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Guidance on the Waste Minimisation Act compliance requirements for transport infrastructure delivery and maintenance

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More Information

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1 Introduction

The purpose of the WMA is to reduce the amount of waste generated and disposed of in New Zealand. It aims to do this by imposing a levy on the disposal of certain classes of waste. Consequently, this waste levy increases the disposal cost for both individuals and businesses. Therefore, the WMA financially incentivises New Zealanders to take responsibility for the waste they produce and find more effective, and efficient ways to reduce, reuse and recycle.

This guidance outlines the requirements and responsibilities that the NZ Transport Agency Waka Kotahi (NZTA) has under the Waste Minimisation Act 2008, Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 and the Waste Minimisation (Information Requirements) Regulations 2021 (together described in this guidance as the WMA and the Regulations). This guidance applies to NZTA staff, its consultants, contractors and partners involved in the construction and maintenance of its land transport infrastructure.

2 Executive Summary

The WMA and the Regulations impose reporting and payment obligations on the **operators of disposal facilities** and are administered by the Ministry for the Environment (MfE).⁶ NZTA, as a producer and disposer of waste, will have to pay levies for certain classes of waste disposed of at its disposal facilities.

For all waste disposal facilities NZTA operates, the WMA and the Regulations requires it to:

- Record these facilities with the MfE; and
- Report the volume of waste disposed of to each of these facilities; and
- Report the volume of waste diverted out of these facilities for reuse; and
- Keep robust records of all waste disposed of or diverted out of these facilities; and
- Pay the waste levy incurred for the disposal of certain classes of waste. Note *cleanfill sites* are currently exempt.

The WMA and the Regulations require operators of disposal facilities to complete registration, reporting and payment obligations. It is NZTA's state highway construction and maintenance teams that typically operate its disposal facilities. Non-compliance with the WMA is an offence that could result in a fine of up to \$100,000.¹ Additional penalties can be imposed if there is any 'commercial gain' associated with the offence. These are strict liability offences, meaning it is not necessary to prove there was any intention to commit the offence. This means even an 'accidental' failure to comply with requirements could result in a conviction and fine.² NZTA can also be held liable for the actions of its agents (which may include contractors).³

Key [definitions](#) used in the WMA and the Regulations are provided within the appendix to this guidance.

3 When is NZTA considered to be a “Disposal Facility Operator”?

If there is a dedicated site that is being used to discard of waste to land, the WMA and the Regulations classifies this site as a disposal facility. Note there may be situations where a site operates more than one disposal facility. For more information on operating a site with multiple facilities, please refer to [What is the class of the facility](#) and seek advice from the Poutiaki Taiao Environmental Planning team via WMArecords@nzta.govt.nz.

¹ Waste Minimisation Act 2008, section 65(1)(e)

² Waste Minimisation Act 2008, section 68.

³ Waste Minimisation Act 2008, section 70.

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Also, it may not always be clear who is the operator of a disposal facility. NZTA is considered to be the disposal facility operator if one or more of the following factors apply:

- A resource consent is held in the name of NZTA to enable the disposal of waste to land;
- A concession is held by NZTA for disposal of waste into Department of Conservation land;
- A lease arrangement between NZTA (or the Crown on behalf of NZTA) and a landowner is held for the purpose of waste disposal;
- NZTA has specified what disposal sites it will operate within contractual documents at the beginning of contract award (For example as part of resource efficiency and waste management plan)

Procurement contracts for state highway construction or maintenance works need to consider who is the operator of a disposal facility. The roles and responsibilities can vary depending on the type of contract. For example, Design and Construct, Alliance, or Network Outcomes Contract.

Where waste is taken to a facility that is owned and/or operated by a third party, then the third party will be considered the operator. Both Envirowaste facilities or council landfills are examples of third party operated disposal facilities.

A flow chart titled [How to Check Who is the Site Operator and What Material is Waste](#) (refer section 5) provides further guidance on how to define who the operator of a disposal facility is. If you are still unsure, please contact the Poutiaki Taiao Environmental Planning team via WMArecords@nzta.govt.nz for advice.

4 Disposal Facility Operator WMA Reporting Requirements

The WMA and the Regulations require operators of disposal facilities to meet the following record keeping and reporting obligations. Operators must keep all original records for at least seven years. Records must be stored in a manner so they are accessible, auditable and can be supplied to the MfE on request.

Refer to [Section 4.3](#) for the waste reporting requirements for state highway construction and maintenance teams (including contractors where required).

4.1 Disposal facility waste records

Operators of a disposal facility must record the following information and keep all original records of this data for at least seven years:

- Name and physical location of the disposal facility and its [Class type](#)
- Date the tonnage of waste material entered the facility or was diverted from the facility.
- Date and time the tonnage of waste or diverted material was measured.
- Volume of material disposed of and/or diverted as assessed at the disposal site.
- The [Prescribed conversion factor](#) applied to convert the volume of waste to a weight.⁴ For example the prescribed conversion factor of 1.5 is applied to convert cubic metres of clean fill into tonnes.
The amount of [Waste levies paid](#) by the operator to the MfE⁵
- Waste returns reported to the MfE
- [Waste Activity Category](#)⁶

⁴ Schedule 1 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 provides the prescribed factors for converting the volume of waste to a weight.

⁵ Schedule 2 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 provides the waste levy rates for the different classes of disposal facility. A waste levy is currently applied to all waste classified as class 4 or higher.

⁶ Schedule 3 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 provides the waste activity categories. Most NZTA will waste will be categorised as 'Construction and demolition' which includes waste from roading and infrastructure.

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4.2 WMA waste reporting

All disposal facility operators must also report a monthly waste return to the MfE. A waste return must include all of the following information.

- Name of the disposal facility and its [class type](#)⁷
- Site number (if applicable) and the physical address at which the facility is located (where this information is not available, longitude and latitude locational data can be used)
- Full name and contact details of the operator.
- Full name and contact details of the person who completed the return (if different to the site operator)
- Month and the year for which information is being provided.
- Gross tonnage for the month⁸
- Diverted tonnage for the month⁹
- Net tonnage for the month¹⁰
- The [Waste Activity Category](#) activity for the waste material that is disposed of to the facility. For example, the activity category is construction and demolition for waste derived from infrastructure including roading.
- If the operator is operating more than one disposal facility on the same site, the operator must:
 - Provide a waste return for each disposal facility.
 - Separate and dispose of waste into the correct class of facility
 - Each waste return must contain the above information.
- A waste return must be provided to the MfE either electronically¹¹ or in writing. Written returns must include a declaration that confirms that the operator, or the authorised representative of the operator believes that the information in the return is accurate to the best of their knowledge. A declaration must be witnessed, this can be by the NZTA legal team. Please contact WMArecords@nzta.govt.nz for a copy of NZTA's declaration.

Exceptions to the monthly reporting requirement are:

- Class 5 cleanfill facilities must provide a quarterly waste return.
- Annual waste returns can be filed by an operator that expects to dispose of up to 1,000 tonnes of net waste within a financial year.
 - Approval must be granted by the MfE for an operator to provide an annual waste return.¹²
 - Where approval is provided the annual waste returns must be submitted to the MfE on or before 20th July after the end of the financial year to which the return relates.¹³

4.3 How NZTA collates and reports waste records

As an operator, NZTA requires its state highway construction and maintenance teams (including contractors where required) to report monthly the prescribed site information and waste data (refer sections 4.1 and 4.2 above) for each of the disposal facilities it operates.

⁷ See pages 7-8 above for guidance on how disposal facilities are classed.

⁸ As calculated in accordance with Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulations 11 and 12.

⁹ As calculated in accordance with Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulations 11 and 13.

¹⁰ As calculated in accordance with Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 16.

¹¹ The Ministry for the Environment prefers site operators to submit waste returns electronically using the Ministry's Online Waste Levy System (OWLS). NZTA prefers to provide written returns while it refines and embeds its waste minimisation compliance processes against the requirements of OWLS.

¹² Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 9.

¹³ Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 7.

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- State highway construction and/or network maintenance contractors should use this [WMA Waste Recording form](#) to record both site information and waste records.
- For months where no waste is disposed of to an NZTA operated facility, state highway construction and/or network maintenance contractors should report this as a nil return for the respective month.
- State highway construction and/or network maintenance contractors should send monthly site information and waste records to the respective construction project manager or regional Maintenance Contract Manager for verification.
- The construction project manager or regional Maintenance Contract Manager must email all monthly site information and waste records to WMArecords@nzta.govt.nz **on or before the 7th working day of the month after the last month to which the return relates.**
- Monthly waste records are then collated by the Poutiaki Taio Environmental Planning team into NZTA's monthly waste return which is then submitted to the MfE with the required declaration.
- For questions about this process please contact WMArecords@nzta.govt.nz

NZTA must submit its waste returns to the MfE on or before the 20th working day of the month after the last month to which the return relates.

Disposal facility operators may request an extension of time to provide a monthly return. Applications for a time extension must be made to the MfE, on or before 15 days before the due date for the return. Any request should explain why the operator is unable to provide the return in time.¹⁴ An example of where an extension could be sought is following an extreme emergency response event that results in contractors' resources being stretched. Please seek advice from the Poutiaki Taiao Environmental Planning team where an extension of time may be required.

Failure to meet the recording and reporting requirements will trigger a non-compliance that could result in a fine of up to \$100,000.

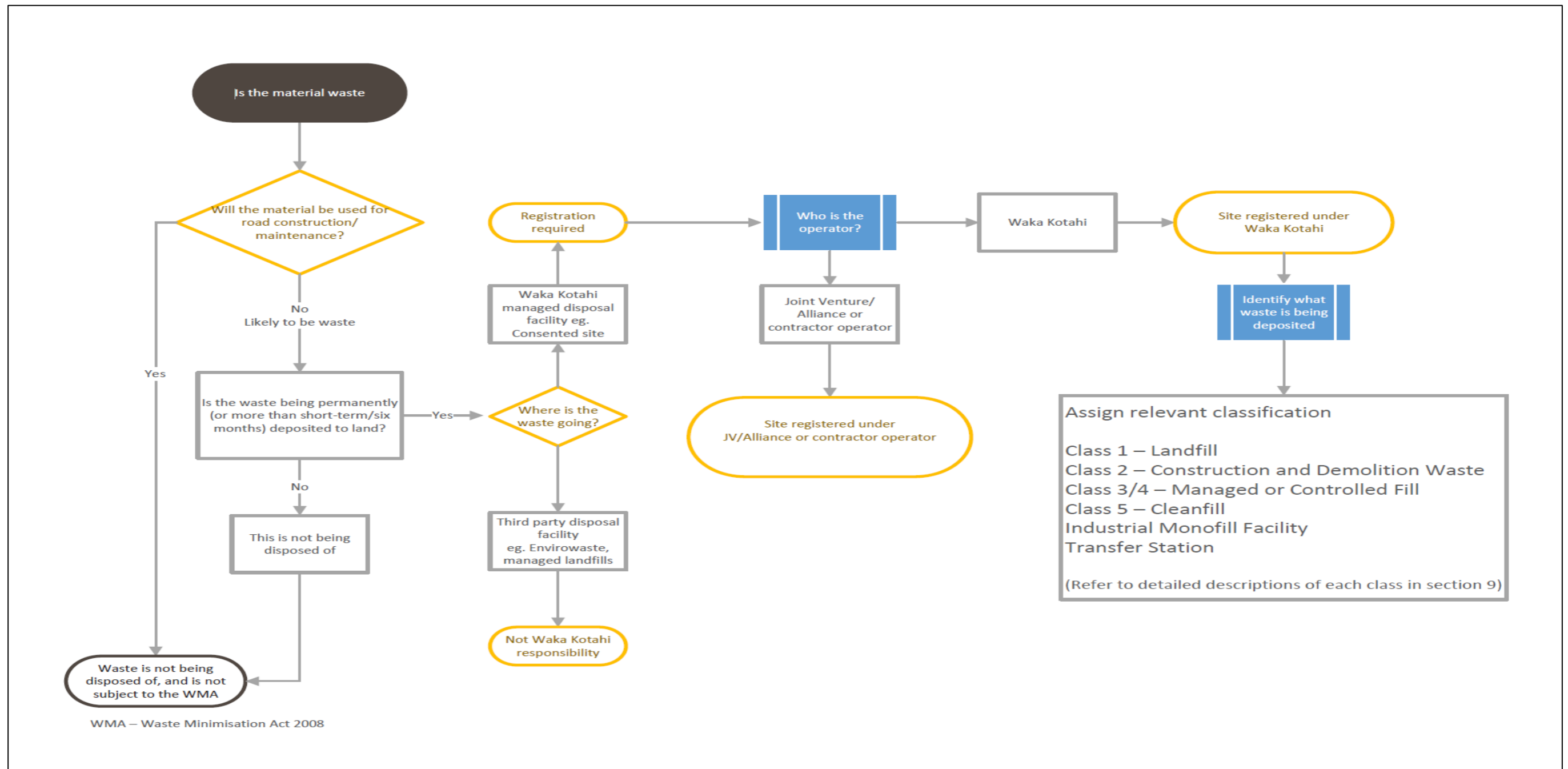
¹⁴ Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 10.
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5 How to Check Who is the Site Operator and What Material is Waste?

It is important to confirm if and how much of the material being disposed of is **waste** as this will determine what compliance obligations apply. Figure 1 below summarises the key steps and checks that should be undertaken to confirm when a material is considered waste and who is the site operator. **Waste is defined as any material that is permanently being discarded or disposed of, including waste stockpiled for greater than six months.** This is taken to mean that the material has reached its final destination and has no intended future purpose or reuse opportunity. Where there is the potential for reuse, or the material is being used as a product down the line it is not considered to be waste and therefore not subject to the WMA.

Examples of material not considered to be waste include: slip material stored within in the network that is intended to be used in maintenance; and cut material from highway construction earthworks that is reused as roading sub-base elsewhere on the project. Note: this may process differ slightly for state highway construction projects, but the key steps are the same.

Figure 1 - How to check what material is waste and who is the site operator



6 Waste Levies

The WMA and the Regulations impose a waste levy on class 1, 2, 3 and 4 disposal facilities. Cleanfill (class 5), industrial monofill and transfer stations facilities are exempt from the waste levy. Refer to appended [section 8 What is the class of the facility](#) for more information on the different disposal facility classes. Waste levies are charged by the MfE based on both the class of the facility and the net tonnage of waste received at that facility. MfE collects net tonnage of waste through an operator’s waste returns.

This means NZTA must pay a waste levy:

- Directly to the MfE where it operates a higher than class 5 disposal facility; and
- Indirectly where it disposes of waste to third party operated class 1, 2, 3 and 4 disposal facilities. Waste levies are typically included within the operator’s site access fees.
- These costs will be incurred by NZTA’s state highway construction and maintenance teams.

NZTA’s state highway construction and maintenance teams must budget for these increasing waste management costs. The below table summarises the waste levies payable for each class of disposal facility.

Waste Levy Rates by Disposal Facility Class

Disposal Facility Class	Waste Levy Rate (1/7/2024 to 30/6/2025)	Waste Levy Rate (1/7/2025 to 30/6/2026)	Waste Levy Rate (1/7/2026 to 30/6/2027)	Waste Levy Rate (from 1/7/2027)
Municipal landfill Class 1	\$60 per tonne	\$65 per tonne	\$70 per tonne	\$75 per tonne
Construction and demolition fill Class 2	\$30 per tonne	\$35 per tonne	\$40 per tonne	\$45 per tonne
Managed or control fill Class 3 and 4	\$10 per tonne	\$15 per tonne	\$15 per tonne	\$20 per tonne
Cleanfill Class 5	N/A	N/A	N/A	N/A
Industrial monofill; or Transfer stations	N/A	N/A	N/A	N/A

Source: Schedule 2, Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009.

7 What is the class of the facility?

Disposal facilities are classed by the type of waste disposed of at the facility. Section 9.1 [Summary of Waste Disposal Facility Classes](#) provides as summary of how to classify a waste disposal facility. The disposal facility class is defined by the highest classification of waste a facility receives. For example, if both clean fill and inert waste are disposed of at a single facility, then the site will be deemed a class 3 and 4 facility. For further information, please refer to the MfE’s guidance on how to classify a waste disposal facility. A copy of this guidance can be found [here](#)

The WMA and the Regulations do allow for the operation of multiple disposal facilities on a single site. Where a site operates multiple disposal facilities, then each individual facility must be physically separated

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on the site. The site must also have robust controls in place to ensure waste is disposed of to the correct individual class of facility and the volumes disposed of are clearly and accurately recorded. Waste records and reporting obligations ([refer Section 4](#)) must also be completed for each individual facility. Please seek advice from the Poutiaki Taio Environmental Planning team about proposals to operate multiple disposal facilities on a single site.

8 Who to talk to for more information

For further information or queries about NZTA compliance with the Waste Minimisation Act rules, please contact the Poutiaki Taiao Environmental Planning team via WMArecords@nzta.govt.nz

9 Appendix

9.1 Summary of Waste Disposal Facility Classes

Facility ¹⁵	Description	Class
Municipal disposal facility	<p>A facility, including a landfill, that accepts for disposal, material that is or includes household, commercial, industrial or institutional waste, green waste,¹⁶ or waste that is not accepted at other classes of facilities.</p> <p>It is unlikely that this definition will be met by any NZTA facilities, however if household or green waste is accepted it is likely to fall into this category.</p>	Class 1
Construction and demolition fill disposal facility	<p>means a facility, including a landfill, that accepts for disposal only waste that is or includes solid waste from a construction and/or demolition activity.</p> <p>This includes construction and demolition waste such as reinforced concrete, treated and untreated timber that may decompose or is chemically or biologically reactive. (refer page 5 of the MfE factsheet)</p> <p>Does not accept:</p> <ul style="list-style-type: none"> • household waste or waste from commercial, industrial or institutional¹⁷ sources. 	Class 2
Managed or controlled fill disposal facility	<p>means a facility that only accepts any one or more of the following for disposal:</p> <ul style="list-style-type: none"> • Inert waste material¹⁸ from construction and demolition activities • Inert waste material from earthworks or site remediation. <p>This includes lightly contaminated excavated material from earthworks; and includes roading sub-base and asphalt that is</p>	Class 3 and 4

¹⁵ As per the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 3B.

¹⁶ For example, degradable plant materials such as tree branches, leaves, grass, and other vegetation matter.

¹⁷ For example, hospitals, educational facilities, and aged care facilities.

¹⁸ Inert waste for the purposes of this definition means waste that is neither chemically nor biologically reactive, does not decompose or undergo any change in its chemical properties and does not alter the chemical properties of any other material.

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Facility ¹⁵	Description	Class
	<p>bitumen based and non-reinforced concrete. (refer page 5 of the MfE factsheet)</p> <p>Does not accept:</p> <ul style="list-style-type: none"> • household waste or waste from commercial, industrial or institutional sources. • Waste material from construction and demolition activity (except for inert waste material) 	
Cleanfill facility	A facility that accepts only virgin excavated natural material such as clay, soil, or rock, for disposal.	Class 5
Industrial monofill facility	<p>A facility that accepts for disposal, waste that discharges or could discharge contaminants or emissions and is generated from a single industrial process (for example, steel or aluminium making, or pulp and paper making) carried out in one or more locations.</p> <p>It is considered unlikely that NZTA would operate an Industrial monofill facility for carrying out our activities.</p>	No class
Transfer stations	Facilities that contain a designated receiving area where waste is received, and from which waste (or any material derived from that waste) is transferred to a final disposal site or elsewhere for further processing. Transfer stations do not provide long-term storage for waste or material derived from that waste.	No class

9.2 Definitions

The following terms are used within the Waste Minimisation Act 2008 and supporting Regulations and have a specific statutory meaning.

Cleanfill	<p>Virgin excavated natural material such as clay, soil, or rock, for disposal.</p> <p>Excludes:</p> <ul style="list-style-type: none"> • green waste such as degradable tree branches, leaves and grass; and inert waste such as aggregate, cement, bitumen and concrete
Disposal	<p>means the final (or more than short term) deposit of waste into or onto land set apart for that purpose, or the incineration of waste. Incineration means the deliberate burning of waste to destroy it, but not to recover energy from it.</p> <p>A final (or more than short term) deposit does not include waste deposited if, not later than 6 months after the deposit, the waste is reused or recycled, recovered or treated on the land and removed from the land for deposit elsewhere, or removed from the land for any other reasons.¹⁹</p>
Disposal facility	<p>means:</p> <ul style="list-style-type: none"> • a facility, including a landfill, at which waste is disposed (and that includes household waste) and that operates, at least in part as a business to dispose waste; and

¹⁹ As per [section 26\(3\)](#) of the Waste Minimisation Act 2008.
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	<ul style="list-style-type: none"> any other facility or class of facility at which waste is disposed that is prescribed as a disposal facility. <p>Household waste for the purposes of this definition means waste from a household that is not entirely from construction, renovation, or demolition of the house.</p>
Diverted material	means any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded.
Gross tonnage of waste	The total volume of waste including diverted material that enters a disposal facility.
Inert waste	means waste that— <ul style="list-style-type: none"> is neither chemically nor biologically reactive; and does not decompose or undergo any change in its chemical properties; and does not alter the chemical properties of any other material.
Levy	means the fee imposed by waste disposed of at a disposal facility under section 26 of the Waste Minimisation Act 2008. The prescribed waste levy rates are determined by the class of the disposal facility and are shown within Section 6 .
Net tonnage of waste	The calculated difference between the volume of gross tonnage and the volume diverted material that enters a disposal facility. Net tonnage should be calculated as: net tonnage = gross tonnage – diverted tonnage ²⁰
Operator	means the person in control of a disposal facility or other facility.
Waste	means: <ul style="list-style-type: none"> any thing disposed of or discarded; and includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and to avoid doubt, includes any component or element of diverted material

9.3 Further Guidance Material

More details about reporting and levy obligations are set out in the Regulations and Ministry for the Environment guidance documents:

[Ministry for the Environment Guidance on filing a-waste return.pdf](#)

[Ministry for the Environment Waste disposal levy and reporting requirements guide for site operators](#)

[Ministry for the Environment Factsheet Types of disposal facilities](#)

[Ministry for the Environment reporting requirements for industrial monofills-cleanfills and transfer stations](#)

[NZ Transport Agency Resource efficiency guideline for infrastructure delivery and maintenance](#)

²⁰ Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009, regulation 16
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