reduce waste.

Submitter 66 noted links to the New Zealand Sustainable Development Plan of Action and thought the discussion document should have referenced these. Submitter 78 noted linkages to other strategies, including sustainable development and climate change.

5.2.3 Comments on wastes

Submissions 50 and 81 commented that there is an “optimal” level of waste beyond which the costs of eliminating the waste exceed the benefits of doing so. Submission 113 also reflected this view and said that sometimes landfill is the best option for used products. Submission 50 noted that optimal resource use is not the same as minimum resource use.

Submission 28 commented on the concept of zero waste and said that this was likely to be too onerous to achieve. In their view the optimal level of waste is not zero. Submission 50 questioned whether there is a significant waste problem and asked what the costs and benefits of imposing regulation are. Submission 19 took a different view and linked product stewardship to consumerism and globalisation. This submitter commented that “cheap junk” ends up in landfills.

Submissions 24, 25 and 85 noted that if products were more durable then there would be less waste. Work could also be done to make products reusable (6). Poor-quality goods (80, 85) and obsolescence (11) are also waste issues.

5.2 Existing schemes

A large number of submissions noted existing examples of product stewardship. Submitter 80 noted that there are some schemes that work well now, such as those for car batteries, aluminium cans, wood waste and much paper/cardboard.

Many companies have their own environmental programmes locally or internationally.

- The Packaging Accord was cited by a number of submitters (34, 37, 56, 63, 66, 105, 106). This is only one year into a five-year programme (66). The Packaging Accord sets targets for recovery of packaging and seeks to reduce packaging waste. These targets are monitored and are in line with what is being achieved in other countries. Parties to the Accord include the manufacturers of packaging, retailers, recyclers, local government and central government.
- Panasonic (60), Philips (113), IBM (119) and Hewlett Packard (88) all have programmes to improve environmental performance in electronics and electrical goods.
- 3M (61) has an Environmental, Health and Safety Management System to improve its operations.
- Griffins uses the parent company Danone's eight-point Packaging Ecodesign Wheel in all packaging design. This looks at the whole life-cycle when evaluating packaging design (66).
- Formway (102) is a New Zealand furniture company with existing approaches, and ACP (89) is a publishing firm also with existing processes.
- Fletcher Building (77) recovers much waste, including scrap metal, biomass (which is used in panels and fuel), power station fly ash (which is used as supplementary cement material), and glass (used in insulation).
- Resene (7) operates a scheme to recover unused paint.
- Both Telecom (118) and Vodafone (97) have their own take-back schemes for end-of-life mobile phones, batteries and chargers. Recycling involves sending handsets off-shore for processing.
- Bridgestone (53) noted the current voluntary approach to tyres (Tyre Track) and stated that it is not efficient or effective and does not adequately address free-riders, especially those independently importing low-cost tyres.
- Used oil is recovered by a voluntary industry scheme. Currently BP (125) capture about a third of its sales. Holcim (29) is involved in the recovery programme for waste oil and uses in excess of 14 million litres per year of recovered oil as fuel in the kilns. Submitter 40 noted that councils still meet much of the costs of recovering used oil.

Submitter 118 said that existing schemes need to be recognised if there is regulation, and existing schemes should be looked at when developing schemes elsewhere (80). Submitters 44 and 97 saw a need to review the existing schemes. Submitter 41 thought that more could be done to ensure that existing schemes work to potential and cited those covering oil, paint, phone batteries, car batteries and tyres as examples.

5.3 Current legislation

A number of submitters said that current legislation (the Resource Management Act, Hazardous Substances and New Organisms Act and the Litter Act) did not make consumers and producers responsible for waste. The Acts “fail to adequately shift the burden of responsibility to producers and consumers” (48, 126).

A number of issues relating to other legislation affecting future product stewardship schemes and legislation were raised. Submitter 105 said that it was difficult to see how the preferred approach to product stewardship, including legislation, would sit alongside the Resource Management Act, Hazardous Substances and New Organisms Act, Local Government Act and Litter Act. Submitter 16 noted issues with the Commerce Act and felt the Commerce Commission may need to be involved. The Medicines Act was also seen as being relevant for some products (47).

Some raised aspects of other legislation they felt are currently hindering product stewardship and resource recovery from waste. Submitter 77 raised the problem of the resource consents for some manufacturing processes being quite prescriptive as to manufacturing process/inputs. This means that the manufacturers’ ability to vary the process to recover waste is limited. Submitter 29 felt that the “existing regulatory framework tends both to discourage voluntary schemes and to discourage investment in innovative or proven recovery operations”. One problem was the definition of “hazardous waste” in the Hazardous Substances and New Organisms Act, which means that their operation cannot use all co-processing alternatives.

Submitter 103 thought that wider waste legislation could be helpful, but that any legislation dealing with product stewardship is likely to be complex so work on developing the bill should begin now.

5.4 Objectives for product stewardship

The discussion document suggested five objectives for product stewardship:

- Objective 1: Use resources more efficiently and reduce the volume of waste produced
- Objective 2: Increase the resources recovered
- Objective 3: Include the costs of waste management into the price of products
- Objective 4: Enhance product design
- Objective 5: Provide product stewardship that is effective and efficient.

Most of the comments concerned objective 3.

5.4.1 Objective 3

This objective, to include the costs of waste management into the price of products, generated considerable comment. While some submissions sought to internalise all costs, others felt that those benefiting from waste reduction could also meet some of the costs.

A large number favoured the costs of activities being borne by those whose actions cause the problem. This was variously expressed as the “polluter” should pay (6, 8), the “waste generators” should pay (101), or “those benefiting” from the product or “producers and consumers” (25, 48, 54, 65, 79, 97, 126) should pay and costs should be “internalised” (50, 66, 99, 128). It was noted (8, 12, 32, 54, 61) that ultimately consumer prices reflect costs met by the producer. Submitter 50 felt that the costs of the waste issue are largely internalised now with current charges, and submitter 116 noted that the costs borne by voluntary schemes are all internalised.

A significant number of submitters felt that councils have historically met much of the cost of waste disposal and recycling and continue to do so. The cost of this to ratepayers is of concern to council submitters (41, 42, 48, 71, 73, 126) and others (15, 54). Ratepayers are not necessarily generating the problem so should not pay for a reduction of waste impact (54). Submitters 71 and 73 support initiatives to allocate “costs to all parties involved in the life-cycle of products with a specific shift to producers and consumers” (71). One council (25) stated that they wanted to participate in the waste aspects of product stewardship but did not want to subsidise it.

Others felt that some costs could also be met by those benefiting from a reduction in waste. Submitter 124 said that costs:

... may in part be met by those who benefit from waste reduction. All New Zealanders benefit from waste reduction, however it is not Progressive's view that this should be covered by general or specific taxation.

Costs could be “shared along [the] entire product chain from creation to disposal and should include positive contributions where benefits from waste minimization can be realistically accrued” (45). Submitter 76 noted that while costs should primarily fall on the producer/consumer, it is fitting “for some of the cost to fall on those benefiting from reduction of waste”. Submitter 39 stated that when it comes to packaging “there can be no differentiation between “user” and “ratepayer”.

On the industry side, submitter 27 said they expect a reduction in some charges if they reduce waste and take responsibility for the costs of waste through product stewardship.

5.5 Regulation

5.5.1 Support for a voluntary-only approach

Twenty-four submissions had a clear preference for voluntary-only action, and for there to be no regulation (these included 23, 34, 37, 45, 56, 63, 65, 89, 104, 105, 106). There were a number of reasons given in support of this view.

Submitter 65 said that a voluntary approach was more efficient and flexible than regulated schemes because industry are in a stronger position to understand how to make improvements. Submitter 124 felt that regulation was unnecessary because product stewardship is “most successful when it is established as a proactive service created by the manufacturer as a socially responsible scheme”. Submission 28 commented on the lack of flexibility with regulation and noted that this is a particular issue where many small businesses could be affected.

A number of submitters, including those involved with the Packaging Accord, pointed to the Packaging Accord as an example of the voluntary approach working (34, 37, 56, 63, 64, 105, 106). Progress was being made and the Accord still has four years to run. Regulation could be counterproductive to achieving waste minimisation targets in packaging, because it would undermine the Packaging Accord and encourage a “wait and see” response from those involved (63, 64). Submitter 37 had a similar view: “We believe any discussion around regulation creates a free-rider attitude”. Companies would not take responsibility for wastes where they thought that regulation would occur anyway.

Submitter 104 thought that the current measures of local authorities and others in Canterbury to manage waste “demonstrate that central government intervention [is] unnecessary”. Submitter 116 favoured no regulation and noted problems with the options involving some regulation. In their view, option 2 (the regulation of free-riders) carries with it a risk that product stewardship would involve anti-competitive behaviour on the part of participants and more consideration is needed of the thresholds and form of regulation with option 4.

5.5.2 Regulation having a role

Those favouring a greater role for regulation saw reliance on only voluntary action as having weaknesses (10, 22, 54).

Submitter 41 felt that regulation could be justified where there are environmental risks and free-riders threaten the viability of a scheme. Submitter 71 did not:

... accept an assumption that voluntary mechanisms are necessarily the best approach in every situation and does not believe adequate analysis has been provided in the discussion document to be satisfied that such weight should be given to voluntary approaches.

Submission 110 said “an ideological aversion to regulation as a tool should not exclude this approach if it has proven effectiveness”.

Submitter 44 felt that the Ministry of the Environment has not provided a case for preferring voluntary action. In their view, not all schemes mentioned in the discussion document are comprehensive (eg, some are only for the customer of one company), and it can be argued that these schemes have “overall, produced mediocre results”. Submitter 103 was also concerned with the effectiveness of existing schemes, including that for used oil. Submitter 110 felt existing voluntary schemes were too weak and saw that the action in the glass area only resulted from the threat of regulation. Submitter 25 felt that “a voluntary producer responsibility approach only for waste and packaging can create a major barrier to achieving meaningful and effective waste minimisation and product reuse targets”.

Submitter 57 noted that with voluntary action the easy areas get picked off with schemes that often have soft targets. The result of this is a feeling that the problem is being dealt with when it may only be part done. Submitter 87 also raised the issue of when there is an ineffective scheme and complacency then develops concerning problems.

Regulation was also seen as an option where schemes are slow to develop (42, 43, 87). “Our experience to date shows that we are mainly preaching to the converted and there are still companies who will only change practices if legislation [is] introduced” (87). Submitter 71 felt that the status quo:

... does not provide adequate incentive or requirement for a voluntary shift in a commercial market. This option would result in ad hoc responses to certain products, slow progress in recovery of materials, and would not enable effective and efficient resource recovery.

Submitter 93 felt that we may need more than backstop regulation: “What is the strongest option for encouraging rethinking of consumerism and redesign of products?” Submitter 66 stated that the implementation of voluntary schemes often requires the same financial and human resource input as regulated ones. Submitter 7 wanted to avoid too much negotiation and paperwork, and submitter 91 noted that regulation would need to be well designed to avoid inefficiencies and administrative costs. Submitter 116 raised the issue of possible effects on competition, and noted the risk to small businesses and the need to avoid disadvantaging local producers.

5.5.3 Voluntary with regulatory backstop

The largest group of submissions supported a mixed approach, with voluntary action and a regulatory backstop (15, 16, 25, 48, 66, 86, 88, 99, 116, 126, 128). Submitter 61 supported voluntary schemes “with regulation only where no effective voluntary scheme could be developed. Regulation could also be used to negate any advantage ‘free riders’ may obtain by not taking part”. Submitter 66 “generally agrees with the Government’s preferred option”, noting a “need to strengthen a legislative ‘stick’ part of the ‘carrot and stick’”. Submitter 88 welcomed “the development of a policy and regulatory framework that enforces producer responsibility obligations across the industry sector, while at the same time acknowledging shared responsibility and individual producer responsibility”.

The lack of flexibility and possible costs of regulatory approaches were given as reasons for regulation to be only a last resort (22, 77, 79, 88, 113, 116). Submitters 48 and 126 noted that poorly constructed schemes may be inefficient, leading to high implementation and compliance costs, so regulation would not generally be the best solution. Two submitters (31 and 92) raised the British Columbia approach of voluntary action with some regulation as a model for use in New Zealand.

Submitter 114 stated that regulation should “only be considered in the most serious cases, where there is serious threat to health/life and the relevant industry has not developed a scheme”. Submitter 12 stated that regulation should follow only if the industry asks for it (to deal with free-riders), or if the industry fails to deal with the issue within a specified timeframe, or where fast action is needed because of a pressing need.

Some submitters noted that the use of voluntary schemes with backstop regulation would require identifying problems and notifying the problem to industry. There should be a time limit for industry to deal with an issue before regulation is imposed (12, 23, 76).

Submission 24 questioned how it would be decided whether a voluntary scheme has “failed”. In the view of submitter 40, voluntary schemes are ineffective when costs are still being borne by the council and not the product producer or disposer.

Submitter 88 stated that existing schemes should be recognised and incorporated in any regulation. Submitter 116 also made this point, and added that existing waste take-back and recycling should be recognised. It was noted that where there is a net revenue, industry usually recovers the waste now (91).

Submitter 87 argued that negotiating voluntary agreements under option 4 would involve too much resource, time and effort during negotiations. Submitter 44 said that legislation is needed now so that it is available for use. If we wait until a scheme fails then there will be delay while a bill to provide for regulation is developed and considered. Submitter 103 also thought that legislation should be enacted quickly.

5.5.4 Free-riders

A large number of submissions (12, 16, 24, 29, 41, 42, 49, 60, 61, 72, 81, 88, 99, 101, 103, 105, 114, 119, 121, 128) stated that non-participants (free-riders) to product stewardship schemes should be regulated. “A voluntary scheme requires under-pinning free-rider regulation” (114). Submitter 121 felt that free-riders need to be dealt with “at the outset”. The issue of non-participation by some in product stewardship was seen as being a barrier to establishing product stewardship in tyres (53), used oil (29), computers (119) and electronics (66).

Submitter 24 suggested that regulation should “enable free-riders to be forced into accepting product stewardship through industry agreements”. Submitter 88 felt that the regulation of free-riders would “ensure that no competitive disadvantage exists in a voluntary scheme”. Submitter 61 felt that companies in schemes should receive a competitive advantage, while those who don’t should be penalised.

Two submitters noted that New Zealand has an open economy and a very competitive retail sector with strong competition, including many brands and parallel imports (60, 119). This means that many operate on small margins and have concerns with free-riding and parallel imports (60). It was noted that parallel importers do not provide the same servicing as the local agent (60).

Submitter 108 thought it would be difficult to make any voluntary levy or deposit system work in New Zealand. Regulation in the computer area would be difficult because local assemblers of computers are small, only have about 20% of the market, and components and computers are easily imported (108).

An alternative view, from retailing, was that industry could manage the issue of free-riders and that no regulation is required (124). Free-riding was not seen by submitter 113 to be sufficient grounds for regulatory intervention: the free-riding would need to be significant enough to prevent an effective voluntary agreement. Submitter 77 noted that not all free-riders undermine schemes, so case-by-case evaluation was needed before regulation. This would involve consideration of the costs and benefits of regulating free-riders (105).

The use of incentives to get involvement in product stewardship was seen as preferable by submitter 22, who “questions the benefit of penalising ‘free-riders’ verses incentivising involvement in Product Stewardship schemes”. In their view the use of financial incentives may be better.

Submitter 65 questioned how regulation would only target free-riders – would those in schemes covered or do they “contract out”? Submitter 81 commented on the need to have a wide definition of “free-rider” in regulation. Issues of cross-sector competition, and not just free-riders within a sector, would also need to be considered (104).

5.5.5 Legacy/orphan products

Legacy or orphan products were discussed by a number of submitters. These products are still in use or storage but are not the product of an existing manufacturer or importer. These orphan products were seen as contributing a strong case for responsibility being shared and not just resting with current producers (86). They would be an issue when putting the onus on current importers and producers (60).

An example of an area where this is an issue is computers. There are a large number of computers in use that were assembled by companies that are no longer in business, making effective product stewardship regulation more difficult (108). Also, a large number of older computers have cathode ray tube monitors (114) that are bulkier and contain more difficult waste than more modern monitors.

5.5.6 Imports and domestic production

Some submitters (12, 77, 85, 86, 110, 124) felt that imports should be treated on the same basis as domestically produced goods when product stewardship schemes are regulated. Submitter 86 stated that schemes “should not advantage or disadvantage domestic producers”. Submitter 110 thought that any regulation should be on outcomes, and that this should apply to both imports and local production.

There is an additional problem with parallel imports. These are not imported through the producer’s New Zealand agent and there would be difficulty in distinguishing between parallel imports and agents sales when the product was at the end of its life (60).

The possibility of New Zealand being a market for old products no longer acceptable elsewhere was a concern to some. Submitter 121 noted that updated standards in New Zealand could help keep old stock out to avoid New Zealand being a dumping ground. Submitter 54 also felt that there needs to be a way to prevent “dumping”.

5.6 Product stewardship options from the discussion document

5.6.1 Discussion paper options

In looking at the regulatory mix, the discussion document outlined four options:

Option 1: Status quo – no regulation

Option 2: Industry-led schemes with regulation of free-riders

Option 3: Mandatory approach to the establishment of product stewardship schemes

Option 4: Preferred approach – a mix of voluntary and regulatory approaches. This would use voluntary mechanisms, with regulation as a safety net to fill the gaps.

5.6.2 Preferences covering more than one option

A number of submitters commented on more than one option and indicated that, while they had a preferred option, others could be acceptable. One example (24) preferred option 2 (regulation of free-riders) but noted that they were willing to go with option 4 as long as the Government's stance on regulation was only to use it when no effective voluntary scheme could be developed, the regulation has benefits, and the regulation is not too onerous. (Note that submission 24 is counted as supporting option 2 in the table below). A number indicated that more regulation of product stewardship is needed without giving an indication as to which of the options involving regulation they favoured.

Table 3: Product stewardship options preferred

Product stewardship – options supported	Number
Option 1: Status quo	24
Option 2: Industry-led schemes with regulation of free-riders	7
Option 3: Mandatory approach to the establishment of product stewardship schemes	28
Option 4: Preferred approach – a mix of voluntary and regulatory approaches	41
Some regulation	12
No position	5
Total	117

Table 4: Preferred options by stakeholder group

Stakeholder	Option 1	Option 2	Option 3	Option 4	Some regulation	No position
Councils		2	1	19		
Industry	12	4	3	11	5	4
Sector groups	12	1	1	5		1
Personal			16	2	7	
NGO and other			7	4		
Total	24	7	28	41	12	5

5.7 Implementing regulation

5.7.1 The need to justify legislation

Many of the submissions commented on the need for more analysis before legislation is developed. Any legislation needs full analysis and a robust assessment of the problems the legislation seeks to resolve (28, 85, 97, 116). Costs and benefits need to be assessed before regulation (41, 54, 56), and this has not yet been done (97). Submitter 29 said that more information on wastes is needed.

The costs were a concern for some. Submitter 24 was concerned that there was a risk that the costs to industry could be onerous. Submitter 27 felt that much of the issue was about shifting costs (on to producers), and submitter 80 questioned whether cost shifting from local government and consumers to producers was enough to justify a mandatory scheme.

Submitter 50 felt that without good prior analysis there was a risk of over-regulation. Given that regulators do not bear the costs of regulation and they are adverse to risk, there is a risk they will “over-regulate” if the powers are available. Therefore, submitter 50 felt the onus of proof should be on Government to provide, beyond reasonable doubt, that the benefits of intervention exceed the costs.

Many submitters commented that if legislation was enacted there is a need to carry an analysis of schemes and regulation as they are proposed. The submissions identified the key elements of the analysis needed as being:

- analysis of the problem (113), including the reason for the failure of current arrangements (77)
- identification of the opportunities for waste minimisation (77)
- analysis of alternative forms of intervention (77)
- establishing that the proposal has a net benefit and the full benefits outweigh the full costs (41, 43, 65, 74, 91)
- analysis of the life-cycle impacts of the products, not just of the waste issue at the end of the product’s life (29, 41, 43, 45, 48, 126).

Other suggestions made by submitters included that there be an assessment of overseas schemes during the development of any proposed scheme (110), that New Zealand should adopt the ISO 14040 series or an acceptable alternative standard for undertaking life-cycle assessment (29), and that a SWOT analysis be undertaken (97).

Submitter 91 was concerned with assessment of cost and commented that recyclers often overlook cost. Submitter 77 commented on the need to include all costs and benefits, and that this includes economic, environmental and social costs and benefits. Submitter 61 said that there should also be consideration of the commercial value (if any) of by-products (61).

Submission 28 commented that the cost and benefit analysis should “assess and analyse the optimal levels of waste and the optimal amount of resources to reduce wastes”.

5.7.2 Process for government implementation

Many submissions commented on the process the Government should follow when considering potential product stewardship schemes and any regulation to support these. Two main areas were covered: early identification of areas of concern and consultation.

Early identification

Some submitters (12, 22, 43, 61, 86, 124) felt that priority areas for dealing with waste should be identified and published by the Government. This would allow time for industry to address the issue with voluntary schemes. If, after a period, no scheme developed that could deal with the problem, then regulation could be explored. The notice would include identification of both

the product area and the reasons why action is needed (86). Better information on areas of concern would help industry to be able to design workable schemes (121).

Submitters 48 and 126 suggested that the Ministry for the Environment should draft overarching policy that includes priority areas for action.

Two submitters (61, 86) suggested that the period allowed for voluntary schemes to develop before the Government works on regulating to ensure a scheme develops should be two years. Submitter 12 noted that industry may seek some regulation of free-riders: “There needs to be a clear threshold setting out when a voluntary scheme requires a regulatory safety net to bring in free-riders”.

Consultation

Consultation is seen by some as being important, and it would help to assess the problem and identify risks and options (54, 85, 98). Submitter 116 noted the need to include overseas suppliers in consultation on any product stewardship regulation. Submitter 61 thought that during the development of schemes negotiation with industry is essential. Submission 119 supported a co-regulatory model for regulation.

Submission 7 felt that regulation is a back-stop and should only be invoked after consultation with those managing schemes, because they may wish to deal with issues – including free-riders – another way. Submitter 86 thought that industry would need to request any regulation of free-riders.

Others thought there should be opportunity for submissions on regulations, with submitter 81 suggesting that submissions be made to the Regulations Review Committee of Parliament.

5.7.3 Information on wastes

A number of submissions felt that more data should be collected on wastes. Submitter 29 noted the need for good data on waste on which to base policy and action. There is a need to follow-up from the *National Waste Data Report* (Ministry for the Environment, 1997) to update data (29). Submitter 40 suggested linking information requirements in the product stewardship area to those under the HSNO Act for hazardous wastes so information is collected and proper tracking of wastes takes place.

Submitter 31 noted that more information on end-use markets for waste material would help work on re-design and resource recovery.

5.8 Priority areas for product stewardship

5.8.1 Criteria

The discussion document suggested five criteria for establishing the priorities for government action (non-regulatory as well as regulatory):

- volume and harm
- achievability
- public concern
- cost-effectiveness
- the need for national action.

Many submissions discussed these. The broad areas covered by “volume and harm”, “achievability” and “cost effectiveness” were included in the comments on the criteria by most of these submissions. Volume and harm was a priority for many (12, 24, 25, 48, 54, 65, 76, 99, 103, 123, 124, 126). The criteria in the waste strategy (which are the first four of the discussion document criteria) were suggested by submitter 85. The potential for toxic leachate from some wastes was mentioned as one of the areas of harm by some submitters (48, 126). Submitter 113 referred to the significance of wastes in terms of environmental and economic costs.

A number raised the issues of attainability (likely success or the improvement able to be achieved) and the net benefit (or cost-benefit) of any scheme as being criteria (24, 65, 113, 124). Submitter 116 felt that the need for national action was a criterion.

A number of additional criteria were suggested, including:

- the value of product in proportion to recycling/reusing (124)
- the potential for the waste stream to grow (16)
- fostering reuse and recycling (16)
- maintaining parity with trading and regional partners (16)
- the likelihood of developing consensus (16) or the will of industry (12)
- maintenance of competitive markets (16)
- a requirement of regulatory support (16)
- clearly identifiable product groups (99, 123)
- viable collection through producer/distributor or kerbside (99, 123)
- whether the industry is capable of developing and implementing a product stewardship scheme (99, 123).

Some had concerns with the criteria suggested by the discussion document. Submission 29 saw a need for criteria to be objective and was worried that the “public concern” criterion was often not objective and not related to real impacts. This concern was shared by submitters 50 and 65, who felt that decisions should be science- and risk-based, given that public concern “can be misguided and based on misconceptions” (65). Submitter 24 noted that much effort is currently directed at wastes that have little impact.

Submitters 48 and 126 felt that volume and harm, achievability and cost effectiveness should be weighted more heavily than public concern.

5.8.2 Products/wastes that are priorities

A number of submitters gave one or more wastes as being priorities in their view. One agreed with the list in the discussion document (72). Others listed and commented on individual wastes:

- used oil (17, 25, 40, 41, 42, 44, 48, 85, 110, 125, 126), and used oil filters (40)
- vehicles (25, 36, 40, 42, 44, 48, 85, 126)
- tyres (17, 25, 36, 41, 44, 48, 72, 54, 85, 110, 126)
- electronic waste (15, 25, 40, 41, 42, 44, 48, 49, 54, 85, 110, 126, 99, 128), cathode ray tubes (110), computers (17), batteries (25, 41, 48, 54, 72, 85, 99, 126, 128), fluorescent tubes (40, 44, 99, 128), whiteware (25), and fluorescent tubes, energy-saving light bulbs and batteries (25)
- farm chemicals (12, 40, 41, 72, 79) and other chemicals (25, 54)
- paint (25, 41, 48, 85, 126)
- gas cylinders (44, 48, 99, 128)
- packaging waste (6, 44, 48, 54, 85, 126), plastics (6, 54), glass (6, 42, 54), farm plastics (12, 17, 41, 44, 79, 85) and beverage containers (85)
- treated timber (40, 41, 44, 48, 126, 99), construction/demolition waste (15), plasterboard and medium-density fibreboard (MDF) (128, 99)
- household hazardous waste (25, 26, 136)
- smoke alarms (128)
- plastic shopping bags – 10 submissions focused solely on this (11, 30, 51, 52, 55, 59, 62, 94, 95, 96), and submission 85 also mentioned it due to public concern.

Submitter 128 said that used electronic products are a growing waste stream. However, submitter 121 noted that only a small portion of the 80,000 tonnes of total electronic waste is a problem.

Submitter 66 commented that the priority wastes listed in the discussion document focused on “products that have high public awareness”. While this “can be effective as a short-term solution it is more important to establish the significance of the problem and focus more on the life of products that have the greatest environmental impact”. Submitter 80 stated that there is a need for a proper evaluation before deciding what products to look at and questioned whether appliances would be a priority with this analysis.

Submitter 65 questioned the significance of waste problems with the products listed and asked whether there are other products that should have priority. One manufacturer (80) questioned whether the levels of metals (lead/mercury/cadmium) going into landfill from their products were at levels to cause concern. This submission also contained an annex which questioned some of the thinking on the lead solder issue.

5.9 Scheme design

5.9.1 Agreements

Submitter 12 saw product stewardship agreements as being the “first step”. Agreements provide the mechanism for establishing targets (or key performance indicators) for voluntary schemes (15, 44).

Submitter 15 noted that where targets are established in agreements, these could be enforced. Submitter 110 felt that agreements should ensure oversight of the scheme and achievement of objectives. Another reason for establishing agreements was to seek efficiencies and economies of scale (15) that could be gained with joint actions involving waste handling and resource recovery.

One submitter (77) noted that the costs of any scheme would be negotiated as part of any product stewardship agreement. Submitter 77 further argued that a formalised agreement is not necessary for product stewardship in all circumstances. In developing a scheme a clear definition of industry is needed (80). This could also involve the clear identification of producers/distributors (97).

5.9.2 One or more schemes?

In developing product stewardship, some submitters (12, 41, 42, 77, 88, 97, 110) felt that flexibility is desirable. This means that industry could develop one scheme or a number of product stewardship schemes. Companies should have the freedom to select whether they are in an industry-wide scheme or whether they can achieve the results by acting alone (88).

A regional council submission (40) noted that product stewardship needs to engage the public in returning the product for recovery. Often single-firm or sector collection schemes may not work as well as schemes using a central drop-off point.

5.9.3 Product stewardship organisations

Submitter 105 noted that companies may not need a separate product stewardship organisation. In some cases this may add cost. The development of separate governing bodies for each scheme could be costly, and it may be better to incorporate the scheme in one body, which could be modelled on the EECA (57).

Submitter 8 felt that product stewardship schemes should involve independent product stewardship organisations that involve more than producers in the running of the scheme. Submitter 125 suggested a scheme for used oil that would be administered at “arms length” and funded through a levy on oil lubricants at point of sale.

Submitter 124 suggested that trade associations should police product stewardship schemes and imports, and submitter 110 felt that agreements should “ensure oversight by agencies outside of the participating industries”. Submitter 86 thought that enforcement of agreed performance measures should be undertaken by a “national agency”, while a need was seen to target any penalties (116).

5.9.4 Mandatory tools

Submitters 77 and 110 felt that the outcome should be regulated rather than the mechanisms for getting there. This would ensure maximum flexibility as to how the outcome is achieved (77). Once the outcome is specified there is little need for direct regulation of product stewardship schemes except where urgent action is required (110).

Submission 88 felt that target and performance measures need to be carefully set. Using collection rates as targets is often misleading where there are other changes. An example of this is in computers, where new software has made many older, functioning computers obsolete. Design standards are also changing elsewhere and we need to recognise what is happening in other markets, both in terms of innovation and changes in minimum treatment standards.

A range of mandatory tools were suggested by submitters, including:

- mandatory labelling, which is critical in plastics for any resource recovery (22, 120)
- a ban on non-recyclable material (eg, in plastic bottles) (19)
- a universal landfill levy (57)
- additional tip charges (eg, Kate Valley landfill charges more if over 15% of waste is polystyrene) (120)
- container deposit legislation (57)
- standards and registration of products (54)
- recycling targets
- levies and deposit schemes (see below)
- product take-backs (112) and “extended producer responsibility” (for electronic waste) (120).

Submitter 112 noted that it is possible to improve the energy efficiency of products through more effective design and recovery of resources (and embodied energy). This submitter felt that product take-backs for energy-using appliances was likely to especially contribute to a scheme.

Regulating design was seen as being difficult by submitter 88 and should be avoided in electronics. In this area there is little local manufacture, and there will be problems if changes elsewhere are not able to be used. This view was shared by submitter 80, who cited problems with minor regulations overseas.

Levies

Levies were discussed by a number of submissions, with some advocating their use and others opposing them. Levies and fees were seen as having a role by submitters 40 and 97. Submitter 91 said that levies and regulation could overcome barriers to resource recovery, and submitter 24 suggested that the levy money should go to recyclers to help them recover material from waste.

Levies in the form of advance disposal or recycling fees were suggested by some submitters (15, 99, 125, 128). These would reflect costs in product price and could cover the costs of waste disposal or recycling. The following were suggested for levies.

- *Used vehicles:* Submission 66 cited a recommendation from an industry study for a levy to meet the cost of disposal of end-of-life vehicles. This would be a standard fee on new registrations (new registrations include new or used imported vehicles). Submitter 111 noted the large number of used imports in New Zealand and suggested that any regulation would need to recognise this. As a result, if there is to be any work on end-of-life vehicles a levy would be the obvious solution.
- *Tyres:* Submission 53 suggested a compulsory advance disposal fee for tyres, which would be imposed at manufacture or import. Submitters 22 and 44 noted that the voluntary approach was not working locally and that it did not capture all tyres.
- *Used oil:* A mandatory scheme based on a levy to cover the costs of collection was suggested for used oil by submitters 40 and 125. The levy would be imposed at the point of sale. Free-riders were noted as a problem with the current arrangements (29, 125). Submitter 91 favoured only a voluntary approach for used oil.
- *Plastic bags:* Several submissions (11, 30, 51, 52, 55, 59, 62, 94, 95, 96) advocated a levy on supermarket plastic bags. These submissions included suggestions for the levy to be 25c per bag, and others of 30c per bag.
- *Computers:* Submitter 82 suggested a levy scheme be introduced for computers (a \$50 levy for each computer). Submitter 128 thought that the costs of disposal should be reflected in the price of computers.

A number of submissions raised difficulties with levies, and some opposed them generally (27, 104). Submitter 47 opposed the use of levies in cosmetics.

Submitter 88 noted that levies are often costly to administer and that each firm has a different cost structure. The experience of California and Ireland were cited by submitter 88 as being two examples where there are high administrative costs. This submitter also noted that fees and levies tend to be inflexible and remove the incentive for individuals to seek improvement. The submission gave other problems with levies, including the burden on retailers (not producers) and possible discrimination against those firms with higher current market share than previously (if the levy pays for the cost of current disposal as it pays for the clean-up of older product).

One risk with levies is that a levy on one form of packaging could lead to switching of material (48, 126); for example, a glass levy may result in a switch to plastic packaging.

Submitter 44 raised the issue of how levy monies are managed and the need for this to be clear in any regulation.

Deposit schemes

Deposit schemes were discussed by a number of submissions, with some in favour and others against the use of them. There were differing views on the operations of these mechanisms overseas.

Some submitters (37, 63, 64, 65), including some from the packaging industry, opposed deposit schemes for drink containers. This approach was seen as being costly, with one citing a study in New South Wales estimating that a 10c deposit would cost industry between \$52 and \$94 million per year. Deposit schemes may also adversely impact on kerbside recycling (66). Submitter 110 noted that deposits were only one option, but that they did target incentives to those consuming and producing the product.

Others favoured deposit schemes for drink containers. Submissions 32 and 68 favoured the use of deposits for reusable glass bottles. Submission 109 stated that container deposit legislation would be effective and easy to enforce. Submission 14 cited the South Australian scheme of deposits on bottles as a very effective scheme, achieving a high return rate. Submission 78 commented on Denmark's system of deposits for refillable drink containers, which was seen as being effective for beer and soft-drink bottles.

5.9.5 Overseas schemes

Some submitters felt that we could learn from overseas product stewardship models when devising schemes. To do this, an assessment of overseas schemes should be included in the development of any proposed scheme (110).

Submitter 61 thought we should adopt world best practice rather than inventing new approaches, while submitter 80 warned against "slavish following of overseas models". There are some unique elements to New Zealand's situation so importing the highly regulated approach in some European countries may not work here. Submitters 116 and 118 were concerned with how regulations might be drafted here when they draw on overseas examples. There are differences between European and other, particularly American, regulations so care needs to be taken to avoid the regulations being discriminatory. Submitter 116 thought that there would be a very high cost if the European directives on waste were fully implemented in New Zealand.

The interface between New Zealand product stewardship arrangements and arrangements overseas is an issue for some. Submitter 114 noted that overseas arrangements have implications for New Zealand. For example, regulation by the European Union and the United States is affecting product design in the electronics area, and this will affect the nature of electronic waste in New Zealand over time.

Submission 81 sought consistency between arrangements in New Zealand and those in Australia.

5.9.6 Imports

Submitters raised a number of issues with imports that need to be considered in the design of product stewardship schemes.

Packaging of imported products is an issue in designing product stewardship schemes for packaging (105). Direct selling and parallel importing are significant in some industries, such as cosmetics (47), and this needs to be considered.

Submitter 116 noted that New Zealand has an open economy and that there is a risk regulation could reduce choice. There should be consultation with overseas suppliers on the design of any regulation (116). The design of product stewardship needs to recognise and work around the structure of the New Zealand marketplace, including importing (103, 116).

Submission 124 commented on enforcement issues for imports and noted that the tariff codes may not be sufficiently detailed to be used in enforcement of product stewardship schemes. A separate declaration on the nature of the good may be needed when importing.

5.9.7 Labelling and information

Many consumers lack awareness of what can be recycled and of what take-back schemes are operating. A number of examples where there was a lack of information were given, including mobile phones (103) and used oil (120).

To counter this, consumer education and labelling were seen by submitter 74 as being critical to any product stewardship schemes. Better information aids recycling because consumers are better able to get wastes to the right place for recycling (36, 117). Improvements in consumer labelling would also help recycling (32).

Submitter 38 noted that eco-labelling has a role in informing consumers, backed up by standards and information based on life-cycle impacts. The Environmental Choice NZ label is an eco-label in use in New Zealand.

5.9.8 Education

Submitter 39 saw the need to change the perception of “rubbish” and waste. Education would be needed for this. Submitter 97 saw the education of consumers as being a major role for the Ministry for the Environment (see below).

Education of local authorities was also seen as being necessary (19). Submitter 6 felt that industry has to be kept informed of changes, and submitter 74 said that a key to encouraging voluntary action was to make the business benefits for industry in implementing product stewardship more explicit.

5.10 Role of the Ministry for the Environment

There were a range of views as to the Ministry's role in establishing product stewardship schemes. Many of these – but not all – flowed directly from views held on whether there should be regulation or whether product stewardship should be purely voluntary.

Those favouring purely voluntary schemes saw the Ministry's role in terms of:

- encouraging the development of voluntary schemes (27) and “nurturing successful industry-led schemes” (29)
- facilitating (42) and assisting (74, 79) – facilitate the first scheme within a sector (7)
- providing funding and promotional support on a national basis (104)
- providing start-up funds and methodology to speed up start-up (15, 124, 45, 24)
- education of the public (74, 79)
- researching issues to help develop viable alternatives (104).

Things the Ministry should not do included:

- implementing more industry/associations/sectors (61)
- regulating schemes, because the Ministry should not have a regulatory role (65)
- negotiating contracts and later enforcement (7, 12).

Submitter 104 suggested that the Ministry could review the Sustainable Initiatives Fund Trust of Christchurch City Council and the Waste Minimisation Fund (which is funded via a levy and provides help for waste minimisation and recycling).

Others favoured the Ministry taking “a stronger lead” (14), which would involve facilitating schemes and providing backstop regulation (88). Areas identified by these submitters as being part of the Ministry's role included:

- taking a stronger role than at present to encourage private schemes (48, 85, 126)
- taking a central co-ordination role, drafting overarching policy that includes priority areas for action (40, 48, 116, 126)
- clarifying the role of local government (48, 126)
- setting enforceable targets (1, 9, 34, 76)
- monitoring voluntary agreements (116)
- having enforcement measures (29, 70, 128)
- requiring, advising and approving schemes (54)
- facilitating schemes and dealing with backsliders (72)
- a facilitating and regulating role (36, 41, 79)
- identifying key areas, initiating discussion, regulating free-riders, developing regulation when there is no scheme, monitoring and reporting (25)
- banning certain wastes from landfills
- applying economic instruments to encourage recycling

- ensuring, where necessary, public infrastructure is in place to encourage composting and recycling
- taking a major role in the education of consumers (85, 97).

A number of submissions saw the need for new agencies to undertake some or all the regulatory role with regard to product stewardship. Submitter 66 felt that enforcement should not sit with the Ministry, but should be “through a central agency like an expanded ERMA and/or other appropriate government agency, and where appropriate by regional councils”. Another (57) suggested a waste authority or an EPA (as in the US/Australia) with regulatory functions. Submitter 8 suggested that targets for product stewardship schemes should be set by independent experts.

Submitter 77 felt that the Ministry has a role to “clearly articulate Government policy with regard to resource efficiency and the reduction of environmental effects from wastes” and to articulate solutions where outcomes are constrained by the implementation of other policies of central or local government. The example used of where this needed to be done was in Resource Management Act processes, where resource consents can regulate processes and raw materials that can constrain resource recovery. In this case the Ministry should provide advice based on sound economic and scientific analysis. The Ministry should also provide adequate oversight and monitoring of product stewardship, including that occurring without formal agreements.

One submitter stated that the Ministry had a role engaging with local government in waste collection (97).

Submitter 29 felt that “proper enforcement of the existing frameworks and regulations would send good signals to participants”. This would improve the situation with difficult wastes.

5.11 Waste management

A number of submissions commented on aspects of waste management that are outside of product stewardship but that either affect or could be affected by product stewardship schemes.

5.11.1 Role of local government waste collection systems

A number of submissions (40, 85, 97, 119, 112) from industry and local government pointed out the value of existing local government waste collection, provision of drop-off points and recycling networks. These have an important role to play in many potential product stewardship schemes.

Councils have a role in ensuring that waste is not dumped illegally and in ensuring that waste is handled properly. This disposal is not fully costed and undermines systems that seek to deal with waste responsibly. There needs to be good enforcement of product specification and of treatment to ensure it meets legal requirements (29). Enforcement of existing regulation is needed and could go a long way to resolving problems and encouraging product stewardship, and should be done where possible (77). Illegal dumping is a problem with used vehicles (98).

There was some concern at the differences in approach to waste collection and regulation between districts. Submitter 29 was concerned at the level of decentralisation in waste management engendered by the Resource Management Act and Local Government Act and felt that this inhibits nationwide schemes for product stewardship. The Local Government Act provides councils with the ability to introduce economic incentives in the waste area, such as licensing and levies. However, it was felt by submitters 48 and 126 that these tools can be inefficient when implemented locally, especially when waste is better dealt with nationally or even regionally.

There was perceived to be a need to develop co-ordinated policy (or a common strategy) between local and central government in waste collection to assist product stewardship (27). Submitter 113 said central government should work with local government to improve the coverage of kerbside recycling; kerbside recycling and infrastructure are important for recovering packaging waste (39). Two submitters (63, 64) noted the need for consistency in systems between districts to improve public education and awareness. Consistent infrastructure implemented nationwide – not only at kerbside, but also at public places/events – was seen as being necessary (39).

Submission 22 raised concerns about the possible impact of deposit return mechanisms on some kerbside recycling activities. Changes in waste law have imposed costs on councils in Australia (14): the significant costs of kerbside recycling are met by councils with only a small amount contributed by industry, and New Zealand is likely to be similar (14).

Submission 87 also commented on the possibility of duplication. In this case the concern focused on the duplication of collection of hazardous substances where schemes such as the collection of unused paint could duplicate councils' HazMobile schemes. Submitters 40 and 103 noted that councils provide many of the collection points for used oil, and that the current scheme for used oil is dependent on this infrastructure.

5.11.2 Regional issues

The costs of collection are critical for the economic recovery of waste material (77). The costs in some regions that result from the low population and distances to major cities will impact on any product stewardship involving waste recovery (80, 120, 122). This could limit recovery to major centres, possibly in the North Island only.

Submitter 60 also noted the variation in costs, and argued that only where it is economic do operators wish to collect material. Submitter 50 stated that there is a geographic variation in disposal costs which would be difficult to put in a standard charge to pay for waste recovery.

5.11.3 Waste infrastructure

Submitter 98 noted that much of the material in used cars is recycled or recovered. This covers fluids, batteries, refrigerant gases, scrap metal and useful components. However, scrap markets are volatile and the costs of used vehicle disposal can be high. Illegal dumping is also a problem.

Submission 119 discussed weaknesses in New Zealand infrastructure for the recovery of material from electronic waste. The submission raised the need to investigate recycling capacity for electronic waste in New Zealand. Scale would be an issue in this. Once electronic equipment is no longer useable, resource recovery from the waste is very specialised (121). Only a few plants overseas do it properly, and there are none in New Zealand (121). Submitter 119 thought that further investigation of recycling capacity is needed, and submitter 121 saw a need for further research on waste and waste recovery issues.

There is the potential for competition for access to materials. This was an issue with printer cartridges, where cartridge remanufacturers would want to be able to access collected material (16). There is also a need to allow competition among recyclers to foster efficiency in resource recovery (97).

Submission 80 raised energy recovery and incineration as an option that is being improved in Europe (for things such as plastics) and that could assist with waste management here. Submission 29 was concerned that “long term idealism” here could be closing the door on incineration, which they felt is an effective technique.

5.11.4 Other regulation of wastes and product stewardship schemes

Submitter 105 commented on the impact that regulation could have on existing voluntary schemes. Submitters 63 and 64 gave the view that:

... where Product Stewardship Agreements have been negotiated with the Government, conditions under which these operate should not be able to be changed by other regulatory bodies such as local government, thus leading to different conditions pertaining around the country.

Submitter 77 raised the issue of conditions of resource consents relating to their manufacturing preventing use of waste as input into existing manufacturing.

5.11.5 Waste levy

A number of submitters commented on tipping charges and waste levies.

Price signals – cost recovery

Submitters 13, 50 and 81 saw waste disposal charges as providing a clear price signal to those disposing of things. Getting these charges to reflect the full costs of tipping waste is important and they should not be lost in rates. Low tip charges mean that costs are not all internalised. The reverse could happen if tip charges are set too high, though (50).

Submitter 13 saw waste disposal charges as prices that complement any voluntary action for product stewardship. Taken together, these would be an alternative approach to regulation (13). Submitter 60 raised the risk of increased consumer littering if there are significant charges on tipping.

Waste levy

A number of submitters raised the issue of a landfill levy (14, 15, 48, 66, 87, 126). This could be done nationally or through regional landfill levies (14). Submitter 66 felt that product stewardship should “not represent retreat from, or a substitute for, a national waste levy”. The landfill levy could provide money to help develop product stewardship schemes (15).

6 Submissions on Water Efficiency Labelling

The positions of the submissions on WELS are shown in the tables below.

Table 5: Submitters' views on WELS

View on mandatory labelling	Number
Agree	36
No position	3
Oppose	9
Total	48

Table 6: Submitters' views on WELS by stakeholder group

Stakeholder group	Total	Agree with WELS	Oppose WELS	No position
Councils	15	14	1	
Industry	12	7	2	3
Sector groups	10	5	5	
Personal	5	5		
NGO and other	6	5	1	

6.1 Views on mandatory labelling

The majority of submissions supported mandatory labelling (18, 67, 25, 85, 100, 103, 129, 130).

Councils were strongly in favour of mandatory labelling, which was seen by them as assisting in managing water supplies that most were responsible for. A number of submissions favoured WELS because this would ensure we are consistent with Australia in our regulatory approach (8, 44, 46, 80, 100, 112).

Some of those opposed to mandatory labelling (22, 45) felt that if improved information was valued by consumers, then the suppliers would provide the information without regulation. Others opposing mandatory labelling, noted that New Zealand is not in the same situation as Australia so the same regulations are not necessarily desirable here.

6.2 The benefits of water savings

Many of those supporting water efficiency thought mandatory labelling would provide savings in water and that these savings would have value.

There were savings to councils from reduced water use (32) and a particular benefit where there is an inadequate water supply (85). In the longer term there could be some savings from deferred capital spending where water use is reduced (42). Submitters 44 and 100 suggested that these savings could be significant. The savings were seen differently in some regions, such as Wellington (101), where they were expected to be small.

Tauranga District Council has achieved savings in water use and wastewater over the past eight years through charging for volume use, and through education and trade waste policies. As a result it has been able to defer major capital expenditure by five years (46). In Auckland (18) there was a water shortage in 1993/94. Expansion is now being looked at again and water conservation is part of the strategy to avoid excessive early expenditure. The Auckland Local Network Operators are aiming for a 5% per capita reduction in water use by 2024 (18). Waitakere City Council (128) is working on water conservation, and labelling will help with this. Their target is to reduce per capita consumption by 25%. North Shore (99) is also achieving water savings but has a different target. Metro water (83) also commented on the benefits from reduced water consumption.

There would be benefits where there is on-site treatment and disposal of waste (69, 128). Some of the on-site systems verge on being a hazard now, and a reduction in water would help reduce this (128).

Labelling could be important when purchasing new items (8, 32, 72). EECA (112) stated that experience with energy labelling shows that labelling works and that consumers respond. This has been backed by a nationwide survey (112).

Labelling raises awareness of water use and has benefits elsewhere (58). Wellington Regional Council (101) commented that the labelling would be highly visible and this would help other conservation measures where benefits could be greater. Of particular concern to Wellington was the outdoor use of water in urban areas. Submission 44 said that while direct savings are likely to be small, other conservation measures would be assisted by labelling.

There is extra incentive to use labelling where water is metered, as it is in Nelson (42). Water use had dropped by 25% since metering was introduced in 1999 (42). Submitter 85 felt there should be water charging, because the current system leads to supply to drinking water standard then cleaning of waste water. There is a need to bring the costs of this into consumer decisions (85). Submitter 50 also thought that pricing mechanisms should be investigated.

6.3 Effect on business

Many New Zealand producers favoured having mandatory labelling aligned to Australia.

Submission 75 commented on issues relating to the differences between Australia and New Zealand in terms of different water pressures. In New Zealand 60–65% of homes have low-pressure hot-water systems, while in Australia only about 5% have them (though more are being installed). The submitter felt that this means that adopting the Australian standards for shower-heads is not appropriate. We should not penalise efficient New Zealand shower-heads (about 50% are already triple A in rating) and we should use flow-control devices in the shower-head or in the mixer/valve rather than the approach used in Australia.

Submission 100 noted that there would be a problem with the Trans Tasman Mutual Recognition Arrangement (TTMRA) if WELS is not introduced. Submission 116 saw a need to look at Asian trade agreements and imports as well.

6.4 Administering the scheme

A number of suggestions were put forward as to how to manage WELS.

Some sought consistency with Australia (46, 74) and the Building Code (8, 66, 74, 112, 129). Submission 69 felt New Zealand should have a plumbing industry control similar to that in Australia, while submitter 58 thought that standards should be under the Building Act with an added labelling requirement.

Administration from Australia is acceptable to some submitters (17, 85, 99, 129). If it was administered from Australia then New Zealand would need to ensure it has a voice on the committees dealing with the scheme (74), and there would still need to be some enforcement in New Zealand.

Submitter 50 thought that as WELS was going to be introduced in Australia, then those selling goods to Australia will have water efficiency labels. In this situation, if New Zealand consumers value labelling it would happen without the need for regulation (50).

The Plumbers, Gasfitters and Drainlayers Board submission (67) suggested that New Zealand needs a plumbing regulator. This would have the WELS function in addition to the licensing of plumbers, regulation of standards and so on. The Plumbers Gasfitters and Drainlayers Act could be amended to provide for this.

EECA as a possible body to regulate WELS in New Zealand was mentioned by submitters 43 and 85. BRANZ (74) indicated an interest in being involved in testing.

Finally, submitter 66 felt that any regulation should allow for individual suppliers “to set increased minimum standards” to provide for specific local issues.

Appendix: List of Submissions

Number	Submitter	Number	Submitter
1	Joshua Cole	45	Air New Zealand
2	Colin Hewens	46	Tauranga City Council
3	Betty Wheeler	47	Cosmetic Toiletry and Fragrance Association of New Zealand
4	Stephan Zanetti	48	Franklin District Council
5	Caroline Percy	49	Responsible Resource Recovery Limited
6	Ricki Freemantle	50	Business New Zealand
7	Resene Paints Ltd	51	Golden Bay Bag Ladies
8	Aquas Consultants	52	Joanna Piekarski
9	Noeline Gannaway	53	Bridgstone
10	Graeme Galley	54	Alan Swallow
11	Victoria Davis	55	Golden Bay Futures
12	Environment Southland	56	New Zealand Retailers Association
13	New Zealand Building Industry Federation	57	Zero Waste Trust
14	Manukau City Council	58	Environmental Defense Society
15	Gallagher/Timaru District Council	59	Joe Bell
16	Australasian Cartridge Remanufacturers Association Inc	60	Panasonic New Zealand Limited
17	Manawatu District Council	61	3M
18	Local Network Operators Group	62	Kirstin Knight
19	John Rhodes	63	Environmental Beverage Action Group
20	Dennis Hamblin and Maya Beddie-Geiser	64	New Zealand Juice and Beverage Association
21	ecoEng	65	New Zealand Food and Grocery Council
22	Hamilton City Council	66	New Zealand Business Council for Sustainable Development
23	New Zealand Aluminium Smelters Ltd	67	Plumbers, Gasfitters and Drainlayers Board
24	New Zealand Dairy Foods Limited	68	Tom Jones, Green Man Brewery
25	Wellington City Council	69	Peter Paku
26	Steve Henry	70	Beacon Pathway Limited
27	Employers and Manufacturers Association	71	Local Government New Zealand
28	Federated Farmers of New Zealand	72	National Council of Women
29	Holcim	73	Western Bay of Plenty District Council
30	Xtreme Waste	74	BRANZ and Building Research
31	Green Party	75	Feltonmix Limited
32	Graham and Helen East	76	Hutt City
33	Hannah Wilson	77	Fletcher Building
34	Debs Martin	78	Landcare Research
35	Anne Billing	79	Waste Management Wairarapa
36	Rural Women	80	Fisher & Paykel Appliances Limited
37	Coca-Cola Amatil (New Zealand) Limited	81	Carter Holt Harvey Limited
38	New Zealand Ecolabelling Trust	82	Computer Access New Zealand Trust
39	Huhtamaki Henderson Limited	83	Metro Water Limited
40	Environment Canterbury	84	Packaging Council of New Zealand
41	Environment Waikato	85	IPENZ – Engineers New Zealand
42	Nelson City Council	86	Plastics New Zealand
43	Environment Bay of Plenty	87	Hastings District Council – Waste Minimisation
44	Christchurch City Council		

Number	Submitter	Number	Submitter
88	Hewlett Packard	109	Community Action for People and Planet
89	ACP Media Limited	110	Pacific Institute of Resource Management
90	Water and Waste Services, Dunedin City Council	111	Motor Industry Association
91	Shell New Zealand Limited	112	EECA
92	New Zealand Vitalife Organic Health	113	Foodstuffs (New Zealand) Limited
93	Kate Hewson	114	Philips New Zealand Limited
94	Elda K Heywood	115	Retravision (New Zealand) Limited
95	Rosemary Jorgensen	116	Appliance Network Society Limited
96	Penny Griffith	117	Recovered Materials Foundation and Meta New Zealand Limited
97	Vodafone New Zealand	118	Telecom
98	Motor Trade Association	119	IBM
99	North Shore City Council	120	Wastebusters Trust Canterbury
100	Caroma Industries Limited	121	The Warehouse
101	Greater Wellington Regional Council	122	Recycling Operators of New Zealand
102	Formway	123	Annelies Pikelharing
103	Auckland Regional Council	124	Progressive Enterprises Limited
104	Canterbury Employers Chamber of Commerce	125	BP New Zealand
105	New Zealand Paperboard and Packaging Association	126	Rodney District Council
106	O-I New Zealand	127	Appliance Connexion Limited
107	Mighty River Power	128	Waitakare City Council
108	Renaissance Group	129	Methven
		130	Anni Watkins

