

**Title:** 21-86 Gisborne District Council Remit - Fly Tipping  
**Section:** Strategy  
**Prepared by:** Janic Slupski - Senior Policy Advisor  
**Meeting Date:** Thursday 22 April 2021

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Legal: Yes

Financial: No

Significance: **Low**

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## Report to COUNCIL for decision

### PURPOSE

The purpose of this report is to seek Council's approval to submit a remit to Local Government New Zealand (LGNZ).

### SUMMARY

LGNZ are currently inviting member authorities to prepare remits for consideration at the Local Government New Zealand Annual General Meeting (AGM) to be held on Saturday 17 July 2021.

A remit is an issue or topic that local government nominates to LGNZ for inclusion on its work programme for the year.

A remit has been prepared on behalf of Gisborne District Council. The remit seeks:

*That LGNZ advocate the Litter Act 1979 be amended to allow for 'cost recovery' in instances where littering/fly tipping is 'more than minor' and the identity of the perpetrator is discoverable.*

The remit is in the prescribed form and can be found in **Attachment 1**. LGNZ's guidance on the remit process can be found in **Attachment 2**.

Prior to submission, Council must first approve the remit. Then it must seek support at the next Zone 2 meeting on 30 April 2021. If support is gained at this meeting, then Council can submit the remit to LGNZ for consideration.

Remits must be submitted to LGNZ no later than 5.00pm, Friday 14 May 2021.

The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

## RECOMMENDATIONS

That the Council:

1. Approves the remit to go to the Local Government Zone 2 meeting on 30 April 2021 for support and if the support is gained to submit the remit to Local Government New Zealand.

*Authorised by:*

**Joanna Noble - Chief of Strategy & Science**

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**Keywords:** LGNZ, Remit, Litter Act 1979, fly tipping

## BACKGROUND

### LGNZ seeking Remits for 17 July AGM

1. LGNZ are seeking remits for 2021 from Councils. Remits are particular issues or topics faced by local government that are nominated to LGNZ to be considered on LGNZ's work programme for the year. They should address major strategic "issues of the moment". They should have a national focus articulating a major interest or concern at the national political level.
2. If the remit is accepted by the LGNZ at their AGM they will then investigate and, where appropriate, request or lobby for change. This change could come in different forms including change in systems, guidance, policy or legislation.
3. Remits must be submitted to LGNZ no later than 5.00pm, Friday 14 May 2021.
4. A remit has been prepared for Council approval so that it may be submitted by the closing date. The remit seeks:

*That LGNZ advocate the Litter Act 1979 be amended to allow for 'cost recovery' in instances where littering/fly tipping is 'more than minor' and the identity of the perpetrator is discoverable.*

5. The draft remit is found in **Attachment 1**. LGNZ's guidance on the remit process can be found in **Attachment 2**.

### Short timeframes for Submitting Remit

6. Prior to submission, Council must approve the remit then seek support for it at the next Local Government Zone 2 meeting on 30 April 2021.
7. Given the short timeframes, this remit must be considered under urgency through an extraordinary meeting of Council.

## DISCUSSION and OPTIONS

### Three Options Considered

8. There are three broad options for council to consider. They are:
  - **Option A** – That council does not approve remit.
  - **Option B** – That Council approves the remit.
  - **Option C** – That Council approves the remit with amendments.

### Assessment of options

9. To not endorse the remit will mean that the remit will go no further. Local Government Zone 2 and LGNZ will not have an opportunity to consider it.
10. To endorse the remit means that the remit will be presented at the next local Government Zone 2 meeting on the 30 April seeking support of the remit. If support is gained, then the remit can be submitted to LGNZ. If accepted at the LGNZ AGM the remit will then form part of the LGNZ work programme and progress can be made to address the issue, including advocating for an amendment to the Litter Act 1979.

11. To endorse the remit with amendments is to agree in principle with the remit, however changes are needed to reflect additional points. Note: this option cannot accommodate further research due to time constraints. If further research is required, this maybe something which Council wishes to present at the LGNZ AGM 2022.

## **Recommendation**

12. Staff recommend the remit be approved as read, or with amendments that can be included within the timeframes outlined.

## **ASSESSMENT of SIGNIFICANCE**

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

**Overall Process:** Low Significance

**This Report:** Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

**Overall Process:** Low Significance

**This Report:** Low Significance

Inconsistency with Council's current strategy and policy

**Overall Process:** Low Significance

**This Report:** Low Significance

The effects on all or a large part of the Gisborne district

**Overall Process:** Low Significance

**This Report:** Low Significance

The effects on individuals or specific communities

**Overall Process:** Low Significance

**This Report:** Low Significance

The level or history of public interest in the matter or issue

**Overall Process:** Low Significance

**This Report:** Low Significance

13. The decisions or matters in this report are considered to be of **Low** significance in accordance with Council's Significance and Engagement Policy.

## **TANGATA WHENUA/MĀORI ENGAGEMENT**

14. No Maori engagement has been undertaken to date.

## **COMMUNITY ENGAGEMENT**

15. No community engagement has been undertaken to date.

## CLIMATE CHANGE – Impacts / Implications

16. There are no immediate or direct climate change implications arising from any decisions on the remit.

## CONSIDERATIONS

### Financial/Budget

17. There are no immediate budget implications associated with submitting a remit. However, the intent of an amendment to the Litter Act 1979 is to reduce the incidence of fly tipping and, ultimately, the cost of disposal on Council and the ratepayer.

### Legal

18. Legal considerations are outlined in the remit attached.

## POLICY and PLANNING IMPLICATIONS

19. The remit and its outcomes are consistent with Council's Waste Management and Minimisation Plan 2018-2024. Action 6 seeks to "Actively enforce, control and reduce littering and illegal dumping."

20. Council currently does not have a Solid Waste Bylaw in place.

## RISKS

### Cost Recovery Doesn't Change Behaviour

21. The remit assumes that a new discretionary power to enable cost recovery will encourage a shift in rubbish dumping behaviour.

22. Affordability of basic services as waste management continue to be a pressure on many in our communities. In some circumstances even a \$400 infringement fine is likely to be unaffordable. Therefore, Council's ability to seek full recovery of disposal costs is unlikely to be easily achieved in these situations. In terms of enforcement, court may be the only recourse.

## NEXT STEPS

Date	Action/Milestone	Comments
April 2021	Remit approved by Council to go through the process to get to LGNZ.	Subject to incorporating any feedback and amendments.
30 April 2021	Seek support for remit at the local Government zone 2 meeting.	Contingent on approval from Council.
Before May 14 2021	Submit remit and feed back to Council.	Contingent on support gained from Zone 2 meeting.

## ATTACHMENTS

1. Attachment 1 - Gisborne District Councils Remit - Fly tipping [21-86.1 - 3 pages]
2. Attachment 2 - Remit Process [21-86.2 - 3 pages]

<b>Annual General Meeting 2021 Remit application</b>
Council Proposing Remit: Gisborne District Council
Contact Name: Kerry Worsnop
Phone: 027 863 9002
Email: kerryworsnop@gdc.govt.nz
Fax:
Remit passed by: (zone/sector meeting and/or list 5 councils as per policy)
Remit: That LGNZ advocate the Litter Act 1979 be amended to allow for 'cost recovery' in instances where littering/fly tipping is 'more than minor' and the identity of the perpetrator is discoverable.

### Nature of the issue

1. Councils have long battled to address incidence of rubbish dumping in public places, on roadsides and in some cases, illegally on private land.
2. There are currently insufficient tools available to address this challenge adequately, as both the occurrences and volume of waste being dumped is increasing with population growth and the rising cost of legitimate waste disposal. This issue is compounded by the inadequacy of current tools (fines) to act as a deterrent, and the infrequent use of these tools as a result.

### Background to the issue

3. Local Government raises funds by gathering rates from landowners to cover the cost of providing services, infrastructure and regulatory oversight for communities. Local Government is also tasked with delivering these core functions through the lens of the four well-beings.
4. One aspect of this role is the requirement for Local Government to protect and enhance the environment by developing and upholding rules under regional plans, and correspondingly ensuring there are sufficient resources available to enforce compliance with these rules.
5. Since 1979 the only compliance tool available to Local Government, to enforce compliance with the Litter Act 1979, has been a \$400 fine<sup>1</sup>.

<sup>1</sup> Under sections 13 and 14 of the Litter Act 1979, specifically point 4, "No infringement fee shall exceed \$400".

6. This fine does not reflect the breadth of circumstances involving dumped rubbish (for example fly tipping) to which councils must respond and is largely insufficient to cover the costs of clearing and disposing of rubbish which then becomes a cost of the ratepayers at large.
7. There is little incentive to pursue the identification of those responsible, given that the time taken (and its cost) is unlikely to be recoverable within the \$400 fine. Therefore, some significant incidents which do not meet the threshold for potential prosecution under regional plan provisions, remain a burden to ratepayers and a growing problem for Local Government.

### **New or confirming existing policy**

8. The Litter Act 1979 was amended in 1990, and last debated on 6 March 2019 where a second reading of the proposed Litter (increased infringement fee) Bill was voted down at its second reading.
9. The Bill predominantly concentrated on increasing the infringement for littering to \$1,000 and was premised on the fact that \$400 in 1979 was significantly more costly than \$400 in 2019 and therefore the infringement should be increased. The arguments given against this bill revolved around the inability of an infringement to change behaviour in the absence of sufficient enforcement officers 'catching' people in the act of littering. Those who voted no, also maintained that prosecution remained an option for significant offences such as the illegal disposal of hazardous waste.
10. This remit takes a different stance from that proposed under the above-mentioned bill. The purpose of this remit is to acknowledge that a \$400 fine and prosecution are tools at opposite ends of the spectrum and that Local Government do not currently have any tools which allow them to have discretion when an act of littering is neither minor, nor serious enough to warrant an expensive prosecution.
11. This remit asks that LGNZ advocate for amendments to the Litter Act 1979, which would enable cost recovery where the identity of the culprit is discoverable. This would provide a middle ground for councils and enable the cost of dumping to be borne by those who choose to do it, rather than by the community at large. This would also encourage councils to better serve their communities by acting on information about dumping, knowing that the cost, if proven, would not be borne by ratepayers alone.

### **How the issue relates to objectives in the current Work Programme**

12. In 2018 LGNZ passed a number of remits relating to waste minimisation in New Zealand. These included a remit calling for central government to implement the WasteMINZ's manifesto, a remit requesting central government to expand and progressively raise the waste levy in order to reduce total waste to landfills, a remit seeking to eliminate the use of single-use plastic bags and plastic straws and lastly, a remit requesting the implementation of a mandatory product stewardship programme for tyres.
13. In 2020, LGNZ welcomed the Government's announcement of \$124 million for onshore recycling and the expansion of the waste levy but called on the Government to match the money with a strategic waste plan, noting that "our members have asked LGNZ to advocate for the implementation of the Local Government Waste Management Manifesto, which looks at every aspect of waste and recycling in New Zealand."

14. LGNZ have historically sought an overarching plan for waste minimisation and management in New Zealand due to unsustainable increases in volumes of waste and ever rising costs of disposal. As these volumes and costs continue to rise, levies for waste disposal must correspondingly rise, however this results in individuals attempting to avoid these costs by illegally dumping rubbish, often in public places or road reserves.
15. This remit seeks to address the perverse outcome of dumping rubbish potentially being significantly cheaper for individuals and businesses, than disposing of waste legally. This remit is not aimed at capturing the low-level offences such as individual items of rubbish dropped in parks or on roadsides, or high-level offenses for which prosecution is appropriate, but rather the incidence known as 'fly tipping' where household or business waste is disposed of in bulk and requires council resources to then remove rubbish to landfill at the cost of ratepayers.

### **What work or action on the issue has been done on it, and the outcome**

16. There are a large number of initiatives and strategies being employed across all levels of Government and in communities aimed at minimizing waste and increasing recycling – however a central principal remains that those who receive the service (waste disposal) should expect to pay for that service.
17. While there remains no reasonable alternative to punitive fines, or expensive prosecutions, all efforts to minimize waste which have a correlation with increasing costs of disposal – will risk increasing levels of 'fly tipping'.
18. The issue of fly tipping, it's social and environmental impact and its cost to the Gisborne District Council have been discussed at Council meetings on a number of occasions and a level of frustration is apparent from both staff and councillors who agree that a \$400 fine is insufficient to deter people from dumping rubbish, however the cost of prosecution mean's that this option is rarely feasible even when the identity of the culprit is known.
19. As a result, the status quo prevails, whereby rate payers at large continue to pay for the disposal of dumped vehicles, whiteware, building materials and household waste.

### **Any existing relevant legislation, policy or practice**

20. The Litter Act 1979 is the relevant legislation; however, it provides limited scope for addressing the range of issues that face councils in attempting to deter dumping of rubbish.
21. A common outcome for cases which are prosecuted is the allocation of remedial costs in favour of the council bringing the prosecution, however the expense of prosecution frequently renders this process a cost to the ratepayer even when fines are imposed over and above the remedial costs. As a result, only the most serious incidence involving industrial waste or significant environmental damage are typically prosecuted.



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**Date:** 22 February 2021  
**To:** Mayors, Chairs, Chief Executives, Zone Secretaries and Sector Chairs  
**From:** Susan Freeman-Greene, Chief Executive  
**Subject:** **2021 Annual General Meeting Remit Process**

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We invite member authorities wishing to submit proposed remits for consideration at the Local Government New Zealand Annual General Meeting (AGM) to be held on **Saturday 17 July 2021** in Blenheim, to do so no later than **5.00pm, Friday 14 May 2021**. Notice is being provided now to allow members of zones and sectors to gain the required support necessary for their remit (see requirement one below). The supporting councils do not have to come from the proposing council's zone or sector.

Proposed remits should be sent with the attached form. The full remit policy can be downloaded from the [LGNZ website](#).

## Remit policy

Proposed remits, other than those relating to the internal governance and constitution of Local Government New Zealand, should address only major strategic "issues of the moment". They should have a national focus articulating a major interest or concern at the national political level. The National Council's Remits Screening Policy is as follows:

### Criteria

1. Remits must be relevant to local government as a whole rather than exclusively relevant to a single zone or sector group or an individual council;
2. Remits should be of a major policy nature (constitutional and substantive policy) rather than matters that can be dealt with by administrative action;
3. Remits should not involve matters that can be actioned by equally valid means other than the AGM; and
4. Remits should not deal with issues or matters that are "in-hand" and currently being actioned by LGNZ, unless the issue is approached from a different point of view.

### Requirements

1. Remits must have formal support from at least one zone or sector group meeting, or five councils, prior to their remit being submitted, in order for the proposer to assess support and achieve clarity about the ambit of the proposal;
2. Remits defeated at the AGM in two successive years will not be permitted to go forward;

3. Remits must be accompanied by background information and research to show that the matter warrants consideration by delegates. Such background should demonstrate the:
  - Nature of the issue;
  - Background to it being raised;
  - Issue's relationship, if any, to the current Local Government New Zealand Business Plan, key priorities, and its objectives;
  - Level of work, if any, already undertaken on the issue by the proposer, and outcomes to date;
  - Resolution, outcome and comments of any zone or sector meetings which have discussed the issue; and
  - Suggested actions that could be taken by Local Government New Zealand should the remit be adopted.

### Remit process

Local Government New Zealand will take the following steps to finalise remits for the 2021 AGM:

- All proposed remits and accompanying information must be forwarded to Local Government New Zealand no later than **5.00pm, Friday 14 May 2021**, to allow time for the remits committee to properly assess remits;
- A remit screening committee (comprising the President, Vice President and Chief Executive) will review and assess proposed remits against the criteria described in the above policy;
- Prior to their assessment meeting, the remit screening committee will receive analysis from the Local Government New Zealand staff on each remit assessing each remit against the criteria outlined in the above policy;
- Proposed remits that fail to meet specified criteria will be informed as soon as practicable of the committee's decision, alternative actions available, and the reasons behind the decision;
- Proposers whose remits meet the criteria will be contacted as soon as practicable to arrange the logistics of presenting the remit to the AGM; and
- All accepted remits will be posted to the Local Government New Zealand website, and members informed, at least one month prior to the AGM in order to allow members sufficient to discuss the remits prior to the AGM.

To ensure quality preparation for members' consideration at the AGM, the committee will not consider or take forward proposed remits that do not meet this policy, or are received after **5.00pm, Friday 14 May 2021**.

### General

Remits for AGM consideration also will be included formally in the AGM Business Papers that will be distributed to delegates not later than two weeks before the AGM, as required by the Rules (although as noted above the proposed remits will be available for member consideration before the AGM papers are issued to the membership).

Should you require further clarification of the requirements regarding the remit process please contact Leanne Brockelbank on 04 924 1212 or [leanne.brockelbank@lgnz.co.nz](mailto:leanne.brockelbank@lgnz.co.nz)

## Annual General Meeting 2021

### Remit application

<b>Council Proposing Remit:</b>	
<b>Contact Name:</b>	
<b>Phone:</b>	
<b>Email:</b>	
<b>Fax:</b>	
<b>Remit passed by:</b> (zone/sector meeting and/or list 5 councils as per policy)	
<b>Remit:</b>	

### Background information and research:

Please attach separately and include:

- Nature of the issue;
- Background to its being raised;
- New or confirming existing policy;
- How the issue relates to objectives in the current Work Programme;
- What work or action on the issue has been done on it, and the outcome;
- Any existing relevant legislation, policy or practice;
- Outcome of any prior discussion at a Zone or Sector meeting;
- Evidence of support from Zone/Sector meeting or five councils; and
- Suggested course of action envisaged.

**Please forward to:** Local Government New Zealand  
 Leanne Brockelbank, Deputy Chief Executive - Operations  
 P O Box 1214, Wellington 6140  
[leanne.brockelbank@lgnz.co.nz](mailto:leanne.brockelbank@lgnz.co.nz)

**No later than 5.00pm, Friday 14 May 2021.**