



Cabinet Economic Development Committee

Minute of Decision

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Waste Legislation 7: Outstanding Policy Decisions

Portfolio **Associate Environment (Hon Rachel Brooking)**

On 2 August 2023, the Cabinet Economic Development Committee:

Background

- 1 **noted** that in March and May 2023, Cabinet took decisions to inform the development of new waste legislation that would repeal and replace the Waste Minimisation Act 2008 and the Litter Act 1979 [ENV-23-MIN-0002, ENV-23-MIN-0004, ENV-23-MIN-0005, ENV-23-MIN-0006, DEV-23-MIN-0080];
- 2 **noted** that various matters were referred back to Cabinet, or have arisen as further analysis was undertaken;
- 3 **noted** that further decisions are sought in the paper under DEV-23-SUB-0165 to enable drafting of the new legislation by the Parliamentary Counsel Office;

Cost Recovery Powers

- 4 **noted** that in March 2023, the Cabinet Environment, Energy and Climate Committee (ENV) agreed that the Minister for the Environment would report back on any cost recovery mechanisms for a waste licensing scheme once further design work has been undertaken [ENV-23-MIN-0005];
- 5 **noted** the details regarding cost recovery (how cost recovery provisions are applied, who pays, how much they pay, and how long the licence is for) will be developed as part of the process of developing regulations for licensing;
- 6 **noted** that the Office of the Auditor-General guidelines on cost recovery have been used to inform the proposals and the Treasury guidelines for setting charges will guide how the licensing and waste tracking systems are designed;
- 7 **noted** that Cabinet agreed that the costs of the licensing scheme would generally be met through cost recovery from participants, not the wider public, and agreed that waste levy funds could potentially be used to fund the start-up costs for schemes and systems, such as the licensing scheme, if those costs cannot be met through the system itself [ENV-23-MIN-0005, ENV-23-MIN-0006];
- 8 **agreed** that cost recovery frameworks for waste licensing and waste tracking systems may provide for charges to be waived or refunded;

- 9 **agreed** that costs incurred in the development of the national licensing and waste tracking systems such as policy development, initial communications, consultation, and initial engagement will be met from existing agency baselines;
- 10 **agreed** that:
- 10.1 costs incurred in the implementation of the national licensing and waste tracking systems, such as establishing IT systems and process development reasonably related to delivering the systems will be cost recovered (where there is alignment with cost recovery principles);
- 10.2 should future system revenue not be proportionate to the costs of implementing the systems, the waste disposal levy could be considered;
- 11 **agreed** that cost recovery powers should be included in the new legislation to enable the recovery of actual and reasonable costs from participants in the national licensing scheme in waste and resource recovery;
- 12 **agreed** that cost recovery powers should extend to the regulator of the permitting and compliance function to recover the costs of national waste licensing including monitoring, incident response and investigation;
- 13 **noted** that the full details of the cost recovery framework for the waste tracking system, including any public benefit and the flow on effect for funding, will need to be designed and determined through a subsequent regulation making process;
- 14 **noted** that it will be appropriate for some of the costs associated with the waste tracking system to be cost recovered while others will need to be borne by the Crown;
- 15 **agreed** that cost recovery powers should be included in the new legislation to enable the recovery of actual and reasonable costs from those obligated to track their waste;
- 16 **noted** the regulation-making powers for the waste tracking system will make clear what charges can be recovered and on what basis;
- 17 **noted** that in March 2023, ENV agreed to a list of the types of parties to be in scope of a waste licensing scheme [ENV-23-MIN-0005];
- 18 **agreed** that the Minister for the Environment may specify through regulations additional parties subject to a waste licensing scheme not covered by the current scope;

Environmental performance standards and information requirements

- 19 **noted** that in March 2023, Cabinet agreed that the Minister for the Environment would report back on the regulator for the environmental performance standards and information requirements [ENV-23-MIN-0004];
- 20 **agreed** that the Ministry for the Environment will be responsible for the policy of environmental performance standards and information requirements;
- 21 **agreed** that the Environmental Protection Authority will be responsible for the compliance and enforcement of environmental performance standards and information requirements;

- 22 **agreed** that the Minister for the Environment is to have regard for the view of the Minister of Energy and Resources on the development of any environmental performance standard or labelling requirement on a product that is part of the energy efficiency standards and labelling regime;
- 23 **agreed** that the Minister for the Environment is to have regard for how the environmental performance standard may affect energy efficiency;

National Standards

- 24 **noted** that in March 2023, ENV agreed to include a regulation-making power to develop binding standards or technical requirements for operating waste or resource recovery services in new waste legislation [ENV-23-MIN-0005];
- 25 **noted** Cabinet has further agreed to carry over the provisions of standardised kerbside collection into the new legislation [DEV-23-MIN-0080, ENV-23-MIN-0005], and that national standards are one tool for doing so;
- 26 **agreed** that the Bill establish that the Minister for the Environment can issue national standards by notice in the Gazette for matters that are more technical and administrative in nature, having regard to the scope and impact of proposed standards, and the need for timeliness and flexibility;

Subsequent Amendments to Duties of Care

- 27 **noted** that in March 2023, ENV agreed to a variety of duties of care to manage and dispose of waste or to recycle it appropriately and to assign obligations to each duty [ENV-23-MIN-0005];
- 28 **agreed** to remove the duty of care that all landlords (both residential and commercial) will be subject to a duty to facilitate tenants access to collection services;

Statutory role of Keep New Zealand Beautiful

- 29 **noted** that the Litter Act 1979 assigns a statutory responsibility to promote litter control to the non-statutory body Keep New Zealand Beautiful;
- 30 **agreed** not to maintain the statutory responsibility for promoting litter control assigned to Keep New Zealand Beautiful in the new legislation;

Authorisation to make further decisions and issue drafting instructions

- 31 **authorised** the Associate Minister for the Environment to make further policy decisions, consistent with the decisions in the paper under DEV-23-SUB-0165, and issue drafting instructions to provide for those decisions.

Jenny Vickers
Committee Secretary

Present:

Hon Grant Robertson (Chair)
Hon Dr Megan Woods
Hon Damien O'Connor
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Dr Duncan Webb
Hon Rachel Brooking

Officials present from:

Office of the Prime Minister
Officials Committee for DEV